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State Criminal Justice Functions

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State Criminal Justice Functions

Law enforcement, prosecution, and public defense are three critical components of the state's criminal justice system. This paper focuses on the involvement of the Department of Justice (DOJ), district attorneys (DAs) and the Office of the State Public Defender (SPD) in these three areas.

While local units of government are primarily responsible for providing law enforcement protection, DOJ provides law enforcement services to state and local law enforcement agencies. In addition, DOJ is charged with certain law enforcement responsibilities under state statute. The budget for DOJ in 2006-07 totals \$81,920,900 and 536.0 full-time equivalent positions. The Department's total funding is comprised of \$34,775,000 general purpose revenue (GPR), \$38,825,400 program revenue (PR), \$7,984,300 federal revenue (FED) and \$336,200 segregated revenue (SEG). Among the staff authorized for the Department are 108.33 crime laboratory personnel and 89.0 special agents (law enforcement officers). The organizational chart for DOJ is included as Appendix I.

Under state law, criminal prosecutions are primarily the responsibility of locally elected DAs and their prosecutorial staff. The budget for the state district attorneys function in 2006-07 totals \$43,047,400 and (as of December 1, 2006) 427.65 positions. The state funded DA function is comprised of \$41,212,300 GPR and \$1,835,100 PR. All of the 427.65 state positions are attorney prosecutors. Other than for the state-funded costs of prosecutors' salaries and fringe benefits, the remaining staff and other costs of DA offices are generally the responsibility of Wisconsin counties. These county-supported costs and positions are not reflected in these figures.

There are 71 elected district attorneys in Wisconsin. Each county in the state is termed a "prosecutorial unit" except that Shawano and Menominee counties form a two-county prosecutorial unit and jointly elect a single district attorney.

While DAs are primarily responsible for criminal prosecutions in the state, DOJ is responsible for: (a) representing the state in all appeals of felony convictions, as well as in appeals of other significant criminal and juvenile delinquency cases; (b) representing the state in prisoner and sexually violent person (sexual predator) conditions of confinement suits; (c) assisting DAs, when requested, in certain criminal prosecutions; and (d) initiating criminal prosecutions and sexual predator commitments under certain circumstances. Among the staff authorized for DOJ are 86.9 attorneys, some of whom are responsible for meeting these obligations of the Department.

Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The SPD is generally responsible under state law for providing this required counsel to the indigent. The budget for the SPD in 2006-07 totals \$77,342,500 and 522.45 positions. The Office's total funding is comprised of \$76,016,800 GPR and \$1,325,700 PR. Among the staff authorized for the SPD are 307.5 attorney positions in the trial and appellate divisions. The SPD also contracts with private bar attorneys to address a portion of the agency's caseload. It should be noted that on December 14, 2006, the Joint Committee on Finance transferred an additional \$3 million GPR to the SPD's private bar appropriation to compensate private bar attorneys for their representation of SPD clients. The organizational chart for the SPD is included as Appendix II.

The criminal justice functions of these agencies are summarized in the following five chapters of this paper. The first two chapters focus on the law enforcement services and responsibilities of DOJ. The third and fourth chapters discuss the prosecutorial functions of DAs and DOJ. The final chapter provides a discussion of the state's public defender function as carried out by the SPD.

SERVICES TO LAW ENFORCEMENT AGENCIES BY THE DEPARTMENT OF JUSTICE

Wisconsin law requires counties, cities, and those villages with a population of more than 5,000 to provide law enforcement services to their citizens. Towns and smaller villages are also permitted to provide law enforcement services to their residents. In addition, certain state agencies have specifically defined law enforcement responsibilities. These agencies include: (a) DOJ's Division of Law Enforcement Services and its Division of Criminal Investigation; (b) the State Patrol under the Department of Transportation; (c) the State Capitol Police; (d) the UW Police under the University of Wisconsin System; and (e) the Bureau of Law Enforcement under the Department of Natural Resources.

The Department of Justice's Division of Law Enforcement Services is generally charged with meeting the agency's statutory responsibilities to state and local law enforcement agencies. The budget for the Division in 2006-07 is \$27,860,100 and 189.0 positions. The Division is organized into five bureaus. These are the: (a) Training and Standards Bureau; (b) Crime Information Bureau; (c) Milwaukee Crime Laboratory; (d) Madison Crime Laboratory; and (e) Wausau Crime Laboratory.

The Department of Justice's Division of Management Services is generally responsible for: (a) developing and monitoring the Department's budget and finances; (b) providing human resource services to the Department; and (c) providing information technology services to the Department. The Division of Management Services is also responsible for administering three grant programs intended to support law enforcement services on tribal lands and in counties bordering tribal

reservations. The budget for these three grant programs in 2006-07 totals \$2,040,400 and 1.0 position.

Training and Standards Bureau

The Division's Training and Standards Bureau has the following responsibilities: (a) staffing the Law Enforcement Standards Board; and (b) administering the training and certification requirements for law enforcement, tribal law enforcement, jail, and secure detention officers.

The Bureau's budget in 2006-07 is \$134,000 GPR, \$8,490,400 PR and 25.67 PR positions. The Bureau's staff consists of education consultants or training officers (10.0), attorneys (2.0), and other supervisory and support personnel (13.67). Much of the Bureau's funding supports reimbursements for: (a) preparatory training by new law enforcement recruits; and (b) annual recertification training by certified officers.

The Bureau's program revenue-funded budget is supported by the penalty surcharge (\$8,940,400 and 25.67 positions). The penalty surcharge supports the Bureau's law enforcement training and certification activities. Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge of 26% of the total fine or forfeiture. Approximately 43% of all penalty surcharge revenues are allocated to DOJ to fund the costs of recruit training and annual recertification training.

Law Enforcement Training and Certification

Statutory Authorization. The Law Enforcement Standards Board (Board) is established under s. 165.85 of the statutes and is attached to DOJ. The Board consists of the following 14 members: (a) six local law enforcement officers; (b) two local government officials; (c) one district attorney; (d) one public member; (e) a representative of the FBI; (f) the Attorney General; (g) the Administrator of the Division of Law Enforcement Services; (h) the Superintendent of the State Patrol; (i) the Director of the Bureau of Law Enforcement at DNR; and (j) the Executive Director of the Office of Justice Assistance.

When the Board was created, the Legislature included the following policy statement relating to the Board's responsibilities: "The legislature finds that the administration of criminal justice is of statewide concern, and that law enforcement work is of vital importance to the health, safety and welfare of the people of this state and is of such a nature as to require training, education and the establishment of standards of a proper professional character. The public interest requires that these standards be established and that this training and education be made available to persons who seek to become law enforcement, tribal law enforcement, jail or secure detention officers, persons who are serving as these officers in a temporary or probationary capacity and persons already in regular service."

The Board has the following duties: (a) ensure that law enforcement, tribal law enforcement, jail, and secure detention recruits meet the minimum qualifications for recruitment; (b) oversee and fund the training of such recruits; (c) certify such recruits as officers upon the successful completion of their training; (d) oversee and fund the annual recertification training of certified law enforcement, tribal law enforcement, jail, and secure detention officers; (e) certify schools and instructors that provide preparatory training to recruits and recertification training to certified officers; and (f)

maintain a statewide updated record of all certified officers.

Under s. 165.86 of the statutes, the Department is to supply the staffing needs of the Board, and is to coordinate all preparatory and recertification training activities in law enforcement in the state.

Minimum Qualifications for Recruits. Law enforcement, tribal law enforcement, jail, and secure detention recruits generally must meet the following minimum qualifications: (a) possess a valid driver's license; (b) be 18 years of age; (c) not have been convicted of any federal felony or any offense which, if committed in Wisconsin, could be punished as a felony; (d) possess a high school diploma; (e) possess either a two-year associate degree from a Wisconsin technical college system district or its accredited equivalent from another state, or a minimum of 60 fully accredited college level credits; (f) be of good character; (g) be free from any physical, emotional or mental condition which might adversely affect the performance of one's duties as a law enforcement, tribal law enforcement, jail, or secure detention officer; and (h) submit to and satisfactorily complete an oral interview with the employing authority.

Preparatory Training of Recruits. Law enforcement, tribal law enforcement, jail, and secure detention recruits must all successfully complete a minimum requirement of preparatory training in order to be certified as an officer in Wisconsin. Most officers receive this training either through their prospective law enforcement employer or through the Wisconsin Technical College System. The Department provides reimbursement to law enforcement agencies which provide this preparatory training to recruits.

Law enforcement and tribal law enforcement recruits must successfully complete a minimum of 400 hours of preparatory training. Under 2001 Wisconsin Act 16, the Legislature increased funding to permit the Department to reimburse law enforcement agencies for providing up to 520 hours of

preparatory training. Table 1 identifies the amounts expended by the Board in 2005-06 to provide reimbursement for this training to law enforcement agencies for 327 recruits. The reimbursements covered the recruits' tuition, lodging, meals, and mileage costs.

Table 1: DOJ Reimbursement of Law Enforcement Recruit Training (2005-06)

Type of Law Enforcement Recruits	Reimbursement
Local	\$637,700
State	57,100
Tribal	<u>10,600</u>
Total	\$705,400

Jail and secure detention recruits must successfully complete a minimum of 120 hours of preparatory training in order to be certified. In 2005-06, the Department provided reimbursements totaling \$276,900 (\$206,900 PR and \$70,000 GPR) to law enforcement agencies for providing this preparatory training to 337 jail and secure detention recruits. The reimbursements covered costs for tuition, lodging, meals, mileage, salary and fringe benefits.

Annual Recertification Training. Law enforcement, tribal law enforcement, jail, and secure detention officers must complete a minimum of 24 hours of additional training each year in order to maintain their certification. In 2005-06, this recertification requirement applied to 14,620 certified officers.

Under 2001 Wisconsin Act 16, the Legislature provided additional permanent funding to increase the reimbursement rates for annual recertification training from \$160 to \$220 per law enforcement officer. In 2005-06 these reimbursements totaled \$2,924,000 PR (an average of \$200 per eligible officer).

Act 16 also provided DOJ with funding of \$350,000 PR annually, which enabled the Bureau to offer a law enforcement management training program. Additional funding of \$150,000 PR annually was also provided to expand training for specialized law enforcement officers. In 2005-06, the Bureau sponsored 80 law enforcement management and specialized training courses which were offered to approximately 4,200 participants at a cost of \$600,000 PR.

Certification of Schools and Instructors to Train Recruits and to Provide Recertification Training.

The Board certifies schools based on the adequacy of facilities and the competency of staff and faculty. A new instructor must complete a teaching methods course and other specialized instructor training as designated by the Board. Table 2 identifies the number of academies and instructors (including the number of new instructors) certified to provide preparatory training and recertification training in 2005-06. The table also identifies the number of law enforcement agencies that are authorized to provide some recertification training to their officers. Currently, state and local law enforcement agencies may provide recertification training to their own officers and are only required to utilize certified training instructors for courses in which the Board specifies the content. Table 3 identifies the 24 academies that were certified by the Board in 2005-06 to provide preparatory training and recertification training.

Table 2: Number of Certified Academies and Instructors (2005-06)

Training Certifications	Number
Academies	24
All Instructors	2,200
New Instructors	151
Agencies Authorized to Train	620

Table 3: Certified Academies

- Blackhawk Technical College
- Chippewa Valley Technical College
- Fox Valley Technical College
- Gateway Technical College
- Herzing College
- Lakeshore Technical College
- Madison Area Technical College
- Madison Police Dept. Academy
- Marian College
- Mid-State Technical College
- Milwaukee Area Technical College
- Milwaukee County Sheriff's Academy
- Milwaukee Police Department Academy
- Moraine Park Technical College
- Nicolet Technical College
- North Central Technical College
- Northeast Wisconsin Technical College
- Southwest Wisconsin Technical College
- UW-Platteville
- Waukesha County Technical College
- Western Wisconsin Technical College
- Wisconsin Dept. of Natural Resources
- Wisconsin Indianhead Technical College
- Wisconsin State Patrol Academy

Statewide Roster of Certified Officers. The Board must maintain a current statewide roster of certified officers. As necessary, new officers must be certified to the list and existing officers must be decertified from the list. Grounds for decertification include: (a) termination of employment with the law enforcement agency for any reason; (b) failure to comply with a rule or order of the Board relating to curriculum or training; or (c) failure to make child or family support payments. Table 4 identifies the number and type of active certified officers on the roster in September, 2006.

Table 4 Number of Active Certified Officers (September, 2006)

Type of Officer	Number
Law Enforcement	11,996
Law Enforcement and Jail	2,198
Jail	2,122
Secure Detention	450
Tribal	<u>52</u>
Total	16,818

Crime Information Bureau

The Division's Crime Information Bureau has the following responsibilities: (a) administration and maintenance of Wisconsin's criminal history database; (b) administration and maintenance of the Transaction Information for the Management of Enforcement (TIME) System; and (c) operation of the handgun purchaser record check program.

The Bureau's budget in 2006-07 totals \$657,900 GPR and \$6,805,900 PR and 16.0 GPR and 39.0 PR positions. The Bureau's staff consists of criminal history record personnel (26.0), information technology personnel (9.5), identification technicians (7.0), and supervisory and support personnel (12.5).

The Bureau's program revenue-supported budget is funded by criminal history search fees (\$3,722,900 and 25.0 positions), TIME System user fees from law enforcement agencies (\$2,664,500 and 6.0 positions), and the \$8 handgun purchaser record check fee (\$418,500 and 8.0 positions).

The Bureau assesses a number of criminal history search fees to various users who request a search of the state's criminal history database for purposes unrelated to criminal justice. Further, as a part of the TIME System, the Bureau is authorized to assess fees on law enforcement and tribal law enforcement agencies for rentals, use of terminals, and related costs and services associated with the system. Finally, handgun dealers are assessed an \$8 handgun purchaser record check fee for each handgun check completed by the Bureau.

Criminal History Database

Statutory Authorization. Under s. 165.83(2)(a) of the statutes, DOJ is directed to obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested or taken into custody in

Wisconsin for a variety of offenses. These offenses include:

- An offense which is a felony or which would be a felony if committed by an adult;
- An offense which is a misdemeanor, which would be a misdemeanor if committed by an adult or which is a violation of a local ordinance, and the offense involves burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances or controlled substance analogs, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks;
- An offense charged or alleged as disorderly conduct but which relates to an act under the previous bullet point;
- A fugitive from justice; or
- Any other offense designated by the Attorney General.

Within 24 hours of an arrest, the arresting agency must generally forward to DOJ all of the following for inclusion in the criminal history database: (a) fingerprints in duplicate; (b) full face, profile and full length photographs; and (c) other available identifying data. Photographs are forwarded at the discretion of the arresting agency; however, any such photographs retained locally must be available to be forwarded to DOJ if requested by the Department. In calendar year 2005, 174,397 new arrest events were submitted by Wisconsin law enforcement agencies to the Crime Information Bureau. The majority of this information is submitted electronically.

The Department must also accept for the database any fingerprints and other identifying data that have been taken at the discretion of law enforcement agencies relating to persons arrested or taken into custody for offenses other than those

previously identified. In addition, the Department must obtain and file fingerprints and other available identifying data on unidentified human corpses found in the state.

Pursuant to s. 165.83(2)(h) of the statutes, DOJ must collect and maintain all of this submitted data and establish a state system of criminal identification. As a part of this criminal history database, the Department is required to collect information on the legal action taken in connection with offenses committed in Wisconsin from the inception of the complaint to the final discharge of the defendant, as well as any other useful information in the study of crime and the administration of justice. The database receives information on prosecution, court findings and sentences through an interface with the state court system's consolidated court automation program.

Section 165.83(2)(j) of the statutes further requires the Department to utilize this database to "compare the fingerprints and descriptions that are received from law enforcement agencies and tribal law enforcement agencies with the fingerprints and descriptions already on file and, if the person arrested or taken into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement and tribal law enforcement agencies concerned and supply copies of the criminal record to these agencies." The Department is required to operate on a 24-hour-a-day basis, seven days a week in order to comply with this requirement.

Computerized Criminal History Database and Automated Fingerprint Identification System (AFIS). The computerized criminal history database contains detailed information of arrests, arrest charges, prosecution, court findings and sentences, and state correctional system admissions and releases that are required to be submitted to the Department. All information in the database is linked to specific fingerprint records submitted by arresting law enforcement agencies and stored in the automated fingerprint identification system

(AFIS), which is operated and maintained by the Madison Crime Laboratory.

This system is intended to track the history of all arrests in Wisconsin. Beginning in 1971, law enforcement agencies were first required to submit arrest fingerprint cards to DOJ. Arrests without supporting fingerprints are not included in the criminal history database.

The AFIS system was first installed in 1993 and was upgraded during the 2001-03 biennium. The AFIS system stores electronically the fingerprints that are required to be submitted to DOJ. The AFIS system enables law enforcement agencies to run a check either on a fingerprint collected at a crime scene or on a fingerprint collected from an arrested individual against the entire AFIS fingerprint database. Where a matching fingerprint is found in the AFIS database, the system can positively identify the individual whose fingerprint was run. The AFIS system also allows DOJ to electronically store fingerprints collected at crime scenes that cannot be matched to an individual ("latent" fingerprints). If at a later time, the individual's fingerprint is collected by law enforcement because the individual is arrested, the electronic storing of previously unmatched crime scene fingerprints permits DOJ to link the individual to another crime the person may have committed.

Wisconsin law enforcement agencies currently take fingerprint impressions of all ten fingers (called tenprints) when an individual is arrested. As of November, 2006, 1,142,764 tenprints were stored on AFIS. Approximately 3,954 additional tenprints are added to the system monthly. Currently, the system has a storage capacity of 1,500,000 tenprint records and 50,000 latent fingerprint records.

The upgraded AFIS system now permits the Department to electronically store palm prints. Palm prints provide an additional law enforcement tool to positively identify an individual. As of November, 2006, 104,381 sets of palm prints were

stored on AFIS. Approximately 3,919 additional palm sets are being added to the system monthly, which has a total capacity of 150,000 sets of palm prints and 30,000 latent palm prints.

The palm print database is being built in cooperation with the Department of Corrections. The Department of Corrections takes palm prints when new prisoners are admitted to the state correctional system.

As of November, 2006, there were 9,133 cases with latent fingerprint or latent palm print records stored on AFIS. There were 25,510 latent lifts associated with these cases. On average, approximately 3,572 latent finger and palm prints are added to the AFIS system monthly.

In addition to Department personnel, access to AFIS has been granted by the agency to 23 law enforcement agencies across the state through fully functional AFIS workstations. These law enforcement agencies include five county sheriff's departments or joint services agencies (Brown, Kenosha, Milwaukee, Racine and Waukesha Counties) and 18 municipal police departments (Burlington, Caledonia, Delafield, Fitchburg, Green Bay, Hartland, Kenosha, Madison, Milwaukee, Middleton, Mount Pleasant, New Berlin, Oak Creek, Racine, St. Francis, Sun Prairie, Waukesha, and Wauwatosa).

This access enables these local agencies to independently solve crimes using the AFIS tenprint, palm print, and latent fingerprint/palm print databases and positively identify arrested individuals. This linkage also allows these local users to update the state AFIS and linked criminal history databases.

During calendar year 2005, Department and local law enforcement personnel completed: (a) 65,086 tenprint to tenprint searches; (b) 111,835 tenprint to unsolved latent fingerprint searches; (c) 39,570 palm print to unsolved latent palm print searches; (d) 7,720 latent fingerprint to tenprint

searches; and (e) 570 unsolved latent palm print to palm print searches.

In order to expand accessibility and usability of AFIS, the Department has provided 65 Fast ID devices to law enforcement agencies across the state. In addition, individual agencies have separately acquired 81 Fast ID devices. These two-finger identification systems are capable of transmitting electronic fingerprint images to AFIS. This capability enables local law enforcement agencies to positively identify individuals. Fast ID devices submitted 64,623 searches of AFIS in 2005.

The criminal history database is typically searched by name or by fingerprint. Law enforcement agencies may access the database or may have it searched by Department personnel, at no cost if the search is completed for criminal justice purposes.

Because Wisconsin is an "open records" state, governmental agencies, non-profit organizations and any other requester may also have the Department search the criminal history database for non-criminal justice purposes. Each year, the crime information bureau receives more than 600,000 non-criminal justice search requests of the criminal history database. These types of requests are generally made in connection with an employment or professional licensing application.

Table 5 identifies the fees that are currently authorized for non-criminal justice searches of the criminal history database. In addition to the fees identified in Table 5, a \$5 surcharge is assessed if the requestor must have a paper copy of the results of the search. In 2005-06, the Department received criminal history search fees revenues of \$4,172,700. The budget for the criminal history database in 2006-07 is \$657,900 GPR and \$3,722,900 PR and 16.0 GPR and 25.0 PR positions.

Table 5: Criminal History Search Fees

Type of Requestor	Name Check	Fingerprint Check
Nonprofit organization	\$2	\$15
Governmental agency	5	15
Any other requestor	13	13

Transaction Information for the Management of Enforcement (TIME) System

Statutory Authorization. The Transaction Information for the Management of Enforcement (TIME) System provides law enforcement agencies across the state access to a variety of law enforcement-related databases. Under s. 165.83(2) of the statutes, DOJ must: (a) obtain and file information relating to identifiable stolen or lost property; and (b) generally obtain and file a copy or detailed description of each arrest warrant issued in this state but not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. In making criminal history information, stolen property, wanted persons and other relevant information available to law enforcement agencies, the statutes further require DOJ to create and administer the TIME System.

The TIME System provides Wisconsin law enforcement agencies electronic access to the following databases:

- State and national wanted, missing and unidentified persons;
- Stolen motor vehicles;
- Identifiable stolen property;
- Driver and vehicle registration files;
- State and national criminal history information;

- The sex offender registry maintained by the Department of Corrections;
- Persons subject to protection orders; and
- Other databases of interest to law enforcement for officer safety.

The relevant data is provided by the TIME System through its access to: (a) DOJ's criminal history, stolen property and wanted persons databases; (b) the Department of Corrections' sex offender registry and probation and parole files; (c) selected Department of Natural Resources files; (d) the federal National Crime Information Center database; and (e) the National Law Enforcement Telecommunication System, which provides access to out-of-state and Canadian data on criminal history, vehicle registration and driver files.

System Administration. The TIME System consists of 8,576 terminals located in 600 local, state and federal law enforcement agencies in Wisconsin. Approximately 5,000 of these terminals are mobile units that provide information directly to the patrol officer. On an average day, the TIME system processes approximately 263,400 transactions.

The Department is authorized to assess fees to law enforcement agencies for the costs of terminal rental and usage, and related services to support the operation of the TIME System. In 2005-06, the Department collected TIME System user fees of \$2,218,900. The TIME System's 2006-07 budget is \$3,683,100 PR and 9.0 PR positions.

The TIME System's 2006-07 budget includes \$2,664,500 PR and 6.0 PR positions, funded from TIME system user fees, for the crime information bureau to administer the system. The TIME System's 2006-07 budget also includes \$1,018,600 PR and 3.0 PR positions, funded from the penalty surcharge, for the Division of Management Services' computing services bureau to provide information technology services for the system.

Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge of 26% of the total fine or forfeiture. A portion of the surcharge supports the TIME System.

Handgun Purchaser Record Check Program

Statutory Authorization. Under current federal law, states may individually determine whether they will process background checks on purchasers prior to the transfer of handguns and long guns. States processing these background checks must ensure that the guns are not transferred in violation of federal or state law. If a state does not process background checks, either in whole or in part, the FBI processes those background checks not undertaken by the state.

In Wisconsin, staff in DOJ's Crime Information Bureau processes background checks on purchasers of handguns. The FBI continues to be responsible for background checks on purchasers of long guns in Wisconsin. States which process background checks are also authorized to extend their background checks beyond the requirements under federal law. Currently, Wisconsin handgun background checks include a review of such matters as adjudications of mental illness, certain juvenile convictions and certain domestic abuse restraining orders that are not reviewed as part of a federal background check.

Under s. 175.35 of the statutes, when a firearms dealer sells a handgun in Wisconsin, the dealer may not transfer possession of that handgun until all of the following events occur: (a) the dealer has inspected photographic identification from the purchaser; (b) the purchaser has completed a notification form with the purchaser's name, date of birth, gender, race and social security number so that DOJ may perform an accurate record search; (c) the dealer has submitted the information to DOJ and has requested a firearms restrictions record search; and (d) 48 hours have lapsed (subject to

certain extensions) and DOJ has not notified the dealer that the transfer would be a violation of state or federal law.

An \$8 fee is assessed on the dealer (who may pass the charge on to the purchaser) for each background check. These fee revenues are remitted to DOJ and are intended to fund the cost of operating the record check program.

Program Administration. The Bureau's handgun purchaser record check program operates a handgun hotline between the hours of 9:00 a.m. and 9:00 p.m. on weekdays, and between the hours of 9:00 a.m. and 5:00 p.m. on weekends, so as to be available to receive telephone calls during regular retail hours. The handgun hotline receives telephone inquiries from handgun dealers. The information provided by the dealers during the course of these calls enables Bureau staff to begin the required background checks on handgun purchases.

As a part of the background check approval process, handgun dealers must submit a written notification form to the Bureau. If the information on the written notification forms confirms the information that was provided to the Bureau during the initial telephone call, the background check can normally be completed, based on information that was provided in the initial telephone contact to the Bureau. If the data on the written notification forms contains new information, additional limited or more involved follow-up review may be required before the purchase can be approved. Where an initial telephone inquiry or a subsequent follow-up review discloses a disqualification that would bar handgun ownership, the purchase request is denied.

The handgun hotline received 36,878 calls from dealers in 2005-06. Table 6 indicates the disposition of these background checks.

Table 6: Handgun Hotline Background Checks (2005-06)

	Calls
Instant Approvals	14,928
Limited Follow-up Approvals	19,416
Involved Follow-up Approvals	1,957
Denials	<u>577</u>
Total	36,878

The handgun purchaser record check program's 2006-07 budget is \$418,500 PR and 8.0 PR positions, supported by the \$8 handgun purchaser record check fee. Since its creation under 1991 Wisconsin Act 11, the program has ended each state fiscal year in deficit. During 2005-06, the program received \$299,300 in record check fees but expended \$426,600. At the end of the 2004-05 fiscal year, the program's cumulative deficit stood at \$1,052,900 and is projected to end 2006-07 with a deficit of \$1,299,300. As a part of DOJ's 2007-09 biennial budget request, the agency has proposed a variety of fee increase, program expansion, or program reduction alternatives to address this deficit.

State Crime Laboratories

Under s. 165.75(2) of the statutes, DOJ is required to locate a state crime laboratory in Madison, Milwaukee, and Wausau. Each crime laboratory is considered a bureau within the Division of Law Enforcement Services. The Madison Crime Laboratory was created by the Legislature in 1947; the Milwaukee Crime Laboratory was opened in 1975; and the Wausau Crime Laboratory began operations in 1991.

The state crime laboratories are responsible for providing scientific and technical assistance to state and local law enforcement agencies, upon their request. The budget in 2006-07 for the state crime

laboratories totals \$11,771,900 and 108.33 positions. The state crime laboratories' funding is comprised of \$4,812,800 GPR, \$6,871,900 PR, and \$87,200 FED and 51.83 GPR, 55.5 PR, and 1.0 FED positions.

The state crime laboratories' program revenue-supported budget is funded from a variety of sources: (a) a \$8 crime laboratory and drug law enforcement assessment and a \$250 DNA surcharge (\$5,690,900 and 47.5 positions); (b) criminal history search fees (\$640,200 and 7.0 positions); and (c) penalty surcharge revenues (\$540,800 and 1.0 position).

An \$8 crime laboratory and drug law enforcement assessment is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for most violations of state law or municipal or county ordinance. In addition, a court imposes the \$250 DNA surcharge either when it imposes a sentence or places a person on probation for committing certain sex offenses or when it elects to do so under any circumstance in which the court has imposed a sentence or placed a person on probation for a felony conviction.

The criminal history search fees, described earlier in this section, are imposed whenever DOJ receives a request for a non-criminal justice search of the criminal history database.

As indicated previously, the penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge equals 26% of the total fine or forfeiture.

Statutory Authorization. Under s. 165.75(3)(a) of the statutes, the purpose of the state crime laboratories is to "provide technical assistance to local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. ...[T]he laboratories shall maintain services and employ the necessary specialists, technical and scientific employees for the recognition and proper preservation, marking and scientific analysis of

evidence material in the investigation and prosecution of crimes in such fields as firearms identification, the comparison and identification of toolmarks, chemistry, identification of questioned documents, metallurgy, comparative microscopy, instrumental detection of deception, the identification of fingerprints, toxicology, serology and forensic photography."

Employees of the state crime laboratories may undertake investigation of criminal conduct only upon the request of a sheriff, coroner, medical examiner, district attorney, chief of police, warden or superintendent of any state prison, state agency head, the Attorney General or the Governor. Following such a request, the laboratories must collaborate fully in the complete investigation of criminal conduct and bring to bear the full range of their forensic skills. These efforts may involve field investigations at the scene of the crime. Both the Wausau and Madison crime laboratories have a mobile unit available for such field investigations 24 hours a day, seven days a week.

DOJ is authorized to decline the provision of laboratory services in any case that does not involve a potential felony charge. The state crime laboratories generally do not accept misdemeanor cases.

State Crime Laboratory Operations. Both the Milwaukee and Madison crime laboratories provide all of the following analytical services to Wisconsin law enforcement agencies:

1. *Drug Identification.* A combination of different tests may be performed on an unknown material until the analyst can identify or eliminate the presence of any controlled substance, narcotic, pharmaceutical, or other ingredient. Controlled substances are those compounds prohibited under Chapter 961 of the statutes.

2. *Toxicology.* An analysis of bodily specimens may be undertaken for the presence of chemicals that are harmful or for which ingestion is

in some way defined as a criminal offense. The laboratory identifies and quantifies the amount of drugs, alcohol, and poisons in biological samples such as blood, urine, or tissue.

3. *Trace Chemistry.* A comparison and identification of trace evidence may be undertaken. This includes such substances as paints, soil, plastics, glass, insulation, arson accelerants, fireworks, explosives and synthetic fiber.

4. *DNA.* This type of analysis involves the identification and characterization of biological materials, including blood, semen and other body fluids.

5. *DNA Databank.* These activities involve the development, identification and cataloging of DNA profiles from biological samples collected from convicted offenders.

6. *Firearms/Toolmarks.* This activity involves the examination of firearms and ammunition, toolmarks and suspect tools, serial number restoration, and distance determination tests. To determine whether a firearm recovered in the case was the firearm that fired the bullets and cartridge cases that have been recovered, the laboratory compares the recovered bullets and cartridge cases with laboratory fired bullets and cartridge cases from the suspected firearm. A subsequent microscopic examination permits a final determination to be made.

7. *Identification.* This activity involves an analysis to determine the presence of fingerprints, palm prints, footprints, or tire treads and the comparison of such prints or treads to establish identity.

8. *Document Examination.* This type of analysis permits the comparison of handwriting, typewriting, and printing, and the analysis of inks, paper, and related materials. These services also include the deciphering of charred, obliterated, or indented documents.

9. *Forensic Imaging.* These services provide all laboratory sections with specialized forensic photography support using black and white, color, ultraviolet, digital, infrared and infrared luminescence techniques.

The Wausau Crime Laboratory provides services generally limited to controlled substances identification, fingerprint and footwear identification, and photography. The Wausau Crime Laboratory region is served by the Madison Crime Laboratory for the forensic service areas not otherwise provided at the Wausau Crime Laboratory. Appendix III identifies the geographic areas of the state served by each crime laboratory.

The three state crime laboratories are currently authorized the following types of specialists: (a) DNA analysts (29.0); (b) fingerprint and footwear examiners (15.0); (c) controlled substance analysts (12.0); (d) forensic program technicians (9.0); (e) forensic imaging specialists (6.0); (f) toxicologists (5.0); (g) firearms and toolmark examiners (4.0); (h) trace evidence examiners (4.0); (i) examiners of questioned documents (3.0); and (j) a forensic science training coordinator (1.0). In addition to these 88.0 specialists positions, an additional 20.33 supervisory and support positions include forensic scientist supervisors (6.0), crime laboratory directors (3.0), office associates (3.0), and program assistants (2.0).

Table 7 identifies the caseload of the state crime laboratory analysts during 2005-06.

DNA Testing. The analysis of deoxyribonucleic acid (DNA) evidence at crime scenes has become an increasingly important forensic tool for law enforcement agencies in recent years. Under s. 165.77 of the statutes, the state crime laboratories are required to provide DNA analysis and maintain a DNA databank. The laboratories are required to analyze the DNA in a human biological specimen, if requested: (a) by a law enforcement agency regarding an investigation; (b) pursuant to a court order; and (c) by an individual regarding

Table 7: Analyst Caseloads in 2005-06

Case Type	Opened	Completed
Bloodstain pattern	21	21
Computer evidence	0	0
Documents	136	151
DNA	2,184	1,359
DNA databank	164	191
Drugs	5,515	5,460
Firearms	1,318	1,352
Field photo	47	50
Field response	58	62
Forensic imaging	2,611	1,832
Identification	2,903	3,135
Toolmarks	49	58
Trace Chemistry	278	275
Toxicology	<u>890</u>	<u>897</u>
Total	16,174	14,843

his or her own specimen, subject to rules established by the Department. The laboratories may compare the data obtained from this specimen with data obtained from other specimens, but may not include the data from these specimens in the state DNA databank.

However, under other provisions of current law, the following persons are required to submit a DNA specimen for inclusion in the state's DNA database:

1. Those found guilty or delinquent of first- or second-degree sexual assault or of engaging in repeated sexual assaults of the same child (this category includes those found not guilty of such crimes by reason of mental disease or defect);
2. Those committed as sexually violent persons;
3. Those in prison for a felony committed in Wisconsin;
4. Those sentenced to prison or placed on probation for a felony conviction;
5. Those convicted of certain serious crimes ordered by a judge to submit a DNA sample; or
6. Those on parole, extended supervision or

on probation in another state (but supervised in Wisconsin) for a violation in the other state that the Department of Corrections determines would be subject to 1 or 4 above, if committed in Wisconsin.

As of July 31, 2006, there were 90,499 DNA profiles in the state's convicted offender database. Approximately 850 additional DNA profiles monthly are added to this database. According to FBI statistics, Wisconsin's convicted offender DNA database is the 13th largest database of this type in the country.

"Latent" DNA profiles are developed from biological specimens from crimes scenes that are not tied to a specific individual. As DNA profiles are added to the convicted offender DNA database, DOJ is increasingly able to match "latent" DNA profiles with profiles in the convicted offender DNA database. As of July 31, 2006, there were 3,169 latent DNA profiles in the state DNA database.

The convicted offender DNA database and the latent DNA profiles have become increasingly effective crime-solving tools. In calendar year 2004, there were 238 matches or "hits." These matches involved 208 offender profiles and 30 latent profiles, for an average of about 20 hits per month. In calendar year 2005, there were 277 hits, involving 259 offender profiles and 18 latent profiles, for an average of about 23 hits per month.

**County/Tribal Law
Enforcement Grant Programs**

The budget for the Division of Management Services includes \$2,040,000 PR and 1.0 PR position in 2006-07 to administer three related grant programs and to provide grant funding to support law enforcement services on tribal lands and in counties bordering tribal reservations. Of these budgeted funds and positions in 2006-07: (a)

\$708,400 PR is budgeted for grants under the county-tribal law enforcement grant program; (b) \$700,000 PR is budgeted for grants under the tribal law enforcement assistance grant program; (c) \$550,000 PR is budgeted for grants under the county law enforcement services grant program; and (d) \$82,000 PR and 1.0 PR position is budgeted to permit the Department to administer the county-tribal law enforcement grant program. Funding for the grants and for program administration is provided from tribal gaming revenues.

Statutory Authorization. Section 165.90 of the statutes creates the county-tribal law enforcement grant program, and assigns the program's administrative responsibility to DOJ. In order to receive funding under the program, a county with one or more federally-recognized Indian reservations within or partially within its boundaries must enter into an agreement with an Indian tribe located in the county to establish a cooperative county-tribal law enforcement program. The county and tribe must develop and annually submit to DOJ a joint program plan, and report on the performance of law enforcement activities on the reservation in the previous fiscal year. The joint program plan must identify all of the following: (a) a description of the proposed cooperative county-tribal law enforcement program for which funding is sought, including information on the population and geographic area or areas to be served by the program; (b) the program's need for funding and the amount of funding requested; (c) the governmental unit that will administer the grant funding and the method by which the funding will be disbursed; (d) the types of law enforcement services that will be performed on the reservation and the persons who will perform the services; (e) the individual who will exercise daily supervision and control over law enforcement officers participating in the program; (f) the method by which county and tribal input into program planning and implementation will be assured; (g) the program's policies regarding deputization, training and insurance of law enforcement officers; (h) the record keeping procedures and types of data to be collected by the pro-

gram; and (i) any other information required by DOJ or deemed relevant by the county and tribe submitting the plan.

Section 165.91 of the statutes creates the tribal law enforcement assistance grant program. Wisconsin tribes are eligible to participate in this grant program. Under the program, a tribe must submit an application that includes a proposed plan for expenditure of the grant funds. DOJ is required to develop criteria and procedures in administering this program.

Section 165.89 of the statutes creates the county law enforcement services grant program. A county is eligible to participate in the grant program if the county: (a) borders one or more federally-recognized Indian reservations; (b) has not established a cooperative county-tribal law enforcement program with each such tribe or band; (c) demonstrates a need for grant-eligible law enforcement services; and (d) applies for a grant and submits a proposed plan showing how the funds will be used to support law enforcement services.

Program Administration. Under section 165.90(3m) of the statutes, DOJ must consider the following factors when determining whether to approve and fund a county/tribal program plan under the county-tribal law enforcement program: (a) the population of the reservation area to be served by the program; (b) the complexity of the law enforcement problems that the program proposes to address; and (c) the range of services that the program proposes to provide. When determining whether to make grants under the county-tribal law enforcement program, the Department also considers the county crime rate and the tribal unemployment rate. The Department further averages the preliminary award for a given year with up to three of the most recent grants for a given tribe, in order to mitigate large grant award fluctuations from year to year.

Table 8 identifies the grant amounts awarded to counties and tribes for calendar year 2006 grant

Table 8: Grants Awarded to Counties and Tribes in 2006

County/Tribe	Amount
Ashland/Bad River	\$53,760
Barron/St. Croix	20,280
Bayfield/Red Cliff	61,015
Brown/Oneida	27,303
Forest/Sokaogon	34,953
Forest/Potawatomi	42,865
Jackson/Ho Chunk	32,523
Juneau/Ho Chunk	37,827
Menominee/Menominee	55,619
Monroe/Ho Chunk	24,024
Outagamie/Oneida	26,712
Polk/St. Croix	21,965
Sauk/Ho Chunk	26,026
Sawyer/Lac Courtes Oreilles	81,189
Shawano/Ho Chunk	19,871
Shawano/Stockbridge	55,976
Vilas/Lac du Flambeau	66,419
Wood/Ho Chunk	<u>20,073</u>
Total	\$708,400

activities. Although some of the grants were awarded to programs that include tribal police departments, most of the grants help pay for services provided by county sheriffs to Indian reservations and communities.

Section 165.91 of the statutes delegates the responsibility to DOJ to develop the criteria and procedures to be used in administering the tribal law enforcement grant program. DOJ utilizes a three-criteria formula in making awards that it also utilizes under the county-tribal law enforcement grant program. In evaluating the grant applications and making awards, DOJ considers: (a) reservation population; (b) county crime rate; and (c) tribal unemployment rate. The Department further averages the preliminary award for a given year with up to three of the most recent grants for a given tribe, in order to mitigate large grant award fluctuations from year to year. Table 9 identifies the grant amounts awarded to tribes for calendar year 2006 activities. All of the grants provided under this program support tribal law enforcement operations.

As with the tribal law enforcement grant program, section 165.89 of the statutes delegates to

Table 9: Grants Awarded to Tribes in 2006

Tribe	Amount
Bad River	\$165,149
St. Croix	160,779
Lac du Flambeau	114,595
Red Cliff	100,553
Stockbridge Munsee	68,711
Lac Courtes Oreilles	66,919
Oneida	<u>23,294</u>
Total	\$700,000

Table 10: Grants Awarded to Counties in 2006

County	Amount
Forest	\$300,000
Shawano	47,284
Burnett	45,000
Oneida	45,000
Menominee	34,730
Oconto	28,800
Barron	27,000
Langlade	<u>22,186</u>
Total	\$550,000

DOJ the responsibility to develop the criteria and procedures to be used in administering the county law enforcement grant program. Of the \$550,000 PR in annual grant funding under the program, however, state statute specifically provides that DOJ must allocate \$300,000 PR annually under the program to Forest County to fund law enforcement services. The Department also utilizes its three-criteria formula (reservation population, county crime rate, and tribal unemployment rate) to make awards of the remaining \$250,000 PR annually in funding under this program to Wisconsin counties. As with the other programs, in order to mitigate large grant award fluctuations from year to year, DOJ averages the preliminary award for a given year with up to three of the most recent grants for a given county. Table 10 identifies the grant amounts awarded to counties for calendar year 2006 activities. All counties use these grant funds to support law enforcement services, typically near bordering reservation lands.

LAW ENFORCEMENT ACTIVITIES OF THE DEPARTMENT OF JUSTICE

Introduction

Various provisions of the Wisconsin Statutes require DOJ to become involved in active law enforcement activities. Under s. 165.50 of the statutes, DOJ is required to investigate crime that is statewide in nature, importance or influence and to conduct arson investigations.

Further, the Department is specifically authorized to enforce Chapter 108 of the statutes (Unemployment Insurance and Reserves), and selected statutory provisions regulating or prohibiting the following: (a) prostitution; (b) illegal gambling; and (c) smoking.

Finally, under s. 165.70 of the statutes, DOJ is authorized to investigate and enforce selected statutory provisions regulating certain conduct or prohibiting certain crimes that are statewide in nature, importance, or influence. These provisions include: (a) prostitution; (b) illegal gambling; (c) controlled substances; (d) battery or intimidation of jurors and witnesses; (e) machine guns; (f) extortion; (g) usurious loans; (h) loan sharking; (i) obstruction of justice; (j) arson; and (k) use of a computer to facilitate a child sex crime. With respect to these latter provisions, the statutes stipulate that it is not the intent to deprive local law enforcement of its concurrent power and duty to enforce these provisions.

The statutes generally provide DOJ agents the powers of peace officers in carrying out these responsibilities. Under s. 939.22(22) of the statutes, a peace officer is defined as "any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends

to all crimes or is limited to specific crimes."

**Law Enforcement Activities of the
Division of Criminal Investigation**

The Department of Justice's Division of Criminal Investigation is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the Department enumerated above. In addition, in representing the state, or any state department, agency, official, employee or agent, the Department's Division of Legal Services may utilize the investigative expertise of the Division of Criminal Investigation. Finally, on occasion, the Division of Criminal Investigation will also provide investigative assistance to local law enforcement, when requested, to help solve serious crimes.

The budget for the Division in 2006-07 is \$13,843,900 and 121.0 positions. The Division is organized into five bureaus and one separate unit. These are the: (a) Narcotics Bureau; (b) Gaming Bureau; (c) Arson and Special Assignments Bureau; (d) Investigative Services Bureau; (e) Public Integrity Bureau; and (f) a separate administrative services unit.

Narcotics Bureau

The budget for the Narcotics Bureau in 2006-07 totals \$8,642,900 and 65.0 positions. The Bureau's

total funding is comprised of \$2,057,900 GPR, \$4,658,100 PR, and \$1,926,900 FED and 20.0 GPR, 33.0 PR and 12.0 FED positions. The Bureau's staff consist of special agents (52.0), and supervisory and support personnel (13.0).

The Bureau's program revenue-funded budget is supported from the \$8 crime laboratory and drug law enforcement assessment and the \$250 DNA surcharge (\$2,194,000 and 21.0 positions) and by the penalty surcharge (\$2,464,100 and 12.0 positions). The \$8 crime laboratory and drug law enforcement assessment is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for most violations of state law or municipal or county ordinance. In addition, a court imposes the \$250 DNA surcharge either when it: imposes a sentence or places a person on probation for committing certain sex offenses; or when it elects to do so under any circumstance in which the court has imposed a sentence or placed a person on probation for a felony conviction.

The penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge equals 26% of the total fine or forfeiture. A portion of the surcharge supports the Bureau.

Statutory Authorization. Under s. 165.70 of the statutes, the Department is charged with enforcing the Uniform Controlled Substance Act (Chapter 961) for violations that are statewide in nature, importance or influence. Further, s. 165.72 of the statutes provides that DOJ must maintain a single toll-free telephone number during normal retail business hours where persons may provide anonymous tips regarding suspected controlled substances violations and where pharmacists may report suspected controlled substances violations. DOJ is required to cooperate with the Department of Public Instruction in publicizing the use of this toll-free telephone number in the public schools.

Program Administration. The Bureau adminis-

ters a statewide drug enforcement program to stem the flow of drugs into and within the state. The Bureau: participates in cooperative anti-drug efforts with local, state, and federal law enforcement agencies; provides investigative assistance to local law enforcement; and initiates independent drug investigations.

Organized Crime Drug Enforcement Task Force. The Bureau participates in the federal Organized Crime Drug Enforcement Task Force. This task force is a program administered by the United States Attorneys' Offices in both the Eastern District and the Western District of Wisconsin. The task force targets organized, high-level drug trafficking groups. State and local agencies investigating high-level drug traffickers apply to the United States Attorney for task force funding. Task force funding ordinarily pays for overtime, travel and other expenses related to drug investigations.

High Intensity Drug Trafficking Area Task Force. The Narcotics Bureau is also involved in the Milwaukee High Intensity Drug Trafficking Area Task Force (HIDTA). The goal of this multi-jurisdictional task force is to apply enhanced intelligence processes, a high level of enforcement, coordination, and prosecution to reduce organized drug distribution, drug-related violent crime, and money laundering.

The enforcement component of the HIDTA task force consists of three investigative initiatives: (a) the Common Threat Task Force; (b) the Heroin Initiative; and (c) the Joint Drug Gangs Task Force. The Common Threat Task Force identifies individuals and organizations involved in the importation and distribution of cocaine. The task force is an FBI-supervised, multi-agency initiative that focuses on long-term investigative efforts. The Heroin Initiative is a Narcotics Bureau-supervised initiative that investigates organizations and individuals involved in high-level heroin trafficking in the Milwaukee HIDTA region. Finally, the Joint Drug Gangs Task Force is a multi-agency initiative supervised by the Milwaukee Police Department. The

task force focuses on the identification, infiltration, disruption, and dismantling of violent street gangs involved in drug trafficking in the Milwaukee area.

Agents of the Narcotics Bureau are involved as task force members in all three enforcement initiatives. In addition, a special agent in charge from the Narcotics Bureau serves as the coordinator for all three investigative initiatives and reports directly to the HIDTA Board of Directors. The Bureau also provides clerical and analytical support to the HIDTA Task Force, and provides assistance during wiretap operations.

Clandestine Laboratory Enforcement and Response Team. The Narcotics Bureau has identified as a significant challenge the current proliferation of methamphetamine laboratories, particularly in northwestern Wisconsin. The Bureau identified and decommissioned 91 laboratories in 2004 and 56 laboratories in 2005. The Narcotics Bureau anticipates processing approximately 40 methamphetamine laboratories in 2006. The number of criminal cases related to methamphetamine in Wisconsin has increased from 16 in 1991 to 726 in 2005. The Bureau projects the number of methamphetamine cases declining to 522 cases in 2006.

To combat the spread of methamphetamine, the Bureau has developed the Clandestine Laboratory Enforcement and Response Team (CLEAR). This multi-jurisdictional team of approximately 105 members represents 49 law enforcement agencies across the state, including 29 special agents from the Narcotics Bureau.

Members of the CLEAR team are trained to dismantle methamphetamine laboratories, collect evidence, and prepare these laboratory sites for outside contractors to dispose of hazardous chemicals. The CLEAR team is also involved in community education and prevention efforts.

Drug Tipline and Pharmacy Hotline. Section 165.72 of the statutes requires the Bureau to operate both the drug tipline and the pharmacy hotline

from the same toll-free telephone number. All calls made to this telephone number are received by the Dane County Dispatch Center, which operates the tipline and hotline under contract with DOJ. This toll-free telephone number received 312 calls in 2004-05 and 503 calls in 2005-06.

Training. The Narcotics Bureau provides drug enforcement training to law enforcement recruits at nearly all of Wisconsin's police recruit academies. This six-hour block of instruction provides basic knowledge of controlled substance abuse and recognition. In addition, specialized training is provided to certified local law enforcement officers in the form of basic and advanced drug enforcement schools. Topics include specific training in search and seizure law, execution of search warrants, undercover activity, surveillance, consent searches, and the latest drug trends throughout the state.

Local Anti-Drug Task Forces. Under current law, DOJ and the Department of Administration's Office of Justice Assistance (OJA) jointly administer a program to provide grant funding to local anti-drug task forces. OJA provides funding for the task forces under the federal Byrne Justice Assistance Grant program, while DOJ provides state penalty surcharge funding. The penalty surcharge is assessed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge is equal to 26% of the total fine or forfeiture.

In providing funding for local anti-drug task forces, the first priority under the program is to support task forces with a significant multi-jurisdictional component. Priority under the program is also given to those task forces rated high under a threat assessment of drug trafficking.

Appendix IV identifies the grant funding provided to local anti-drug task forces for calendar years 2006. The appendix also identifies budgeted allocations for the task forces for calendar year 2007. For calendar year 2006, an advisory panel,

including local law enforcement officials, made recommendations on funding to the Executive Director of OJA. These recommendations were adopted and are reflected in the funding allocations for calendar year 2006. These recommendations continue to be the basis for budgeted calendar year 2007 allocations. As a result of a significant decrease in federal funding received under the Justice Assistance Grant program, federal funding provided to the task forces decreased by approximately \$1 million dollars for calendar year 2007.

Bureau Caseload. In 2004-05, the Bureau opened 1,059 narcotics cases and closed 579 narcotics cases, while in 2005-06, the Bureau opened 972 narcotics cases and closed 308 narcotics cases. The Narcotics Bureau is generally the lead agency.

Gaming Bureau

The budget for the Gaming Bureau in 2006-07 is \$606,400 and 5.0 positions. The Bureau's total funding is comprised of \$270,200 PR and \$336,200 SEG and 2.25 PR and 2.75 SEG positions. The Bureau's staff consists of a director and 4.0 special agents.

The Bureau's program revenue-funded budget is supported by pari-mutuel racing revenue (\$144,100 and 1.0 position) and by tribal gaming revenues (\$126,100 and 1.25 positions). The bureau's SEG-supported operations (\$336,200 and 2.75 positions) are funded from lottery fund revenues.

Statutory Authorization. Prior to the enactment of 1991 Wisconsin Act 269, DOJ had enforcement responsibilities relating to bingo control, crane games, racing and pari-mutuel wagering, the lottery, gambling on Indian lands and general gambling prohibitions.

Act 269 specified that DOJ establish a bureau to oversee the Department's gambling-related responsibilities, and provided additional funding and staffing for these enforcement activities. The primary consideration for providing the additional resources appears to have been the increased workload associated with the new tribal gaming compacts.

The legalization of gaming on Indian lands initially raised a number of jurisdictional questions with respect to which federal, state or local entity had primary enforcement authority. On August 26, 1992, the United States Attorneys for the Eastern District and the Western District of Wisconsin, the FBI, and DOJ agreed that the Division of Criminal Investigation, through its gaming enforcement bureau, would be the primary contact for reporting and investigating all alleged criminal activity affecting the operation and administration of Class III (casino) Indian gaming in Wisconsin. This agreement does not preclude criminal investigation by local or tribal law enforcement agencies; however, the Division is to be apprised by local or tribal law enforcement agencies (or others) of criminal allegations and investigations affecting the integrity of Indian gaming in Wisconsin. This notification requirement is intended to ensure the coordination of investigations of common interest and to encourage the prompt dissemination of information that may be of concern to other gaming operations or enforcement agencies.

Under ss. 165.60 and 165.70 of the statutes, the Department, through its gaming enforcement bureau, is granted criminal law enforcement responsibilities relating to pari-mutuel racing, the Wisconsin Lottery, Indian gaming, charitable gaming, bingo and illegal gambling. The Department of Revenue's Division of Lottery and DOA's Division of Gaming are required by statute to report all suspected criminal activity to DOJ.

The Gaming Bureau also conducts background investigations related to major procurement contracts for the Wisconsin Lottery, and assists

DOA's Division of Gaming in conducting background investigations of contractors and individuals seeking certification or licensure relating to Indian gaming or pari-mutuel racing. In addition, the Bureau assists local law enforcement in meeting its responsibility to enforce the state's gambling laws.

Program Administration. In 1996, Wisconsin had 16 casinos with 10,000 gaming machines. By 2006, this number had grown to 22 casinos with 17,000 gaming machines.

This growth in casino gambling activity has impacted the level of law enforcement activities by Gaming Bureau staff. The Bureau's staff opened 89 cases and closed 51 cases in 2004-05, and in 2005-06, Bureau staff opened 69 cases and closed 33 cases.

In addition to its statutory law enforcement responsibilities, the Gaming Bureau also provides training for local, state and federal law enforcement officers on matters relating to gaming.

Remaining DCI Operations

The budget in 2006-07 for the remaining Division of Criminal Investigation bureaus and units (the Arson and Special Assignments Bureau, the Investigative Services Bureau, the Public Integrity Bureau, and the administrative services unit) is \$4,594,600 and 51.0 positions. This funding is comprised of \$4,284,200 GPR, \$108,500 FED, and \$201,900 PR and 47.5 GPR, 1.0 FED and 2.5 PR positions. The staff authorized for these operations consists of special agents (33.0), office operations associates (6.0), investigative associates (4.0), and supervisory and support personnel (8.0).

The program revenue-funded portion of these budgets is supported by inter- and intra-agency assistance funding (\$201,900 and 2.5 positions). In-

ter- and intra-agency assistance funding represents receipts from DOJ billings of other agencies or units for the Department's services.

Arson and Special Assignments Bureau

Statutory Authorization. Under s. 165.55(1) of the statutes, the fire chief or chief executive of every Wisconsin municipality must investigate all fires in the jurisdiction causing more than \$500 in damage, and report those of suspicious origin to the state fire marshal in the Arson and Special Assignments Bureau.

Program Administration. The Arson and Special Assignments Bureau responds to fatal fires, fires with statewide importance, large commercial structure fires, fires suspected to be arson by local authorities, explosions, and fires involving injury or death to first responders. The Bureau does not respond to requests from insurance companies or private citizens. According to DOJ, most local jurisdictions depend on the bureau to conduct these investigations because the local authorities typically lack the resources to develop a high level of expertise in arson cases.

In 2004-05, the Bureau opened 181 arson cases and closed 161 arson cases, while in 2005-06, the Bureau opened 202 arson cases and closed 125 arson cases. It should be noted that: (a) these figures represent an estimate; and (b) arson cases are often complex and may be investigated for a year or two before charges are filed, much less closed. In addition to this arson caseload, Bureau staff provide fire and arson investigation training to local fire and law enforcement officials.

The Bureau is also responsible for conducting a broad range of criminal investigations involving crimes of statewide importance or influence. The Bureau may be requested to lead or provide assistance to local law enforcement agencies in major criminal cases. The Bureau's involvement is usually requested when local law enforcement agencies conclude either that the matter under

investigation may exceed the capability of local resources or that the seriousness of the offense warrants state intervention.

The Bureau is responsible for maintaining intelligence on subjects involved in organized criminal activity, including those posing a threat to domestic security. The Bureau may also be called on to carry out complex and sensitive criminal investigations requested by the Attorney General, the Governor, or the Legislature.

The Bureau collaborates with the federal Bureau of Alcohol, Tobacco and Firearms (ATF) under the federal CEASEFIRE program. The purpose of the program is to reduce gun violence through the aggressive prosecution of crimes involving guns. The bureau's involvement with this program also brings it into collaboration with the U.S. Attorney's Office, the Milwaukee County District Attorney's Office, the Milwaukee Police Department, Milwaukee suburban police departments, and the Firearms Injury Center. The Bureau also serves as the Wisconsin liaison to INTERPOL, which promotes mutual assistance among international law enforcement authorities.

The Bureau staff provides training to other state agencies, law enforcement agencies at all levels, and new law enforcement recruits. The subjects of training include death investigations, organized crime, interviewing of suspects, and report writing skills.

Investigative Services Bureau

The Investigative Services Bureau provides specialized investigative support services for the Division of Criminal Investigation and to law enforcement agencies statewide. The Bureau is divided into five functional areas.

Wisconsin Statewide Intelligence Center. The Department has been provided federal homeland security funding for the initial development and staffing of a Statewide Intelligence Center at DOJ.

The computer system is intended to: (a) build a database of threats and intelligence compliant with federal law; (b) link relevant state information technology systems, wherever possible, to permit the sharing of data stored in these separate systems; (c) permit DOJ to conduct threat assessments in cooperation with Wisconsin Emergency Management (at the Department of Military Affairs) and establish a risk analysis database; (d) establish a law enforcement query capability to provide timely and complete background information on persons of interest or criminal investigations; and (e) establish a 24-hour per day web access to the system for law enforcement.

Technical Services Unit. This unit provides covert surveillance investigative support for all types of criminal investigations. Special agents from this unit install and operate the equipment necessary to gather information on criminal activity. Assistance is available to all law enforcement agencies for nearly all forms of felony criminal investigations. The Division of Criminal Investigation may limit its investigative involvement in a given case to the provision of technical surveillance services. The Department indicates that through partnerships with federal programs and initiatives, the Division has been able to secure state-of-the-art covert surveillance equipment. The technical services unit assisted with 84 investigations in 2004-05, and with 78 investigations in 2005-06.

Analytical Services Unit. This unit provides analysis and specialized investigative support to the Division of Criminal Investigation and to other law enforcement agencies in the state. The unit offers both experienced criminal intelligence analysts and specialized analytical software. Analytical services are normally free of charge to Wisconsin law enforcement agencies and prosecutors for investigations of all types of crime. In calendar year 2005, the section received 60 new requests and continued support on 115 ongoing investigations.

Investigative Records Section. This section provides information gathering, program support

and background searches, and manages the Division's investigative records. The section serves as the Wisconsin liaison to the FBI's Violent Criminal Apprehension Program (ViCAP). ViCAP is a national data center organized to collect, collate and analyze specific investigative data. The purposes of the system are to enable local and state law enforcement agencies to link potentially related cases and to establish state and local crime trends.

Wisconsin Clearinghouse for Missing and Exploited Children. The clearinghouse serves as a resource for both law enforcement and affected families in investigating cases involving missing and abducted children. The state works in conjunction with the National Center for Missing and Exploited Children, and forms part of a nationwide network that works to reunite missing and abducted children with their families.

In 2000, the clearinghouse received two dozen calls for service. In 2004-05, the clearinghouse received 1,237 calls for service, opened 159 cases and closed 146 cases. In 2005-06, the clearinghouse opened 117 cases and closed 77.

In April, 2003, Congress passed the Protect Act of 2003. This act created the national Amber Alert System. Under Amber Alert, the public is quickly informed through television and radio public service announcements of a child's abduction. This immediate and widespread dissemination of information alerts the public, some of whom may be able to provide relevant and timely information to law enforcement that could end an abduction and result in the apprehension of the perpetrator.

The clearinghouse has been responsible for establishing and monitoring the state Amber Alert System. The Division of Criminal Investigation has entered into a contract with the Dane County Dispatch Center to provide the technical services associated with a statewide Amber Alert. [This same contract provides for the Drug Tipline and Pharmacy Hotline operated by the Division's Narcotics Bureau.] In 2004-05, the clearinghouse

evaluated 15 requests for Amber Alert activation, activated the system on three occasions, and safely recovered the child in all three instances. In 2005-06, the clearinghouse evaluated 12 requests for Amber Alert activation, activated the system on two occasions, and safely recovered the child in both instances.

Public Integrity Bureau

Statutory Authorization. Under s. 165.50 of the statutes, the Division of Criminal Investigation is authorized to investigate crime that is statewide in nature, importance, or influence. While the Division is not specifically authorized to investigate crimes arising under the Code of Ethics for Public Officials (Chapter 19), bribery and official misconduct provisions (Chapter 946), or violations of state election or campaign laws under the state election code (Chapters 5 through 12), district attorneys may refer cases arising under these statutory provisions to the Department for prosecution. Under such circumstances, the Public Integrity Bureau is authorized to assist DOJ attorneys in the prosecution of the case.

The Department also has primary enforcement responsibility regarding the state's open records and open meetings laws.

Program Administration. The Bureau generally works in cooperation with other agencies such as the Elections Board, the Ethics Board, local law enforcement agencies, and district attorneys in evaluating and investigating civil and criminal complaints involving state election and ethics laws, campaign finance, and misconduct in public office violations. The Bureau has independent authority to investigate violations of the state's open meetings and open records laws.

Referrals to the Public Integrity Bureau come from a number of sources. These include: (a) internal requests from assistant attorneys general to investigate complaints received from citizens or other sources; (b) requests from local law

enforcement agencies or district attorneys for investigative assistance; and (c) requests from other state agencies for investigative assistance with complaints involving matters within their regulatory jurisdiction.

In 2004-05, the Bureau opened 105 public integrity cases and closed 53 public integrity cases. In 2005-06, the Bureau opened 71 public integrity cases and closed 92 public integrity cases.

In addition to the Bureau's public integrity caseload, the Bureau also has responsibilities in three additional functional areas.

Internet Crimes Against Children Task Force. This task force was created in 1998 with federal funding to counter the emerging threat of offenders using online technology to sexually exploit children. The task force conducts investigations, provides investigative, forensic and prosecutorial assistance to police agencies and prosecutors, encourages statewide and regional collaboration, and provides training for law enforcement, prosecutors, parents, teachers, and other community members. The task force also coordinates with the Wisconsin Clearinghouse for Missing and Exploited Children, to provide support services to children and families that have experienced victimization.

In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the Cyber Tips Program. In 2004-05, the task force received 134

tips, while in 2005-06, the task force received 311 tips. These tips are investigated by the task force or referred to local law enforcement agencies for action.

In 2004-05, the task force opened 201 cases and closed 346 cases, while in 2005-06, the task force opened 450 cases and closed 483 cases. In 2004-05 alone, the task force made 118 arrests. These arrests have typically involved using a computer to facilitate a sex crime.

Computer Crimes Unit. This unit investigates crimes committed using the computer and analyzes information contained in electronic formats. The personnel in this section are trained to conduct forensic analysis of computer evidence. In 2004-05 the computer crimes unit conducted 876 forensic computer exams, while in 2005-06, the unit conducted 305 forensic computer exams.

Financial Crimes Unit. The financial crimes unit conducts criminal investigations of complaints relating to: (a) economic or "white collar" crimes (such as embezzlement, theft, bank fraud, security fraud, health care fraud, insurance fraud and identity theft); and (b) antitrust violations (such as bid rigging, territory allocation and restraint of trade). The unit generally conducts investigations at the request of local district attorney offices and local law enforcement agencies, as well as through coordination with assistant attorneys general or as a result of citizen reports. In 2004-05, the unit opened 39 cases and closed 15 cases, while in 2005-06, the unit opened 33 cases and closed nine cases.

PROSECUTORIAL RESPONSIBILITIES OF DISTRICT ATTORNEYS

There are 71 district attorneys in Wisconsin. Beginning with the general election in November, 2008, under Article VI, Section 4 of the Wisconsin Constitution, a district attorney (DA) will be elected to a four-year term at the general election held in each presidential election year. Previously, district attorneys were elected to two-year terms. Each county in the state is termed a "prosecutorial unit" except that Shawano and Menominee counties form a two-county prosecutorial unit and jointly elect a single district attorney. Under current law, district attorneys are part-time positions in Buffalo (0.5), Florence (0.5), Pepin (0.8), Trempealeau (0.6) and Vernon (0.9) Counties, and are full-time in all other prosecutorial units.

**Duties and Responsibilities
of District Attorneys**

District attorneys are required to perform the following duties within their respective prosecutorial units:

1. Prosecute all criminal actions in state courts.
2. Except as otherwise provided by law, prosecute all state forfeiture actions, county traffic actions and actions concerning violations of county ordinances which are in conformity with state criminal laws.
3. Participate in John Doe proceedings (proceedings to determine whether a crime has been committed and by whom).

4. When requested, appear before grand juries to examine witnesses and provide advice and legal services to the grand jury.

5. Assist the Departments of Workforce Development and Health and Family Services in conducting welfare fraud investigations.

6. At the request and under the supervision of the Attorney General, brief and argue felony and other significant criminal cases, brought by appeal or writ of error or certified from a county within the DA's prosecutorial unit, to the Court of Appeals or Supreme Court.

7. Commence or appear in certain civil actions.

8. Commence or appear in sexually violent person commitment proceedings.

9. Perform duties in connection with certain court proceedings under the Juvenile Justice Code (Chapter 938), including juvenile delinquency actions.

10. Enforce certain provisions relating to the sale, transportation and storage of explosives.

In addition to these duties, a county has the option of designating the district attorney as its representative in certain proceedings involving children or juveniles. These proceedings include matters relating to: (a) children or juveniles alleged to have violated civil laws or ordinances; (b) children alleged to be in need of protection or services; (c) the termination of parental rights to a minor; (d) the appointment and removal of a

guardian; and (e) the adoption of children.

District Attorney Funding and Staffing

While some counties have a single district attorney to perform the duties identified above, most DAs have one or more assistant DAs who are also authorized to perform the duties. If a county has a population of 100,000 or more, the DA may appoint between one and five deputy DAs, depending on the county's total population. Deputy DAs perform supervisory and administrative responsibilities in addition to prosecuting cases.

Prior to January 1, 1990, district attorneys, deputy DAs, and assistant DAs were county employees. Under 1989 Wisconsin Act 31, prosecutors became state employees on January 1, 1990, and the state now pays for prosecutors' salaries and fringe benefits.

A court may appoint a special prosecutor on its own motion to perform the same duties as a state-employed prosecutor. In addition, a district attorney may request that the court appoint a special prosecutor to assist the district attorney in a prosecution, grand jury or John Doe proceeding, sexually violent person commitment proceeding, or in investigations. The state pays for the compensation of special prosecutors, while other expenses reimbursed to special prosecutors are paid by counties. A special prosecutor may typically be appointed when: (a) there is no district attorney; (b) the district attorney is absent; (c) the district attorney or a member of his or her staff have a conflict of interest; (d) the district attorney is unable to attend to his or her duties; (e) the district attorney is serving in the armed forces; (f) the district attorney is charged with a crime; or (g) the district attorney cannot perform his or her duties due to a medical situation. In 2004-05, the state incurred \$326,500 GPR in special prosecutor expenses, while in 2005-06, the state incurred

\$239,700 GPR in special prosecutor expenses.

Other than for the state-funded costs of prosecutors' salaries and fringe benefits, the remaining staff costs of DA offices are generally the responsibility of counties. The only exception is that 6.5 clerk positions in the Milwaukee County District Attorney's office are supported through a special prosecution clerks fee. This \$3.50 fee is assessed only in Milwaukee County whenever a person pays: (a) a fee for any civil, small claims, forfeiture (except for safety belt use violations), wage earner or garnishment action; or (b) files an appeal from municipal court, a third party complaint in a civil action, or a counterclaim or cross complaint in a small claims action. The fee supports staff serving prosecutors who handle violent crime and felony drug violations in Milwaukee County's speedy drug and violent crime courts (4.5 clerks) and violations relating to the unlawful possession or use of firearms (2.0 clerks). In 2006-07, \$293,200 PR is budgeted to fund the salary and fringe benefit cost of these clerk positions.

In order to administer the state's responsibility as employer of DAs, deputy DAs and assistant DAs, Act 31 created the State Prosecutors Office in the Department of Administration (DOA). The State Prosecutors Office is responsible for coordinating DOA administrative duties relating to district attorney offices. Major responsibilities of the Office include: (a) payroll; (b) fringe benefits; (c) budgets; (d) billing counties for program revenue positions; (e) collective bargaining; (f) advising elected DAs on their rights and responsibilities under the assistant DA collective bargaining agreement; (g) producing fiscal notes and bill analyses for legislative proposals affecting DAs; and (h) serving as a central point of contact for all prosecutors. The State Prosecutors Office is budgeted \$109,400 GPR in 2006-07.

Through DOA, the state also provides funding and staff for computer automation in district attorney offices statewide, including the

development of a DA case management system, and the development of integrated justice information systems shared by DAs, the courts, law enforcement, and other justice agencies. These systems are being implemented on a county-by-county basis. Budgeted funding for the DOA program in 2006-07 is \$3,467,500 PR supported from a portion of the \$5 justice information fee (\$2,456,300), from the federal Byrne anti-drug grant program (\$732,500) and from penalty surcharge revenue (\$278,700). Through July, 2006, the state has installed: (a) local area networks and related hardware and software in 69 DA offices statewide; (b) the DA case management system in 65 DA offices; (c) a connection to the state court system's database (CCAP) in 64 DA offices; and (d) a computerized criminal history report (for criminal background checks) in 65 DA offices. Counties continue to have financial responsibility for all other costs related to the operation of a district attorney's office.

On the date of transition to state service, 332.05 prosecution positions became state employees. As of December 1, 2006, 427.65 prosecutor positions were authorized, including 376.4 funded from general purpose revenue and 51.25 funded from program revenue. Funding for DAs in 2006-07 is \$41,212,300 GPR and \$1,835,100 PR.

In addition to the general prosecutor positions authorized for county DA offices, there are currently two types of specialized state-funded prosecutor positions. First, 1.0 GPR-funded sexually violent person commitment prosecutor position has been assigned, by statute, to Brown County and to Milwaukee County, respectively. By statute, these two positions may only engage in proceedings related to the civil commitment of sexually violent persons. While these positions are primarily responsible for such proceedings in Brown and Milwaukee Counties, these prosecutors may also be assigned to similar types of cases in other counties in the state. In calendar year 2005, the Brown County sexually violent person commitment prosecutor handled 15 cases while the Milwaukee

County sexually violent person commitment prosecutor handled 14 cases. Second, 1.0 PR-supported statewide DNA evidence prosecutor position has been assigned to Milwaukee County. This position is funded from a portion of the \$8 crime laboratory and drug law enforcement assessment and from the \$250 DNA surcharge, which are imposed in certain criminal and forfeiture actions. This PR-funded DNA evidence prosecutor position is primarily responsible for: (a) prosecuting criminal cases where DNA evidence plays a critical role; (b) developing and presenting appropriate training sessions statewide relating to the use of DNA evidence; and (c) providing expert advice on DNA evidence to a variety of criminal justice agencies in the state.

The three most significant sources of support for program revenue-funded prosecutor positions are the Edward Byrne Memorial Justice Assistance Grant Program, the Violence Against Women Act (VAWA) grant program originally created under the federal Violent Crime Control and Law Enforcement Act of 1994, and federal Title IV-E funding under the Social Security Act. These three revenue sources provide support for approximately two-thirds of the PR funded prosecutorial positions.

Federal Byrne Justice Assistance Grant funds, which are administered by DOA's Office of Justice Assistance (OJA), may be used to address drug control, violent and serious crimes. The funding of positions to prosecute these types of crimes is an authorized use of Byrne grant monies. As of December 1, 2006, 13.75 PR prosecutor positions were supported with Byrne funds.

There are a number of grant programs authorized under the Violence Against Women Act, including both the STOP Violence Against Women Formula Grants and the Judicial Oversight Demonstration Project. The purpose of these grant programs is to develop and strengthen the criminal justice system's response to violence against women and to support and enhance services for

victims. As of December 1, 2006, 11.0 prosecutor positions were supported with funds from these VAWA grant programs.

Title IV-E funds under the federal Social Security Act are available to support prosecutorial positions providing legal services for child welfare actions under the Children's Code (Chapter 48 of the statutes), primarily involving children in need of protection and services and termination of parental rights actions. As of December 1, 2006, 9.5 prosecutor positions were supported with Title IV-E funding.

Under current law, the salaries of district attorneys are established under the biennial state compensation plan. The compensation plan must establish separate salary rates for DAs depending on the population size of each prosecutorial unit. For DA terms beginning January 1, 2007, the rates have been established as shown in Table 11.

Table 11: District Attorney Salaries

Prosecutorial Unit Population	Salary
More than 500,000	\$122,470
250,000 to 500,000	110,560
100,000 to 250,000	104,872
75,000 to 100,000	104,872
50,000 to 75,000	99,742
35,000 to 50,000	99,742
20,000 to 35,000	88,912
Not more than 20,000	88,912

Assistant district attorney compensation is established under a collective bargaining agreement with the state. Beginning April 1, 2007, the minimum annual assistant DA salary is \$47,036 and the maximum is \$113,435. The salary range for deputy DAs is established under the biennial state compensation plan and is identical to the assistant DA salary range. However, deputies may qualify for an additional \$2.75 per hour supervisory differential (\$5,742 annually), based on such factors as the organizational structure of the prosecutorial unit, internal and external

relationships, size of staff, and other reasonable criteria deemed appropriate.

Table 12 shows the number of prosecutor positions authorized for each county as of December 1, 2006.

Table 12: State Prosecutor Positions – 2006-07

County	Positions	County	Positions
Adams	1.20	Marathon	10.00
Ashland	1.75	Marinette	2.50
Barron	3.00	Marquette	1.00
Bayfield	1.00	Milwaukee	125.00
Brown	14.00	Monroe	3.00
Buffalo	1.00	Oconto	1.50
Burnett	1.00	Oneida	2.50
Calumet	2.00	Outagamie	10.50
Chippewa	5.75	Ozaukee	3.00
Clark	2.00	Pepin	0.80
Columbia	4.50	Pierce	2.50
Crawford	1.00	Polk	2.00
Dane	31.10	Portage	4.00
Dodge	4.00	Price	1.00
Door	2.00	Racine	18.00
Douglas	3.50	Richland	1.80
Dunn	3.00	Rock	13.50
Eau Claire	8.00	Rusk	1.50
Florence	0.50	Saint Croix	5.70
Fond du Lac	5.00	Sauk	4.50
Forest	1.00	Sawyer	2.00
Grant	2.00	Shawano/Menominee	3.00
Green	2.00	Sheboygan	7.50
Green Lake	1.50	Taylor	1.00
Iowa	1.75	Trempealeau	1.60
Iron	1.00	Vernon	1.90
Jackson	2.00	Vilas	2.00
Jefferson	5.30	Walworth	5.00
Juneau	2.50	Washburn	1.50
Kenosha	15.00	Washington	5.00
Kewaunee	1.50	Waukesha	15.50
LaCrosse	8.00	Waupaca	3.50
Lafayette	1.00	Waushara	1.50
Langlade	1.50	Winnebago	10.00
Lincoln	2.00	Wood	4.00
Manitowoc	5.00	Total	427.65

Prosecutorial Workload

Every two years during budget deliberations, the Governor and Legislature assess the need for

additional prosecutors in the 71 separate DA offices across the state. The caseload of these DA offices, both individually and collectively, has been viewed by the Legislature as an important factor in determining the allocation of additional prosecution staff to these DA offices.

In 1995, a number of legislators and district attorneys raised questions about the caseload measurement of prosecutorial workload that was in place at the time. In response to those concerns, the Joint Legislative Audit Committee directed the Legislative Audit Bureau (LAB) to review options for measuring prosecutorial workload and improving the system for assessing the need for prosecutorial resources.

The results of the LAB findings were released in December, 1995, and identified a number of problems with the caseload weighting system then in use. After reviewing Wisconsin's and other states' methods of measuring prosecutorial caseload, the LAB made a number of recommendations, including improving the caseload measurement to: (a) use currently available data to express caseload in hours (for example, assign a Class A Homicide a weight of 100 hours to complete); (b) recognize that certain types of cases within a broader category may take more time than other cases within that category (for example, homicides require more time than other felonies); and (c) use a three-year average for case filing data.

The LAB also recommended that once a more accurate case measurement system was developed, a productivity standard be created for DAs to determine the time that a prosecutor has available to prosecute cases. The LAB conducted the first step of the calculation by estimating the average number of state holiday hours, personal hours, sick leave, and vacation time per prosecutor. This total, estimated at 300 hours per year, was then subtracted from 2,088 hours (the total number of hours per prosecutor position per year) to derive a 1,788 working hours per year standard. The LAB rec-

ommended that either a Legislative Council special committee be established or a committee be organized by the State Prosecutors Office with appropriate prosecutor representation to estimate the average time spent on other duties such as administrative and investigative work, training, reviewing cases that are never charged and community service. The average time spent on these other duties could then be subtracted from the available working hours estimate to calculate the average number of hours actually available to prosecute cases.

In response to the LAB's recommendations, the State Prosecutors Office, in conjunction with the Wisconsin District Attorneys Association (WDAA), reviewed available data and surveyed district attorneys to estimate this "time-available" standard for prosecutors. The WDAA is an association of state district attorneys that meets to discuss various issues that affect DAs. Since DAs do not have any type of official state governing board, the WDAA has decided to act as the official voice for state prosecutors. In this regard they appointed a committee to rework the measurement of district attorney position allocation, taking into account some of the LAB recommendations.

The committee estimated the amount of time spent by district attorneys on various non-prosecutorial activities such as administrative work, community service, search warrants, appeals, contested ordinance and civil traffic cases, training and other such duties. The estimate was then reviewed by all district attorney offices. The resulting estimate indicated that, on average, DAs spend approximately 561 hours per year on duties other than prosecuting cases. Subtracting this estimate from the LAB's baseline estimate of 1,788 working hours available per prosecutor, 1,227 hours per prosecutor were projected as being available for prosecution per year.

The committee also estimated average prosecutorial hours required for different types of cases. This estimate was based on: (a) information resulting from a time study conducted by DAs in

1993-94 for which DAs recorded hours spent on various cases; and (b) various modifications to the time study as recommended by committee members.

Once these estimates were complete, the State Prosecutors Office received caseload filing data for each county from the Director of State Courts. The Office averaged the data over a three-year period, as recommended by the LAB, to limit the effect of differences in charging practices and annual

fluctuations in caseload. The total hours required to handle the cases filed in each county was then calculated. The resulting figure was compared to the total number of prosecutor hours available in that county (1,227 available working hours times the number of prosecutors) to determine the ability of the county DA office to handle its likely annual workload with existing staffing resources. The Legislature and the Governor continue to employ this methodology to measure prosecutorial workload in the DA offices across the state.

PROSECUTORIAL AND RELATED RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE

While district attorneys are primarily responsible for prosecuting criminal and juvenile delinquency offenses at the trial or hearing level, the Department of Justice's Division of Legal Services represents the state in felony and other significant criminal and juvenile delinquency cases on appeal. In addition, the Division: (a) represents the state in prisoner and sexually violent person ("sexual predator") conditions of confinement suits; (b) assists DAs, when requested, in certain criminal prosecutions; and (c) initiates criminal prosecutions and sexual predator commitments under limited circumstances.

These prosecutorial and related functions constitute only a portion of the work of the Division and are primarily the responsibility of the following units in the Division: (a) criminal appeals; (b) civil litigation and employment; and (c) criminal litigation, antitrust, consumer protection, and public integrity. This chapter discusses the prosecutorial and related workload of each of these units.

The criminal justice workload of the Division is GPR funded, supported by the Division's general program operations appropriation.

Criminal Appeals Unit

Statutory Authorization. Under s. 165.25(1) of the statutes, DOJ is required to represent the state in all appeals of felony convictions to the state Court of Appeals or Supreme Court. Under s. 165.25(1) of the statutes, DOJ also represents the state in appeals of significant criminal and juvenile

delinquency cases. However, at the request of and under supervision of the Attorney General, a district attorney may brief and argue before the state Court of Appeals or Supreme Court a felony or other significant criminal or juvenile delinquency case on appeal from his or her jurisdiction.

Under s. 752.31 of the statutes, misdemeanor, juvenile delinquency, and traffic appeals are normally decided by a single Court of Appeals judge. However, any party to the appeal may request that the case be decided by a three-judge panel.

A district attorney who filed a misdemeanor, juvenile delinquency, or traffic case that is on appeal to a single Court of Appeals judge, must represent the state. However, if a request for a three-judge panel is granted in such an appeals case, the district attorney must transfer all relevant files and papers relating to the case to the Attorney General.

Because of these responsibilities, the criminal appeals unit has a significant criminal justice workload.

Program Administration. While most initial felony prosecutions are handled by the district attorney of jurisdiction, the criminal appeals unit is charged with preparing briefs and presenting arguments before state appellate or any federal court hearing a challenge to a felony conviction.

The unit also represents the state in these courts on appeals arising from sexual predator commitments, and on appeals of selected misdemeanor,

traffic, and juvenile delinquency cases.

While district attorneys are authorized to accept felony and other significant criminal and juvenile delinquency cases on appeal, at the request and under the supervision of the Attorney General, this delegation to district attorneys is only rarely done.

The criminal appeals unit also defends state criminal convictions in federal habeas corpus proceedings. In a petition for federal habeas corpus relief, a convicted criminal defendant argues in federal district court that his or her conviction and/or sentence should be overturned because it was obtained in violation of the defendant's federal constitutional rights. Attorneys from the criminal appeals unit also represent the state when these habeas corpus cases are appealed to the United States Court of Appeals and to the United States Supreme Court.

The criminal appeals unit prepares and distributes training materials, briefing memoranda, and other publications to assist local prosecutors. Staff of the unit also review and draft legislation affecting the criminal justice system and advise the Governor on extradition matters.

Due to the unit's efforts to address a backlog, in 2004-05, the criminal appeals unit opened 1,937 cases and closed 2,684 cases. In 2005-06, the unit opened 1,766 cases and closed 2,656 cases.

Civil Litigation and Employment Unit

Statutory Authorization. The civil litigation and employment unit is responsible for representing the state in prisoner and sexual predator conditions of confinement suits. Under ss. 801.02(7) and 893.82(3) of the statutes, a prisoner condition of confinement suit generally may not be brought against an officer, employee or agent of the state for an act committed by such an

individual in the performance of his or her duties unless the claimant in the matter serves written notice of the claim on the Attorney General within 120 days of the event. Section 893.82(3m) further stipulates that where the claimant is a prisoner, an action may not be commenced until the earlier of the Attorney General's denial of the claim or 120 days after the notice has been served on the Attorney General.

Under s. 165.25(6) of the statutes, the head of any department of state government may request the Attorney General to defend any state department, officer, employee, or agent in a civil action or other matter in a court or administrative agency relating to any act committed by the state department, officer, employee, or agent in the lawful course of their duties.

Program Administration. The nature of the prisoner and sexual predator conditions of confinement lawsuits and the focus of the unit's work are substantially the same for both types of cases.

Typically, these types of lawsuits involve one or more allegations of the following acts committed by state officers, employees, or agents: (a) allegations of religious discrimination; (b) failure to provide adequate medical care; (c) excessive force by staff; (d) denial of access to court; (e) interference with privacy of mail communications; (f) failure to allow mailings of certain kinds of literature; (g) denial of access to a notary public; (h) failure to follow due process and administrative rule requirements in imposing discipline; (i) erroneous application of administrative code or prison policy when imposing discipline; (j) erroneously calculating prison release date; (k) illegal revocation of probation or parole; (l) liability for wet floors causing a slip and fall; (m) unconstitutional strip search; (n) harassment and retaliation for suing staff; (o) cruel and unusual punishment; (p) unlawful denial of visitors; (q) invalid transfer from one facility to a more restrictive facility; (r) erroneous security

classification; (s) denial of the right to speak in a foreign language in the presence of officers; (t) denial of access to rehabilitation programs necessary to enhance parole eligibility; (u) errors in denying discretionary parole; and (v) invalid confiscation of contraband.

The civil litigation and employment unit normally seeks dismissal of these suits before they reach the trial stage, either through motions to dismiss for failure to state a claim or failure to exhaust administrative remedies, or by a motion for summary judgment. If such motions are denied, the case proceeds to trial. Cases are tried in both state and federal courts. Any appeals from such cases are also handled by the unit's attorneys.

In 2004-05, the unit opened 279 prisoner conditions cases and closed 549 such cases, while in 2005-06, the unit opened 273 prisoner conditions cases and closed 384 such cases.

During 2004-05, the unit opened one sexual predator condition of confinement case, while in 2005-06 the unit did not open or close additional sexual predator condition of confinement suits.

Criminal Litigation, Antitrust, Consumer Protection, and Public Integrity Unit

Statutory Authorization. Attorneys in the criminal litigation, antitrust, consumer protection, and public integrity unit frequently act as "special prosecutors."

Under s. 978.045 of the statutes, a court may appoint a special prosecutor either on its own motion or at the request of a district attorney. A special prosecutor has all of the powers of a district attorney and may assist a district attorney in the prosecution of persons charged with a crime, in grand jury or John Doe proceedings, in sexually violent person commitment proceedings, or in

investigations.

Further, before a court makes a special prosecutor appointment that exceeds six hours per case, the court or the requesting district attorney must request assistance from staff in other prosecutorial units or from an assistant attorney general in DOJ's criminal litigation, antitrust, consumer protection, and public integrity unit.

Typically, a special prosecutor may be appointed when: (a) there is no district attorney; (b) the district attorney is absent; (c) the district attorney or a member of his or her staff has a conflict of interest; (d) the district attorney is unable to attend to his or her duties; (e) the district attorney is serving in the armed forces; (f) the district attorney is charged with a crime; or (g) the district attorney cannot perform his or her duties due to a medical situation.

Section 165.255 of the statutes provides that DOJ may represent the state in commitment proceedings for sexually violent persons under Chapter 980.

Under s. 165.25(3) of the statutes, DOJ is required to consult and advise with district attorneys, when requested by them, in all matters pertaining to the duties of their office. This consultation frequently involves the criminal litigation, antitrust, consumer protection, and public integrity unit.

Program Administration. Unit attorneys act as "special prosecutors" throughout Wisconsin by court motion or at the request of a district attorney. Frequently, these appointments involve homicide and white-collar crime cases, and other cases where the district attorney is unable to act. Most of the unit's criminal prosecutions result from such "special prosecutions."

Of the 48 criminal referrals made to the unit in 2004-05, 44 were "special prosecutions" for a variety of offenses. The remaining four referrals

were for security fraud, tax, and sex cases where the Department had original jurisdiction to initiate the criminal case. Of these 48 referrals, 17 individuals were charged with crimes, and 31 were not charged.

In 2005-06, 45 criminal referrals were made to the unit. Some 42 of the referrals were "special prosecutions" for a variety of offenses. The remaining three referrals were for security fraud and tax cases where the Department had original jurisdiction to initiate the criminal case. Of these 45 referrals, 18 individuals were charged with crimes, and 27 were not charged.

Unit attorneys also handle sexual predator commitments and currently process a significant portion of all such commitments in the state. In 2004-05, the unit assumed responsibility for 17 of the 36 sexually violent person referrals it received. In 2005-06, the unit assumed responsibility for 30 of the 58 sexually violent person referrals it received

and handled two such appeals. The remaining sexually violent person commitments are being handled by district attorneys. Sexual predator commitment cases assumed by the Department generally stay open for an extended period of time as there are ongoing annual evaluations of sexual predator commitments.

The criminal litigation, antitrust, consumer protection, and public integrity unit meets the Department's statutory responsibility to consult and advise with district attorneys, in part, through the staffing of an on-call service that state prosecutors can contact for advice. Further, the unit targets publications and training sessions to local prosecutors. For example, the unit sponsors training for newly elected district attorneys prior to their assuming office. This training reviews the duties of the office of district attorney and highlights the resources that are available through DOJ and other state and federal agencies.

Representation of the Indigent

Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The Sixth Amendment to the United States Constitution provides, in part, that, "In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence." In *Gideon v. Wainwright* (1963), the United States Supreme Court held that the constitutional right to counsel guaranteed by the Sixth Amendment requires the government to provide counsel to indigent criminal defendants.

Article I, Section 7 of the Wisconsin Constitution provides, in part, that, "In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel,..." As early as 1859, the Wisconsin Supreme Court determined that an indigent defendant was entitled to counsel at county expense for his or her defense (*Carpenter v. Dane County*).

However, under subsequent United States and Wisconsin Supreme Court decisions there is no absolute right to the appointment of counsel in non-criminal cases carrying no threat of loss of physical freedom. Nevertheless, both courts have concluded that due process requires an individualized determination of the necessity for appointment of counsel under the circumstances presented by a particular case. Finally, in the case of *Malmstadt v. Wisconsin* (1996), the Wisconsin Supreme Court ruled that under the separation of powers doctrine the Legislature may not prohibit

the courts from appointing counsel for certain classes of individuals.

The cost of providing required counsel to the indigent in Wisconsin is generally the responsibility of the state through the Office of the State Public Defender (SPD). The SPD provides legal representation for indigent persons: (a) facing a possible sentence that includes incarceration; (b) involved in certain proceedings under the Children's and Juvenile Justice Codes (Chapters 48 and 938); (c) subject to petitions for protective placement (Chapter 55); (d) facing involuntary commitment; and (e) involved in certain post-conviction or post-judgment appeals.

The SPD determines indigency based on an analysis of the applicant's income, assets, family size and essential expenses. If a person's assets, less reasonable and necessary living expenses (both factors as determined by Wisconsin statutes and administrative rules), are not sufficient to cover the anticipated cost of effective representation when the likely length and complexity of the proceedings are taken into account, the person is determined to be indigent. If an individual does not meet the statutory indigency standard, but is nonetheless determined by a circuit court to have a constitutional right to counsel, the court may appoint an attorney at county, rather than state, expense.

The SPD is required to determine whether a person has the ability to pay the costs of representation. The Public Defender Board is required to establish, by rule, fixed payments for the cost of SPD representation in various types of cases. Known as the prepayment option, an indigent defendant may elect to prepay the amount

(or amounts, if several different types of proceedings are involved) if a determination has been made that the person has some ability to pay for his or her representation. If an indigent person elects to pay this fixed amount, the individual cannot be held liable for any additional payment for counsel. However, the indigent client must pay this fixed amount within 60 days of appointment of counsel by the SPD. Table 13 identifies the current optional prepayment amounts for the different types of SPD representation, as established by rule by the Public Defender Board.

Table 13: Prepayment Options for SPD Representation

Case Type	Amount
First-Degree Intentional Homicide	\$600
Other Class A, B or C Felony	120
Sexual Predator under s. 980.02	120
Trial Appeal	120
Other Felony	60
Misdemeanor	60
Plea Appeal	60
Chapter 55 Proceeding	60
Parole/Probation Revocation	60
Termination of Parental Rights	60
Paternity	60
Commitment	30
Special Proceeding	30

Persons determined to be indigent who receive SPD representation and do not exercise the prepayment option are required to pay for the cost of SPD representation, subject to their ability to pay. Table 14 summarizes the fee schedule established by rule by the Public Defender Board. These fee amounts are based on the average costs for representation for the type of case, as determined by the Board.

In 2005-06, the SPD received \$1,945,300 PR in payments from its indigent clients, including receipts from court-ordered recoupments. These amounts are used primarily to offset the cost of retaining private bar attorneys to represent individuals qualifying for SPD representation.

Table 14: Schedule for Repayment of SPD Costs by Clients Determined to Have an Ability to Pay

Case Type	Amount
First-Degree Intentional Homicide	\$7,500
Other Class A, B or C Felony	1,200
Sexual Predator under s. 980.02	1,200
Trial Appeal	1,200
Other Felony	480
Plea Appeal	480
Chapter 55 Proceeding	480
Termination of Parental Rights	480
Juvenile Felonies	480
Misdemeanor	240
Parole/Probation Revocation	240
Other Juveniles	240
Paternity	240
Commitment	120
Special Proceeding	120

Creation of the State Public Defender Function

Chapter 479, Laws of 1965 first created the State Public Defender position under the Wisconsin Supreme Court. The duties of the early SPD were limited to post-conviction appeals for indigent persons. Counties retained the sole responsibility for providing constitutionally required counsel to indigent persons at the trial level. Counties generally met this responsibility through court-appointed private counsel.

Under Chapter 29, Laws of 1977, the SPD was transferred from the judicial branch to the executive branch and became an independent agency under the Public Defender Board. Chapter 29 also provided funding for a phase-in of the state's public defender program at the trial level. The SPD was directed to phase-in its services at the trial level over the biennium to the extent that funding and position authority permitted. The SPD provided representation at the trial level both through the use of staff attorneys as well as through the retention of private counsel.

Chapter 418, Laws of 1977, directed that the state assume responsibility for indigent trial defense in all counties, effective July 1, 1979. Chapter 34, Laws of 1979, subsequently provided funding for the 1979-80 fiscal year to implement the statewide public defender system. However, appropriations for the SPD for the 1980-81 fiscal year were vetoed with the exception of funding for the retention of private counsel. Nonetheless, by the 1979-80 fiscal year, the SPD had established 31 district offices providing indigent trial defense services in all 72 Wisconsin counties.

Chapter 356, Laws of 1979, restored funding for the SPD for program administration and for both trial and appellate representation by SPD staff for the 1980-81 fiscal year. Chapter 356 also mandated that 100% of the indigency cases at the trial level in 25 counties be assigned to private counsel. The remaining 47 counties were assigned to three statutory groups with not less than 15%, 25%, or 50% respectively, of these cases assigned to private counsel, with the remaining balance of cases assigned to SPD staff. Further, Chapter 356 requested the Legislative Council to study the state public defender program and to report its findings and recommendations to the Legislature no later than January 1, 1985. Finally, Chapter 356 sunsetted the SPD on November 15, 1985.

Under 1985 Wisconsin Act 29, all requirements mandating that a certain percentage of cases in each county be assigned to private counsel were repealed, again permitting public defender staff attorneys to represent the indigent in all 72 counties. Act 29 also created annual caseload standards for SPD trial attorneys and repealed the sunset provision for the SPD.

Provisions of 1995 Wisconsin Act 27 significantly revised the operation of the state public defender program and imposed a series of cost-cutting measures described as follows:

1. *SPD Representation.* Act 27 eliminated SPD representation in the following cases where there is

no clear constitutional right to representation:

- all conditions of confinement cases;
- situations where adults and juvenile persons, suspected of criminal or delinquent acts, have not yet been formally charged with a crime (subsequently restored in 2001 Wisconsin Act 16);
- sentence modification actions which are filed outside of the statutory time limit for such actions;
- probation and parole modification and revocation cases unless the modification or revocation is contested and jail or prison time is sought;
- appeals cases which are filed after the statutory time limit, unless the Court of Appeals extends the time limit;
- contempt of court for failure to pay child or family support, if the matter was not brought by the state, and the judge or family court commissioner certifies that the person would not be incarcerated if found in contempt;
- paternity actions, except actions to determine paternity where an initial blood test indicates a greater than 0%, but less than 99% probability of fatherhood; and
- representation for parents whose children are alleged to be in need of protection or services (CHIPS), except for parents who are themselves minors.

2. *Client Reimbursement.* Act 27 newly required the SPD to determine each client's ability to pay for representation and to collect for the cost of that representation. Under these client reimbursement provisions, a represented person must be permitted to meet his or her reimbursement obligations to the SPD either by: (a) paying a non-refundable, reasonable fixed fee within the first 60 days of representation, set by the Public Defender

Board by rule; or (b) being charged a fee based on the average cost of representation for the client's case type, but considering the client's ability to pay.

3. *Workload.* Act 27 also reinstated higher workload standards for trial staff attorneys that had been modified under 1991 Act 39. The caseloads for the following types of cases were adjusted as follows: (a) felony caseloads increased from 166.8 cases per year to 184.5 cases per year; (b) misdemeanor caseloads increased from 410.9 cases per year to 492.0 cases per year; and (c) juvenile caseloads increased from 228.4 cases per year to 246.0 cases per year.

4. *Private Bar Compensation.* Act 27 reduced, in part, the compensation paid to private bar attorneys retained by the SPD. Prior to Act 27, private attorneys were paid \$50 per hour for in-court time, \$40 per hour for out-of-court time and \$25 per hour for certain travel. Under Act 27, the in-court rate was reduced to \$40 per hour.

5. *Fixed-Fee Contracts with Private Attorneys.* Finally, Act 27 required the State Public Defender Board to enter into annual fixed-fee contracts with private attorneys and law firms for some cases. The maximum number of cases assigned in this manner cannot exceed one-third of the total number of cases at the trial level. The SPD entered into fixed-fee contracts for up to 12,525 misdemeanor cases in 2006-07.

Current Public Defender Operations

A nine-member Public Defender Board oversees the operation of the Office of the State Public Defender. Members of the Board are appointed by the Governor to staggered three-year terms, with the advice and consent of the Senate. At least five of the nine Board members must be members of the State Bar of Wisconsin.

The principal duties of the Board are the following: (a) appointment of a State Public Defender; (b) promulgation of administrative rules for determining financial eligibility; (c) promulgation of administrative rules establishing procedures to assure that the representation of indigent clients by the private bar is at the same level as the representation provided by SPD staff; and (d) supervision of the administration of the Office.

In 2005-06, state SPD expenditures totaled \$84,553,500 to provide legal representation for eligible indigent persons in Wisconsin. Of that amount, \$36,621,500 (43.3%) was paid to private attorneys for their time and certain legal expenses (investigators and expert witnesses). The remaining \$47,932,000 (56.7%) funded staff attorneys, their legal expenses and program overhead. The SPD has been budgeted \$73,363,600 GPR and \$1,317,500 PR in 2006-07 and is currently authorized 518.45 GPR and 4.0 PR positions. It should be noted, however, that on December 14, 2006, the Joint Committee on Finance transferred an additional \$3 million GPR to the SPD's private bar appropriation to compensate private bar attorneys for their representation of SPD clients.

The Office is organized into four divisions: trial, appellate, assigned counsel and administrative. The current organizational chart for the agency is included as Appendix II.

The trial division consists of 451.3 positions, including 280.0 attorneys and attorney supervisors. The trial division is housed in 35 district offices across the state. (See Appendix V for the location of these trial division offices.) Each trial division attorney (and generally each attorney supervisor) must meet one of the following annual statutory caseload requirements: (a) 184.5 felony cases; (b) 15.0 homicide or sexual predator cases; (c) 492.0 misdemeanors cases; (d) 246.0 other cases; or (e) some combination of these categories. The SPD has interpreted these caseload standards as representing the workload averages that must be achieved by all the trial attorneys in the agency collectively,

as opposed to a standard that is applied to each individual attorney. In practice, most staff attorneys work on a variety of case types during the year, with some (such as new attorneys) taking fewer cases than the statutory requirement and others taking more in order to meet the overall requirement for the agency. In 1999 Wisconsin Act 9, 10 attorney supervisor positions were exempted from the statutory caseload requirement. This caseload exemption is spread among 60.05 supervising attorneys. In practice, most supervisors are relieved of some portion of their caseload responsibilities.

The appellate division consists of 42.95 positions, including 27.5 attorneys and attorney supervisors who provide assistance to eligible indigents involved in appeals, including postconviction and postcommitment proceedings. The SPD sets the caseload standard for each appellate attorney between 54 and 60 cases per year, depending on the complexity of the attorney's case mix and the attorney's level of experience.

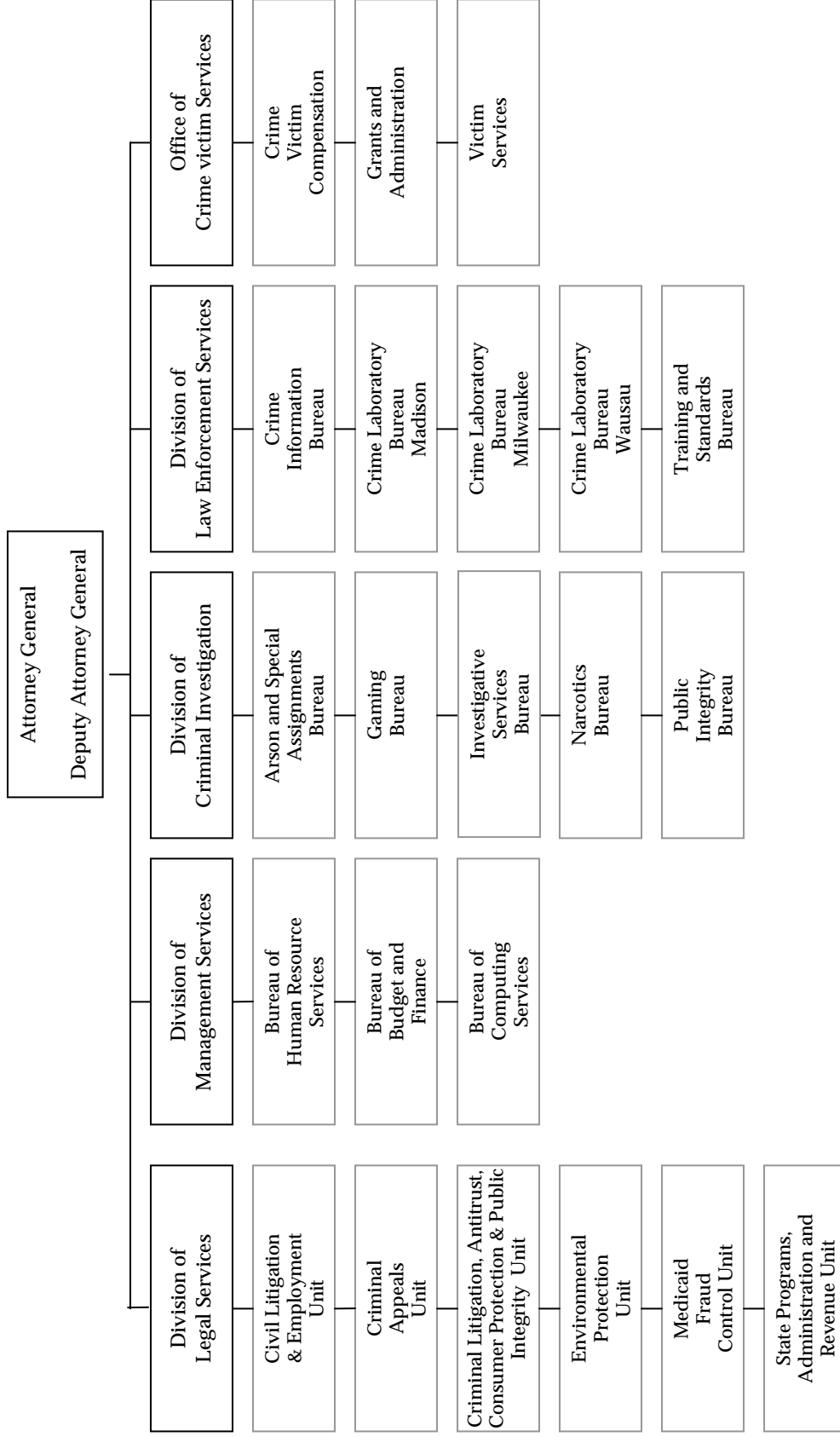
Staff attorneys in the trial and appellate divisions have been represented by a collective bargaining unit since the 1997-99 biennium.

The assigned counsel division consists of 5.7 positions that oversee certification, appointment, and payment of the private attorneys who represent eligible indigent clients. Private attorneys are paid in two ways: (a) an hourly rate (generally \$40 per hour); or (b) for some misdemeanor cases, a flat, per case contracted amount. As of July 1, 2006, 1,260 private attorneys were certified by the SPD to represent indigent clients. In 2005-06, 70,729 new SPD cases were accepted by private attorneys.

The administrative division consists of 18.5 positions that oversee the general administration of the Office. In particular, this staff provides support services in the areas of budget preparation, fiscal analysis, purchasing, payroll and personnel.

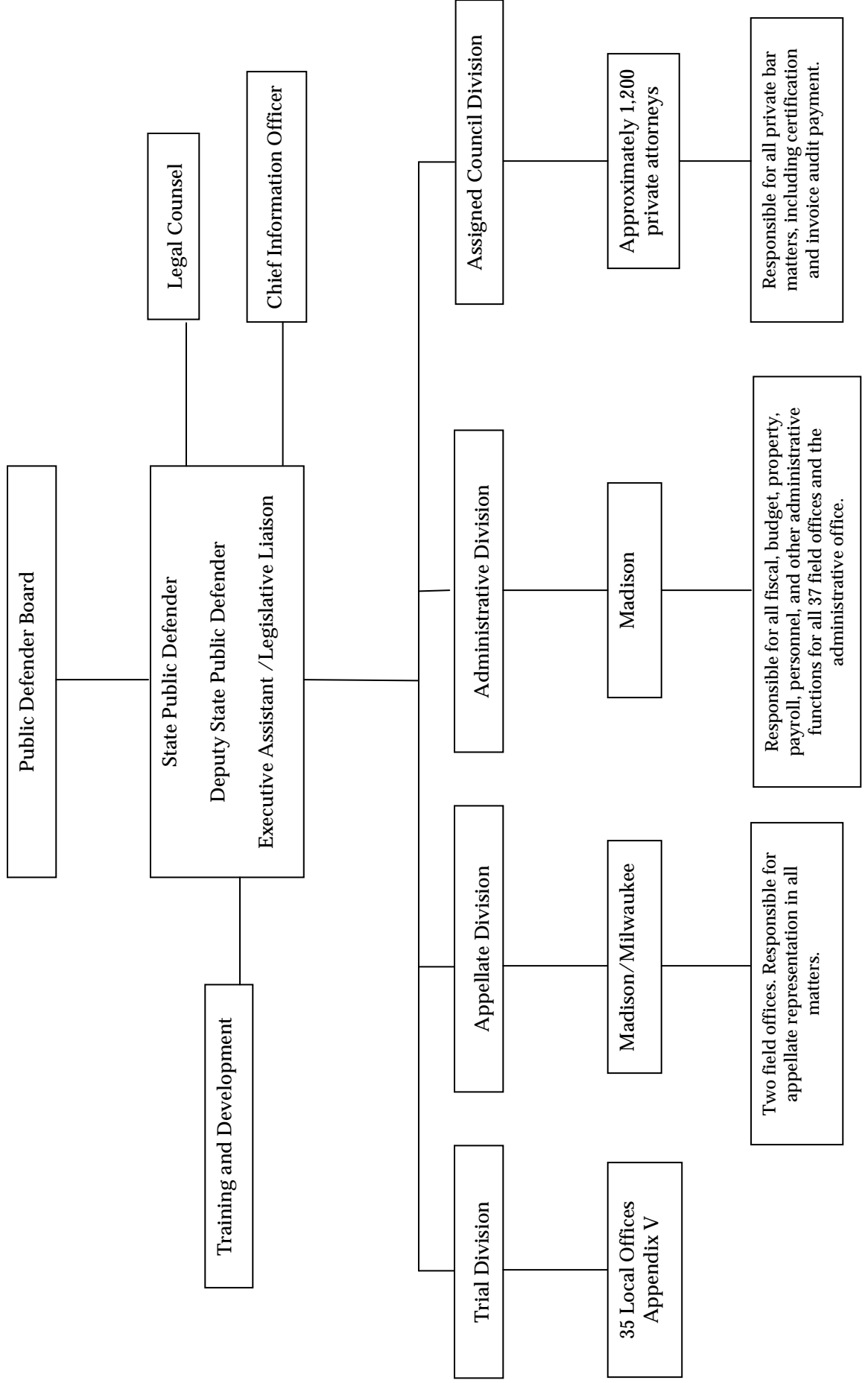
APPENDIX I

Department of Justice Organizational Chart



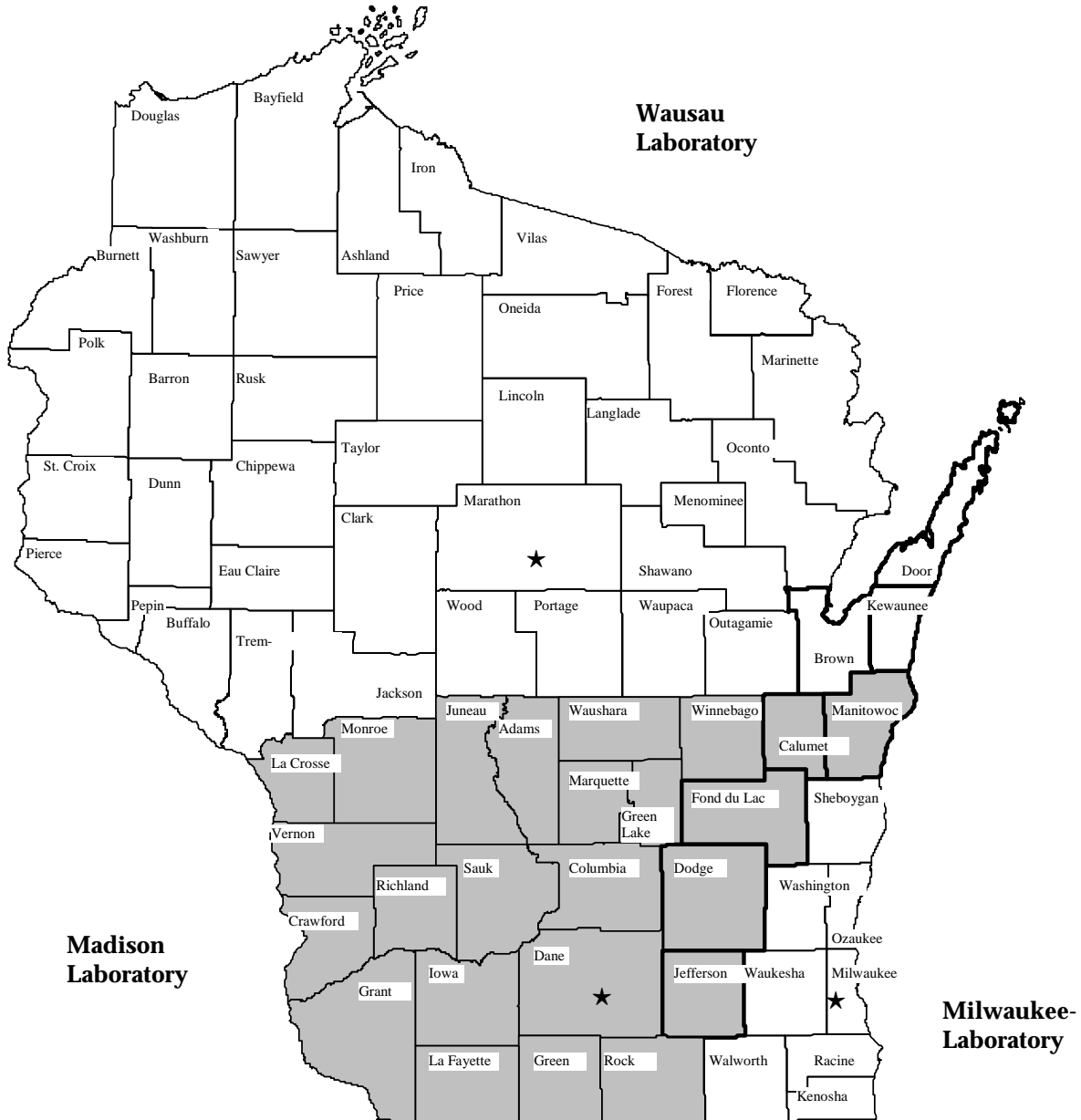
APPENDIX II

Organizational Chart of the Office of the State Public Defender



APPENDIX III

State Crime Laboratory Service Areas



The state is served by three crime laboratories located in Madison, Milwaukee, and Wausau. This appendix shows the service area for each lab. The Milwaukee lab serves the southeast corner of the state, generally taking cases from an eight county area. The only exception is Milwaukee's Questioned Document unit, which serves an additional eight counties marked off in bold above.

APPENDIX IV

Local Anti-Drug Task Force Funding

Task Force	Participating Counties	Lead Agency*	2006 Funding		2007 Funding	
			Byrne	Penalty Surchage	Byrne	Penalty Surchage
Milwaukee Metropolitan Drug Enforcement Group	Milwaukee	Milwaukee County	\$630,059	\$236,085	\$319,760	\$224,447
South East Area Drug Operations Group	Dodge, Jefferson, Kenosha, Racine, Walworth	Kenosha County	245,584	92,022	124,636	87,485
Lake Winnebago Area MEG Unit	Calumet, Fond du Lac, Outagamie, Winnebago	Winnebago County	154,518	57,898	78,419	55,044
Dane County Narcotics and Gang Task Force	Dane	Dane County	153,306	57,444	77,804	54,612
Central Wisconsin Drug Task Force	Adams, Green Lake, Juneau, Marquette, Portage, Waupaca, Waushara, Wood	City of Stevens Point	105,895	39,679	53,743	37,723
Waukesha County Metropolitan Drug Enforcement Unit	Waukesha	Waukesha County	103,729	38,868	52,643	36,952
Brown County Drug Task Force	Brown	Brown County	96,179	36,038	48,812	34,262
West Central Drug Task Force	Buffalo, Clark, Chippewa, Dunn, Eau Claire, Pepin	Eau Claire County	81,930	30,700	41,580	29,186
Rock County Narcotics Enforcement Team	Rock	Rock County	74,225	27,813	0	0
St. Croix Valley Drug Task Force	Pierce, Polk, St. Croix	St. Croix County	65,487	24,538	33,235	23,328
North Central Drug Enforcement Group	Forest, Langlade, Lincoln, Oneida, Price, Taylor, Vilas	Oneida County	59,449	22,276	30,171	21,178

Task Force	Participating Counties	Lead Agency*	2006 Funding		2007 Funding	
			Byrne	Penalty Surchage	Byrne	Penalty Surchage
Central Area Drug Enforcement Group	Marathon	Marathon County	\$51,536	\$19,311	\$26,155	\$18,359
Northwest Area Crime Unit	Ashland, Bayfield, Burnett, Douglas, Iron, Sawyer, Washburn	Douglas County	47,650	17,854	24,183	16,974
West Central MEG Drug Task Force	Jackson, La Crosse, Monroe, Trempealeau, Vernon	La Crosse County	45,464	17,036	23,073	16,196
Washington County Multi-Jurisdictional Drug Unit	Washington	Washington County	37,335	13,990	18,948	13,300
Manitowoc County Metro Drug Unit	Manitowoc	Manitowoc County	28,689	10,750	14,560	10,220
Sheboygan County MEG Unit	Sheboygan	City of Sheboygan	27,961	10,477	14,190	9,961
Richland-Iowa-Grant Drug Task Force	Iowa, Grant, Richland	City of Platteville	26,477	9,921	13,437	9,432
Unbudgeted Funds			<u>0</u>	<u>0</u>	<u>37,670</u>	<u>26,441</u>
Total			\$2,035,473	\$762,700	\$1,033,019	\$725,100

*Lead law enforcement agencies for some of the task forces may change in calendar year 2007.

APPENDIX V

State Public Defender Trial Division Offices

