



State Criminal Justice Functions

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State Criminal Justice Functions

Law enforcement, prosecution, and criminal defense are three 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 2016-17 totals \$129,000,900 (all funds) and 689.74 full-time equivalent positions. The Department's total funding is comprised of \$51,540,300 general purpose revenue (GPR), \$54,665,400 program revenue (PR), \$22,407,000 federal revenue (FED), and \$388,200 segregated revenue (SEG). Among the staff authorized for the Department are special agents (law enforcement officers), crime laboratory personnel, and attorneys. 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 2016-17 totals \$48,172,800 (all funds) and 433.85 positions. The state funded DA function is comprised of \$44,672,500 GPR and \$3,500,300 PR. All of the 433.85 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.

Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The Office of the State Public Defender is generally responsible under state law for providing this required counsel to the indigent. The budget for the SPD in 2016-17 totals \$85,968,500 (all funds) and 614.85 positions. The Office's total funding is comprised of \$84,620,300 GPR and \$1,348,200 PR. Among the staff authorized for the SPD are attorney positions in the trial and appellate divisions. The State Public Defender also contracts with private bar attorneys to address a portion of the agency's caseload. The organizational chart for the SPD is included as Appendix II.

The criminal justice functions of these agencies are summarized in the following six chapters of this paper. The first two chapters focus on the law enforcement services and responsibilities of DOJ. The third chapter focuses on the criminal justice-related grant programs administered by DOJ. The fourth and fifth chapters discuss the prosecutorial functions of DAs and DOJ respectively. The final chapter provides a discussion of the state's criminal defense 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 2016-17 is \$56,284,400 (all funds) and 287.84 positions. The Division is organized into four bureaus. These are the: (a) Training and Standards Bureau; (b) Crime Information Bureau; (c) Bureau of Justice Information and Analysis; and (d) Crime Laboratory Bureau. The Crime Laboratory Bureau is comprised of the three state crime labs located in Madison, Milwaukee, and Wausau.

Training and Standards Bureau

Generally, the Division of Law Enforcement Services' 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 juvenile detention officers.

The Bureau's budget in 2016-17 is \$7,839,100 and 22.32 positions, comprised of \$150,000 GPR, \$7,689,100 PR and 22.32 PR positions. The Bureau's staff consists of education consultants, training officers, attorneys, grants specialists, and other supervisory and support personnel.

The Bureau's program revenue-funded budget is supported by the penalty surcharge (\$7,216,700 and 23.32 positions) as well as inter-agency and intra-agency services provided by the Department (\$472,400). 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 45% of all penalty surcharge revenues spent in 2015-16 were allocated to DOJ to fund administration and reimbursement costs associated with recruit training and annual recertification training.

In recent years the penalty surcharge fund has operated in deficit. In 2015-16, the penalty surcharge fund concluded the fiscal year with a cumulative deficit of \$5,621,600. The Department of Justice estimates that the penalty surcharge fund will close the 2016-17 state fiscal year with a cumulative deficit of \$4,228,400.

Law Enforcement Training and Certification

Statutory Authorization. The Law Enforcement Standards Board (Board) is established under ss. 15.255(1) and 165.85 of the statutes and is attached to DOJ. The Board consists of the following 15 members: (a) seven local law enforcement officers, including one sheriff and one

chief of police; (b) two local government officials who occupy executive or legislative posts; (c) one district attorney; (d) one public member not employed in law enforcement; (e) the designee of the Secretary of the Department of Transportation; (f) the designee of the special agent in charge of the Milwaukee office of the FBI; (g) the designee of the Attorney General; and (h) the designee of the Secretary of the Department of Natural Resources. The representative of the FBI acts in an advisory capacity only and has no vote.

The Legislature has 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 juvenile 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 juvenile 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 juvenile detention officers; (e) certify schools and instructors that provide preparatory training to recruits and recertification training to certified officers; and (f) maintain an updated statewide record of all certified officers.

Under s. 165.86 of the statutes, the Depart-

ment is to supply the staffing needs of the Board, and is to coordinate all preparatory, recertification, advanced, and special training activities in law enforcement in the state.

Minimum Qualifications for Recruits. Law enforcement, tribal law enforcement, jail, and secure juvenile 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 unless granted a pardon; (d) possess a high school diploma; (e) possess either a two-year associate degree or a minimum of 60 fully accredited college level credits; (f) be of good character, as determined by the results of a background investigation and a search of local, state, and national fingerprint records; (g) be free from any physical, emotional or mental condition which might adversely affect the performance of one's duties; and (h) submit to and satisfactorily complete an oral interview with the employing authority.

Recruits who have been convicted of any crime of domestic violence may not be permitted to become a law enforcement officer or tribal law enforcement officer unless the individual has been granted an absolute and unconditional pardon for the crime. The statutes do not bar recruits who have been convicted of a domestic violence crime from becoming jail or secure juvenile detention officers. However, as indicated above, jail and secure juvenile detention recruits may not have been convicted of any federal felony or any offense which, if committed in Wisconsin, could be punished as a felony, unless they have been granted a pardon.

Preparatory Training of Recruits. Law enforcement, tribal law enforcement, jail, and secure juvenile detention recruits must all successfully complete a minimum requirement of preparatory training in order to be certified as an officer in Wisconsin. Officers receive this training

through academies certified by the Board based on adequacy of facilities and competence of instructional staff. The Board may authorize and approve a training program or training academy only if the program or academy is operated by an agency of the state or by a political subdivision of the state. Under statute, a political subdivision includes a county, city, village, town, town sanitary district, public inland lake protection and rehabilitation district, or technical college district. Only training provided by and from Board certified academies is eligible for reimbursement from DOJ. Political subdivisions must be reimbursed for expenses incurred by recruits who satisfactorily complete training at schools certified by the Board. Reimbursable preparatory training costs include Board-approved tuition, living and travel expenses.

Under 2013 Act 241, the Legislature increased the preparatory training requirements for law enforcement and tribal law enforcement recruits. Prior to 2013 Act 241, the statutes required recruits to complete a minimum 400 hour Board-prepared training curriculum. However, increased funding provided by 2001 Act 16 permitted the Department to develop and reimburse law enforcement agencies for providing up to 520 hours of preparatory training. Under 2013 Act 241, the Board must prepare a training curriculum requiring law enforcement and tribal law enforcement recruits to successfully complete a minimum of 600 hours of preparatory training before becoming certified as officers. On December 2, 2014, the Board approved a 720-hour preparatory law enforcement officer curriculum for implementation effective January 1, 2016. The new curriculum is divided into three phases: introduction and non-emergency responses; emergency response; and investigations. Various topics of study are covered in each of the three phases. These topics of study are identified, in alphabetical order, in Appendix III. Appendix III also identifies the number of hours of study the curriculum assigns each training topic.

Table 1 identifies the amounts expended by the Board in 2015-16 to provide reimbursement for training to certified academies for 314 law enforcement and tribal law enforcement recruits. The reimbursements covered the recruit's tuition, lodging, meals, and mileage costs. [Note that due to the timing of reimbursement payments and the late closing of the fiscal year 2016 accounting period, fiscal year 2016 reimbursement amounts may be subject to slight revision.]

Table 1: DOJ Reimbursement of Law Enforcement Recruit Training (2015-16)

Type of Law Enforcement Recruits	Recruits Trained	Reimbursement
Local*	266	\$1,160,000
State	38	414,000
Tribal	<u>10</u>	<u>18,700</u>
Total	314	\$1,592,700

*According to DOJ, some of the funding utilized to support local law enforcement recruits may also have been utilized to support tribal law enforcement recruits.

Under statute, in order to be certified as jail and secure juvenile detention officers, recruits must complete a minimum 160 hour preparatory training curriculum prepared by the Board. On June 8, 2016, the Board approved an increase in the number of hours in the curriculum for a jail officer recruit from 160 hours to 200 hours. The curriculum for juvenile detention officer recruits remains at 160 hours. In 2015-16, the Department provided reimbursements totaling \$472,100 (\$322,100 PR and \$150,000 GPR) to certified academies for providing preparatory training to 441 jail and secure juvenile detention recruits. The reimbursements covered costs for tuition, lodging, meals, mileage, salary and fringe benefits.

Appendix III identifies the training topics covered by the Board-certified curriculum for jail officer recruits and secure juvenile detention officer recruits. Appendix III also identifies the number of hours of study the curriculums assign

each training topic.

Annual Recertification Training. Law enforcement (except locally elected sheriffs), tribal law enforcement, jail, and secure juvenile detention officers must maintain appropriate employment as a law enforcement, tribal law enforcement, jail, or juvenile detention officer in order to remain certified. Additionally, officers must complete a minimum of 24 hours of additional training each fiscal year in order to maintain their certification.

As part of the annual 24 hours of recertification training, law enforcement and tribal law enforcement officers must biennially complete at least four hours of training in police pursuit from curricula based upon model standards established by the Board. Additionally, under 2013 Act 241, law enforcement and tribal law enforcement officers must annually complete a handgun qualification course from curricula based upon model standards established by the Board. Both the handgun and police pursuit training required of law enforcement and tribal law enforcement officers may be counted towards the required 24 hours of annual recertification training.

Under s. 165.85(5)(b) of the statutes, reimbursement of approved expenses for completion of annual recertification training must total at least \$160 per officer. Under current policy of the Attorney General, the annual reimbursement per officer is set at \$160. For recertification training received by law enforcement officers during 2015-16, DOJ anticipates providing \$2,471,700 PR in reimbursements. Due to the timing of when law enforcement agencies report annual officer recertification training, the majority of the reimbursements are provided by DOJ in the following fiscal year through the use of encumbered funds.

In addition to providing reimbursements for annual recertification training, the Bureau sponsors training events for law enforcement officers. The Bureau-sponsored training events provide both advanced and specialized training in areas

such as: sexual assault, sexual assault of a child, domestic violence, the mentally ill, and leadership within police organizations. In 2015-16, the Bureau sponsored 89 advanced and specialized criminal justice training events. These 89 events provided training to 7,599 officers at a cost of \$653,200 PR.

Certification of Schools and Instructors to Train Recruits and to Provide Recertification Training. The Board may authorize and approve a training program or training academy only if the program or academy is operated by an agency of the state or by a political subdivision of the state. The Board certifies schools based on the adequacy of facilities and the competency of staff and faculty. School certifications are in effect for two year periods, and are subject to renewal. A new instructor must complete an instructor development 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 2015-16. Table 3 identifies the 22 academies that were certified by the Board to provide preparatory and recertification training, as of the end of 2015-16. While only Board-certified academies can provide preparatory training to recruits, the Department has indicated that any law enforcement agency can provide recertification training for its officers. 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 employing Board-approved training guides or curriculum, such as for police pursuit or handgun training. Law enforcement agencies are not required to utilize Board-approved training guides or curriculum for recertification training. Beyond the requirement for biennial police pursuit training and annual handgun training, individual agencies may specify the content of their 24-hour annual recertification training, although many agencies do use Board approved curriculum.

Table 2: Number of Certified Academies and Instructors (2015-16)

Training Certifications	Number
Academies	22
New Instructors*	1,690
All Instructors	3,247

*New instructors include individuals who became certified as an instructor and certified instructors who received a certification in an additional topic.

Table 3: Certified Academies

- Blackhawk Technical College
- Chippewa Valley Technical College
- Dane County Sheriff's Academy
- Fox Valley Technical College
- Gateway Technical College
- Lakeshore Technical College
- Madison Area Technical College
- Madison Police Academy
- Mid-State Technical College
- Milwaukee Area Technical College
- Milwaukee County Sheriff's Academy
- Milwaukee Police Academy
- Moraine Park Technical College
- Nicolet Area Technical College
- Northcentral Technical College
- Northeast Wisconsin Technical College
- Southwest Wisconsin Technical College
- Waukesha County Technical College
- Western Wisconsin Technical College
- Wisconsin Department of Natural Resources
Recruit Warden Academy
- 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; (c) failure to make child or family support payments; (d) falsifying information to obtain or maintain certified status; (e) conviction of a felony, or any crime that, if committed in Wisconsin,

could be punished as a felony; or (f) conviction of a misdemeanor crime of domestic violence. Table 4 identifies the number and type of active certified officers on the roster as of June 30, 2016.

Table 4: Number of Active, Primary and Certified Officers, June 30, 2016

Type of Officer	Number
Law Enforcement	12,195
Jail	2,221
Law Enforcement and Jail	1,668
Jail and Secure Juvenile Detention	167
Secure Juvenile Detention	138
Tribal Law Enforcement	96
Law Enforcement, Jail and Secure Detention	5
Law Enforcement and Secure Detention	<u>1</u>
Total	16,491

Crime Information Bureau

The Division of Law Enforcement Services' 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; (c) operation of the handgun purchaser record check program; and (d) administration of the concealed carry licensure program. [The handgun purchaser record check and concealed carry licensure responsibilities are addressed in a Legislative Fiscal Bureau informational paper entitled "Concealed Weapons Licensure and Handgun Purchaser Background Checks."]

Under 2013 Act 20, the Department of Administration's Office of Justice Assistance (OJA) was eliminated. In addition to the responsibilities enumerated above, the Crime Information Bureau assumed the following duties from OJA: (a) jus-

tice information sharing; and (b) managing the Wisconsin Interoperability System for Communications (WISCOM).

The Bureau's budget in 2016-17 totals \$10,894,000 (\$535,400 GPR, \$10,237,500 PR, and \$121,100 FED) and 79.54 positions (6.28 GPR positions, 72.06 PR positions, and 1.2 FED positions). The Bureau's staff consists of license and permit program associates, criminal history record personnel, information technology personnel, and supervisory and support personnel.

The Bureau's program revenue-supported budget is funded by: criminal history search fees (\$3,745,200 and 30.01 positions); TIME System user fees from law enforcement agencies (\$2,463,400 and 6.25 positions); handgun purchaser record check and concealed weapons licensure fees (\$2,011,900 and 29.5 positions); the \$21.50 justice information system surcharge imposed on an individual who is assessed a court fee for the commencement of certain court proceedings (\$1,588,200 and 6.0 positions); and interagency and intra-agency fees received by DOJ for services provided to other state agencies (\$428,800 and 0.3 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. Revenue from the justice information system surcharge is transferred to the Bureau to fund the Wisconsin justice information sharing program as well as the interoperable communications system.

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;
- Being 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. In addition, beginning April 1, 2015, if an individual is arrested for a violent crime or is a juvenile who is taken into custody for an offense which would be a violent crime if committed by an adult, a law enforcement or tribal law enforcement agency must obtain a biological sample from that individual for DNA analysis when the agency obtains the other identifying information discussed above. [The requirement to submit a biological sample at arrest beginning April 1, 2015, is a provision un-

der 2013 Acts 20 and 214, and is discussed in the section of this chapter entitled, "DNA Collection, Analysis, Data Storage, and Usage." In calendar year 2015, 147,829 new arrest events were submitted by Wisconsin law enforcement agencies to the Crime Information Bureau. The majority of this information is submitted electronically.

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.

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 identified in the points above. 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 (CCAP).

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 Department's 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, with subsequent upgrades occurring during the 2001-03 and 2009-11 biennia. The AFIS system electronically stores the fingerprints that are required to be submitted to DOJ. The 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 July 1, 2016, 1,491,107 tenprints were stored on AFIS. Approximately 3,350 additional tenprints are added to the system monthly. As of July 1, 2016, the system has a storage capacity of 2,000,000 tenprint records and 40,000 latent fingerprint records.

The AFIS system permits the Department to also electronically store palm prints. Palm prints provide an additional law enforcement tool to positively identify an individual. As of July 1, 2016, 304,160 sets of palm prints were stored on AFIS. Approximately 2,678 additional palm print sets are being added to the system monthly. The AFIS system has a storage capacity for 1,000,000 palm print sets.

The palm print database has been 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 July 1, 2016, there were 13,458 cases with latent fingerprint or latent palm print records stored on AFIS. There were 35,144 latent fingerprint lifts and 4,779 latent palm lifts associated with these cases.

In addition to Department personnel, access to AFIS has been granted by the agency to 22 law enforcement agencies across the state through AFIS workstations. These law enforcement agencies include two county sheriff's departments (Dane and Milwaukee) and 20 municipal police departments (Ashwaubenon, Burlington, Caledo-

nia, Delafield, East Troy, Fitchburg, Green Bay, Hartland, Kenosha, Madison, Middleton, Milwaukee, Mount Pleasant, New Berlin, Oak Creek, Racine, St. Francis, Sun Prairie, Waukesha, and Wauwatosa). These 22 law enforcement agencies utilize AFIS workstations located at eight locations across Wisconsin.

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 2015, Department and local law enforcement personnel completed: (a) 405,356 tenprint to tenprint verifications; (b) 462 unsolved latent fingerprint to tenprint verifications; (c) 56 unsolved latent palm print to palm print verifications; (d) 56 latent fingerprint to tenprint verifications; and (e) 86 latent palm print to palm print verifications.

In order to expand the accessibility and usability of AFIS, as of July 1, 2016, 244 mobile identification devices are in place at law enforcement agencies and Department of Corrections' (DOC) facilities across the state. These devices electronically capture two fingerprints and compare them to the fingerprint images on file in AFIS. This capability allows positive identification to occur remotely at these agencies without an AFIS workstation. Additionally, as of July 1, 2016, 79 desktop computers in law enforcement agencies and DOC facilities across the state contain special software and an add-on fingerprint capture device to allow the agencies to capture fingerprints and electronically compare them to the files in AFIS.

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. In calendar year 2015, the Crime Information Bureau received 918,895 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.

Under s. 165.82 of the statutes, DOJ is authorized to charge a fee for non-criminal justice related searches of the criminal history database. A \$7 fee is assessed for a name-based search of the criminal history database. For a \$15 fee, government agencies and nonprofit organizations may request a fingerprint-based search of the Wisconsin criminal history database.

In addition, a \$5 surcharge is assessed if the requestor must have a paper copy of the results of the search. In 2015-16, the Department received revenues from criminal history search fees totaling \$7,280,700.

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, parole, and extended supervision 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. As of July 1, 2016, the TIME System consists of 10,619 workstations located in 690 local, state and federal law enforcement agencies in Wisconsin. Of these 10,619 workstations, 3,684 terminals are mobile units that provide information directly to the pa-

trol officer. In addition to these physical workstations, limited, read-only access to the TIME system may also be accessed by law enforcement officers from a standard device with Internet access using an Internet browser. On an average day, the TIME system processes approximately 153,100 initiator transactions returning approximately 703,400 responses. As of July 1, 2016, there are 21,121 active users in the Wisconsin TIME system.

The Department is authorized to assess fees to law enforcement agencies for the costs of terminal rental, usage, and related services to support the operation of the TIME System. In 2015-16, the Department collected a total of \$2,256,900 in TIME System user fees. The TIME System's 2016-17 budget is \$3,177,700 PR and 10.25 PR positions.

The TIME System's 2016-17 budget includes \$2,463,400 PR and 6.25 PR positions, funded from TIME system user fees, for the Crime Information Bureau to administer the system. The TIME System's 2016-17 budget also includes \$714,300 PR and 4.0 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 totaling 26% of the fine or forfeiture imposed.

As previously discussed, in recent years the penalty surcharge fund has operated in deficit. In 2015-16, the penalty surcharge fund concluded the fiscal year with a cumulative deficit of \$5,621,600. The Department estimates that the penalty surcharge fund will close the 2016-17 state fiscal year with a cumulative deficit of \$4,228,400.

Wisconsin Justice Information Sharing Program

Under 2013 Act 20, DOJ was charged with the responsibility of promoting and coordinating automated justice information systems between counties and state criminal justice agencies. The Department's justice information sharing initiative is known as the Wisconsin Justice Information Sharing (WIJIS) program. For 2016-17, the WIJIS program budget is \$714,800 PR and 4.15 PR funded positions. The program revenue is provided from the justice information system surcharge. The \$21.50 justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment action, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action.

The two primary IT initiatives of WIJIS are the Justice Gateway and the WIJIS Workflow Services.

Justice Gateway. The Justice Gateway is a web-based tool which provides law enforcement with a single, secure point of read-only access to information stored in separate justice-related state, local, and tribal databases from communities across Wisconsin. The objective of the Justice Gateway is to improve public safety and domestic preparedness through the sharing of justice information across geographic and organizational boundaries. Only authorized law enforcement personnel are authorized to use the Gateway in the conduct of their official duties. Participating government agencies decide which records they will make available on the Gateway.

The Gateway permits authorized users to do a name search of law enforcement contact, arrest, and investigation records. [In addition to formal arrest records, law enforcement agencies often make records of non-arrest contacts that their

personnel have with individuals.]

The Gateway also permits authorized users to access: (a) prosecutor records from the Prosecutor Technology for Case Tracking (PROTECT) system under the district attorney information technology (DA IT) program; and (b) court records in the Consolidated Court Automation Program (CCAP). The prosecutorial data permits authorized users to review: (a) all cases referred to a district attorney office for prosecution; and (b) the charging history for these referred cases. The court data permits the subsequent disposition of charged criminal cases to be tracked.

As of the end of 2015-16, the Gateway contained approximately 11.4 million accessible records from 319 local law enforcement agencies, circuit court branches, district attorney offices, sheriff's offices, and universities.

Access to the Gateway is not limited to agencies that make their records accessible. As of July 1, 2016, 454 local law enforcement agencies have registered 1,286 users on the Gateway. In 2015-16, the Gateway conducted a total of 34,497 searches, an average of 663 searches per week.

WIJIS Workflow Services. The Workflow Services is designed to support many different types of information exchange securely over authenticated Internet connections. The intent of Workflow Services is to streamline the processing of criminal justice records across multiple agencies. By providing a central hub for integration, Workflow Services allows agencies to implement information exchanges faster and at a lower cost than alternatives requiring multiple point-to-point exchanges. Workflow Services is generic technology that accommodates a wide variety of information sharing business processes.

For example, the Workflow Services application eCitation supports the secure exchange of electronic citations originated by law enforce-

ment agencies. Workflow Services routes citations to the courts, prosecutors, local municipal court systems, and multiple tracking/reporting databases, based on business routing rules established by the users of the system.

The eCitations application has eliminated duplicative data entry of citation information. Prior to eCitations, each court, district attorney office, and the Department of Transportation (DOT) had to manually key in information for each citation. The eCitations application has enabled DOT to satisfy federal requirements for posting convictions on driving records within 10 days of adjudication. Approximately 90% of Wisconsin law enforcement agencies, including the State Patrol, submit electronic traffic citations via eCitations.

Wisconsin Interoperability System for Communications (WISCOM)

State law provides for the creation of a 15-member Interoperability Council attached to the Department of Administration (DOA) consisting of: (a) 10 members appointed by the Governor to staggered four-year terms, including a chief of police, a sheriff, a chief of a fire department, a director of emergency medical services, a local government elected official, a local emergency management director, a representative of a federally recognized American Indian tribe or band in Wisconsin, a hospital representative, a local health department representative, and one other person with relevant experience or expertise in interoperable communications; (b) the Attorney General; (c) the Adjutant General (head of the Department of Military Affairs); (d) the Secretary of the Department of Natural Resources; (e) the Secretary of the Department of Transportation; and (f) a representative from DOA with knowledge of information technology. The identified state officials may all appoint designees to represent them on the Council.

The Interoperability Council is required to: (a) identify types of agencies and entities, including

public works, transportation agencies, hospitals, and volunteer emergency services agencies to be included, in addition to public safety agencies, in a statewide public safety interoperable communication system; (b) recommend short-term and long-term goals to achieve a statewide public safety interoperable communication system; (c) recommend and periodically review a strategy and timeline for achieving such a statewide communication system including objectives for local units of government; (d) assist DOJ in identifying and obtaining funding to implement a statewide public safety interoperable communication system; and (e) advise DOJ and the Department of Military Affairs on allocating funds, including those available for homeland security, for the purpose of achieving a statewide communication system.

The Interoperability Council is also directed to make recommendations to DOJ regarding: (a) technical and operational standards for public safety interoperable communication systems; (b) guidelines and procedures for using public safety interoperable communication systems; (c) minimum standards for public safety interoperable communication systems, facilities, and equipment used by dispatch centers; and (d) certification criteria for persons who operate public safety interoperable communication systems for dispatch centers. Under state statute, "interoperability" means the ability of public safety agencies to communicate with each other and other relevant agencies and entities by means of radio or associated communications systems, including the exchange of voice, data, or video communications on demand and in real time, as needed and authorized.

The Department of Justice is required to provide staff support for the Interoperability Council, as well as oversee the development and operation of a statewide public safety interoperable communication system. This system has become known as the Wisconsin Interoperable System for Communications (WISCOM).

In many communities local emergency responders may be able to communicate with responders from adjacent communities by programming public safety radios with a small number of shared "mutual aid" channels. This method does not support communications between agencies outside of these established mutual aid networks. In addition, four regional interoperability initiatives have been developed in the state to improve interoperable communications in these regions. However, much of the state was not included in any of these regional interoperability initiatives, and these regional approaches leave unaddressed the need for interoperable communications between regions and statewide. The WISCOM system was developed to permit state, local, and federal emergency responders statewide to communicate with each other.

Under 2015 Act 55, the Legislature required the Interoperability Council to submit a report on WISCOM to the Joint Committee on Finance by June 30, 2016. Act 55 required that the report contain several statements of information that address the physical condition, operational capacity, financial history, and current utilization of WISCOM. The report, submitted on June 23, 2016, was prepared by TUSA Consulting Services (a public safety communications consulting firm); Carr, Riggs, and Ingram, LLC (an accounting firm); and DOJ. In addition, DOJ indicates that it has hired TUSA Consulting Services to prepare a more detailed report on WISCOM. According to DOJ, it is anticipated that the report will be delivered to DOJ by December 31, 2016.

The Interoperability Council's report on WISCOM identified that from 2003 through fiscal year 2015-16, the state has expended \$43,256,900 to develop, construct, and operate WISCOM. Local governments that provided substantive assets for WISCOM spent an additional \$4,381,700 during this time period to support WISCOM. State funding that has been expended on the development, construction, and operation of WISCOM has been primarily derived from

federal funds (\$29,513,200), with additional funding from general purpose revenue (\$4,531,400), program revenue (\$3,895,200) and segregated funding (\$5,317,100) has also been utilized for this purpose. [Note that the report inadvertently identified program revenue expenditures as general purpose revenue expenditures.] In addition to this \$43.2 million, the report identified \$6.2 million in state expenditures for devices utilized to access WISCOM, known as subscriber units, such as mobile/ in-vehicle radios, portable/handheld radios, base radios, and dispatch consoles.

The system is intended to permit first responders from across the state to communicate during a major disaster or incident. The report identified that, as of April, 2016, the core WISCOM system consists of communications equipment installed at 116 radio towers statewide, including active core sites, active county coverage enhancement sites, and active 800 megahertz sites. The system has been built to support 95% mobile radio coverage statewide, while also allowing other agencies the ability to join and enhance the coverage with additional sites. The State Patrol also has a mobile "site on wheels" that can be sent anywhere in the state to provide or enhance WISCOM communications coverage in an emergency.

The core WISCOM system consists of five Very High Frequency (VHF) channels that permit emergency responders to carry on four simultaneous conversations in a given area utilizing a particular radio tower. Utilizing the VHF band for WISCOM has enabled the state to develop statewide coverage with fewer radio towers and lower infrastructure expense. Additional VHF channels can be added to the system as needed.

The VHF band on which WISCOM primarily relies does not penetrate buildings as well as other radio bands and can be more difficult to utilize in urban settings with increased radio traffic. In addition, portable radios that emergency re-

sponders use have weaker antenna ranges and may not be able to gain access to the system from all locations in their jurisdictions. However, the installation of local enhancement infrastructure improves portable coverage.

The Council's report identified 132 local, state and federal agencies that are daily users of WISCOM. As daily users of WISCOM, these agencies utilize WISCOM as their primary communication system. The report also identified the following counties and non-governmental agencies as indicating interest in becoming daily users of WISCOM: Bayfield County; Florence County; Forest County; Green County; the Federal Border Patrol; the Mayo Medical/Gold Cross Ambulance, for air and ground transport ambulance services; ThedaStar Ambulance, for air and ground transport ambulance services; and Tri-State Ambulance, for ground transport ambulance services. Dates have not been specified for these agencies to join WISCOM as daily users.

Beyond daily users, other agencies use WISCOM in situations that require communication across systems with federal, state, tribal, local, and private partners. In total, WISCOM is used by 712 local, state, federal, tribal, and non-governmental agencies including: eight federal agencies, 17 state agencies, 685 local and tribal agencies, and 10 non-governmental agencies. These agencies have 24,400 subscriber radios registered to participate on WISCOM. Department of Justice staff indicates that private agencies are not eligible users of WISCOM due to Federal Communications Commission licensing restrictions which restrict WISCOM to be used only for public safety.

The Department is authorized to charge a public safety agency that is a state agency a fee for the use of WISCOM. A "public safety agency" is defined as a functional division of a public agency, which provides fire fighting, law enforcement, medical, or other emergency services. Examples of state public safety agencies to which

the provision applies include the Department of Justice, the Department of Transportation (State Patrol), the Department of Natural Resources, and the Capitol Police.

The Department is also authorized to charge a person that is not a state agency (such as a local or federal agency) a fee for the use of the public safety interoperable communication system.

Under 2011 Act 32, the Legislature created a program revenue appropriation to provide funding to operate WISCOM. During 2016-17, \$1,045,500 PR and 2.0 PR positions is budgeted to this appropriation. The appropriated funding is utilized to support WISCOM's infrastructure, personnel, consultants, and other supplies and services costs. Funding to the appropriation is provided from the justice information system surcharge. The \$21.50 justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment action, an ap-

peal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action.

The Interoperability Council created a Statewide System Management Group (SSMG) which was charged with advising the state on the development and operation of WISCOM. The SSMG recommended a six-tier fee structure which is identified in Table 5.

Justice information system surcharge funding provided to support WISCOM under 2011 Act 32 permits the state to not charge state, local, and private agencies for Tier 1 and Tier 2 use. The SSMG approved a fee structure for Tier 3 users in July, 2012. The Tier 3 fees are \$50 per user radio (public safety coverage), \$100 per user radio (other public service entities), and \$200 per user radio (federal agencies all uses). The Department has not charged for Tier 4, 5, or 6 use. In addition, the Interoperability Council has decided not to charge local public safety agencies for Tier 3 use.

Table 5: Interoperable Communications Fee Structure

Tier	Usage Type	Description
1	Interoperability Usage	Tier 1 involves radio communications in support of a multi-agency response to an incident on pre-defined interoperability channels. This would typically involve scenarios across county lines and when responding agencies would not have access to local common channels.
2	Itinerant/Travel Usage	Tier 2 involves radio communications in support of units operating outside of their home areas or system. This would typically involve a unit leaving its home county.
3	Daily Use/Dispatch	Tier 3 involves an agency that would elect to use WISCOM for daily radio traffic and for dispatch, with no additional infrastructure build-out required for WISCOM. Small to medium sized agencies with modest communications needs can operate within the current five channel WISCOM system.
4	Affiliated Sub-System	Tier 4 involves an agency with its own stand-alone radio system that would connect to WISCOM through an interface or gateway.
5	Integrated Build-Out	Tier 5 involves an agency that would elect to use WISCOM for daily radio traffic and dispatch, but due to its communications needs the WISCOM system would require additional infrastructure build-out.
6	Data Use (Future)	Tier 6 involves a possible future use of WISCOM for data sharing. It is unknown at this time whether or how WISCOM would be utilized for data sharing and whether there would be a fee for this.

In 2015-16, DOJ collected \$21,700 in fee revenue for WISCOM use. Fee revenue was generated from charging the federal Drug Enforcement Administration for radios registered on the WISCOM system as well as charging the Department of Health Services a per facility annual fee for each hospital in Wisconsin that has a WISCOM base station. Notwithstanding the Department's authorization to charge a public safety agency that is a state agency, DOJ indicates that while the Department of Transportation and the Department of Natural Resources utilize WISCOM, they are not assessed WISCOM user fees due to their contribution to WISCOM's infrastructure.

As part of the Interoperability's Council report on WISCOM, the Council identified several successes WISCOM has experienced in providing statewide communications between local, state, and federal public safety agencies. In addition, the report identified challenges related to WISCOM for consideration. Regarding WISCOM's challenges, the report indicated:

"Yes, WISCOM has faced challenges. Some are typical to any large-scale system implementation and others have been unique to Wisconsin. Many of the challenges encountered by users have previously been addressed, but negative perceptions may remain.

Some of the current challenges impacting WISCOM include inadequate staffing and insufficient funding to support the day-to-day monitoring and maintenance of the system. There is a large amount of work required to support a network of this size, and WISCOM has experienced problems related to this [...]. For example, if a large storm rolled through Wisconsin and took out multiple sites, WISCOM does not have sufficient staff and system assets to bring them back online in a timely manner. This could result in first responders operating on a degraded network for an extended period of time.

There are other imminent issues to consider. As the system ages, the cost of maintenance will increase as equipment reaches the end of its natural lifecycle and needs to be replaced. This is critical because the current five-year warranty period is about to expire on the trunking equipment. The network is also going to require software and security updates. All of these will require additional funding.

While WISCOM has had relative success in the development of a statewide mobile based two-way radio system, which was its core purpose and charge, many of the challenges seen have come from the build out and deployment of local sub-systems. These sub-systems have had varying degrees of success based on the amount of planning, engineering, and consistent programming within those locally controlled sub-system build outs and implementations. Policies are currently being developed to create clear criteria for sub-system migration to WISCOM in an effort to reduce the potential for future challenges.

Many of the challenges that WISCOM has experienced could be addressed with proper staffing and funding of the network. As discussed, an appropriate business case model and reliable funding mechanism would bring WISCOM into a sustainment phase typical of other state-owned radio communications systems. In addition, the Department of Justice is committed to address all known and unknown issues of WISCOM, which is why it has retained TUSA Consulting Services to review the issues experienced by some daily WISCOM users and make recommendations for corrections. In addition, TUSA Consulting Services will be assisting the State with developing a business case model recommended for implementation to WISCOM."

Bureau of Justice Information and Analysis

In August, 2014, DOJ reorganized its Division of Law Enforcement Services and created the Bureau of Justice Information and Analysis (BJIA). According to DOJ, the purpose of the Bureau is to develop the State's capacity to conduct research, analysis, and program evaluation efforts to address a variety of criminal justice research needs and to support data-driven decision making and policy development. The Bureau contains the state's Statistical Analysis Center (SAC) and the Uniformed Crime Reporting program, both of which were administered by the Office of Justice Assistance prior to its dissolution under 2013 Act 20. Research is conducted by the Bureau at the request of the Department, the state Criminal Justice Coordinating Council (CJCC), and Legislature. The Bureau also assists in developing studies and setting metrics for grant programs administered by DOJ. Finally, BJIA, along with the Training and Standards Bureau, staffs the state CJCC to provide the Council with information regarding the state's criminal justice system.

The Bureau consists of two units: the uniform crime reporting unit and the research and evaluation unit.

The uniform crime reporting unit is primarily responsible for the collection, analysis, and reporting of crime and related data for the state, as well as conducting research related to crime trends and patterns. More information on the Statistical Analysis Center and the Uniform Crime Reporting program can be found below.

The research and evaluation unit is responsible for program evaluation, with a particular focus on grant-funded programs, as well as research and analysis on a wide variety of criminal justice issues. The unit provides evaluation services for both state grant programs (such as the

Treatment Alternatives and Diversion (TAD) grant program) and federally funded grant programs (such as programs funded from federal justice assistance grants). Information on state funded criminal justice grant programs can be found in Chapter 3 of this paper, and information on state funded grant programs that provide victim and witness services can be found in the Legislative Fiscal Bureau's informational paper entitled, "Crime Victim and Witness Services."

The Bureau of Justice Information and Analysis is not separately budgeted for within DOJ. However, DOJ estimates that for 2016-17, BJIA is supported by \$328,000 GPR, \$115,000 PR, and \$650,000 FED, as well as 3.0 GPR positions, 0.65 PR positions, and 3.35 FED positions. Positions assigned to BJIA include 1.0 Bureau director, 1.0 program and policy supervisor, 4.0 research analysts-advanced, and 1.0 program and policy analyst-advanced. The Bureau also receives support from 5.0 limited-term employees (3.0 FED LTEs and 2.0 PR LTEs). The positions assigned to BJIA support both the uniform crime reporting unit and the research and evaluation unit, along with the overall role of BJIA as the Statistical Analysis Center for Wisconsin.

Statistical Analysis Center and Uniform Crime Reporting

Statutory Authorization. Under s. 165.845 of the statutes, the Department must: (a) maintain a statistical analysis center to serve as a clearinghouse of justice system data and information and conduct justice system research and data analysis; (b) collect and publish statewide crime and arrest data from all participating law enforcement agencies (primarily local law enforcement agencies); and (c) forward statewide crime and arrest data to the FBI and participate in the FBI's Uniform Crime Reporting (UCR) program. Under state statute, law enforcement agencies and other criminal and juvenile justice system agencies must supply DOJ with crime data. Data collected and managed by SAC is utilized to satisfy federal

grant reporting requirements under the Violence Against Women Act and the Juvenile Justice Delinquency Prevention Act, as well as to produce statewide crime publications.

SAC and UCR Operations. The state's Statistical Analysis Center, which encompasses the state's UCR program, has generally been funded through federal grant monies since 2003. As a result, the work of the SAC is completed under the restrictions of utilized federal funding. For 2016-17, the SAC has a budget of \$500,000 FED and 2.35 FED positions (these amounts are a subset of the overall budget for BJIA identified above). Additionally, the Department has indicated that it utilizes its federal funding to support limited-term employees and contract hours for project support from the Department's Bureau of Computing Services. The Department primarily utilizes federal Justice Assistance Grant (JAG) funds to support SAC/UCR, however additional federal grants are also utilized to support various projects performed by SAC. Due to reductions in federal funding, annual JAG funds have not been sufficient to support the operating budget of SAC/UCR. As a result, the Department has utilized unused federal grant money from initiatives in prior years to support the annual operating costs for SAC/UCR.

Data currently collected by the SAC is utilized to satisfy federal grant reporting requirements for DOJ's Violence Against Women Act (VAWA) and Juvenile Justice programs. The Department's VAWA program utilizes the Center's access to Consolidated Court Automation Program (CCAP) records to meet federal reporting requirements for temporary restraining orders and restraining orders, thereby ensuring the state's eligibility to continue to receive federal VAWA funding.

The SAC also collects and maintains a statewide database of juvenile admission records to Wisconsin's secure detention centers. The juvenile justice program at DOJ utilizes this data to

assess the state's compliance with the federal Juvenile Justice Delinquency Prevention Act (JJDP-PA) and to satisfy federal reporting requirements. Maintaining compliance with JJDP-PA is necessary in order to receive federal juvenile justice grant funding.

In the 1920s, the UCR program was first developed by the International Association of Chiefs of Police to create a national uniform collection of crime statistics for trend comparison and data analysis. The initial UCR program tracked offense and arrest data for seven crimes: (a) murder and non-negligent manslaughter; (b) forcible rape; (c) robbery; (d) burglary; (e) aggravated assault; (f) theft/larceny; and (g) motor vehicle theft. In 1978, Congress added arson as a crime to be tracked under the UCR program. Under the UCR program, in a multiple offense case only the most severe offense is counted.

In 1930, the FBI assumed responsibility for the UCR program. The FBI collected, organized, and disseminated criminal offense and arrest data voluntarily submitted by local, state, federal, and tribal law enforcement agencies under the UCR program.

In the late 1970s, the law enforcement community identified a need for a more detailed crime reporting program. In 1988, the National Incident-Based Reporting System (NIBRS) was created. The system expands on the original UCR system, now referred to as the Summary-Based Reporting System (SBR), by increasing the number of crimes for which data is collected and reported from eight to 50. While NIBRS provides information on alleged offenses and arrests (similar to SBR), it also provides additional information on associated victims, offenders, property, weapons and arrestees. In addition, NIBRS does not limit data collection in a multiple offense case to only the most severe offense.

The UCR system now encompasses both the traditional SBR system, as well as the NIBRS

system. With slight modifications, Wisconsin adopted NIBRS as the Wisconsin Incident-Based Reporting System (WIBRS) in 2005. The Office of Justice Assistance, and now the Department of Justice, has been working towards transitioning more law enforcement agencies from summary-based reporting to incident-based reporting as local technology capacity improves and federal grant funding becomes available.

The Department collects, validates, and synthesizes this crime data. Of the 563 law enforcement agencies in Wisconsin, 414 agencies report offense and arrest data to DOJ under the UCR program, as of July, 2016. Of these 414 agencies, 277 agencies report under the summary-based reporting system, 109 agencies are certified to report under the incident-based reporting system, and 28 agencies are currently testing for IBR certification. The remaining law enforcement agencies in Wisconsin are considered "covered by" agencies and report their offense and arrest data through another agency, typically the county sheriff office, rather than reporting directly to DOJ.

Reports for both systems are collected on a monthly basis: UCR-SBR reports are submitted by paper and UCR-WIBRS reports are submitted electronically. This data is organized into annual statewide reports, as well as forwarded to the FBI for nationwide trend and comparison reports on crime. Major SAC reports include the annual crime, arrest, sexual assault, hate crimes, and assault of police officer reports.

In recent years, some federal funding has been utilized to begin WIBRS implementation. As of July, 2016, 109 law enforcement agencies are certified to participate in the WIBRS system, including 77 municipal police departments, 30 sheriff's offices, and two tribal law enforcement agencies. As of July, 2016, approximately 43% of the population in Wisconsin is covered by WIBRS reporting agencies. The high percentage of population coverage relative to the number of

agencies is due in part to the top three populated cities of Milwaukee, Madison, and Green Bay reporting under IBR. The percentage of Wisconsin's population covered under the IBR system increases to approximately 52% when including the agencies testing for IBR certification. According to DOJ, the FBI intends to sunset the SBR system by January, 2021, and therefore all law enforcement agencies will utilize incident-based reporting.

The UCR data collected by DOJ is used to calculate Wisconsin's federal JAG funding and to satisfy certain federal reporting requirements. This UCR data is the only statewide source of long-term crime and arrest data, law enforcement staffing levels, and data on law enforcement officers killed or injured in the line of duty.

Staff at BJIA assists law enforcement with the collection and coding of crime statistics data, including answering questions and solving reporting and jurisdictional issues with individual agencies. In addition, BJIA began offering training sessions on both summary-based and incident-based UCR reporting to law enforcement agencies across the state in 2016. Through July, 2016, approximately 500 law enforcement personnel attended four sets of trainings.

In August, 2011, the SAC introduced the Wisconsin Justice Data Portal. The Justice Data Portal is an online tool that permits justice agencies and the public to query statewide UCR data for crime trend and data analysis purposes. The portal was designed to increase public access to UCR data and reduce the amount of time and resources necessary to locate and identify statistical crime information in Wisconsin.

More recently, in April, 2016, BJIA launched a set of interactive data tables on DOJ's website to make UCR data available to the public. The initial data tables focus on offense and arrest data, however DOJ indicates that it is preparing additional data tables that will contain more

detailed information on homicides, sexual assault, arrestee demographics, and other topics of concern.

Crime Laboratory Bureau

Three state crime laboratories, located in Madison, Milwaukee, and Wausau, comprise the Department's Crime Laboratory Bureau. 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 2016-17 for the state crime laboratories (less amounts budgeted for deoxyribonucleic acid (DNA) analysis) totals \$13,984,900 (all funds) and 95.33 positions. The state crime laboratories' funding is comprised of \$6,602,200 GPR, \$7,317,600 PR, and \$65,100 FED, as well as 51.33 GPR, 43.0 PR, and 1.0 FED positions.

The 2016-17 budget for DNA analysis totals \$7,877,800 (all funds) and 81.0 positions. The DNA analysis funding is comprised of \$3,970,800 GPR and \$3,907,000 PR, as well as 41.5 GPR and 39.5 PR positions.

The state crime laboratories' program revenue-supported budget (including amounts budgeted for DNA analysis) is funded from a variety of sources: (a) the crime laboratory and drug law enforcement surcharge and the DNA surcharge (\$9,768,400 and 74.5 positions); (b) criminal history search fees (\$683,000 and 7.0 positions); and (c) penalty surcharge revenues (\$773,200 and 1.0 position).

A \$13 crime laboratory and drug law en-

forcement surcharge 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. Additionally, a court must impose a DNA surcharge when it either imposes a sentence or places a person on probation for committing a felony or misdemeanor. The DNA surcharge is \$250 for each felony conviction and \$200 for each misdemeanor conviction.

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.

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.

In 2015-16, the crime laboratories and drug law enforcement surcharge and DNA surcharge fund concluded the fiscal year with a balance of \$4,307,600. The Department estimates that the crime laboratory and drug law enforcement surcharge fund will close the 2016-17 state fiscal year with a cumulative balance of \$5,365,500.

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, toxi-

cology, serology and forensic photography."

Employees of the state crime laboratories may undertake an 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. The Madison, Milwaukee and Wausau crime laboratories have a Crime Scene Response Unit (CRSU) which provides 24 hour/seven days a week crime scene investigation assistance to law enforcement agencies at major violent crime scenes and autopsy examinations investigations. The CRSUs primarily respond to three types of scenes: homicides; officer-involved shootings; and clandestine grave sites. In calendar year 2014, the CRSUs responded to 38 requests for assistance by law enforcement, while in 2015 the CRSUs responded to 80 requests. In addition to responding to requests for assistance, the CRSUs also provide training to local officers in crime scene investigation techniques.

The Department is authorized to decline 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

Appendix IV identifies the geographic areas of the state served by each crime laboratory. Below is a list of services provided by the state crime labs:

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, narcot-

ic, pharmaceutical, or other ingredient. Controlled substances are those compounds prohibited under Chapter 961 of the statutes. Drug identification services are provided by the Madison, Milwaukee, and Wausau crime labs.

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. Full toxicology services are provided by the Madison and Milwaukee crime labs. The Wausau crime lab provides toxicology services only as it relates to blood alcohol content. For other toxicological services, the region is served by the Madison crime lab.

3. *Trace Evidence.* A comparison and identification of trace evidence may be undertaken. This includes such substances as paints, soil, plastics, glass, metals, insulation, arson accelerants, explosives, and fibers. During a crime, negligible amounts of such materials may be transferred from one surface to another. By linking the transferred material back to its original source, a suspect may be linked back to the crime scene. The Milwaukee crime lab provides trace analysis services for the entire state.

4. *DNA/Serology.* This type of analysis involves the identification and characterization of biological materials, including blood, semen and other body fluids. Except for identical twins, each individual's genetic profile is unique. The genetic profile of a suspect developed from submitted biological material may be compared to the genetic profile developed from biological material collected from a crime scene to link a suspect to a crime. DNA/serology analysis services are provided by the Madison and Milwaukee crime labs. The Wausau crime lab region is served by Madison crime lab.

5. *DNA Databank.* The DNA Databank stores DNA profiles from samples on all convicted offenders and, beginning on April 1, 2015, the profiles of certain individuals arrested for violent felonies. The state system is connected to the national system to help identify suspects when unknown DNA is found at a crime scene. The DNA databank is located at the Madison crime laboratory, however it includes DNA profiles from samples which were analyzed and catalogued at the Milwaukee crime laboratory.

6. *Firearms/Toolmarks.* This activity involves the: examination of firearms and ammunition, as well as 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. Recovered firearms and cartridges may also be compared to other firearms cases in the Midwest through the use of the National Integrated Ballistic Information Network (NIBIN) computer system. The Milwaukee crime lab provides firearms analysis services for the entire state.

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. Fingerprint, footprint, and tire tread identification services are provided by the three crime labs.

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

Documentation examination is no longer provided by any of the state crime laboratories. Instead, the FBI Crime Laboratory in Washington D.C. provides documentation examination services for the Wisconsin criminal justice system free of charge.

9. *Photo Work Orders.* This casework is submitted directly from local law enforcement agencies and typically involves still or video photography services. Casework can include making copies of videos to protect the original from damage and capturing and enhancing individual "still" images from a video. Photo work order services are provided by each of the crime labs.

10. *Forensic Imaging.* The forensic imaging unit in the state crime laboratories also provides support for the work of other crime laboratory units. These services include specialized forensic photography support using black and white, color, ultraviolet, digital, infrared and infrared luminescence techniques. These images are typically utilized to: (a) record the condition of an item of evidence at the time of receipt; (b) document the location and condition of items of interest (for example, recording the condition of a crime scene); and (c) recording the results of analytical investigation (for example, producing fingerprint or palm print images). Forensic imaging services are provided by the three crime labs.

The three state crime laboratories are currently authorized the following types of specialists (excluding specialists for DNA analysis): (a) fingerprint and footwear examiners; (b) controlled substance analysts; (c) forensic program technicians; (d) toxicologists; (e) forensic imaging specialists; (f) firearms and toolmark examiners; (g) trace evidence examiners; (h) forensic science training coordinators; and (i) identification technicians. In addition to these specialist positions, additional supervisory and support positions include forensic scientist supervisors, office associates, forensic science program chiefs, justice supervisors, a crime laboratory director, infor-

mation services personnel, and an executive staff assistant.

The state crime laboratories are also authorized positions for DNA analysis activities. These positions include: (a) DNA analysts; (b) forensic scientist supervisors; and (c) forensic program technicians.

Table 6 identifies the caseload of the state crime laboratory analysts during 2015-16. Many cases referred to the state crime laboratories require more than one type of analysis. As a result, the total number of case types opened and completed by the crime laboratories, as identified in Table 6, is larger than the total number of distinct law enforcement cases referred to the crime laboratories.

Table 6: Analyst Caseloads in 2015-16

Case Type	Opened	Completed
DNA databank	11,769	18,880
Controlled substances	5,853	5,919
Toxicology	4,306	3,927
DNA analysis	4,061	4,060
Identification	2,159	2,463
Photo work order	938	879
Firearms	623	522
DNA screening	270	269
Trace evidence	175	177
Footwear or tire track	94	63
Crime scene response	77	77
Field photo	66	45
Forensic imaging	55	50
Toolmarks	21	29
Bloodstain pattern analysis	12	6
Familial search	<u>10</u>	<u>11</u>
Total	30,589	37,377

DNA Collection, Analysis, Data Storage, and Usage. The analysis of DNA evidence at crime scenes has become an increasingly important forensic tool for law enforcement agencies. In recent years, several laws have been enacted affecting the frequency and manner in which DNA is utilized during the criminal justice process.

Individuals who, after January 1, 2000, have either been found guilty of a felony or are in prison for any felony committed in this state must submit a biological sample to be sent to the state crime laboratories for DNA analysis. Individuals committed as sexually violent persons must also submit a biological sample. Further, under 2013 Act 20, individuals who have been found guilty of a misdemeanor on or after April 1, 2015, must submit a biological sample for DNA analysis. Prior to April 1, 2015, individuals who were convicted of the following misdemeanors were required to submit a biological sample: (a) intentional failure to submit a required biological specimen; (b) fourth-degree sexual assault; (c) lewd or lascivious behavior; and (d) exposing genitals, pubic area, or intimate parts. Additionally, under 2013 Acts 20 and 214, and beginning April 1, 2015, adults who are arrested for or charged with a felony defined as a violent crime must submit a biological sample for DNA analysis. Appendix V identifies the offenses which, under s. 165.84(7) of the statutes, constitute a violent crime for the purpose of biological sample submission.

Under 2013 Act 20 and beginning April 1, 2015, juveniles who have been adjudicated delinquent on the basis of a violation that would be a felony if committed by an adult in this state must submit a biological specimen for DNA analysis. Additionally, beginning April 1, 2015, juveniles who have been adjudicated delinquent for an act that, if committed by an adult in this state, would constitute a violation of any of the following misdemeanors must submit a biological sample: (a) fourth-degree sexual assault; (b) endangering safety by use of a dangerous weapon; (c) lewd or lascivious behavior; (d) prostitution; (e) patronizing prostitutes; (f) pandering; (g) failure to submit a required biological sample; and (h) exposing genitals, pubic area, or intimate parts. Prior to April 1, 2015, juveniles were required to submit biological samples if they were adjudicated delinquent on the basis of a violation that would constitute: (a) sexual assault; (b) 1st or 2nd-degree

sexual assault of a child; (c) engaging in repeated acts of sexual assault with the same child; and (d) sexual assault of a child placed in substitute care. Moreover, beginning April 1, 2015, juveniles who are taken into custody or before a court for committing an offense which would constitute a felony violent crime if committed by an adult must submit a biological sample. Appendix V identifies the offenses which constitute a violent crime for the purpose of biological sample submission.

Individuals who have been placed in institutional care or found not guilty by reason of mental disease or defect as a result of committing an offense which would constitute a felony must also submit a biological sample for DNA analysis. Additionally, those placed in institutional care or found not guilty by reason of mental disease or defect as a result of committing any of the following misdemeanor violations must submit a biological sample: (a) failure to submit a required biological specimen; (b) fourth-degree sexual assault; (c) lewd or lascivious behavior; and (d) exposing genitals, pubic area, or intimate parts.

Those who are on parole, extended supervision, or probation in another state, but are supervised in Wisconsin for a violation in the other state that the Department of Corrections determines would constitute a felony if committed in Wisconsin must submit a biological sample for DNA analysis. Finally, the courts may order an individual to submit a biological sample if the individual is before the court for certain crimes or the court determines that a biological sample was not collected from an individual who is required under statute to submit a sample.

After biological specimens are submitted, the specimens are sent to the state crime labs for DNA analysis. Biological samples collected as a result of one of the reasons discussed above (except if the biological specimen is obtained from an individual at arrest, or when a juvenile is taken into custody, for a violent crime) are analyzed by

the crime laboratories. The crime laboratories enter the data obtained from the DNA analysis into the DNA databank. The laboratories may compare the data obtained from one specimen with data obtained from other specimens. The laboratories may also make the data obtained from the analysis available to those in connection with criminal or delinquency investigations, including law enforcement agencies, prosecutors, defense attorneys, and the subject of the data.

Beginning April 1, 2015, law enforcement officers and tribal law enforcement officers must collect a biological specimen from individuals arrested or taken into custody for committing a felony violent crime (or for a juvenile offense that would be a felony violent crime if committed by an adult) and submit the biological specimen to the state crime laboratories in a manner specified by DOJ by rule. Biological specimens collected from arrested individuals (or juveniles taken into custody) are only analyzed and included in the DNA databank if, within one year of the date the biological sample was submitted to the state crime laboratory, the court has notified the crime laboratory that one of the following applies: (a) the individual was arrested, or the juvenile was taken into custody, pursuant to a warrant; (b) the court has made a finding that there is probable cause that the individual committed a violent crime, or that the juvenile committed an offense that would be a violent crime if committed by an adult; (c) the individual failed to appear at the initial court appearance or preliminary examination, or the individual waived the preliminary examination; or (d) the individual failed to appear for a delinquency proceeding under Chapter 938 of the statutes (Juvenile Justice Code). If one year passes and the court has not notified the crime laboratory that one of preceding conditions applies, then the crime laboratory must destroy the biological sample.

In addition to analyzing biological specimens submitted as a requirement under state law, the

crime laboratories must analyze the DNA in human biological specimens that are provided pursuant to any of the following requests: (a) a law enforcement agency regarding an investigation; (b) a defense attorney regarding his or her client's specimen, pursuant to a court order; and (c) an individual regarding his or her own specimen, subject to rules established by the Department. The laboratories may compare the DNA data from the provided specimen with data obtained from other specimens. The laboratories may also make this data available to those in connection with criminal or delinquency investigations, including law enforcement agencies, prosecutors, defense attorneys, and the subject of the data. The data obtained from one of these provided specimens may be used in a criminal or delinquency proceeding. However, the DNA data obtained from a specimen provided pursuant to one of the requests enumerated above may not be included in the DNA databank.

Furthermore, s. 165.77(7) of the statutes specifies that DNA data obtained from biological specimens analyzed pursuant to a request from a Wisconsin law enforcement agency or health care professional collecting evidence in a case of alleged or suspected sexual assault may not be included in the DNA databank. This provision ensures that the privacy of sexual assault victims and individuals erroneously suspected of committing sexual assault is not violated.

Individuals whose DNA data is stored in the DNA databank may have the data expunged if any of the following conditions are satisfied: (a) all convictions, findings, or adjudications for which the person was required to submit a biological specimen have been reversed, set aside, or vacated; (b) if the individual was required to provide a biological sample for being arrested or charged with a violent crime, then either: (1) all charges for which the person was required to provide the biological specimen have been dismissed; (2) the trial court adjudged the individual not guilty on all charges for which the person was

required to provide a biological specimen; (3) at least one year has passed since the arrest and the individual has not been charged with a violent crime in connection with the arrest; or (4) the person was adjudged guilty of a violent crime, and all such convictions for a violent crime have been reversed, set aside, or vacated; and (c) if the individual is a juvenile and the juvenile was required to submit a biological specimen because he or she was taken into custody or before a court for an offense which would be considered a violent crime if committed by an adult, then either: (1) all criminal complaints or delinquency petitions that allege the juvenile committed an offense which would be considered a violent crime if committed by an adult have been dismissed; (2) the juvenile was neither convicted nor adjudged delinquent by a trial court on all violations that would be considered a violent crime if committed by an adult; or (3) at least one year has passed since the juvenile was taken into custody and no criminal complaint or delinquency petition has been filed alleging that the juvenile committed a violation, in connection with the juvenile being taken into custody, that would be a violent crime if committed by an adult. If DOJ determines that any of the conditions enumerated above have been satisfied, and the individual sends DOJ a written request for expungement and any other documentation DOJ requires by rule, then the laboratories must purge all records and identifiable information in the data bank pertaining to the individual, as well as destroy all samples from the person.

As of July 1, 2016, there were 214,005 DNA profiles in the state's convicted offender database, comprised of 211,356 offender profiles and 2,649 arrestee profiles. "Casework" 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 "casework" DNA profiles with either known profiles in the convicted offender DNA database or with other "casework"

profiles in the casework index. As of July 1, 2016, there were 15,509 casework DNA profiles in the state database.

Convicted offender DNA profiles and "casework" DNA profiles are both stored on the same computer server. This server currently has a storage capacity for up to 5,000,000 DNA profiles. Approximately 2,000 DNA profiles are added to the DNA databank every month from casework, criminal offenders, and violent felony arrest sample submissions, however this number varies significantly.

The convicted offender DNA database and the casework DNA profiles have become increasingly effective crime-solving tools. In calendar year 2014, there were 571 matches or "hits," for an average of 48 hits per month. Of these 571 hits, there were 518 instances of hits that matched unknown profiles with known convicted offender profiles, and 53 instances of hits that involved evidentiary profiles matching evidentiary profiles from different cases. In calendar year 2015, there were 686 hits, for an average of 57 hits per month. Of these 686 hits, there were 618 instances of hits that matched unknown profiles with known convicted offender profiles and 11 in-

stances of hits that matched unknown profiles with known arrestee profiles. In addition, there were 57 instances of hits that involved evidentiary profiles matching evidentiary profiles derived from different cases.

Collection of biological submissions from violent felony arrestees began on April 1, 2015. In 2015-16, the state crime labs received 34,213 biological sample submissions from violent felony arrests and felony and misdemeanor conviction collections. Of these 34,213 sample submissions, approximately 8,182 sample submissions derived from violent felony arrest collections. These 8,182 biological sample submissions from violent felony arrests led to the state crime labs entering 2,649 DNA profiles into the DNA databank. As discussed above, prior to analyzing a biological sample stemming from a violent felony arrest, the state crime labs must ensure that the necessary statutory requirements are met (for example, that probable cause for the arrest existed or that the crime for which the arrest was made is defined as a violent felony under state statute). According to DOJ, the arrest charges associated with collections of biological specimens from violent felony arrestees was not tracked.

LAW ENFORCEMENT ACTIVITIES OF THE DEPARTMENT OF JUSTICE

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; (c) smoking; and (d) carrying carry concealed weapons.

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 under s. 165.70, the statutes stipulate that it is not the intent to deprive local law enforcement of its concurrent power and duty to enforce these provisions.

Since the passage of 2013 Act 348, the Department of Justice has also seen a significant increase in its workload investigating officer-involved deaths. Created under Act 348, s. 175.47 of the statutes provides that investigations into an officer-involved death must be conducted by at least two investigators, one of whom is the lead investigator and neither of whom is em-

ployed by a law enforcement agency that employs a law enforcement officer involved in the officer involved death. As a result of Act 348, local law enforcement agencies have often requested that DOJ conduct these officer-involved death investigations for their agency.

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 (DCI) is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the Department. 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 DCI. Finally, DCI will also provide investigative assistance to local law enforcement, when requested, to help solve serious crimes.

The budget for the Division in 2016-17 is \$17,102,300 (all funds) and 148.8 positions. The Division is organized into four bureaus: the Field Operations Bureau, the Special Operations Bureau, the Special Investigations Bureau, and the Arson Bureau. The Field Operations Bureau is

further divided into an Eastern Region and a Western Region. The narcotics enforcement activities of the Division are separately budgeted, but narcotics enforcement is a part of the Field Operations Bureau. The Internet crimes against children task force unit is also separately budgeted but elements of the unit report to both the Field Operations Bureau and the Special Operations Bureau. Dedicated funding from tribal gaming and lottery fund revenues support the gaming investigations program, but the gaming investigations program is a part of the Special Operations Bureau. In 2015-16, the DOJ created the Special Investigation Bureau to provide management of officer involved death investigations and other programs requiring heightened awareness and coordination, as well as management of public records compliance for all investigations conducted by DCI. In 2012-13, the Arson Unit, formerly a part of the Field Operations Bureau, was converted into the Arson Bureau.

**Field Operations Bureau --
Narcotics Enforcement**

The Field Operations Bureau is responsible for carrying out the Division's narcotics enforcement effort. The budget for narcotics enforcement in 2016-17 totals \$7,632,100 (all funds) and 49.0 positions. Funding is comprised of \$2,507,600 GPR, \$4,045,100 PR, and \$1,079,400 FED, supporting 22.0 GPR, 25.0 PR and 2.0 FED positions. Narcotics enforcement staff consists of special agents, criminal analysts, and supervisory and support personnel.

The program revenue-funded budget for narcotics enforcement is provided from the \$13 crime laboratory and drug law enforcement surcharge and the DNA surcharge (\$1,659,700 and 13.0 positions), as well as the penalty surcharge (\$2,385,400 and 12.0 positions). The \$13 crime laboratory and drug law enforcement surcharge 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. A court imposes the DNA surcharge either when it imposes a sentence or places a person on probation. The DNA surcharge is \$250 for each felony conviction and \$200 for each misdemeanor 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.

In 2015-16, the crime laboratory and drug law enforcement surcharge and DNA surcharge fund concluded the fiscal year with a positive balance of \$4,307,600. The Department estimates that the crime laboratory and drug law enforcement surcharge fund will close the 2016-17 state fiscal year with a cumulative balance of \$5,365,500.

Statutory Authorization. Under s. 165.70 of the statutes, the Department is charged with enforcing the Uniform Controlled Substances Act (Chapter 961 of the statutes) 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. The Department of Justice 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 Field Operations Bureau administers 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 by providing

investigative assistance.

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. The task force made 31 prosecution referrals in 2014-15 and seven prosecution referrals in 2015-16.

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

The enforcement component of Wisconsin HIDTA consists of three investigative bodies: (a) the Heroin Initiative; (b) the Drug Gang Task Force; and (c) the Interdiction Initiative. The Heroin Initiative, supervised by a DCI special agent in charge, investigates high level heroine drug trafficking organizations in the Wisconsin HIDTA region. The Drug Gang Task Force is a multi-agency initiative supervised by the Milwaukee Police Department. The Drug Gang Task Force focuses on the identification, infiltration, disruption, and dismantling of violent street gangs involved in drug trafficking in the Milwaukee area. Finally, the Interdiction Initiative coordinates regional enforcement efforts with law enforcement agencies throughout southeastern Wisconsin in an attempt to intercept the transportation of controlled substances and currency into,

out of, and through the Wisconsin HIDTA area of responsibility.

The Heroin Initiative made 80 prosecution referrals in 2014-15 and an additional 82 prosecution referrals in 2015-16. The Drug Gang Task Force made 242 prosecution referrals in 2014-15 and 138 prosecution referrals in 2015-16. Finally, the Interdiction Initiative made 61 prosecution referrals in 2014-15 and an additional 34 prosecution referrals in 2015-16.

Cannabis Enforcement and Suppression Effort. The Field Operations Bureau coordinates the Cannabis Enforcement and Suppression Effort (CEASE), which is a law enforcement program directed at the reduction of cultivated and non-cultivated marijuana and marijuana demand. The CEASE program supports federal, state, and local law enforcement efforts to curb marijuana cultivation, distribution, and use. The primary goal of the program is to augment local law enforcement efforts in locating indoor and outdoor marijuana grow operations and arresting those responsible. The program also supports efforts to eradicate wild marijuana. The CEASE program informs the public on issues related to marijuana legalization efforts and educates citizens and youth about the dangers associated with marijuana and illegal drug use in general. Program management for CEASE compiles statewide statistics and intelligence data. Program management also distributes funds, equipment, and information to be used for the investigation and eradication of domestic marijuana grow operations. Reports on CEASE activity are prepared and forwarded to the U.S. Drug Enforcement Administration and law enforcement agencies throughout Wisconsin. The Field Operations Bureau provides training and equipment to local law enforcement agencies throughout the state for their marijuana eradication efforts, and reimburses local agencies for pre-approved overtime expenses involving marijuana eradication efforts. The CEASE program made 96 prosecution referrals in 2014-15, and 106 in 2015-16. Under the CEASE program, 97

marijuana grow operations were destroyed in 2014-15, and an additional 92 marijuana grow operations were destroyed in 2015-16.

Methamphetamine Laboratories. The Department of Justice has identified as a significant challenge the proliferation of methamphetamine laboratories, particularly in northwestern Wisconsin. To combat the spread of methamphetamine laboratories, the Department coordinates a group of certified law enforcement officers to investigate clandestine laboratories. This multi-jurisdictional team is comprised of 28 DCI Special Agents and 36 local officers representing 20 agencies.

The Field Operations Bureau identified and decommissioned 64 laboratories in 2014-15 and 54 laboratories in 2015-16. In 2014-15, DOJ opened 93 methamphetamine-related investigations and closed 76 investigations. In 2015-16, DOJ opened 76 methamphetamine-related investigations and closed 60 investigations.

Drug Tipline and Pharmacy Hotline. Section 165.72 of the statutes requires the Department of Justice 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 Public Communications Center, which operates the tipline and hotline under contract with DOJ. This toll-free telephone number received 44 tips in 2014-15 and 70 tips in 2015-16.

Training. The Field Operations Bureau provides specialized training to certified law enforcement officers. Topics include search and seizure law, execution of search warrants, undercover activity, surveillance, consent searches, and the latest drug trends throughout the state. The Bureau also provides training to communities around Wisconsin on heroin awareness. In 2014-15, the Bureau provided one 80-hour drug investigation school that was attended by 55 investigators, as well as 231 drug presentations that were

attended by 10,305 attendees. In 2015-16, the Bureau provided one 80-hour drug investigation school that was attended by 50 investigators, as well as 142 drug presentations that were attended by 10,823 attendees.

Bureau Caseload. In 2014-15, the Field Operations Bureau opened 581 narcotics cases and closed 469 narcotics cases, while in 2015-16, the Bureau opened 568 narcotics cases and closed 415 narcotics cases. The Field Operations Bureau is generally the lead agency in these cases.

Internet Crimes Against Children Task Force

The Internet Crimes Against Children (ICAC) task force unit at DOJ is responsible for investigating Internet crimes against children in conjunction with other law enforcement partners in the Internet Crimes Against Children Task Force. The budget for the ICAC Unit at DOJ in 2016-17 is \$3,203,500 (all funds) and 36.0 positions. The unit's total funding is comprised of \$2,696,300 GPR, \$318,200 PR, and \$189,000 FED, supporting 30.0 GPR, 5.0 PR, and 1.0 FED positions. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement surcharge and the DNA surcharge.

In addition to these budgeted amounts, 2015 Act 369 required DOJ to transfer \$1,000,000 PR of existing budget authority to a new continuing appropriation for ICAC investigations. The entirety of the \$1,000,000 remains available for DOJ use during 2016-17. [Act 369 is discussed in greater detail below.]

The Wisconsin ICAC task force was created in 1998 with federal funding to counter the 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. As of August, 2016, there were 225 law enforcement agencies, including DOJ, participating in the Wisconsin ICAC task force.

Internet crimes against children cases generally fall into four broad categories: (a) investigations of cyber-tips received from individuals and Internet service providers through the National Center for Missing and Exploited Children; (b) online child enticement investigations; (c) "peer-to-peer" investigations; and (d) cases involving other law enforcement agencies. In 2014-15, the ICAC task force opened 1,339 ICAC investigations, while in 2015-16 the ICAC task force opened 1,548 ICAC investigations. The Division took the lead on 683 investigations in 2014-15 and 584 investigations in 2015-16.

All 225 law enforcement agencies participating in the Wisconsin ICAC task force have a capacity to conduct "reactive" ICAC investigations, responding to tips or information that an Internet crime against a child may have occurred. In addition, many of these agencies can also conduct "proactive" investigations, such as peer-to-peer investigations and online child enticement investigations.

In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the cyber-tiplines program at the National Center for Missing and Exploited Children. In 2014-15, the Wisconsin ICAC task force received 1,351 cyber tips from the National Center for Missing and Exploited Children. From these 1,351 cyber tips, the ICAC task force opened 1,351 cases, of which 458 were

investigated by DOJ and the remaining 893 were referred to affiliate law enforcement agencies. In 2015-16, the Wisconsin ICAC task force received 1,131 cyber tips from the National Center for Missing and Exploited Children. From these 1,131 cyber tips, the ICAC task force opened 1,131 cases, of which 337 were investigated by DOJ and the remaining 794 were referred to affiliate law enforcement agencies. When the ICAC task force receives multiple cyber tips involving the same suspect, these cyber tips are consolidated into a single case for subsequent follow-up by DOJ or affiliated law enforcement agencies.

Online child enticement investigations involve investigations of chat rooms and other web-based communication sites to identify adults who want to meet children for the purpose of engaging in sexual activity, or adults who are willing to make their children available for adult sexual contact. These investigations also include cases in which adults direct obscenity towards minors. In 2014-15, the entire ICAC task force opened 353 child enticement investigations. Of the 353 child enticement investigations initiated by the Wisconsin ICAC task force in 2014-15, DOJ special agents initiated 39 of these investigations. In 2015-16, the entire ICAC task force opened 447 child enticement investigations. Of the 447 child enticement investigations opened by the Wisconsin ICAC task force in 2015-16, DOJ special agents initiated 71 of these cases.

"Peer-to-peer" investigations identify the illegal sharing of child pornography images and videos over the Internet. Department of Justice staff indicates that the current electronic statistical system for the ICAC task force does not permit the Department to identify the number of cases opened by the whole task force that can be attributed to "peer-to-peer" investigations. However, data does exist for the number of peer-to-peer investigations initiated by DOJ staff. In 2014-15, DOJ special agents initiated 75 peer-to-peer investigations, while in 2015-16, DOJ

special agents initiated 38 peer-to-peer investigations.

Finally, cases involving other law enforcement agencies include: (a) child exploitation initiatives with other law enforcement agencies, such as following up on customer information from web-based companies identified as illegally trafficking images of child pornography; (b) assisting local law enforcement agencies with investigations of Internet-based or other child exploitation cases; and (c) assisting other ICAC task forces around the country.

In 2014-15, the Wisconsin ICAC task force made 270 arrests, and in 2015-16 the Wisconsin ICAC task force made 430 arrests. Of the 270 arrests made by the Wisconsin ICAC task force in 2014-15, 139 arrests were made by DOJ special agents. Of the 430 arrests made by the Wisconsin ICAC task force in 2015-16, 120 arrests were made by DOJ special agents. The Department staff indicates that it does not currently have an electronic reporting system that would permit it to report the case types to which these arrests could be attributed, either for the ICAC task force as a whole or for DOJ.

Department staff further indicates that its electronic statistical analysis system does not currently permit it to provide data on annual ICAC case closings.

Digital forensic analysis is an important element to the successful prosecution of ICAC cases. Criminal analysts are responsible for conducting on-site forensic previews of evidence and subsequently developing the evidence more thoroughly in the laboratory. The analysis involves: (a) the creation of a duplicate image of relevant evidence; (b) an examination of all relevant computer files; and (c) restoring information pertinent to the investigation. Department staff indicates that this work can be laborious often due to the large volume of data involved in ICAC investigations. In 2014-15, the ICAC task force conducted

3,269 forensic ICAC examinations. In 2015-16, the ICAC task force conducted 6,526 forensic ICAC examinations.

Criminal analysts in the DOJ ICAC Digital Forensics Unit investigate crimes committed using the computer and analyze information contained in electronic formats. The personnel in this unit are trained to conduct forensic analysis of digital evidence. These cases include Internet crimes against children cases, audio and video enhancements, cell phone forensics, and other digital evidence and technical assistance cases. In 2014-15, these DOJ criminal analysts at the DOJ ICAC Digital Forensics Unit opened 466 cases and closed 480 cases, while in 2015-16 they opened 563 cases and closed 539 cases. Forensic ICAC cases are opened separately from criminal investigations initiated by the Wisconsin ICAC task force. Forensic ICAC cases are opened for the specific purpose of conducting forensic examinations of electronic devices. One forensic ICAC case is designated for the total number of devices submitted in a case.

When the Wisconsin ICAC task force was first created, DOJ did not have full-time special agents to address its ICAC caseload. Instead, the ICAC caseload was addressed by special agents who worked overtime. The Department first retained dedicated full-time staff to work ICAC investigations in 2000. The Department utilized federal funding to hire a full-time special agent. In addition, DOJ: (a) reallocated a program and planning analyst position to the ICAC unit; and (b) trained a special agent in its technical services unit to conduct computer forensic examinations.

Department staff attributes additional resource reallocations to the ICAC unit to budget initiatives in 2002 and 2003, including the merger of the Division of Narcotics Enforcement with the Division of Criminal Investigation. As of 2006-07, the ICAC unit had 10.0 FTE positions (5.5 GPR positions, 3.5 PR positions, and 1.0 FED position) including: (a) 0.5 criminal

investigation director; (b) 2.0 operations program associates; (c) 3.0 criminal analysts; and (d) 4.5 special agents.

Under 2007 Act 20, the Legislature created an additional 5.0 GPR-funded FTE positions for the unit. Likewise, the provisions of 2009 Act 28 created an additional 5.0 GPR-funded FTE positions for the unit. Under 2011 Act 32, an additional 11.0 GPR-funded FTE positions were created for the unit. Finally, 2013 Act 20 provided the unit an additional 3.5 GPR-funded FTE and 1.5 PR-funded FTE.

Since 2006-07, the number of positions at the unit has increased from 10.0 FTE to 36.0 FTE. The unit is currently authorized the following positions: (a) 15.0 criminal analysts; (b) 19.0 special agents; (c) 1.0 program and policy analyst; and (d) 1.0 information services (IS) network services specialist.

Finally, to further Wisconsin's ability to investigate internet crimes against children, the Legislature passed 2015 Act 369. Act 369 required DOJ to transfer \$1,000,000 PR in 2015-16 of existing budget authority to a new continuing appropriation for ICAC investigations. Program revenue for the transfer would be supported by the crime laboratory and drug law enforcement surcharge and the DNA surcharge. In addition, Act 369 provided the Attorney General or his or her designee the authority to issue an administrative subpoena on an electronic communication service or remote computing service (more commonly, an Internet service provider) to compel the production of the name, address, and duration of the assignment of any Internet protocol (IP) address of a customer or subscriber. The Attorney General or his or her designee does not require a court's approval to issue an administrative subpoena. However, a person served with an administrative subpoena may petition a circuit court in the county where the subpoena was issued for an order to modify or quash the subpoena or to prohibit disclosure of information. Further, the

Attorney General's administrative subpoena authority is limited by the following conditions: (a) the information likely to be obtained is relevant to an ongoing investigation of an Internet crime against a child; and (b) the Attorney General or his or her designee has reasonable cause to believe that an Internet or electronic service account provided by an electronic communication service or remote computing service has been used in the crime.

Special Operations Bureau -- Gaming Investigation Program

The budget for the gaming investigation program in 2016-17 is \$533,000 (all funds) and 4.0 positions. The program's total funding is comprised of \$144,800 PR and \$388,200 SEG, supporting 1.25 PR and 2.75 SEG positions. The program's staff consists of a director and 3.0 special agents.

The program's PR-funded budget is supported by tribal gaming revenues. The program's SEG-supported operations 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 provisions of 2011 Act 32 eliminated the requirement that DOJ have a separate

Gaming Enforcement Bureau.]

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 is granted criminal law enforcement responsibilities relating to commercial gaming and illegal gambling. In addition, under Chapters 562, 563, 565, and 569 of the statutes, DOJ is granted law enforcement responsibilities relating to racing and pari-mutuel betting, bingo and raffle control, the Wisconsin Lottery, and Indian gaming. Department of Revenue's Division of Lottery and Department of Administration's (DOA) Division of Gaming are required by statute to report all suspected criminal activity to DOJ.

The gaming investigation program 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 program assists local law enforcement in meeting its responsibility to enforce the state's gambling laws.

Program Administration. In 2016, Wisconsin had 24 casinos and ancillary gambling facilities with more limited games. As of September, 2016, these 24 casinos and ancillary gambling facilities had 15,402 electronic gaming machines and 294 table games.

In 2014-15, the program's staff opened four gaming cases and closed two gaming cases. In 2015-16, program staff opened three gaming cases and closed three gaming cases. The gaming investigation program is generally the lead agency in these cases.

In 2014-15, the gaming investigation program conducted 244 background investigations for DOA's Division of Gaming and 36 background investigations for the Wisconsin Lottery. In 2015-16, the program conducted 210 background investigations for DOA's Division of Gaming and 74 background investigations for the Wisconsin Lottery.

Remaining DCI Operations for the Special Operations Bureau and Field Operations Bureau

The budget in 2016-17 for the Special Operations and Field Operations Bureaus (less amounts specifically budgeted for narcotics enforcement, the ICAC task force unit, and the gaming investigation program) is \$3,412,900 (all funds) and 37.2 positions. This funding is comprised of \$2,621,900 GPR supporting 29.5 GPR positions and \$791,000 PR supporting 7.7 PR positions. The staff authorized for these operations consists of special agents, criminal analysts, program and

policy analysts, technicians, and supervisory and support staff.

The program revenue-funded portion of these budgets is supported by inter- and intra-agency assistance funding (\$576,000 and 6.5 positions); annual subscriber fees assessed on members of the private sector participating in the crime alert network (\$50,000 and 1.0 position); and revenue generated from the crime laboratory and drug law enforcement surcharge and DNA surcharge (\$165,000 and 0.2 positions). Inter- and intra-agency assistance funding generally represents receipts from DOJ billings of other agencies or units for the Department's services. In addition, under current DOJ policy, the Department does not charge annual subscriber fees on members of the private sector participating in the crime alert network.

Special Operations Bureau

Wisconsin Statewide Intelligence Center (WSIC). The WSIC is not restricted to a law enforcement or terrorism focus, but rather, at the recommendation of the Department of Homeland Security (DHS), has been developed as an all crimes, all hazards information sharing center that has a broad emergency response focus. In an emergency it is the responsibility of WSIC to provide "actionable information" to assist Wisconsin Emergency Management or other state and local agencies in coordinated response to the emergency. It is also the responsibility of WSIC to serve as the state agency intelligence lead for any criminal investigation resulting from a major incident.

The Intelligence Center receives and disseminates law enforcement and threat information, while facilitating information sharing between federal, state and local law enforcement as well as emergency response agencies. In carrying out these functions, most WSIC staff has obtained varying security clearances to receive sensitive information from the federal government. Staff

receives daily briefings and intelligence information from the FBI, DHS, and other federal agencies engaged in counter terrorism and law enforcement. In turn, WSIC staff provides daily intelligence briefings for the Governor, Attorney General, Adjutant General, members of its governance board and selected executive level law enforcement personnel statewide. In addition, WSIC issues a weekly law enforcement bulletin to all law enforcement agencies across Wisconsin as well as to other state intelligence centers and federal agencies.

Staff at WSIC are involved in assisting law enforcement agencies and prosecutors across the state with ongoing criminal investigations. The Intelligence Center coordinates the Wisconsin Intelligence Network (WIN). The Wisconsin Intelligence Network is a general intelligence sharing platform for sharing intelligence related to criminal activity. The Intelligence Network is utilized to store data related to the following areas of criminal intelligence: domestic threat groups; unsolved crimes; narcotics trafficking; gangs; traveling criminals; and identity theft. There are 85 law enforcement agencies that participate in WIN.

In carrying out these responsibilities, WSIC undertakes the following activities: (a) building a database of threats and intelligence compliant with federal privacy laws; (b) linking state information technology systems, wherever possible, to permit the sharing of data in these disparate systems; (c) conducting threat assessments and critical infrastructure evaluations in cooperation with Wisconsin Emergency Management and establishing a risk analysis database; (d) providing law enforcement agencies broad-level access to the DCI criminal investigation database (although for specific case information law enforcement agencies may need to follow-up with WSIC intelligence analysts); and (e) providing 24-hour per day access for law enforcement agencies to law enforcement bulletins and broader law enforcement and threats information provided by WSIC

or by other intelligence centers or the federal government.

The Wisconsin State Intelligence Center has also established a threat liaison officer program that trains government officials and members of the private sector across the state to: identify potential terrorist activity, report suspicious activity, respond to natural or man-made catastrophic events, work to protect critical infrastructure and engage in information sharing across disciplines to benefit the state overall. In carrying out this program, the state is divided into six regions that mirror the regions developed by Wisconsin Emergency Management. Each region is represented by a coordinating team including a local law enforcement or emergency manager, a member of the FBI and an assigned WSIC analyst. As of August, 2016, 71 counties have a trained officer participating in the threat liaison officer program. In 2015-16, the program trained 373 government officials, as well as 33 emergency service providers and 53 private sector individuals.

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 provided 276 case assists in 2014-15 and 271 case assists in 2015-16.

Analytical Services Unit. This unit provides analysis and specialized investigative support to DCI and to other law enforcement agencies in the

state through the WSIC. 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. During 2014-15, the unit provided 3,056 case assists, while during 2015-16, the unit provided 3,883 case assists.

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/Amber Alert. 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 2014-15, the clearinghouse received 69 calls for service, while in 2015-16, the clearinghouse received 120 calls for service. In 2014-15, the clearinghouse opened and closed eight cases. In 2015-16, the clearinghouse opened and closed 226 cases.

In April, 2003, Congress passed the Protect Act of 2003. This act created the national AMBER (America's Missing: Broadcast Emergency Response) 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 is responsible for establishing and monitoring the state AMBER Alert System. The Division of Criminal Investigation has entered into a contract with the Dane County Public Communications Center to provide the technical services associated with a statewide AMBER Alert.

In order to activate AMBER Alert, local law enforcement who suspect that a child abduction has occurred contact the Dane County Public Communications Center (DCPCC). The DCPCC relays the information provided by local law enforcement to the on-call Bureau director or special agent in charge. After confirming the information with local law enforcement, DOJ instructs DCPCC to issue an Amber Alert if the following criteria are met: (a) the child is 17 years of age or younger; (b) the child is in danger of serious bodily harm or death; and (c) the initiating agency has enough descriptive information about the child, the suspect(s), and/or the suspect's vehicle(s) to believe an immediate broadcast alert would help locate the child. In 2014-15, the clearinghouse evaluated nine requests for AMBER Alert activation, fully activated the system on two occasions, and safely recovered two children. In 2015-16, the clearinghouse evaluated 11 requests for AMBER Alert activation, fully activated the system on four occasions, and safely recovered five children.

Silver Alert. Created under 2013 Act 264, Wisconsin's Silver Alert program is utilized by law enforcement to disseminate reports on missing "adults at risk." "Adults at risk" are adults who suffer, or could suffer without access to medication, from a developmental disability, Alzheimer's disease, dementia, or a cognitive im-

pairment if the impairment would likely render the adult incapable of getting to a familiar location without assistance. Under the program, DOJ must create a form for reports on missing adults at risk that law enforcement agencies can access through the state's crime alert network. The crime alert network allows law enforcement officers trained by DOJ to send out messages to participating businesses and members of the community regarding criminal activity, crime trends, or missing persons. If a law enforcement agency receives a report of a missing adult at risk, the law enforcement agency must use the form to disseminate a report using the crime alert network. Similar to an AMBER Alert, Silver Alerts are disseminated through email, text messages, or fax using the crime network. Silver Alerts may also be broadcast through television and radio, digital billboards, and lottery display terminals. Unlike AMBER Alerts, Silver Alerts are not evaluated by the Wisconsin Clearinghouse for Missing and Exploited Children. Rather, Silver Alerts are evaluated by DCI on-call supervisors and a Silver Alert coordinator.

While DOJ is statutorily authorized to charge a fee to members of the private sector who receive information regarding known or suspected criminal activity through the crime alert network, DOJ may not charge a fee to individuals utilizing the crime alert network to receive information on Silver Alerts. Act 264 provided DOJ with \$64,500 GPR and 1.0 GPR position annually to administer the Silver Alert program. Further, note that under current policy, the Department does not charge members of the private sector for participating in the crime alert network. Expenses related to the crime alert network are generally supported by DOJ's law enforcement services general program operations appropriation.

The Silver Alert program began in August, 2014. In 2014-15, there were 53 requests for Silver Alert activation. These 53 requests led to the activation of the system on 39 occasions, and 39 at-risk adults were recovered. In 2015-16, there

were 108 requests for Silver Alert activation. These 108 requests led to the activation of the system on 86 occasions, and 88 at-risk adults were recovered. [Note that consistent data does not exist that reflect how many times the recovery of an at-risk adult was the direct result of Silver Alert activation, as opposed to some other factor.]

Field Operations Bureau

Major Crime Caseload. The Field Operations Bureau is in charge of investigating major crimes. According to DOJ, major crimes include violent crimes and cases of a sensitive nature. Sensitive cases are those cases of statewide nature, scope, or importance that may require special investigative techniques and close coordination with local law enforcement or a prosecutor. Sensitive cases may also require special victim resources, depending on the nature of the criminal conduct. Examples of sensitive cases could include: serial sexual assaults; missing person investigations; child abductions; or crimes committed against a public official. These cases are handled at the field office level within the Bureau. During 2014-15, the Field Operations Bureau opened 97 major crime investigations and closed 82 major crime investigations. In 2015-16, the Bureau opened 61 major crime investigations and closed 95 investigations.

Financial Crimes Caseload. The Field Operations Bureau 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 Bureau 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 2014-15, the Bureau opened and closed 44 financial crimes cases, while in 2015-16, the

Bureau opened 28 financial crimes cases and closed 65 cases.

Public Integrity Caseload. Under s. 165.50 of the statutes, DCI 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 Field Operations 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.

The Bureau generally works in cooperation with other agencies such as the Ethics Commission (formerly the Government Accountability 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 Field Operations 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 2014-15, the Bureau opened 37 public integrity cases and closed 33 public integrity cases. In 2015-16, the Bureau opened 15 public integrity cases and closed 26 public integrity cases.

Cold Case Homicide Caseload. In September of 2010, the Division of Criminal Investigation received a federal grant in the amount of \$506,300 to conduct cold case homicide investigations. To conduct the investigations, DCI hired two, part-time retired police detectives and utilized special agents assigned to the Field Operations Bureau. The investigators worked with local, state, and federal enforcement agencies to resolve cold case homicides. The cold case grant expired in December, 2013, with all funds exhausted. Cold case homicides are currently investigated exclusively by special agents assigned to the Field Operations Bureau. In 2014-15 and 2015-16, the Field Operations Bureau did not open any cold case homicides. However, in 2014-15, the Bureau closed six cold case homicides cases, while in 2015-16 the Bureau closed four of these cases.

Special Investigations Bureau

On April 28, 2016, DOJ announced that it would create the Bureau of Special Investigations within the Division of Criminal Investigation. According to DOJ, the Bureau will be responsible for providing management of officer involved death (OID) investigations and other programs requiring heightened awareness and coordination. The Bureau will also be responsible for the management of public records compliance for all investigations conducted by DCI, as well as providing support services for the Division.

The Department does not separately budget for the Special Investigations Bureau, and instead utilizes existing funds to support the Bureau. However, the Bureau's estimated salaries and fringe benefits budget, as well as position

authority, for 2016-17 is \$1,070,800 and 13.8 positions, comprised of \$756,900 GPR, \$313,900 PR, 8.8 GPR positions and 5.0 PR positions. The Bureau is comprised of the following positions: 1.0 criminal investigative director; 3.0 special agents; 1.0 justice program supervisor; 3.0 program and policy analysts; and 5.8 support personnel. Program revenue for the Bureau is supported by the crime lab and drug law enforcement surcharge and the DNA surcharge.

Under 2013 Wisconsin Act 348, each law enforcement agency in the state is required to have a written policy regarding the investigation of an officer-involved death that involves a law enforcement officer. The written policy must require that an investigation into an officer-involved death (OID) be conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs an officer involved in the OID. Act 348 defines an OID as the death of an individual that results directly from an action or an omission of a law enforcement officer while the officer is on duty or while the officer is off duty but performing activities that are within the scope of his or her law enforcement duties.

Prior to the passage of Act 348, DOJ's Division of Criminal Investigation would, upon request, assist local law enforcement agencies investigate certain officer-involved deaths and non-fatal officer involved incidents. Larger law enforcement agencies would often investigate their own such incidents.

With the passage of Act 348, DCI became the preferred resource for local law enforcement agencies requiring independent investigators to investigate OIDs and non-fatal officer involved incidents. In recognition of DOJ's increased workload related to these investigations, the Department's funding and position authority was increased in the 2015-17 biennial budget (2015 Act 55). Specifically, Act 55 provided DOJ \$305,300 PR in 2015-16 and \$329,800 PR in 2016-17 to support 4.0 PR positions (3.0 special

agents and 1.0 program and policy analyst position) for these investigations. Program revenue for the positions was supported by the crime laboratory and drug law enforcement surcharge and the DNA surcharge.

In 2014-15, DOJ opened nine officer-involved death investigations and six non-fatal officer-involved shooting incidents. During this same time period, DOJ closed three OID investigations and three non-fatal officer-involved shooting incidents. In 2015-16, DOJ opened and closed 12 OID investigations (in addition to one agency assist) as well as seven non-fatal officer-involved shooting incidents.

Arson Bureau

Prior to the 2013-15 biennium, the Arson Unit of the Field Operations Bureau was responsible for carrying out DOJ's responsibility to investigate cases related to arson. In 2012-13, DOJ reorganized its Division of Criminal Investigation and the Arson Unit was removed from the Field Operations Bureau and converted into the Arson Bureau (also known as the Office of the State Fire Marshall).

The Department has indicated that it does not separately budget for the Arson Bureau, and instead utilizes existing funds to support the Bureau. However, DOJ has estimated that in 2016-17, the budget for the Arson Bureau is \$1,350,000 supporting 10.0 positions, comprised of \$1,150,000 GPR, \$200,000 PR, 8.0 GPR positions and 2.0 PR positions. The 2016-17 program revenue budget for the Arson Bureau is split between revenue generated from the crime lab and drug law enforcement surcharge and DNA surcharge (\$100,000 PR and 1.0 PR position) and the penalty surcharge (\$100,000 PR and 1.0 PR position). The Arson Bureau is comprised of 8.0 special agents/deputy state fire marshals; one

special agent in charge, and one state fire marshal. The State Fire Marshal acts as the director of the Arson Bureau and is appointed by the Attorney General.

Statutory Authorization

Under s. 165.50 of the statutes, the Department of Justice is responsible for conducting arson investigations. Under s. 165.55(1) of the statutes, the fire chief or chief executive of every Wisconsin municipality must investigate the cause, origin, and circumstances of every fire in their jurisdiction causing more than \$500 in damage, and, when the fire is of unknown origin, the fire chief or chief executive must especially investigate whether the fire was the result of negligence, accident, or design. The municipality's fire chief or chief executive must report any investigation that discloses the fire may have been of incendiary origin to the state fire marshal. In addition, the Arson Bureau must supervise and direct the investigation of fires of incendiary origin when the state fire marshal deems the investigation expedient.

Program Administration

The Arson 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.

When supervising arson investigations, the state fire marshal and his or her deputies have the authority to conduct hearings, take testimony, seize evidence, apply for special inspection warrants, obtain records from insurance companies, and obtain information relating to a juvenile from a law enforcement agency. All investigations conducted by the Arson Bureau may, at the discretion of the state fire marshal, be kept private. If an investigation leads to the discovery of suffi-

cient evidence to charge an individual with arson or criminal damage to property (or the attempt to commit arson or criminal damage to property), the state fire marshal must have the suspect prosecuted and provide the prosecuting attorney with the testimony, information, and names of witnesses gathered during the course of the Arson Bureau's investigation.

In 2014-15, the Bureau opened 184 arson cases (including 131 cases opened by the Bureau and 53 cases in which the Bureau provided technical assistance to another law enforcement agency) and closed 177 arson cases. In 2015-16, the Bureau opened 157 arson cases (including

112 cases opened by the Bureau and 45 cases in which the Bureau provided technical assistance to another law enforcement agency) and closed 176 arson cases. It should be noted that arson cases are often complex and may be investigated for a year or two before charges are filed, much less closed.

In addition to their arson caseload, Bureau staff provides fire and arson investigation training to local fire and law enforcement officials. In 2014-15, the Arson Bureau provided 23 presentations on specialized training in fire investigation to 820 attendees. In 2015-16, the Bureau provided 20 presentations to 605 attendees.

CRIMINAL JUSTICE-RELATED GRANT PROGRAMS OF THE DEPARTMENT OF JUSTICE

To assist local units of governments, tribes, and organizations provide the public with law enforcement, rehabilitation, and victim and witness services, the state administers several state and federally funded criminal justice grant programs. Prior to 2013 Wisconsin Act 20, it was the responsibility of the Office of Justice Assistance, along with DOJ, to administer the criminal justice grant programs. With the dissolution of the Office of Justice Assistance under Act 20, DOJ is now generally responsible for administering all criminal justice related grant programs funded at the state and federal level.

The responsibilities of administering criminal justice related grant programs are split between DOJ's Division of Management Services, Division of Law Enforcement Services, Division of Criminal Investigation, and Office of Crime Victim Services. The 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 Office of Crime Victim Services is generally responsible for providing direct assistance to victims and witnesses of crimes and administering programs that support services to crime victims.

In addition to transferring certain grant programs to DOJ, Act 20 created new reporting rules for DOJ regarding the Treatment Alternatives and Diversion grant program, the Drug Court grant program, the Child Advocacy Center grant program, the Law Enforcement Officer grant program, and the Youth Diversion grant program. Under these new reporting rules, beginning January 15, 2015, and annually thereafter, DOJ must provide the Legislature the following infor-

mation: (a) the amount of each grant awarded by DOJ under the relevant grant program for the prior fiscal year; (b) the grantee to whom each grant was awarded; (c) the agency's methodology for awarding grants and determining the level of grant funding to be provided to each grant recipient; (d) performance measures created by DOJ for each grant program; and (e) reported results of each grant recipient in each fiscal year as to the attainment of performance measures developed for it under the relevant grant program.

With the exception of grant programs intended to provide support to crime victims and witnesses, the remainder of this chapter discusses the state funded grant programs administered by DOJ. Grant programs intended to provide support to crime victim and witnesses (including the Child Advocacy Center grant program) are discussed in the Legislative Fiscal Bureau's informational paper, "Crime Victim and Witness Services."

Youth Diversion Grant Program

Under s. 165.987 of the statutes, DOJ is required to enter into contracts with organizations for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs. The statutes specifically direct the Department to enter into the following contracts for the following amounts: (a) \$500,000 to an organization which provides services in a county having a population of 500,000 or more (which DOJ has awarded to Milwaukee County);

(b) \$150,000 to an organization in Racine County; (c) \$150,000 to an organization in Kenosha County; (d) \$150,000 to an organization in Brown County; and (e) \$100,000 to an unspecified organization (which DOJ has awarded to the City of Racine).

During the 2013-15 biennium, funding for youth diversion contracts was supported by \$321,000 GPR and \$627,400 PR annually. Under 2015 Act 55, GPR funding for the youth diversion program was eliminated. As a result, funding for the youth diversion program during the 2015-17 biennium is supported by \$672,400 PR annually. The program revenue funding is provided from the penalty surcharge. 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.

In addition to the budget for youth diversion

contracts, the statutes specify that DOJ may not distribute more than \$300,000 PR annually to the organization it has contracted with which provides services to a county with a population of 500,000 or more for alcohol and other drug abuse education and treatment services for participants in that organization's youth diversion program. These funds are provided by the Department of Health Services from federal Substance Abuse and Mental Health Services Administration (SAMHSA) funds that it administers. In recent years, DHS has transferred \$281,600 of these federal funds to DOJ for the youth diversion program.

Table 7 identifies the youth diversion grants awarded in 2015-16, including: the county in which the grantee operates; the amount of the award; and a description of the youth diversion project for 2015-16. For 2015-16, full grants were not awarded under the program due to insufficient funding levels.

Table 7: Youth Diversion Grants Awarded in 2015-16

County	Award	Project Description
Brown	\$96,200	The grant is utilized to support the Brown County Ties project. This project is a gang diversion initiative for Brown County youth involving collaboration between local youth service agencies and law enforcement. Project activities include educational, recreational and employment readiness programs. Youth development staff of the Green Bay Boys and Girls Club target at-risk youth and slot them into structured programs best suited to their needs. The program also provides culturally appropriate services for youth susceptible to recruitment by Asian and Hispanic gangs and works with the Green Bay Police Department to enhance the relationship between youth and law enforcement officers during outings and recreational programming. During 2015-2016, a total of 1,896 youth participated in grant related delinquency and anti-gang program activities. Educational support services were provided to 323 youth and 206 youth identified as high risk regularly attended after school programming for homework assistance.
Kenosha	\$96,200	The grant supports a Gang Prevention Committee that oversees programs provided by several local organizations including the Kenosha Boys and Girls Club, the Spanish Centers of Kenosha, Racine, and Walworth counties, and the Racine and Kenosha Urban Leagues. The project provides services for youth who are at risk for gang involvement, as well as those already beginning to become engaged in gang activity. Youth between the ages of 10 and 17 are referred to the program by the Kenosha Unified School District, Juvenile Intake Services, the Kenosha Division of Children and Family Services, local law enforcement, family members, and other community agencies. Services include incentive-based educational activities (including job orientation, training, and placement when available), as well as social, familial, and recreational activities that are intended to provide youth with positive alternatives to gang activities.

County	Award	Project Description
Milwaukee	\$320,400	The grant supports the Community Relations-Social Development Commission's project to continue programs that target at-risk youth through its Youth Development Program (YDP). The Youth Development Program's clients include juvenile law offenders, substance users/abusers, gang members, or any youth considered at-risk for any of these behaviors. Youth are referred to the YDP by the Milwaukee Police Department, the City Attorney's Office, municipal court systems, other juvenile authorities, school officials, and community based organizations of parents. Funding is utilized to expand the use of wrap-around programs to meet the needs of low income juveniles. Project elements include peer training, education opportunities, targeting of youth with prior records, and aggressive family-based services including family prevention.
Milwaukee	\$281,600	The grant also supports the Community Relations-Social Development Commission's Youth Development Program. Funding is specifically utilized to reduce the incidence of drug use among youth and reduce the number of juvenile arrests for narcotics, drugs and alcohol use. During 2015, 2,351 youth attended prevention and educational programming, 433 youth were referred for pre-assessments of suspected alcohol and other drug abuse (AODA) needs, and 436 youth were screened for any potential need for further assessment or services regarding co-occurring or mental health assessments.
Racine	\$63,400	The grant supports the efforts of the Racine's Youth Gang Diversion Collaborative to provide a community-wide model to prevent and reduce youth gang involvement. The Collaborative includes the following organizations: Racine Vocational Ministry, Racine County Human Services, and Why Gangs. Each organization works in partnership with the criminal justice system, Racine Police Department, Racine Unified School District, faith-based organizations, social service organizations, mental health agencies, and other government organizations to provide wrap-around services to youth offenders and at-risk youth.
Racine	\$96,200	The grant is utilized to improve low income, minority segments of the community. Three sites of the Youth Leaders Academy, a community-based organization, work with the City of Racine's Park and Recreation Department to increase programming to improve academic achievement and behavior of at risk, inner city minority youth.
Total	<u>\$954,000</u>	

Law Enforcement Officer Grants

Under 1993 Wisconsin Act 193, the Legislature created a law enforcement officer supplement grant program under the Office of Justice Assistance. After the dissolution of the Office of Justice Assistance, the responsibility to administer this grant program was transferred to DOJ's Division of Law Enforcement Services. Under this program, DOJ provides grants to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling.

Under s. 165.986 of the statutes, a city is

eligible to apply for a grant under this program if it has a population of at least 25,000. The Department of Justice must make grant awards to the 10 eligible cities submitting applications that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available from the FBI's uniform crime reporting (UCR) system. The Department may not award an annual grant in excess of \$150,000 to any one city. Awards are made on a calendar year basis and a city may receive a grant for three consecutive years without submitting a new application each year.

A city applying for a grant under the program must include a proposed plan for expenditure of

the grant monies. Such funding may be utilized only for salary and fringe benefits costs. Further, the grantee must provide a 25% local match to any grant funds received under the program. Cities may generally not utilize the grant funding to pay for overtime costs (except in the first year of a city's initial grant under the program). Grant funding under this program must result in a net increase in the number of uniformed law enforcement officers assigned to beat patrol duties, when compared to the number of uniformed law enforcement officers the city assigned to beat patrol on April 21, 1994.

Under 1993 Act 193, initial funding for the grant program totaled \$1,000,000 GPR. This annual level of grant funding was maintained in each succeeding fiscal year through 2006-07. Under 2007 Wisconsin Act 20, an additional \$450,000 GPR annually was provided to increase the available grant funding under the program to \$1,450,000 annually. Under 2009 Wisconsin Act 28, however, funding for the program was reduced by 6.135% annually to \$1,361,000. Grant funding under the program was further reduced by an additional 10% annually under 2011 Wisconsin Act 32 to \$1,224,900. In addition, Act 32 eliminated GPR funding for the program and instead provided justice information system surcharge funding to support the grant program. As a result, funding for the law enforcement officer grant program totaled \$1,224,900 PR annually during the 2015-17 biennium.

Table 8 indicates that in the 2015-16, the Cities of Madison and Milwaukee each received a grant of \$126,714 under the program. The remaining eight cities receiving grant funding under the program in 2015-16 received grants totaling \$121,434. In addition to the amount of each grant, Table 8 provides, for 2015-16, the amount of each city's local match, as well as a description of how the grant funding was utilized.

Treatment Alternatives and Diversion Grant Program

Provisions of 2005 Wisconsin Act 25 created the Treatment Alternatives and Diversion (TAD) grant program under the Office of Justice Assistance (OJA). The program is intended to provide grants to counties to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. Projects supported by the TAD program typically follow one of two models: pre-trial diversion or adult drug court.

A county is eligible for a TAD grant if its proposed program meets all of the following conditions:

- Is designed to meet the needs of an individual who abuses alcohol or other drugs and who has been or may be charged or convicted of a crime related to the individual's use of alcohol or other drugs;
- Is designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families;
- Establishes eligibility criteria for an individual's participation in the program, and the criteria specify that a violent offender is not eligible to participate in the program;
- Subject to the criteria identified in the following point, the program does not prohibit a person from beginning or continuing participation in the program because he or she uses a medication that is approved by the federal Food and Drug Administration for the treatment of his or her substance abuse order;

Table 8: Law Enforcement Officer Supplement Grants Awarded in 2015-16

Grantee	Award	Local Match	Project Description
Appleton	\$121,434	\$42,500*	City of Appleton Police Department funded two officers assigned to the community resource street crime unit.
Beloit	121,434	40,478	Beloit funded a portion of two beat patrol officers.
Fond du Lac	121,434	40,478	Fond du Lac Police Department funded two street crimes officers.
Green Bay	121,434	40,478	Green Bay maintained five officers to perform beat patrol duties.
Kenosha	121,434	40,478	Kenosha funds were used to support four beat patrol officer positions.
Madison	126,714	42,238	Madison Police Department funded salary and fringe benefits of four officers.
Milwaukee	126,714	42,238	City of Milwaukee funded a portion of salary and fringe benefits of two officers assigned to beat patrol duties.
Racine	121,434	72,341*	City of Racine Police Department funded two beat patrol officers.
Sheboygan	121,434	40,478	City of Sheboygan Police Department funds were used to support one full time sworn officer and additional overtime to support increased beat patrol activities in targeted areas of the City of Sheboygan.
West Allis	<u>121,434</u>	<u>169,650*</u>	West Allis Police Department funded a portion of the salary and fringe benefits of three officers assigned to daily patrol duties.
Total:	\$1,224,900	\$571,357	

*Rather than report the minimum 25% match, these three cities reported the municipal funds utilized to support the salaries and fringe benefits that were partially supported by the state grant award.

- Allows a participant to use a medication that is approved by the federal Food and Drug Administration if all of the following are true: (a) a licensed health care provider, acting in the scope of his or her practice, has examined the participant and determined that the participant's use of the medication is an appropriate treatment for the person's substance use disorder; (b) the medication was appropriately prescribed by a person authorized to prescribe medication in Wisconsin; and (c) the participant is using the medication as prescribed as part of treatment for a diagnosed substance use disorder.

- Provides services that are consistent with evidence-based practices in substance abuse and mental health treatment, and the program provides intensive case management;

- Utilizes graduated sanctions and incentives to promote successful substance abuse treatment;

- Provides holistic treatment to its participants and provides its participants services to eliminate or reduce their alcohol or other drug use, improve their mental health, facilitate their

gainful employment, education or training, provide them stable housing, facilitate family reunification, ensure child support payments, and increase the payment of other court-ordered obligations;

- Is designed to integrate all mental health services provided to program participants by organizations and government agencies;

- Provides substance abuse and mental health treatment services through providers that are certified by the Department of Health Services;

- Requires participants to pay a reasonable amount for their treatment, based on their income and available assets, and utilizes all possible resources available through insurance and government aid programs;

- Is developed and implemented in collaboration with at least one circuit court judge, the district attorney, the state public defender, local law enforcement officials, and county agencies responsible for providing social services; and

- Complies with other eligibility requirements established by DOJ.

Under 2005 Act 25, funding for TAD program grants and evaluation was supported by a continuing PR appropriation. Program revenue for this appropriation was provided from: (a) the drug abuse program improvement surcharge (DAPIS); and (b) a \$10 drug offender diversion surcharge (DODS) assessed for property crime convictions under Chapter 943 of the statutes. Act 25 also created an annual GPR appropriation to support the TAD program, but provided no GPR funding.

Under 2009 Wisconsin Act 28, the Legislature created a PR appropriation to provide additional funding to the TAD program from revenue generated from the justice information system surcharge. The justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment actions, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action.

Under 2013 Acts 20 and 197, the TAD program was transferred to DOJ's Division of Law Enforcement Services and expanded. Act 20 provided an additional \$1,000,000 GPR annually to support grants under the TAD program, and Act 197 provided an additional \$1,500,000 GPR to support grants under the program.

Finally, 2015 Act 388 provided additional funding for the TAD program through a one-time transfer of \$2,000,000 PR in 2016-17 to DOJ from the unencumbered balance in a Department of Health Services institutional operations and charges appropriation.

As a result, funding for the TAD program during the 2015-17 biennium is \$3,584,000 in 2015-

16 (\$2,500,000 GPR and \$1,084,000 PR) and \$5,585,000 in 2016-17 (\$2,500,000 GPR and \$3,085,000 PR). Program revenue for the TAD program is comprised of the following: (a) \$1,078,400 PR annually from the justice information system surcharge; (b) \$5,600 PR in 2015-16 and \$5,700 PR in 2016-17 from DAPIS and DODS; and (c) \$2,000,000 PR in 2016-17 from a transfer of funds from DHS to DOJ.

Any county receiving a grant under the TAD program must provide matching funds equal to 25% of the amount of the grant. Beginning in 2012-13 and every five years thereafter, DOJ must make TAD grants available to counties on a competitive basis.

In addition to providing increased funding for the TAD program, Acts 20 and 197 required DOJ to undertake new evaluative responsibilities. Under Act 20, DOJ must evaluate the TAD grant program every two years. Under Act 197, each month, a county receiving TAD grant funding must submit to DOJ any data requested by the Department. The Department must analyze the data provided by the counties and prepare an annual progress report that evaluates the effectiveness of the TAD program. The Department must make this annual progress report public. Moreover, every five years, DOJ must analyze both the data it receives from the counties and its own annual progress reports and prepare a comprehensive report on the TAD program. The comprehensive report must include a cost benefit analysis of the program. The Department's five-year comprehensive report must be submitted to the Legislature.

Prior to the expansion of TAD under 2013 Acts 20 and 197, seven TAD projects were operational. The expansion of the program's GPR budget under Act 20 allowed the Department to award grants to nine additional counties to develop TAD projects. These nine projects began operation in January, 2014. The later expansion of TAD's GPR budget under Act 197 allowed the

Department to award grants to 14 counties and two tribes to develop 14 TAD projects. These 14 projects began operation in June, 2014.

A new competitive five-year grant cycle for TAD grants began in January, 2017. Due to the increase in funding for the TAD program under 2015 Act 388, DOJ was able to award grants to 41 TAD projects for the new grant cycle. These 41 projects are operated by 41 counties and two tribes. Appendix VI lists all of the TAD projects in calendar year 2017, by county, as well as the date each project began operation, the grant that is awarded to each project in 2017, and a description of each project.

Table 9 identifies the number of individuals who successfully completed TAD treatment, by county, in calendar year 2015 ("program graduates"). In reviewing Table 9, note that staff for new TAD projects generally spend the initial months after a project's inception planning and developing future operations. Further, it can be up to two years before any participants graduate from the program. As a result, 2015 graduation counts for programs that initially received funding in 2014 (identified in Appendix VI) are likely to be low.

From 2006-2014, the University of Wisconsin Population Health Institute (UWPHI) was under contract to provide the required evaluation of the TAD program and assist the participating counties and tribes in the implementation and operation of the TAD programs. In July, 2014, UWPHI issued a comprehensive report on the TAD program and concluded that, "the TAD Program successfully diverts non-violent offenders with substance abuse treatment needs from further criminal justice system involvement and reduces criminal justice system costs." The contract with UWPHI expired on December 31, 2014.

On November 12, 2014, the Joint Committee on Finance granted the Department of Justice 5.0 GPR positions (2.0 research analysts, 2.0 pro-

Table 9: TAD Program Graduates, 2015

County/Tribe	Program Graduates
Ashland	6
Bayfield	10
Brown	9
Burnett	4
Chippewa	0
Columbia	4
Dane	18
Dodge	4
Eau Claire	33
Fond du Lac	1
Grant	0
Ho-Chunk Nation	0
Iowa	0
Jackson*	-
Jefferson	3
Kenosha	1
La Crosse*	-
Lac Du Flambeau Tribe	2
Marinette	0
Marquette	0
Menominee*	-
Milwaukee	71
Monroe	1
Outagamie	19
Ozaukee	2
Pierce	26
Racine	5
Rock	9
Rusk	1
St. Croix	36
Taylor	9
Trempealeau	12
Walworth	1
Washburn	4
Washington	38
Waukesha	11
Waushara	4
Wood	<u>4</u>
Total	348

*Incomplete discharge data available or provided for 2015.

gram and policy analysts, and 1.0 grants specialist) so that the Department could assume the re-

sponsibilities of evaluating the TAD program and providing the participating counties and tribes assistance in developing the individual TAD projects.

The Department of Justice anticipates preparing another cost-benefit analysis of the TAD program in 2019.

Drug Court Grant Program

Under 2013 Act 20, the Department of Justice was charged with administering a drug court grant program. A drug court is a court that diverts a substance-abusing individual from prison or jail into treatment by increasing direct supervision of the individual, coordinating public resources, providing intensive community-based treatment, and expediting case processing. Several TAD projects, discussed in the section "Treatment Alternatives and Diversion Grant Program," are drug courts.

Under the drug court grant program, DOJ may only provide grants to counties without an established drug court, in order for those counties to establish and operate a drug court. Table 10 lists the 29 counties and tribes with established drug courts in 2015-16.

During the 2015-17 biennium, the Department was appropriated \$500,000 GPR annually to provide grants to counties without an established drug court. In 2016-17, the Department awarded grants totaling \$500,000 for drug courts in: Adams County, Green County, Green Lake County, Portage County, and Richland County. [Note that Adams County will be receiving funds from both the TAD grant program and the county drug court grant program.] These new drug courts began operation in January, 2017. Appendix VII provides the amount which will be awarded for each of these new drug courts in cal-

Table 10: Counties and Tribes with Drug Courts in 2015-16

Ashland County	Menominee Tribe
Barron County	Milwaukee County
Brown County	Pierce County
Burnett County	Polk County
Dane County	Racine County
Douglas County	Rock County
Dunn County	Sauk County
Eau Claire County	Sawyer County
Fond du Lac County	St. Croix County
Grant County	Trempealeau County
Iowa County	Walworth County
Jackson County	Waukesha County
Kenosha County	Waushara County
La Crosse County	Winnebago County
Marinette County	

endar year 2017, as well as brief description of each project.

County/Tribal Law Enforcement Grant Programs

The budget for the Division of Management Services includes \$1,901,100 PR and 1.0 PR position in 2016-17 to administer three related grant programs to support law enforcement services on tribal lands and in counties bordering tribal reservations. Of these budgeted funds and positions in 2016-17: (a) \$631,200 PR is budgeted for grants under the county-tribal law enforcement grant program; (b) \$695,000 PR is budgeted for grants under the tribal law enforcement assistance grant program; (c) \$490,000 PR is budgeted for grants under the county law enforcement services grant program; and (d) \$84,900 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 en-

forcement grant program, and assigns the program's administrative responsibility to DOJ. Any county with one or more federally-recognized Indian reservations within or partially within its boundaries may 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 receive and administer the grant funding and the method by which the funding will be disbursed, which includes specifying the allocation of the aid between the tribe and county; (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 program; 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. The Department 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 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 11 identifies the grant amounts awarded to counties and tribes for calendar year 2016 grant 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. The Department utilizes a three-criteria formula in making the awards. In evaluating the grant applications and

Table 11: Grants Awarded to Counties and Tribes in 2016

County/Tribe	Grant
Ashland/Bad River Chippewa	\$49,755
Barron/St. Croix Chippewa	13,917
Bayfield/Red Cliff Chippewa	49,335
Brown/Oneida Nation	36,444
Burnett/St. Croix Chippewa	14,740
Forest/Potawatomi	34,663
Forest/Sokaogon Chippewa	30,009
Jackson/Ho Chunk Nation	27,625
Juneau/Ho Chunk Nation	30,764
Menominee/Menominee Nation	68,724
Monroe/Ho Chunk Nation	22,496
Outagamie/Oneida Nation	32,075
Polk/St. Croix Chippewa	15,706
Sauk/Ho Chunk Nation	26,188
Sawyer/Lac Courte Oreilles Chippewa	58,508
Shawano/Ho Chunk Nation	16,432
Shawano/Stockbridge Mohican Nation	36,602
Vilas/LDF Chippewa	49,190
Wood/Ho Chunk Nation	<u>18,027</u>
Total	\$631,200

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 12 identifies the grant amounts awarded to tribes for calendar year 2016 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 DOJ the responsibility to develop the criteria and procedures to be used in administering the county law enforcement grant program. Of the \$490,000 PR in annual grant funding under the program, however, state statute specifically provides that DOJ must allocate \$300,000 under the program to Forest County to fund law enforcement services. The Department also utilizes a modified three-criteria formula (county population, county crime rate, and county unemployment rate) to

Table 12: Grants Awarded to Tribes in 2016

Tribe	Grant
Bad River	\$122,839
St. Croix	109,555
Lac du Flambeau	85,408
Red Cliff	83,063
Menomonie	72,379
Lac Courte Oreilles	71,205
Stockbridge Munsee	52,851
Oneida	49,762
Ho Chunk	23,097
Potawatomi	14,736
Sokaogon	<u>10,105</u>
Total	\$695,000

make awards of the remaining \$190,000 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 13 identifies the grant amounts awarded to counties for calendar year 2016 activities. All counties use these grant funds to support law enforcement services, typically near bordering reservation lands.

Table 13: Grants Awarded to Counties in 2016

County	Grant
Forest	\$300,000
Menominee	38,963
Oneida	30,946
Shawano	29,827
Burnett	28,217
Oconto	23,453
Langlade	20,698
Barron	<u>17,896</u>
Total	\$490,000

Local Anti-Drug Task Force Grants

The Field Operations Bureau within the Department's Division of Criminal Investigation

works with all anti-drug task forces in the state on a regular basis. In the Lake Winnebago Area Multi-Agency Enforcement Group (LWAM), an assigned DOJ special agent-in-charge is the task force commander.

Under current law, DOJ administers a program to provide grant funding to local anti-drug task forces. The Department provides funding for the task forces through the state penalty surcharge and federal Byrne Justice Assistance Grants.

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 VIII identifies the grant funding provided to local anti-drug task forces for calendar year 2016. The appendix also identifies budgeted allocations for the task forces for calendar year 2017. For calendar year 2010, an advisory panel, including local law enforcement officials, made recommendations on funding to the previously existing Executive Director of the Office of Justice Assistance. These recommendations were adopted and are reflected in the funding allocations for calendar year 2016. These recommendations continue to be the basis for budgeted calendar year 2017 allocations.

ShotSpotter Program

Under 2013 Act 263, the Department was charged with administering a grant program which provides funding to the City of Milwaukee for the ShotSpotter program. The ShotSpotter program is a system of sensors that are installed throughout Milwaukee. When a gun is fired, installed sensors pick up the sound of the gun shot

and transmit information on the location of the gun shot to police communications and squad cars equipped with special software.

Act 263 appropriated \$175,000 GPR in 2014-15 to the City of Milwaukee's ShotSpotter program. Similarly, during the 2015-17 biennium, funding to support the City of Milwaukee's ShotSpotter program totals \$175,000 GPR annually. According to a program report prepared by the City of Milwaukee, as a result of the ShotSpotter grant provided in 2014-15, ShotSpotter's current coverage spans 11.36 square miles divided into two coverage areas on the north and south side of Milwaukee. The coverage area consists of approximately 190 acoustic audio sensors that record impulsive sounds, like gunshots. The City indicates that the ShotSpotter grant in 2015-16 was utilized for the continued funding and operation of ShotSpotter.

24/7 Sobriety Programs -- Pilot Project

Under 2015 Act 55, the Legislature created a 24/7 sobriety program pilot project that is intended to provide a high level of monitoring to participants convicted of multiple operating while intoxicated (OWI) offenses to ensure that the participants are not consuming alcohol or controlled substances, with immediate sanctions if a violation occurs. The provisions of the pilot project are set to sunset on June 30, 2021.

Under the pilot program, DOJ is authorized to designate up to five counties to participate in a voluntary 24/7 sobriety program. A county may opt not to participate in the program, and if it does, DOJ may designate another county to replace it.

A 24/7 sobriety program must limit participation to the following participants: (a) 2nd offense or above OWI offenders who, as a condition of

bond, release under bail, probation, release to parole, or release to extended supervision, are ordered by a judge or the Department of Corrections to totally abstain from using alcohol or a controlled substance and participate in the 24/7 sobriety program; and (b) 2nd offense or above OWI offenders who, while released on bond, bail, probation, parole, or extended supervision, voluntarily agree to totally abstain from using alcohol or a controlled substance and participate in the 24/7 sobriety program.

Generally, a 24/7 sobriety program must require participants to be tested for the use of alcohol at least twice daily, at approximately 12 hour intervals, and for the use of controlled substances as frequently as practicable. If this standard for frequent testing creates an unreasonable hardship for the county administering the program, the county may utilize a different standard for frequent testing established by DOJ under administrative rule.

The 24/7 sobriety program must also inform a participant that, if he or she fails to appear for a scheduled test or if his or her test results indicate that the participant used alcohol or a controlled substance, the participant may be placed under immediate arrest and referred to the Department of Corrections and the appropriate prosecuting agency for violating a condition of his or her bond, release under bail, probation, deferred prosecution, parole, or extended supervision.

A county's program must also require participants to pay a fee that is sufficient to fund the county's 24/7 sobriety program, as well as a portion of the costs incurred by DOJ for analyzing the results of each county's 24/7 sobriety program. Counties may allow a participant to pay a reduced fee or no fee, subject to the participant's ability to pay. The Department of Justice may, by administrative rule, establish a fee setting standard for counties participating in the pilot program. Fees collected under the program are generally retained by the county to support the costs

of its pilot project. However, the county may enter into an agreement with DOJ that requires the county to provide DOJ a portion of the fees collected by the county to support DOJ's costs associated with analyzing the results of the program.

Each county designated by DOJ to participate in the 24/7 sobriety pilot program must annually provide the following information to DOJ: (a) the number of participants in the county program; (b) the costs associated with the program; (c) the failure or dropout rate of participants; and (d) other information requested by DOJ. Beginning January 15, 2017, and annually thereafter until January 15, 2021, DOJ must analyze the information it receives from the counties and submit a report to the Legislature with the following information: (a) a list of counties designated by DOJ that have established a 24/7 sobriety program; (b) the number of participants in each county's program; (c) a description of each county's program; and (d) the recidivism rates for participants in each county's program. The final report submitted by DOJ must also include a recommendation as to whether the 24/7 sobriety pilot program should be continued, discontinued, or modified.

Act 55 also created a new PR annual appropriation in DOJ to support the costs of analyzing data and preparing annual reports on the 24/7 sobriety program. Program revenue for the appropriation would be generated from the monies received from agreements between DOJ and the counties with pilot programs. Act 55 did not provide this appropriation any expenditure authority during the 2015-17 biennium.

As required under Act 55, on June 30, 2016, DOJ submitted a report to the Legislature identifying the counties it designated to participate in the 24/7 sobriety program. According to the report, DOJ designated the following counties, all of whom agreed to participate in the program: (a) Green Lake; (b) Washburn; (c) Manitowoc; (d) Oneida; and (e) Racine.

In choosing the counties to designate for the pilot program, DOJ first divided the counties based on population into large (population over 150,000), medium (population between 30,000 and 150,000), and small (population less than 30,000) counties. Within these three groups, the small and medium groups were then further di-

vided based on whether or not the county had a drug or alcohol related treatment court. [All of the counties in the large group had such a treatment court.] One county was then randomly selected to participate in the 24/7 sobriety pilot program from each of these five groups.

PROSECUTORIAL RESPONSIBILITIES OF DISTRICT ATTORNEYS

There are 71 district attorneys in Wisconsin. Under Article VI, Section 4 of the Wisconsin Constitution, a district attorney (DA) is elected to a four-year term at the general election held in each presidential election year. 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), and Pepin (0.8) 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 Children and

Families and Health 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 at-

torney to perform the duties identified above, most DAs have one or more assistant DAs who are also authorized to perform the duties. Assistant DAs must be admitted to practice law in this state. If a county has a population of 100,000 or more, the DA may also appoint between one and seven 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 or at the request of a district attorney to perform the same duties as a state-employed prosecutor. Before a court appoints a special prosecutor for an appointment that exceeds six hours per case, the court or requesting district attorney must request assistance from a prosecutor from another prosecutorial unit, or an assistant attorney general at the Department of Justice. A court may appoint an attorney as a special prosecutor at the request of the district attorney to assist the DA in a prosecution, grand jury proceeding, sexually violent person commitment proceeding, or an investigation. The court may appoint an attorney as a special prosecutor only if the judge or the requesting DA submits an affidavit to the Department of Administration attesting that any of the following conditions exists: (a) there is no district attorney; (b) the district attorney is absent; (c) the district attorney, or a deputy or assistant district attorney, is on parental leave; (d) the district attorney has acted as the attorney for a party accused in relation to the matter of which the accused stands charged or for which the accused is to be tried; (e) the district attorney is near of kin to the party to be tried on a criminal charge; (f) the district attorney is unable to attend to his or her duties

due to a health issue or a mental incapacity that impairs his or her ability to substantially perform his or her duties; (g) the district attorney is serving in the armed forces; (h) the district attorney is charged with a crime; or (i) the district attorney determines that a conflict of interest exists regarding the district attorney or the district attorney staff.

A court may not appoint an attorney as a special prosecutor to assist the district attorney in John Doe proceedings unless one of the requisite conditions identified above exists, or unless the judge receives a complaint that relates to the conduct of the district attorney to whom the judge would otherwise refer the complaint.

The state pays for the compensation of special prosecutors, while other expenses reimbursed to special prosecutors are paid by counties. Generally, any private attorney appointed as a special prosecutor is paid by the state at the following rates, as specified under 977.08(4m)(b) of the statutes: (a) \$50 per hour for time spent in court; (b) \$40 per hour for time spent out of court; and (c) \$25 per hour for time spent in travel related to a case if the trip is outside the county in which the attorney's principal office is located or if the trip requires travelling a distance of more than 30 miles, one way, from the attorney's principal office. Judges, on occasion, establish a rate of pay for the special prosecutor that is higher than the statutorily defined rate due to the special prosecutor's level of experience and the complexity of the case. In order to be reimbursed by the state, private attorneys serving as special prosecutors must submit a listing of the time they spent on a case to the court for approval. If a special prosecutor is not paid within 120 days of the court approving their compensation, the special prosecutor receives interest, at a rate of 12% compounded monthly.

Payments to special prosecutors are made from the District Attorney's annual GPR appropriation. In 2014-15, the state incurred \$445,900

GPR in special prosecutor expenses, comprised of \$433,400 in costs and \$12,500 in interest charges. In 2015-16, the state incurred \$279,500 GPR in special prosecutor expenses, comprised of \$279,300 in costs and \$200 in interest charges. Due to budgetary considerations, some of the payments made to special prosecutors in 2014-15 and 2015-16 were for services rendered in prior fiscal years. Table 14 identifies for 2014-15 and 2015-16 payments made by the state to special prosecutors (excluding interest), by county.

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 2016-17, \$361,100 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, 1989 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 (restricted to salary increases only); (f)

Table 14: Payments to Special Prosecutors (Excluding Interest) By County, 2014-15 and 2015-16

County	2014-15	2015-16
Adams	\$2,800	
Buffalo	14,600	
Crawford	100	
Dane	67,000	\$15,700
Dunn	43,000	500
Florence	1,500	1,300
Forest		40,300
Jackson	100	
Kenosha	44,000	19,100
Lacrosse	5,900	
Langlade		20,800
Marinette	100	500
Milwaukee		81,800
Monroe	23,100	
Oconto	13,200	700
Oneida	10,000	4,200
Ozaukee	1,000	2,900
Portage		8,900
Racine	34,100	
Rusk	13,400	
Sauk	1,100	
Sheboygan	23,100	31,800
St. Croix	73,200	24,200
Washburn		20,900
Washington	14,100	
Waukesha	5,500	
Waupaca		400
Wood	<u>42,500</u>	<u>5,300</u>
Total	\$433,400	\$279,300

advising elected DAs on their rights and responsibilities under the state compensation plan, Department of Administration Division of Personnel Management administrative code, and the statutes; (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 \$181,700 GPR and 1.0 position in 2016-17.

Through DOA, the state also provides funding and staff for computer automation in district at-

torney offices statewide, including the development of a DA case management system and justice information system interfaces to share information between DAs and the courts, law enforcement, and other justice agencies. These systems are implemented on a county-by-county basis. Budgeted funding for the DOA program in 2016-17 is \$4,140,100 PR supported with an allocation from the \$21.50 justice information system surcharge. Through August 31, 2016, the state has installed: (a) local area networks and related hardware and software in all 71 DA offices statewide, plus Milwaukee Children's Court; (b) the DA case management system in 71 DA offices, plus Milwaukee Children's Court; (c) an interface with the state court system's database (CCAP) in 71 DA offices to provide a two-way transfer of case data; (d) an interface to the criminal history repository to provide updated criminal history records to 71 DA offices; (e) an interface with the State Patrol and other law enforcement agencies to process criminal citations in 71 DA offices; (f) an interface with law enforcement agencies to electronically process other referrals in 21 DA offices; and (g) an interface with the Department of Corrections to provide crime victims information from Corrections' notification service. Prosecutor information is also shared through the WIJIS Justice Gateway to all participating law enforcement agencies. [The WIJIS Justice Gateway is discussed in more detail in Chapter 1 of this paper.] Over the 2011-13 biennium, a major upgrade of the existing case management system was completed and, in 2012, a mechanism was developed to share juvenile information among prosecutors as allowed under 2011 Act 270. According to DOA, efforts to implement criminal eFiling began in 2015-16 and will continue through the 2017-19 biennium. As of August 31, 2016, five DA offices have implemented criminal and civil eFiling. Counties continue to have financial responsibility for 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 September, 2016, 433.85 prosecutor positions were authorized, including 383.95 funded from general purpose revenue and 49.9 funded from program revenue. Of the 433.85 prosecutors statewide, 69.8 are elected DAs, 28 are Deputy DAs, and the remaining 336.05 are ADAs. Salary and fringe benefit funding for DAs, ADAs, and deputy DAs in 2016-17 (including amounts to make salary adjustments under the pay progression plan, discussed below) is \$44,672,500 GPR and \$3,139,200 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, both Brown County and Milwaukee County have 1.0 GPR-funded sexually violent person commitment prosecutor position. These sexually violent person prosecutors are hired and assigned by the DA of Brown County and Milwaukee County, respectively. Under s. 978.043 of the statutes, 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 2015, the Brown County sexually violent person commitment prosecutor handled 71 cases, including five original cases, six pre-commitment cases, and 60 post-commitment petitions for supervised release or discharge. In calendar year 2015, the Milwaukee County sexually violent person commitment prosecutor handled 112 cases, including three original cases, 41 cases in which the offender was discharged, the case was dismissed or the offender died, and 68 post-commitment petitions for supervised release.

Second, 1.0 PR-supported statewide DNA evidence prosecutor position has been assigned to Milwaukee County. This position is funded from the \$13 crime laboratory and drug law enforce-

ment surcharge (which is imposed in certain criminal and forfeiture actions) and the DNA surcharge (which is imposed whenever a court imposes a sentence or places a person on probation, totaling \$250 for each felony conviction and \$200 for each misdemeanor conviction). 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 Violence Against Women Act (VAWA) federal grant program, federal Title IV-E funding under the Social Security Act, and the federal Edward Byrne Memorial Justice Assistance Grant Program. These three revenue sources provide support for approximately 65% of the PR funded prosecutorial positions.

There are a number of grant programs authorized under the federal Violence Against Women Act (VAWA). 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 September, 2016, 11.8 PR authorized 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 September, 2016, 10.5 PR authorized prosecutor positions were supported with Title IV-E funding.

Wisconsin's share of the Federal Byrne Justice

Assistance Grant (JAG) funds is awarded: (a) directly to the local governments; and (b) to the State for further sub-grant programs and statewide initiatives. Wisconsin's Department of Justice is in charge of awarding the state's share of JAG funds for sub-grant programs. Funds for the program may be used for, among other things, funding personnel, training, and equipment relating to criminal prosecution and law enforcement programs. As of September, 2016, 10.0 PR authorized prosecutor positions were supported with Byrne funds.

Under current law, the salaries of DAs 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 between June 28, 2015, and June 24, 2017, the rates have been established as shown in Table 15. [As elected district attorneys serve four-year terms, compensation rates identified in Table 15 will generally take effect for elected district attorneys in January, 2017.]

Table 15: District Attorney Salaries

Prosecutorial Unit Population	Salary
More than 500,000	\$136,900
250,000 to 500,000	123,848
100,000 to 250,000	117,615
75,000 to 100,000	117,615
50,000 to 75,000	111,990
35,000 to 50,000	111,990
20,000 to 35,000	100,122
Not more than 20,000	100,122

The range of assistant DA and deputy DA compensation is established under a state compensation plan developed by the Division of Personnel Management within DOA and approved by the Joint Legislative Committee on Employment Relations. Under the 2015-17 state compensation plan, the minimum assistant DA and deputy DA salary is \$23.68 per hour (\$49,254 annually) and the maximum is \$57.22 per hour

(\$119,018 annually). In addition to the maximum salary rate, deputy district attorneys may receive up to a \$2.75 per hour add-on (\$5,720 annually), based on merit, because of supervisory or managerial responsibilities.

Under 2011 Act 238, the Legislature created an annual pay progression plan for assistant DAs to provide increased compensation for assistant district attorneys. The pay progression plan was then expanded under 2013 Act 20 to include deputy DAs, assistant public defenders, and assistant attorneys general. The pay progression plan for assistant and deputy DAs consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest salary (\$49,254) and the highest salary (\$119,018). [As noted above, in addition to the salary under the pay progression plan, deputy DAs may be awarded an hourly add-on based on merit.]

Under the 2015-17 state compensation plan a salary step currently equals \$4,104. Beginning July 1, 2014, a supervising DA may increase the hourly salary of an assistant or deputy DA by an hourly salary step, or part thereof, above the prosecutor's hourly salary on the immediately preceding June 30. Notwithstanding the creation of a 17 hourly salary step pay progression plan, supervising DAs are authorized to: (a) deny annual salary increases to individual assistant DAs or deputy DAs; and (b) increase the salary of individual assistant DAs or deputy DAs by up to 10% per year. Even at the minimum annual salary of \$49,254, a 10% annual wage increase (\$4,925) exceeds the value of the current hourly step (\$4,104).

The 2015-17 biennial budget (2015 Act 55) did not appropriate any funding to the District Attorneys in 2015-16 to make awards to assistant DAs and deputy DAs under the pay progression plan. Act 55 did, however, appropriate \$556,900 GPR in 2016-17 to the District Attorney function for salary increases for assistant DAs and deputy

DAs under the pay progression plan. The appropriated amounts were intended to support a 2% average salary increase for assistant DAs and deputy DAs in 2016-17 who are eligible for pay progression.

Table 16 shows the number of prosecutor positions authorized for each county as of September, 2016.

Table 16: State Prosecutor Positions – September, 2016

County	Positions	County	Positions
Adams	1.20	Marathon	11.00
Ashland	2.00	Marinette	2.60
Barron	3.00	Marquette	1.00
Bayfield	1.00	Milwaukee	121.50
Brown	14.00	Monroe	3.00
Buffalo	1.00	Oconto	2.00
Burnett	1.25	Oneida	2.50
Calumet	2.00	Outagamie	10.00
Chippewa	5.00	Ozaukee	3.00
Clark	2.00	Pepin	0.80
Columbia	4.75	Pierce	2.50
Crawford	1.00	Polk	3.00
Dane	29.85	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	14.00
Eau Claire	9.00	Rusk	1.50
Florence	0.50	Saint Croix	6.00
Fond du Lac	8.00	Sauk	5.80
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	2.00
Iron	1.00	Vernon	2.00
Jackson	2.00	Vilas	2.00
Jefferson	5.30	Walworth	5.00
Juneau	2.50	Washburn	1.25
Kenosha	16.00	Washington	5.00
Kewaunee	1.50	Waukesha	16.50
LaCrosse	8.00	Waupaca	3.50
Lafayette	1.00	Waushara	2.00
Langlade	1.50	Winnebago	10.00
Lincoln	2.00	Wood	<u>4.00</u>
Manitowoc	5.00		
		Total	433.85

Prosecutorial Workload

The Wisconsin District Attorneys Association (WDAA) is an association of elected DAs, deputy DAs, and assistant DAs that meet to discuss various issues that affect DAs. Since DAs do not have an official state governing board, the WDAA acts, *de facto*, on behalf of elected DAs. The WDAA utilizes a caseload measurement of prosecutorial workload to estimate the need for prosecutors in the 71 DA offices across the state. While the Governor and the Legislature approve changes in authorized position authority for the DA function, neither the Governor nor the Legislature independently reviews and approves changes made to the caseload measurement by the WDAA. Rather, changes to the caseload measurement of prosecutorial workload and the methodology employed to make these changes are determined solely by the WDAA. The WDAA caseload measurement of prosecutorial workload is intended to identify the number of prosecutors that could be added to or deleted from DA offices across the state to permit prosecutors, on average, to work 40-hour work weeks.

Based on recommendations included in a December, 1995 Legislative Audit Bureau (LAB) audit, the WDAA caseload measurement of prosecutorial workload estimates the number of hours that a full-time prosecutor has available per year for prosecution. A full-time prosecutor begins with 2,088 hours per year available for prosecution (this assumes a 40 hour work week). The caseload measurement then reduces this estimate of available time by seven and a half weeks per year (300 hours) attributable to the number of state holiday hours, personal hours, sick leave, and vacation time per prosecutor.

The caseload measurement then reduces the estimate of available time by an additional 15 and a half weeks per year (626 hours) associated with various other responsibilities of prosecutors that

do not involve the prosecution of criminal and other cases for which prosecutors receive credit under the WDAA's caseload measurement of prosecutorial workload. The WDAA caseload measurement estimates that, on average, a prosecutor spends: (a) five weeks per year (200 hours) reviewing law enforcement referrals for cases that are not charged and investigative work with law enforcement; (b) more than four weeks per year (169 hours) on general administrative duties, prosecutor training, community service, service on boards and commissions, and providing training for law enforcement; (c) two and a half weeks per year (100 hours) on contested civil ordinance and civil traffic cases; (d) 50 hours per year on criminal appeals; (e) 30 hours per year on search warrants; (f) 25 hours per year on post-conviction hearings; (g) 20 hours per year on John Doe proceedings; (h) 20 hours per year on document subpoenas; and (i) 12 hours per year on wage claims, public record requests, writs, weatherizations, and probation revocations.

In total, the WDAA estimates that for approximately 23 working weeks per year (926 hours) a full-time prosecutor's time is reserved for the activities and leave time addressed above. The WDAA estimates that a full-time prosecutor has the remaining 29 working weeks per year (1,162 hours) available to prosecute specific cases for which a prosecutor receives credit under the WDAA caseload measurement of prosecutorial workload, including all criminal cases. Based on recommendations included in the 1995 LAB audit, the WDAA caseload measurement of prosecutorial workload then estimates the number of prosecutorial hours required for different types of cases. Table 17 identifies the case weights assigned by the WDAA to various types of cases.

Finally, the WDAA caseload measurement of prosecutorial workload multiplies the number of annual cases for each case type by the estimated number of hours required to complete the case type, to determine the annual number of prosecutorial hours for each prosecutorial office and

Table 17: Case Weights Adopted by the WDAA

Case Type	Hours Per Case
Class A homicides	160.00
1 st Degree reckless homicides	160.00
Sexual predator	100.00
Other homicides	80.00
Inquests	64.00
2 nd and 3 rd strike non-homicides	50.00
Termination of parental rights	35.00
Security fraud	30.00
All other felony cases	8.49
Children in need of protection and services	6.00
CHIPS Extensions	3.50
Guardianships	3.50
Juvenile delinquency	3.44
Misdemeanors	2.91
Criminal traffic	2.91
Writs of habeas corpus	2.00

statewide. This estimate of prosecutorial hours is divided by 1,162 hours (the number of hours available per year per full-time prosecutor for prosecution) to estimate the number of prosecutors needed for each prosecutorial office and statewide.

Based on a three-year average of cases filed in calendar years 2012 through 2014, the WDAA caseload measurement of prosecutorial workload estimates that 569.51 prosecutors would be needed across the state in order to permit prosecutors, on average, to address their caseload and work 40-hour work weeks. This would represent a 31% increase in the number of authorized prosecutor positions when compared to the number of authorized prosecutor positions as of September, 2016 (433.85).

The hourly weights for various activities and case types in the WDAA caseload measurement are not based on a recent time study in which prosecutors tracked the amount of time spent on these specific activities and case types. In its 2007 audit of the WDAA caseload measurement of prosecutorial workload, the LAB recommended that "the Department of Administration report to the Joint Legislative Audit Committee by

March 14, 2008, on its plans for initiating a new time study to more accurately measure prosecutors' work."

In response, the State Prosecutors Office (SPO), in a letter to the Joint Legislative Audit Committee dated April 7, 2008, stated that:

The SPO has considered the initiation of a new time study to measure prosecutors' work. However, there is no consensus among stakeholder groups on this issue. More specifically, there is no agreement as to how long the study should last, which activities should be included, how the study should consider all time worked by prosecutors, and how the data should be verified. In addition, there are concerns among prosecutors that a new a time study conducted under current staffing levels will not accurately measure their workloads under optimal conditions. Based upon the status of discussions on this issue, the SPO has not developed a specific plan to initiate a new time study.

Since the 2007 LAB audit the WDAA has made a number of changes to its caseload measurement of prosecutorial workload, but has not initiated a new time study.

In its 2007 audit, the LAB also identified that variations in charging practices between DA offices may lessen the reliability of the WDAA caseload measurement of prosecutorial workload. The LAB provided the following example of the effect of charging practices on caseload counts:

The effect of charging practices on caseload counts can be illustrated using an example of similar situations in two different counties. In the first situation, a prosecutor combined five worthless check offenses, committed by one defendant over a four-month span, into one case. The defendant was found guilty of one charge, and the other charges were considered in sentencing. In the second situation, a prosecutor filed 12 separate cases for worthless check offenses committed by one defendant in a three-week span. As in the

first situation, the defendant was found guilty of one charge, and the other charges were considered in sentencing. Although the two situations had similar circumstances and outcomes, the first county was credited with 1 misdemeanor case, while the second was credited with 12 cases.

The LAB recommended in its 2007 audit that the Department of Administration report to the Joint Legislative Audit Committee on its efforts

to implement short-term improvements to the WDAA caseload measurement, including voluntary guidelines for case charging practices. As of this writing, the WDAA has not adopted voluntary guidelines for case charging practices. However, it may be worth noting that dating back to the 1995 LAB audit, prosecutors have expressed the belief that "flexibility in charging is an important tool for setting office priorities and addressing different criminal activities."

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, DOJ'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 (c) Criminal Litigation. This chapter discusses the prosecutorial and related workload of each of these units. In addition, this chapter discusses the criminal caseload of the Medicaid Fraud Control and Elder Abuse Unit and the Environmental Protection Unit.

This chapter further discusses the Office of the Solicitor General. Created under 2015 Act 55, the Office of the Solicitor General oversees appellate litigation for the state as well as litigation of special importance to the state.

The criminal justice workload of the Division of Legal Services is generally GPR funded, supported by the Division's general program operations appropriation. Funding for the Office of the Solicitor General is supported by program revenue.

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 a felony or other significant criminal or juvenile delinquency case before the state Court of Appeals or Supreme Court 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.

Additionally, the unit evaluates requests for discretionary appeals in the Wisconsin Court of Appeals when a district attorney receives an adverse circuit court ruling in a felony case (for example, dismissal of charges after a preliminary examination hearing or suppression of evidence) or when a circuit court orders a new trial after post-conviction proceedings. The criminal appeals unit handles any resulting appeal.

The unit also represents the state in state and federal 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 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.

In 2014-15, the criminal appeals unit opened 703 cases and closed 1,328 cases. In 2015-16, the unit opened 751 cases and closed 1,066 cases.

Civil Litigation Unit

Statutory Authorization. The Civil Litigation 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, unless a court finds that there is a substantial risk to the prisoner's health or safety.

Under s. 165.25(6) of the statutes, the Attorney General may, at the request of the head of any department of state government, 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, extended supervision, or parole; (l) negligence; (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 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 2014-15, the unit opened 194 prisoner conditions cases and closed 201 such cases, while in 2015-16, the unit opened 281 prisoner conditions cases and closed 235 such cases.

During 2014-15, the unit opened one sexual predator condition of confinement cases and closed six such cases, while in 2015-16, the unit opened 10 of these cases and closed 11.

Criminal Litigation Unit

Statutory Authorization. Attorneys in the Criminal Litigation 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 Unit.

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. 165.60 of the statutes, the Department of Justice is authorized to enforce Chapter 108 of the statutes (Unemployment Insurance and Reserves). Furthermore, under s. 108.14(3m) of the statutes, the Department of Workforce Development, the Labor and Industry Review Commission, or the state may request representation from the Department of Justice in cases regarding unemployment insurance fraud. The Criminal Litigation Unit is responsible for handling such cases regarding unemployment insurance fraud.

Finally, 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 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." The unit's remaining criminal prosecutions involve cases for which the Department has original jurisdiction to initiate the criminal case. Table 18 identifies the criminal referrals to the unit by case type and case disposition for 2014-15 and 2015-16.

Table 18: Criminal Referrals

	2014-15	2015-16
<i>Case Type</i>		
Special Prosecution	97	106
Original Jurisdiction -- Security		
Fraud & Tax	<u>3</u>	<u>4</u>
Total	100	110
<i>Case Resolution</i>		
Charged	69	73
No Charge or Ongoing Investigation	<u>31</u>	<u>37</u>
Total	100	110

Unit attorneys also handle sexual predator commitments and currently process a significant portion of all such commitments in the state. Under current law, a petition alleging that an individual is a sexually violent person may be filed by either: (a) DOJ, at the request of the agency with the authority or duty to release or discharge the person (either the Department of Corrections or the Department of Health Services); or (b) a district attorney. If an individual is found guilty of a sexual violent offense, he or she is sentenced to prison, while if an individual is found not guilty of or not responsible for a sexually violent offense by reason of insanity or mental disease, defect, or illness, he or she is committed to an institution under the Department of Health Services (DHS). Subsequent to an individual serving

a prison sentence or being released from the care of DHS for having committed a sexually violent offense, the individual may be committed to DHS as a sexually violent person based on the petition filed by DOJ or a district attorney. If, after a trial, an individual is determined to be a sexually violent person, the court must enter a judgment on the finding and commit the person as a sexually violent person. In that event, the court must order the person committed to the custody of DHS for control, care, and treatment until the person is no longer a sexually violent person.

In 2014-15, the unit received 20 sexually violent person referrals, while in 2015-16, the unit received 13 such referrals. All other sexually violent person commitments were 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. In 2014-15, the unit handled 134 sexually violent person post-commitment proceedings, while in 2015-16, the unit represented the state in 145 post-commitment proceedings.

The Criminal Litigation 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. In addition, the unit sponsors training for newly elected district attorneys. 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.

In addition to its duties discussed above, the Criminal Litigation Unit handles cases regarding the enforcement of unemployment insurance regulations. These cases are generally referred to the unit by the Department of Workforce Development. In 2014-15, the unit handled 20 unemployment insurance fraud cases, while in

2015-16, the unit handled 28 of these cases.

Medicaid Fraud Control and Elder Abuse Unit

Statutory Authorization. The Medicaid Fraud Control and Elder Abuse Unit investigates and prosecutes crimes committed against vulnerable adults in nursing homes and other facilities, as well as fraud perpetrated by providers against the Wisconsin Medicaid program. Under ss. 49.49 and 49.846 of the statutes, DOJ and the district attorneys are responsible for prosecution of criminal laws affecting the medical assistance program, including Medicaid fraud, as well as the health, safety and welfare of recipients of medical assistance. The unit also prosecutes civil enforcement actions affecting Medicaid.

Program Administration. The Department of Justice is the state agency responsible for conducting a statewide program for the investigation and prosecution of providers that defraud the Wisconsin Medicaid program. In 2014-15, the unit received 112 referrals, opened 105 cases, closed 33 investigations, and obtained seven criminal convictions for Medicaid fraud. In 2015-16, the unit received 123 referrals, opened 125 investigations, closed 153 investigations, and obtained seven criminal convictions for Medicaid fraud. Unit attorneys are also periodically appointed special prosecutors by district attorneys for Medicaid-related offenses.

In addition to the Medicaid fraud workload, the unit received 12 referrals, opened two cases, and closed three investigations in 2014-15 related to elder abuse. In 2014-15, the unit did not obtain any convictions related to elder abuse. In 2015-16, the unit received 106 referrals, opened seven cases, and closed one investigation. Similar to 2014-15, no criminal convictions related to elder abuse were obtained in 2015-16. [Note that there was a large increase in the number of elder abuse

case referrals to DOJ in 2015-16 due to case referrals from the Department of Health Services stemming from 2014.]

In Medicaid fraud cases, restitution recovered by the unit is used to reimburse the Wisconsin Medicaid program. In cases of elder abuse, recovered restitution is used to reimburse either the Medicaid program, identified victims, or both, depending on the court judgment. In both Medicaid fraud cases and cases of elder abuse, fines and forfeitures are deposited in the common school fund.

During 2014-15 the unit recovered a total of \$27,326,600, comprised of \$369,100 in restitution, \$1,600 in fines, \$22,869,100 in civil recoupments (which were sent to the Department of Health Services for the Medicaid program), \$681,100 in attorney fees to DOJ, and \$3,405,700 in attorney fees to the private law firm Miner, Barnhill, and Galland P.C. (MBG). In 2015-16, the unit recovered \$75,259,900, comprised of \$1,554,600 in restitution, \$7,300 in fines, \$62,906,400 in civil recoupments (which were sent to DHS for the Medicaid program), \$1,798,600 in attorney fees to DOJ, and \$8,993,000 in attorney fees to MBG. For 2014-15 and 2015-16, the vast majority of civil recoupments and attorney fees recovered were generated by the state settling an average wholesale price lawsuit with various pharmaceutical companies. For this lawsuit, the state contracted with Miner, Barnhill, and Galland P.C. for assistance.

Environmental Protection Unit

Statutory Authorization. Primarily under ss. 30.03 and 299.95 of the statutes, the Attorney General is required to enforce several environmental law chapters which include criminal provisions. In addition, s. 978.05(8)(b) of the statutes provides that district attorneys may request DOJ

to assist in the investigation and prosecution of any matter for which a district attorney has jurisdiction. District attorneys have duties to prosecute criminal violations of certain fish, wildlife and environmental laws. Typically a district attorney will request that DOJ prosecute a case when: (a) the district attorney or a member of the staff has a conflict of interest; (b) the case is of such a magnitude or specialty that the district attorney could not adequately attend to his or her other duties upon attending to the case; (c) the case is outside the area of the district attorney's expertise and is within the expertise of the assistant attorney general; or (d) the case involves the same crime committed in several counties.

Program Administration. The Department of Natural Resources' (DNR) conservation enforcement wardens and environmental enforcement specialists, assisted by regulatory program staff, perform audit, investigation and enforcement functions with respect to state environmental laws. Generally, DNR applies a "stepped enforcement" process with the violator in an attempt to obtain compliance, prevent further violations, and avoid escalation of enforcement measures. However, if there are serious, damaging, continuous, or repetitive violations, the staff present their evidence and facts in an enforcement referral packet to DNR Division of Enforcement and Science staff for review and recommendation to the DNR Secretary. If approved, the DNR Secretary sends a letter requesting enforcement, copied to the violator, to the Attorney General with an accompanying confidential investigation file of evidence and materials that justify the prosecution request.

When received by DOJ, DNR's enforcement "referral file" is sent to the Legal Services Division Administrator for referral to the unit. The unit director assigns the case to an appropriate assistant attorney general (AAG) for review and potential prosecution. If, after review and consultation with DNR staff as necessary, the AAG believes prosecution is justified, the AAG prepares

a justification memorandum and draft complaint for prosecution. Depending on the circumstances, the AAG may have pre-filing discussions of the matter with the accused and his or her attorney. Upon approval of the justification memorandum by the unit director and the Legal Services' administrator or deputy administrator, the case is commenced. A judgment may be entered upon stipulated settlement between the defendant and DOJ in consultation with DNR enforcement staff, or the case may go to trial and appeal. The unit handles its own criminal appeals.

In 2014-15, DOJ's Environmental Protection Unit was referred 109 cases. These 109 cases included two criminal enforcement cases, 36 civil enforcement cases, 29 civil defense cases, 29 agency consultations, five citizen correspondence, and eight uncategorized cases. In 2015-16, the unit was referred 89 cases. These 89 cases included one criminal enforcement case, 47 civil enforcement cases, 13 civil defense cases, eight agency consultations, 15 citizen correspondence, and five uncategorized cases.

Unit attorneys may also occasionally act as special prosecutors upon request of district attorneys under s. 978.045 of the statutes. The unit did not handle any criminal cases as a special prosecutor in 2014-15 or 2015-16.

Office of the Solicitor General

Under 2015 Act 55 (the 2015-17 budget bill), the Attorney General was provided the authority to establish the Office of the Solicitor General (OSG). Section 165.055(3) of the statutes authorizes the Attorney General to appoint one Solicitor General and three deputy solicitors general in the unclassified service. While the specific duties of the Office are not specified in state statute, DOJ has indicated that the Office represents the State of Wisconsin in cases on appeal that are of spe-

cial importance to the state. In addition, the Office may perform the following duties: (a) supervise criminal and civil appellate litigation; (b) act as appellate counsel of record; (c) draft briefs; (d) appear at oral arguments; (e) assist and supervise trial level litigation in cases involving a significant question of law; (f) draft Attorney General opinions; (g) evaluate requests for the state to participate as an *amicus curiae* participant in state or federal courts; and (h) any other duties the Attorney General assigns the Office. [*Amicus curiae* literally translates to "friend of the court." An *amicus curiae* is a person who is not a party to a lawsuit but who petitions the court or is requested by the court to file a brief in the action because that person has a strong interest in the subject matter.]

Act 55 provided that the Attorney General may utilize DOJ's legal services investigation and

prosecution continuing PR appropriation to support the OSG. Revenue is generated for this appropriation from expenses recovered by DOJ, including attorney fees, associated with the investigation and prosecution of violations relating to: (a) the Medical Assistance (MA) program; (b) marketing and trade practices; (c) trusts and monopolies; and (d) various environmental regulations enforced by the Department of Natural Resources.

Subsequent to appointment by the Attorney General, Wisconsin's first Solicitor General took office in December, 2015. Three deputy solicitor general positions have also been appointed to assist the Solicitor General. In 2015-16, DOJ spent \$290,200 PR to support the OSG. The Department indicates that the estimated budget for the OSG in 2016-17 is \$790,300 PR.

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 defense." 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 State Public Defender 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; (e) involved in certain post-conviction or post-judgment appeals; and (f) undergoing proceedings for modification of a bifurcated sentence, if representation has been requested by the indigent person or the case has been referred by a court, and the Public Defender determines that the case should be pursued.

In making a determination of indigency, the SPD first considers the anticipated cost of the individual retaining private counsel. The anticipated cost of retaining private counsel is established by administrative rule. Table 19 identifies these anticipated costs of retaining private counsel, by case type.

The Public Defender's standard for determining whether an individual accused of a crime is indigent is modeled after the 2011 Wisconsin Works (W-2) eligibility standard for an employment position. As a result, gross income of an individual in excess of 115% of the 2011 federal poverty guideline will generally be considered available to pay the costs of legal representation. [While the W-2 financial eligibility requirements for an employment position adjust annually to reflect any changes in inflation captured by an updated federal poverty guideline, under 2011 Act 32, the SPD indigency standard remains

Table 19: Anticipated Cost of Retaining Private Counsel, By Case Type

Case Type	Anticipated Cost
1st degree intentional homicide	\$17,500
Trial appeal category I*	9,000
Chapter 980 original petition**	6,000
Other class A/B/C felony	5,000
Trial appeal category II***	4,500
Involuntary termination of parental rights	4,500
Chapter 980 post-commitment	3,500
Other felony	2,200
Felony diversion	1,500
Felony delinquency	1,500
Revocation	1,400
Chapter 55****	1,200
Paternity	1,000
Misdemeanor	750
Traffic misdemeanor	750
Special proceedings	750
Other juvenile	600
Chapter 51	600

*Category I includes misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases, and class G to I felony cases.

**Chapter 980 proceedings are in regards to sexually violent person commitments.

***Category II includes all of Category I cases, and class A to F felony cases.

****Chapter 55 proceedings are in regards to protective services and placement for persons with mental illnesses, degenerative brain disorders, developmental disorders, or other like incapacities.

linked to the 2011 federal poverty guideline.] Table 20 identifies 115% of the 2011 federal poverty guideline, for the 48 contiguous states and the District of Columbia.

An individual's assets that exceed \$2,500 in combined equity value are also considered available to pay for representation. In determining the combined equity value of assets available to pay for representation, up to \$10,000 in the equity value of vehicles would be excluded, as well as the first \$30,000 of the equity value of a home that serves as the individual's homestead. Under 2011 Act 32, the SPD's indigency standard no longer adjusts for any future changes to the W-2 asset standard.

Table 20: 2011 Federal Poverty Guideline for the 48 Contiguous States

Persons in Family	115% of Federal Poverty Line
1	\$12,524
2	16,917
3	21,310
4	25,703
5	30,096
6	34,489
7	38,882
8	43,275
For each additional person, add	4,393

The State Public Defender is required to determine whether a person has the ability to pay the costs of representation. The Public Defender Board is also 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 SPD. Table 21 identifies the optional prepayment amounts for the different types of SPD representation, as established by rule by the Public Defender Board.

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 22 summarizes the fee schedule established by rule by the Public Defender Board beginning on February 1, 2014. These fee amounts are based on the average costs for representation for the type of case, as determined by

Table 21: Prepayment Options for SPD Representation

Case Type	Amount
First-degree intentional homicide	\$600
Other class A or B felony	120
Chapter 980 proceedings*	120
Trial appeal (category I)**	120
Trial appeal (category II)***	60
Felony diversion	60
Other felony	60
Misdemeanor	60
Revocation	60
Termination of parental rights	60
Paternity	60
Special proceeding	30

*Chapter 980 proceedings are in regards to sexually violent person commitments.

** Category I includes misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases, and class G to I felony cases.

***Category II includes all of Category I cases, and class A to F felony cases.

the Board.

In 2015-16, the SPD received \$1,221,600 PR in payments from its indigent clients, including receipts from court-ordered recoupment. These amounts are used primarily to offset the cost of retaining private bar attorneys to represent individuals qualifying for SPD representation.

If an individual does not meet the statutory indigency standard of the SPD, 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 with repayment expected. Appendix IX identifies expenditures, recoupment and net costs, for counties in calendar year 2015 for court-appointed defense counsel by county. While 72 counties reported \$4.3 million in costs for providing defense counsel in 2015, the net expenditure by these counties for court-appointed defense counsel in 2015 totaled \$1.8 million. In reviewing the data, the following should be noted: (a) the re-

Table 22: Schedule for Repayment of SPD Costs by Clients Determined to Have Ability to Pay

Case Type	Amount
First-degree intentional homicide	\$7,500
Other class A or B felony	1200
Chapter 980 proceedings*	1200
Trial appeal (category I)**	1200
Trial appeal (category II)***	480
Juvenile felony	480
Other felony	480
Termination of parental rights	480
Chapter 55 proceedings****	480
Felony diversion	240
Misdemeanor	240
Other juvenile offense	240
Revocation	240
Paternity	240
Commitment to mental health/rehab facility	120
Special proceeding	120

*Chapter 980 proceedings are in regards to sexually violent person commitments.

** Category I includes misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases, and class G to I felony cases.

***Category II includes all of Category I cases, and class A to F felony cases.

****Chapter 55 proceedings are in regards to protective services and placement for persons with mental illnesses, degenerative brain disorders, developmental disorders, or other like incapacities.

ports are unaudited; and (b) counties may not be consistent in how they reported costs. Further, the amounts identified as recoupment by a county may be from previous calendar years. Therefore, in some counties during 2015, recoupment of appointed counsel costs exceeded appointed counsel expenses

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 indi-

gent 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 State Public Defender 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 State Public Defender was directed to phase-in its services at the trial level over the biennium to the extent that funding and position authority permitted. The Public Defender 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, beginning 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 4,125 misdemeanor and commitment cases in 2016-17.

The provisions of 2007 Wisconsin Act 20 eliminated the requirement that the SPD make a finding of indigency prior to representing adults subject to involuntary civil commitment, protective placement, or involuntary administration of psychotropic medication. Instead, during or after relevant court proceedings, the court may inquire as to the individual's ability to reimburse the state for the cost of representation. If the court determines that the individual is able to make reimbursement for the costs of representation, the court may order the individual to reimburse the state an amount not to exceed the maximum amount established by the SPD Board, by rule, for the type of case at issue.

Under 2009 Wisconsin Act 164, the SPD indigency standard was generally modeled after the Wisconsin Works (W-2) eligibility standard for an employment position, effective with case appointments on or after June 19, 2011. While under Act 164, the SPD indigency standard would adjust over time to reflect changes in the W-2 eligibility standard, under 2011 Act 32, the SPD indigency standard is linked to the 2011 W-2 financial eligibility requirements for an employment position. As a result, the SPD indigency standard remains linked to the 2011 federal poverty guideline and to the W-2 asset standard as it existed in 2011.

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. Members of the Board may not be employed by, or themselves be, a judicial or law enforcement officer, district attorney, corporation counsel, or the state public defender.

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.

After being appointed by the Board, the State Public Defender serves for a period of five years. However, that individual must continue to serve in his or her role until a successor is appointed.

In 2015-16, state SPD expenditures totaled \$92,070,700 to provide legal representation for eligible indigent persons in Wisconsin. Of that amount, \$30,584,200 (33%) was paid to private attorneys for their time and certain legal expenses (investigators and expert witnesses). The remaining \$61,486,500 (67%) funded staff attorneys, their legal expenses and program overhead. The SPD has been budgeted \$84,620,300 GPR and \$1,348,200 PR in 2016-17 and is currently authorized 614.85 GPR and 5.0 PR positions.

The Office is organized into four divisions: trial, appellate, assigned counsel and administra-

tive services. The current organizational chart for the agency is included as Appendix II.

The trial division consists of 542.85 positions, including 344.45 attorneys and attorney supervisors. The trial division is housed in 36 local offices across the state. (See Appendix X 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. Under 1999 Wisconsin Act 9, 10 attorney supervisor positions were exempted from the statutory caseload requirement. This caseload exemption is spread among 49.8 supervising attorneys. In practice, most supervisors are relieved of some portion of their caseload responsibilities. In 2015-16, 79,938 new cases were assigned to SPD trial division attorneys.

The appellate division consists of 43.35 positions, including 27.75 attorneys and 5.0 attorney supervisors who provide assistance to eligible indigent clients involved in appeals, including postconviction and postcommitment proceedings. The SPD typically 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. In 2015-16, 1,315 new cases were assigned to SPD appellate division attorneys.

The assigned counsel division consists of 5.25

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 and commitment cases, a flat, per case contracted amount. As of July 1, 2016, 982 private attorneys were certified by the SPD to represent indigent clients. In 2015-16, 57,176 new SPD cases were accepted by private attorneys.

The administrative services division consists of 23.4 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, personnel, and client accounts.

Compensation for the Public Defender and Assistant Public Defenders

The salary of the State Public Defender is established by the Public Defender Board. Limitations on the Board's power to set the State Public Defender's salary exist, however, as the Public Defender is considered a state agency head under s. 20.923(4) of the statutes, and, therefore, must be paid within a given salary range. Furthermore, anyone serving as the State Public Defender may not have his or her salary decreased while serving in that position.

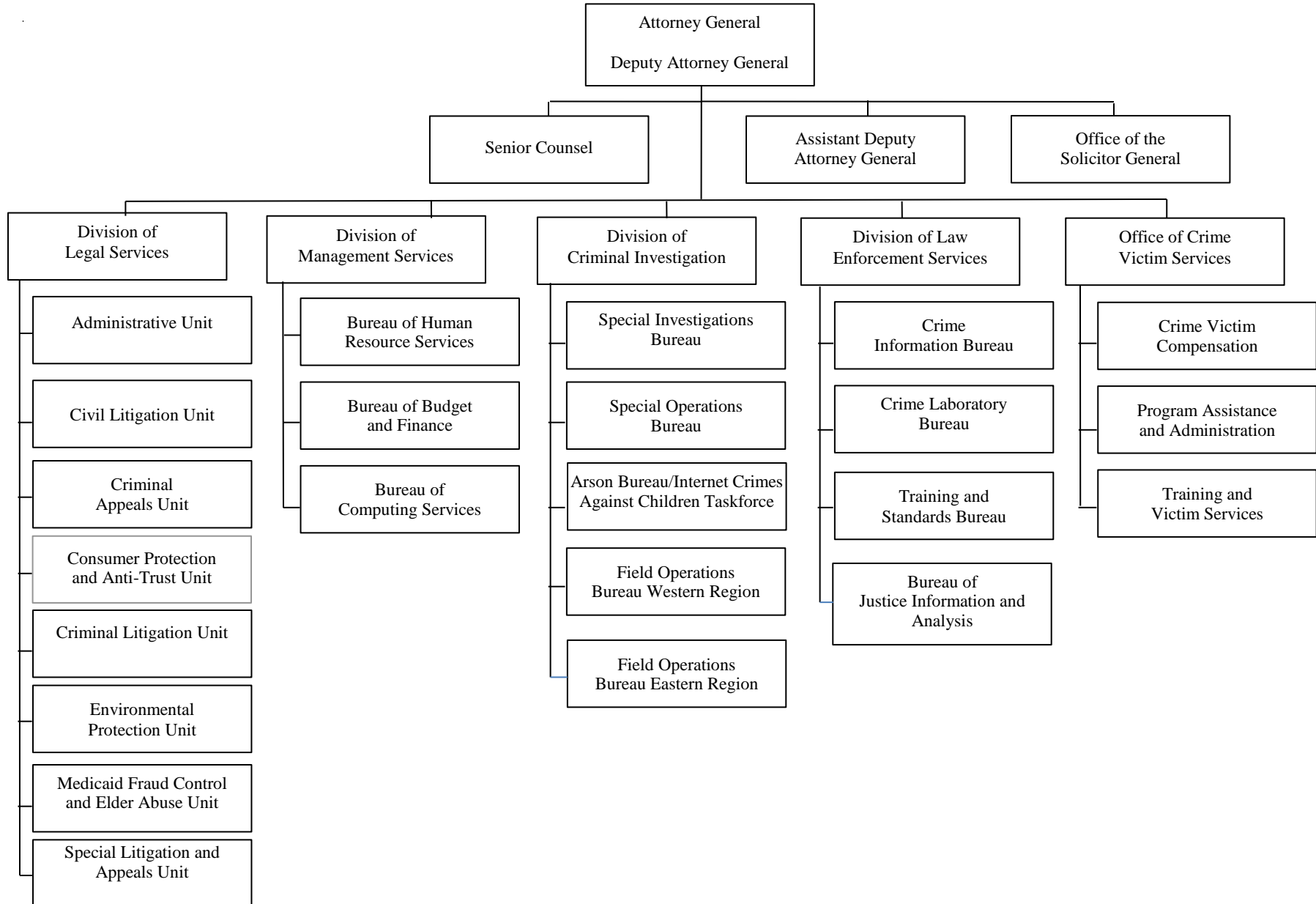
Assistant state public defenders (ASPD), however, are paid based on a pay progression plan created under 2013 Act 20. The pay progression plan created for ASPDs mirrors the pay progression plan for assistant and deputy district attorneys (discussed in Chapter 4 of this paper).

The ASPD pay progression plan is merit-based and consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest annual salary (currently \$49,254) and the highest annual salary (currently \$119,018). The value of one hourly salary step equals \$4,104 annually. Beginning July 1, 2014, the State Public Defender may increase the hourly salary of an ASPD by an hourly salary step, or part thereof, above the individual's hourly salary on the immediately preceding June 30. Notwithstanding the creation of a 17 hourly salary step pay progression plan, the State Public Defender is authorized to: (a) deny annual salary increases to individual ASPDs; and (b) increase the salary of individual ASPDs by up to 10% per year. Even at the minimum annual salary of \$49,254, a 10% annual wage increase (\$4,925) exceeds the value of the current hourly step (\$4,104).

Under 2015 Act 55 (the 2015-17 biennial budget), the SPD was provided no funding for salary adjustments for ASPDs under the pay progression plan in 2015-16. Act 55 did, however, appropriate \$481,300 GPR in 2016-17 to fund salary and fringe benefit adjustments for ASPDs under the pay progression plan. Funding appropriated in 2016-17 for salary adjustments for ASPDs was intended to support a 2% average salary adjustment for those ASPDs eligible under the pay progression plan in 2016-17. However, as noted above, notwithstanding the intention of providing funding for a 2% average salary adjustment, the State Public Defender is authorized to deny annual salary increases to individual ASPDs and increase the salary of individual ASPDs by up to 10% a year, based on available funds.

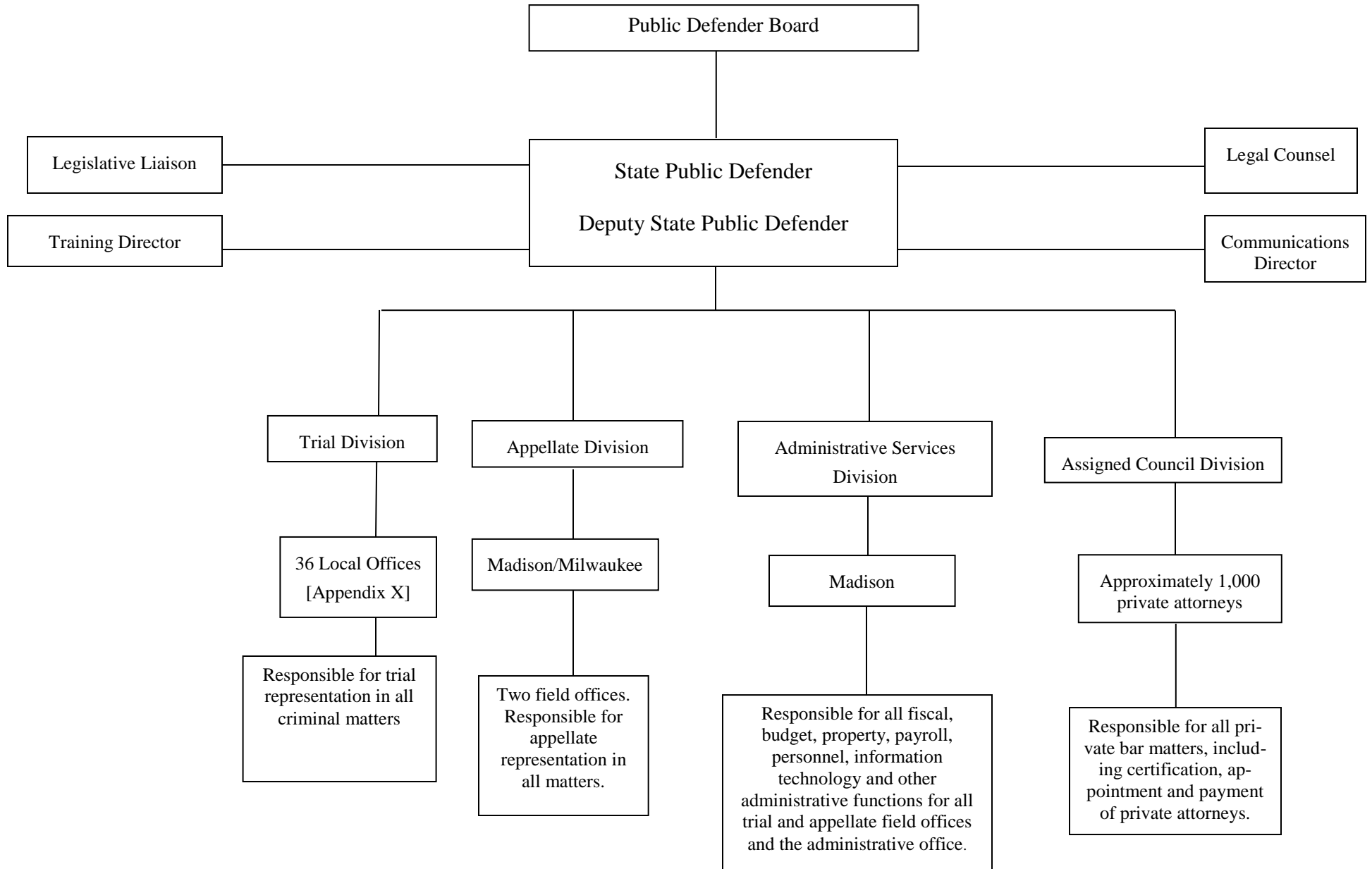
APPENDIX I

Department of Justice Organizational Chart



APPENDIX II

Office of the State Public Defender Organizational Chart



APPENDIX III

Law Enforcement Training and Standards Board Certified Training Topics for Law Enforcement Officer, Juvenile Detention Officer, and Jail Officer Recruits

Topic	Hours	Topic	Hours
<i>720-Hour Law Enforcement Officer Recruit Training Topics</i>		<i>200-Hour Jail Officer Recruit Training Topics</i>	
Academy orientation	2	Academy orientation	2
Agency policy	2	Admit and release inmates	10
Basic response (RESPOND)	2	Correctional law	8
Child maltreatment	8	CPR and AED	4
Constitutional law	32	Ethics and ethical decision making	4
Crimes	14	Fire safety	8
Crisis management	20	Health care	12
Critical thinking and decision making	8	Hostage response	4
Cultural competence	8	Inmate supervision and behavior control	12
Defensive and arrest tactics	60	Introduction to corrections	4
Domestics	16	Investigations	2
Emergency vehicle operation and control	40	Maintain jail security: jail security techniques	8
Ethics	8	Officer wellness	4
First aid, CPR/AED	24	Prepare reports	6
Fundamentals of criminal justice	12	Principles of subject control	40
Handgun and rifle	68	Professional communication skills	24
Hazardous materials and weapons of mass destruction	4	Suicide prevention for jail officers	4
Incident command system	2	Supervision of special needs inmates / crisis intervention	<u>14</u>
Interrogations	4	Subtotal	170
Interviews	12	Evaluation scenarios	8
Introduction to TRACS	2	Integration exercises	10
Juvenile law	8	Testing	4
Officer wellness	8	Training scenarios	<u>8</u>
Operating a motor vehicle while intoxicated/ standardized field sobriety testing	36	Total	200
Physical evidence collection	8	<i>160-Hour Secure Juvenile Detention Officer Recruit Training Topics</i>	
Physical fitness entrance exam	2	Admitting and releasing juveniles	4
Physical fitness training and physical fitness exit exam	32	Adolescent development	8
Professional communication skills	24	Behavior management	16
Radio procedures	2	Crisis intervention	4
Report writing	20	Detention facility security	8
Sexual assault	12	Diversity	6
Tactical emergency critical care	8	Fire safety	10
Tactical response	24	Health care	12
Testifying in court	8	Introduction to detention operations	4
Traffic crash investigation and traffic incident management	16	Legal requirements for secure detention of juveniles	4
Traffic law enforcement	36	Prepare reports	8
Vehicle contacts	24	Principles of subject control	32
Victims	<u>8</u>	Principles of supervision	2
Subtotal	624	Professional communication skills	24
Exams	12	Stress management	2
Integration exercises	44	Suicide prevention	<u>4</u>
Scenarios	<u>40</u>	Subtotal	148
Total	720	Scenarios	8
		Testing	<u>4</u>
		Total	160

APPENDIX IV

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.

APPENDIX V

Offenses Considered Violent Crimes for DNA Submission

Arson of buildings/damage of property by explosives*

Battery (felony violation)

Battery or threat to an employee of the Department of Revenue, Department of Safety and Professional Services,
or Department of Workforce Development

Battery or threat to a judge

Battery or threat to a witness

Battery, special circumstances

Battery to an unborn child (felony violation)

Battery to certain employees of counties, cities, villages, or towns

Burglary*

Causing a child to view or listen to sexual activity*

Child abduction by use or threat of force*

Child enticement*

Disarming a peace officer*

Endangering safety by use of a dangerous weapon (felony violation)*

Engaging in repeated acts of physical abuse of the same child (Class A, B, C, and D felony violation)*

False imprisonment*

Felony murder

Homicide (1st degree)*

Homicide (2nd degree)*

Homicide by negligent handling of a dangerous weapon, explosives, or fire

Homicide by intoxicated use of a vehicle or firearm

Homicide by negligent operation of a vehicle

Homicide resulting from negligent control of a vicious animal

Human trafficking*

Intentional causation of great bodily harm, or harm that creates a high probability of great bodily harm, to a child*

Intimidation of witnesses (felony violation)*

Intimidation of victims (felony violation)*

Kidnapping*

Mayhem*

Possession, manufacturing, selling, or transferring a fire bomb*

Repeated sexual assault of the same child*

Robbery*

Reckless injury

Reckless homicide (1st degree)

Reckless homicide (2nd degree)

Reckless causation of bodily harm to a child

Recklessly endangering safety

Sexual assault (1st degree)*

Sexual assault (2nd degree)*

Sexual assault (3rd degree)*
Sexual assault of a child (1st degree)*
Sexual assault of a child (2nd degree)*
Sexual assault of a child placed in substitute care*
Sexual assault of a child by a school staff person or a person who works or volunteers with children*
Sexual exploitation of a child*

Soliciting a child for prostitution*
Stalking*
Strangulation or suffocation*
Taking a vehicle without owner's consent*
Taking hostages*

Tampering with household products*
Trafficking of a child*

Any felony, if an increased penalty for certain domestic abuse offenders, under s. 939.621 of the statutes, could be imposed

*The solicitation, conspiracy, or attempt to commit this crime constitutes a violent crime.

APPENDIX VI

Treatment Alternatives and Diversion Grant Projects, 2017

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
Adams*	January, 2017	\$47,966	Hybrid court	The grant will be utilized to establish a hybrid treatment court targeting individuals whose criminal justice involvement is driven by alcohol or other substance abuse needs. The first six months of the grant period will focus on the development of implementation strategies and the creation of a collaborative team. These efforts will be led by a technical assistance provider and include various criminal justice agencies within Adams County. After completion of the planning period, the hybrid court is scheduled to be launched on July 1, 2017.
Ashland, Bayfield	January, 2012	222,993	Treatment court	The grant will continue support a joint project between Ashland and Bayfield Counties. Grant funding will be utilized to implement a TAD program focused on individuals who utilize methamphetamines and other illicit drugs, such as heroine. The purpose of the program is to provide treatment, divert non-violent participants out of jail and prison, and improve public safety. Grant funding will also support enhancement of the Bayfield County Risk Reduction Treatment Court and implement a culturally competent community treatment alternative that reflects the traditions of the Red Cliff Band of the Lake Superior Chippewa Tribe. Ashland County will continue to partner with Bayfield County in operating this treatment court.
Barron	January, 2017	26,962	Hybrid court	Grant funding will be utilized to enhance the Barron County drug and alcohol court (BCDAC) program. These enhancements will include, but are not limited to: expanding the current BCDAC coordinator role to make it more consistent with a case manager role; funding additional faith-based support groups; mentoring participants; supporting a mother of addicts support group; and developing a goal-based strategic plan.
Brown	June, 2014	159,712	Drug court; diversion program	Grant funds will be utilized by the Brown County treatment alternatives and diversion program in coordination with the Criminal Justice Coordinating Board to maintain and enhance established treatment courts and diversion programs. These programs seek to individually meet the specific treatment needs of non-violent offenders in Brown County who are charged with criminal actions related to their drug and alcohol abuse. The funds will be primarily utilized to support staff needed to operate the programs and to assist with monitoring alcohol and drug abuse.
Buffalo, Pepin	January, 2017	111,964	Diversion program	Grant funds will be utilized to support a joint project between Buffalo and Pepin Counties that would establish a dedicated Community Justice Services (CJS) program. The program will conduct universal assessment of all nonviolent adult offenders using risk assessment

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
				instruments and provide treatment alternative and diversion programming. Individual assessments will be used to recommend risk-based conditions of pre-trial release, recommend eligibility for pre-charging and post-charging diversion, and provide risk-based alternatives to incarceration at sentencing which address substance abuse risks and needs. The CJS will verify interview information, monitor compliance, review release and detention eligibility, provide proactive court reminders, provide graduated sanctions and incentives to promote successful substance abuse and mental health treatment, and measure performance.
Burnett, Washburn	January, 2007	125,000	Hybrid court	Grant funding will be utilized to sustain the drug and alcohol courts that serve both counties and other areas in northwestern Wisconsin. The counties' TAD program utilizes a matrix model. A matrix program is a multi-service package of therapeutic strategies that combine to produce an integrated out-patient experience. Funding will be utilized to support wraparound services that include frequent drug and alcohol testing, intensive case management, immediate incentives and sanctions, and consistent community programming. The TAD program will focus on providing treatment for individuals struggling with methamphetamine addiction and other drug and alcohol abuse.
Chippewa	June, 2014	115,327	Diversion program	Grant funds will be utilized by the Chippewa County criminal justice system to continue implementation of its TAD program and First Time Offender program. More specifically, the funds will be utilized to support a diversion specialist position and part-time assessor and programmer positions. The diversion specialist position provides case management services, completes COMPAS assessments, monitors drug testing compliance, provides cognitive behavioral programming for participants, and manages the First Time Offender program. The assessor and programmer positions will complete pre-trial and full COMPAS assessments, and offer evidence based programs to TAD and drug court participants. Chippewa County's TAD program focuses on diverting offenders with an identified risk level and high criminogenic needs, for which substance abuse is a motivating factor in their criminal activity.
Columbia**	January, 2014	204,124	OWI court; drug court	Grant funds will be utilized to: (a) implement an OWI treatment court that focuses on 3 rd and 4 th offense OWI offenders with a blood alcohol content of 0.15 or more; and (b) plan and implement an adult drug treatment court that provides community-based services to nonviolent substance abusing offenders. Funds will be utilized by the Columbia County Health and Human Services, working in partnership with the court system, the Columbia County Criminal Justice Coordinating Council, and a variety of other relevant organizations.
Dane	January, 2007	214,931	Drug court; diversion program	Grant funding will be utilized to enhance the drug court diversion program and the opiate diversion project in Dane County. Funding will allow the Dane County drug court diversion program, a problem solving court for individuals at moderate risk to re-offend, to

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
				utilize a cognitive-behavioral approach more specific to the population being served. Funding will also allow the opiate diversion project, a pretrial diversion program for opiate offenders, to evaluate program outcomes and utilize an assessment instrument that has been developed specifically for the program.
Dodge	January, 2014	209,620	OWI court; drug court	Grant funds will be used by the Dodge County treatment alternatives and diversion program for the purposes of continuing and enhancing existing TAD projects that focus on providing treatment-focused diversion services to individuals with antisocial actions that stem from untreated or undertreated addiction or mental health conditions. Dodge County intends to continue its efforts to evolve its existing program from a diversion structure to a problem solving court. In addition, funds will be utilized to provide cognitive behavioral interventions, medication assisted treatment, and residential treatment to directly address criminogenic need areas of moderate to high risk TAD participants.
Dunn	January, 2017	99,566	Diversion program	Funds will be utilized to implement a pre-trial diversion program to divert nonviolent offenders facing criminal charges related to the use or abuse of drugs or alcohol from the criminal justice system into treatment. Funds will be used to hire a full time assessor position that would assess offenders' risk, need, and responsivity factors, as well as screen and refer potential TAD participants. The TAD program will integrate with existing county resources to provide intensive case management, monitoring of treatment services, and drug and alcohol testing.
Eau Claire	January, 2014	137,213	Multiple treatment courts	Grant funds will be used by the Eau Claire County Department of Human Services to support a program supervisor to provide centralized oversight of the county's four treatment courts. Funds will also support treatment and other services for the participants of the veteran's treatment court.
Grant	June, 2014	119,572	Drug court	Grant funds will be utilized by the Grant County to enhance its drug court by offering increased residential treatment and to create a formal criminal justice coordinating council within Grant County. The funds will also support the continuation of the treatment court coordinator position.
Iowa	June, 2014	65,046	Drug court	Grant funds will be utilized to continue to develop Iowa County's drug treatment court. Iowa County anticipates that most participants will be heroine, opiate, and methamphetamine users. Admission to the drug court program will be based on criminogenic risks and needs presented by each individual, with the primary target population consisting of individuals with high to medium criminogenic risk and high substance abuse needs. The program provides supervision and drug testing, counseling and treatment, incentives and sanctions, and assistance with education, employment, and housing where possible.
Jefferson**	January, 2014	174,020	Drug court;	Funds will be utilized by the Jefferson County Criminal Justice Coordinating Council

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
			OWI court	(CJCC) to sustain an OWI treatment court, develop a drug treatment court, and assist in hiring a CJCC and treatment court coordinator position. In addition to serving individuals in Jefferson County, these programs serve individuals in adjoining counties on a case by case basis.
Kenosha	January, 2014	124,500	Co-occurring disorders court	Funds will be used by the Kenosha County treatment court to expand the target population served to include individuals with diagnosed co-occurring disorders. In addition, funds will be utilized to expand the number of random drug and alcohol tests, provide customized staff development training for team members, and shorten the time between case filing and entry into treatment court. The treatment court will serve nonviolent offenders with high criminogenic needs and risks as well as co-occurring disorders.
La Crosse	June, 2014	156,885	Diversion program	The La Crosse pre-trial services program encompasses a broad range of screenings and services, including pre-trial diversion and pre-trial supervision, and feeds into other alternatives to incarceration, including treatment courts. In 2017, La Crosse County intends to utilize funding to enhance its evidence based services, improve its diversion eligibility determinations and processes, continue to divert low risk offenders from the criminal justice system, validate pre-trial risk grids, and improve timeliness in referrals to treatment alternatives.
Lac du Flambeau Tribe**	January, 2014	113,294	Tribal healing to wellness court	Funds will be used to enhance current Zaagiibagaa Healing to Wellness Court program services. The funds will support sober housing, and the implementation of Correctional Counseling, Inc.'s evidence-based and trauma-focused curriculum. The Tribe will develop a standardized curriculum for the wellness court. The curriculum will address life skills, 12-step programming for alcohol and other drug abuse, anger management, parenting, health-risk prevention, overdose prevention and reversal, vocational/educational advancement, and other topics. Grant funds will also be utilized to support a full-time cultural leader positions who will facilitate cultural-based events to keep participants engaged in sober activities.
Manitowoc	January, 2017	142,396	Drug court; diversion program	Grant funds will be managed by Manitowoc County Human Services and guided by the Manitowoc County Criminal Justice Coordinating Counsel for the planning and implementation of a pre-trial diversion program and a treatment court. Funds will be used to hire staff, develop policies and procedures for both programs, provide training, and assist with treatment and supportive services. It is anticipated that the two programs will be implemented by July, 2017.
Marinette	January, 2014	125,557	Drug court	Grant funds will be utilized by the Marinette County Health and Human Services, in conjunction with the District Attorney's office, the Clerk of Court, circuit court judges, law enforcement, Marinette County administration, and the criminal justice coordinating council to enhance Marinette County's current drug treatment court. Grant funds will be

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
				utilized to implement recommendations made by the federal Bureau of Justice Assistance in January, 2016. The drug court focuses on treating individuals with moderate to high risk of reoffending with an alcohol or drug abuse diagnosis.
Marquette	June, 2014	100,082	Hybrid court	Grant funds will be utilized to implement Marquette County's treatment court which focuses on individuals charged with nonviolent crimes related to substance use disorders. The treatment court will utilize evidence-based treatment approaches to follow best practices standards in support of participants addressing substance use disorders.
Menominee Tribe of Wis- consin	June, 2014	98,148	Diversion program	Funds will be used by the Maehnowesekiyah Wellness Center to implement a project for pre- or post-charged, low risk defendants who qualify and are referred into the TAD program. The program will provide collaboration, treatment and supportive services for defendants who are in need of alcohol and substance abuse treatment, wraparound recovery planning, and batterer's intervention treatment.
Milwaukee	January, 2007	380,981	Diversion program	Funds will be used to support Milwaukee County's existing deferred prosecution program. The program is administered by the Office of the Chief Judge, while the services are provided by JusticePoint, Inc. The district attorney office and the local public defender offices also provide support to the deferred prosecution program. Grant funds will be used to provide additional cognitive behavioral programming options for participants. In addition, funds will be used to support peer support specialist positions.
Outagamie	June, 2014	178,343	Drug court; diversion program	Grant funds will be utilized by the Outagamie County Criminal Justice Treatment Services to enhance the efficiency and efficacy of its coordinated system response that manages early screening, identification, placement, expedited referral, and triage of potential candidates. The candidates are referred to various risk-based interventions, including treatment courts and other alternative and diversion programs. Funds will primarily support staff, the development of a more efficient process for triaging cases in the district attorney's office, and the improvement of outcome measures.
Ozaukee	June, 2014	125,930	Diversion program	Funds will be utilized by the Ozaukee County Criminal Justice Collaborating Council to enhance an existing pre-trial diversion program, as well as implement an alternative to revocation case management project and a sobriety-based transitional housing project. All of Ozaukee County's TAD projects share the goal of providing assessment for low to mid-risk level offenders who meet initial criminal history, age, residency, and charge requirements.
Pierce	January, 2014	205,777	OWI court; diversion program	Grant funds will be utilized to continue to support a diversion program and an intoxicated driver improvement program in Pierce County. Pierce County intends to enhance these two programs by adding a pre-trial risk assessment component in the district attorney's office and by increasing public relations between these two programs and the community. Grant

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
				funds will also be utilized to implement an OWI treatment court. Grant funds will support training selected team members, program supplies, transportation, evidence-based OWI treatment curriculum, alcohol testing equipment, and graduated sanctions and incentives for the OWI treatment court.
Polk	January, 2017	66,300	Co-occurring disorders court	Grant funds will be utilized to support a Polk County treatment court for individuals with co-occurring disorders. Funds will be utilized to increase the responsiveness of the treatment court in ensuring that all participants receive individualized, targeted, evidence-based services, as well as increasing the governance of the treatment court.
Racine	June, 2014	124,975	Hybrid court	Funds will be used by the Racine County alcohol and drug treatment court to expand drug and alcohol testing, provide comprehensive mental health screenings, provide staff development training for treatment court team members, and maintain internal evaluation functions.
Rock	January, 2007	125,000	Drug court	Funds will be utilized to support case management and treatment services for the Racine County drug court. The drug court is a collaborative justice system diversion opportunity for medium and high-risk nonviolent offenders with an underlying substance use disorder. Successful participants are diverted from incarceration and see their charges reduced or dismissed upon completion.
Rusk	June, 2014	123,144	Drug court	Funds will be used by Rusk County to provide intensive treatment, monitoring, and supervision for alcohol and other drug abuse addicts. Program participants will be involved in an outpatient treatment program provided primarily by Aurora Community Counseling. Funds will also support outpatient programs, group sessions, drug courts, drug testing, in-home sobriety devices, and home visits.
Sauk	January, 2017	116,733	Drug court	Funds will be used by Sauk County to increase services to participants of its adult drug court, which currently focuses on individuals with substance abuse issues. In addition, the funds will be used to expand programming to individuals whose crimes are related to the abuse of alcohol, including OWI charges.
Sheboygan	January, 2017	93,079	Hybrid court	Grant funds will be utilized to implement a treatment court that provides intensive treatment and other services to individuals with substance abuse issues. The funds will also be utilized to support a comprehensive diversion program comprised of supervision, treatment, and rehabilitation.
St. Croix	January, 2014	146,517	Drug court; diversion program	Grants funds will be utilized to support the St. Croix County drug court and the St. Croix County diversion program. The drug court focuses on early identification and intervention for high-risk individuals, while the diversion program focuses on providing these services for low-risk individuals. Funds will be utilized to expand the use of COMPAS assessments in a timely manner for both of these programs. In addition, project funds will support a

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
				support specialist position for the drug court program and a case management specialist position for the diversion program.
Taylor	June, 2014	100,000	OWI court; drug court	Grants funds will be utilized to expand an existing OWI treatment court such that the OWI court will be able to provide services to 2 nd through 6 th offense OWI offenders (the OWI court used to provide services to only 2 nd and 3 rd offense OWI offenders). In addition, funds will be utilized to implement a new drug treatment court. Funds will be utilized to support staff costs, operational expenses and supplies, training and travel expenses, contractual services for counseling and AODA services, and drug testing.
Trempealeau	January, 2014	110,000	Hybrid court	Trempealeau County will utilize the funds to expand its existing recovery court by adding an addiction treatment/case management program for new participants. The addiction treatment/case management program will create sober events, obtain trauma informed care for the participants, and train a new judge.
Walworth	January, 2014	215,000	Drug court; diversion program	Grant funds will be utilized to continue support for Walworth County's pre-trial services program and the Walworth County drug court. Walworth County utilizes these two programs to divert low-risk offenders into pre-trial programming and rehabilitate substance dependent offenders.
Washington	January, 2007	96,720	Diversion program	Funds will be utilized by the Washington County Human Services Department and Elevate, Inc. (which is under contract with Washington County) to plan and implement an opiate treatment alternatives diversion program. The program will divert nonviolent opiate offenders to a community based treatment and monitoring program.
Waukesha	January, 2014	139,680	Drug court	Grant funds will be used by the Waukesha County Criminal Justice Collaborating Council to maintain one full-time case manager position for the Waukesha County drug court program. Funds from the TAD program, in conjunction with additional federal funds, will allow the drug court in increase its capacity to 50 participants. The drug court provides frequent drug testing and transportation for participants. Program participants also receive recovery coaching and medication assisted treatment to increase the likelihood of adherence to treatment and improve program outcomes.
Waushara**	January, 2014	89,782	Drug court	The Waushara County Department of Human Services will use the grant funds to implement a two-tiered treatment court for nonviolent offenders confronting alcohol and substance abuse issues. The program is a collaboration between the Department of Human Services, the Sheriff's Department, the Circuit Court, the District Attorney's office, alcohol and other drug abuse treatment providers, and the state Department of Corrections and Office of the Public Defender.
Winnebago	January, 2017	66,061	Diversion program	The Winnebago County District Attorney office will utilize the funds to employ a risk assessment specialist to enhance Winnebago County's pre-trial diversion programs. The

County/ Tribe	Initial Funding	Grant Award	Project Type	Project Description
				risk assessment specialist will administer COMPAS assessments to individuals wishing to be considered for a diversion program. The diversion programs target low risk offenders and identify and treat underlying issues.
Wood	January, 2007	140,000	Drug court	Grant funds will be used by the Wood County drug court program and Wood County Human Services to provide treatment and supervision services to high risk/high need drug addicted individuals in Wood County. The funds will be used for court staff, treatment court training, drug testing, outpatient treatment, risk/need assessments, inpatient services, and medication assisted treatment.
Total		\$5,538,900		

*Adams County will receive a total of \$76,436 from both the TAD program and the drug court grant program (see Appendix VII). Funding will be split as follows: \$47,966 from the TAD program and \$28,470 from the drug court grant program.

**This project was initially funded through the drug court grant program.

APPENDIX VII

Drug Court Grant Awards, Calendar Year 2017

County/ Tribe	Initial Funding Date	Grant Award	Project Type	Project Description
Adams*	January, 2017	\$28,470	Hybrid court	The grant will be utilized to establish a hybrid treatment court targeting individuals whose criminal justice involvement is driven by alcohol or other substance abuse needs. The first six months of the grant period will focus on the development of implementation strategies and the creation of a collaborative team. These efforts will be led by a technical assistance provider and include various criminal justice agencies within Adams County. After completion of the planning period, the hybrid court is scheduled to be launched on July 1, 2017.
Green	January, 2017	122,900	Drug court	Green County Human Services will use the TAD funds to create a drug court program in Green County. The initial six months of the grant period will be focused on formalizing a criminal justice coordinating council, as well as establishing protocols, policies, and procedures for implementing the drug court. Grant funds will be utilized to support a drug court coordinator position and an alcohol and other drug abuse counselor position, as well as the training of staff and CJCC members and assessment and drug testing materials.
Green Lake	January, 2017	101,130	Drug court	Funds will be used to create a drug treatment court which would expand on increasing treatment alternatives to jail for individuals within Green Lake County who are identified as having substance abuse disorders.
Portage	January, 2017	125,000	Drug court	Funds will be used to establish the Portage County adult drug court. The drug court will divert nonviolent offenders with a serious drug addiction and a felony drug or felony drug related crime into the drug court for intensive treatment and supervision.
Richland	January, 2017	122,500	OWI court	Funds will be utilized to establish and operate a drug court that would focus on individuals convicted of 3 rd to 6 th OWI offenses and defendants being revoked from probation. All participants will be on probation. The program will last for 14 to 24 months, include three phases, and successful participants would not have to serve imposed or stayed jail time.
Total		\$500,000		

*Adams County will receive a total of \$76,436 from both the TAD program and the drug court grant program (see Appendix VII). Funding will be split as follows: \$47,966 from the TAD program and \$28,470 from the drug court grant program.

APPENDIX VIII

Local Anti-Drug Task Force Funding

Task Force	Participating Counties	Lead Agency*	<u>2016 Funding</u>		<u>2017 Funding</u>	
			Byrne	Penalty Surcharge	Byrne	Penalty Surcharge
Milwaukee Metropolitan Drug Enforcement Group	Milwaukee	Milwaukee County District Attorney's Office	\$321,147	\$222,218	\$321,147	\$222,218
South East Area Drug Operations Group	Dodge, Jefferson, Kenosha, Racine, Walworth	Walworth County Sheriff's Office	125,176	86,616	125,176	86,616
Lake Winnebago Area MEG Unit	Calumet, Fond du Lac, Outagamie, Winnebago	Lake Winnebago Area MEG Unit	78,759	54,498	78,759	54,498
Dane County Narcotics and Gang Task Force	Dane	Dane County Sheriff's Department	78,141	54,070	78,141	54,070
Central Wisconsin Drug Task Force	Adams, Green Lake, Juneau, Marquette, Portage, Waupaca, Waushara, Wood	Marquette County Sheriff's Department	53,977	37,349	53,977	37,349
Waukesha County Metropolitan Drug Enforcement Unit	Waukesha	Waukesha County Sheriff's Department	52,871	36,584	52,871	36,584
Brown County Drug Task Force	Brown	Brown County Sheriff's Department	49,024	33,922	49,024	33,922
West Central Drug Task Force	Buffalo, Clark, Chippewa, Dunn, Eau Claire, Pepin	Eau Claire County Sheriff's Department	41,761	28,896	41,761	28,896
NADGI Tribal Task Force	Wisconsin Tribes	Oneida Police Department	37,833	26,179	37,833	26,179
St. Croix Valley Drug Task Force	Pierce, Polk, St. Croix	St. Croix County Sheriff's Department	33,379	23,097	33,379	23,097
North Central Drug Enforcement Group	Forest, Langlade, Lincoln, Oneida, Price, Taylor, Vilas	Oneida County Sheriff's Department	30,302	20,967	30,302	20,967
Central Area Drug Enforcement Group	Marathon	Marathon County Sheriff's Department	26,269	18,177	26,269	18,177
Northwest Area Crime Unit	Ashland, Bayfield, Burnett, Douglas, Iron, Sawyer, Washburn	Douglas County Sheriff's Department	24,288	16,806	24,288	16,806

Task Force	Participating Counties	Lead Agency*	<u>2016 Funding</u>		<u>2017 Funding</u>	
			Byrne	Penalty Surcharge	Byrne	Penalty Surcharge
West Central MEG Drug Task Force	Jackson, La Crosse, Monroe, Trempealeau, Vernon	La Crosse County Sheriff's Department	\$23,173	\$16,035	\$23,173	\$16,035
Washington County Multi-Jurisdictional Drug Unit	Washington	Washington County Sheriff's Department	19,030	13,168	19,030	13,168
Manitowoc County Metro Drug Unit	Manitowoc	Manitowoc County Sheriff's Department	14,624	10,119	14,624	10,119
Sheboygan County MEG Unit	Sheboygan	Sheboygan Police Department	14,251	9,861	14,251	9,861
Richland-Iowa-Grant Drug Task Force	Grant, Iowa, Richland	Iowa County Sheriff's Department	<u>13,495</u>	<u>9,338</u>	<u>13,495</u>	<u>9,338</u>
Total			\$1,037,500	\$717,900	\$1,037,500	\$717,900

*Lead law enforcement agencies for some of the task forces may change in calendar year 2017.

APPENDIX IX

Court-Appointed Counsel, 2015

County	Court-Appointed <u>Counsel Expenditures</u>		Court-Appointed <u>Counsel Recoupment</u>		<u>Net Expenditure</u>	
	Amount	%	Amount	%	Amount	%
Adams	\$29,200	0.7%	\$24,000	0.9%	\$5,200	0.3%
Ashland	14,700	0.3	11,400	0.5	3,300	0.2
Barron	86,700	2.0	29,300	1.2	57,400	3.3
Bayfield	12,800	0.3	14,700	0.6	-1,900	-0.1
Brown	166,300	3.9	138,000	5.5	28,300	1.6
Buffalo	9,900	0.2	9,600	0.4	300	0.0
Burnett	13,200	0.3	12,800	0.5	400	0.0
Calumet	15,500	0.4	12,800	0.5	2,700	0.2
Chippewa	28,300	0.7	25,200	1.0	3,100	0.2
Clark	3,600	0.1	2,600	0.1	1,000	0.1
Columbia	49,300	1.1	39,300	1.6	10,000	0.6
Crawford	9,800	0.2	11,700	0.5	-1,900	-0.1
Dane	355,900	8.3	104,400	4.1	251,500	14.2
Dodge	78,900	1.8	62,600	2.5	16,300	0.9
Door	24,700	0.6	23,100	0.9	1,600	0.1
Douglas	21,800	0.5	12,500	0.5	9,300	0.5
Dunn	0	0.0	9,700	0.4	-9,700	-0.5
Eau Claire	104,200	2.4	89,900	3.6	14,300	0.8
Florence	10,400	0.2	7,200	0.3	3,200	0.2
Fond du Lac	195,100	4.5	104,800	4.1	90,300	5.1
Forest	7,500	0.2	9,000	0.4	-1,500	-0.1
Grant	37,000	0.9	44,200	1.7	-7,200	-0.4
Green	18,200	0.4	27,900	1.1	-9,700	-0.5
Green Lake	0	0.0	0	0.0	0	0.0
Iowa	20,800	0.5	15,100	0.6	5,700	0.3
Iron	3,300	0.1	3,000	0.1	300	0.0
Jackson	43,100	1.0	20,800	0.8	22,300	1.3
Jefferson	105,000	2.4	61,200	2.4	43,800	2.5
Juneau	62,200	1.4	0	0.0	62,200	3.5
Kenosha	71,600	1.7	20,700	0.8	50,900	2.9
Kewaunee	24,900	0.6	13,200	0.5	11,700	0.7
La Crosse	226,500	5.3	48,400	1.9	178,100	10.1
Lafayette	5,300	0.1	3,200	0.1	2,100	0.1
Langlade	12,700	0.3	13,200	0.5	-500	0.0
Lincoln	29,300	0.7	27,600	1.1	1,700	0.1

County	Court-Appointed <u>Counsel Expenditures</u>		Court-Appointed <u>Counsel Recoupment</u>		<u>Net Expenditure</u>	
	Amount	%	Amount	%	Amount	%
Manitowoc	\$43,800	1.0%	\$23,900	0.9%	\$19,900	1.1%
Marathon	207,900	4.8	118,000	4.7	89,900	5.1
Marinette	70,000	1.6	39,500	1.6	30,500	1.7
Marquette	11,900	0.3	32,700	1.3	-20,800	-1.2
Menominee	0	0.0	0	0.0	0	0.0
Milwaukee	241,700	5.6	89,200	3.5	152,500	8.6
Monroe	168,400	3.9	45,100	1.8	123,300	7.0
Oconto	63,800	1.5	68,100	2.7	-4,300	-0.2
Oneida	23,400	0.5	18,400	0.7	5,000	0.3
Outagamie	114,400	2.7	73,700	2.9	40,700	2.3
Ozaukee	42,500	1.0	28,600	1.1	13,900	0.8
Pepin	7,600	0.2	6,600	0.3	1,000	0.1
Pierce	42,500	1.0	33,400	1.3	9,100	0.5
Polk	83,300	1.9	24,600	1.0	58,700	3.3
Portage	100,300	2.3	32,800	1.3	67,500	3.8
Price	0	0.0	400	0.0	-400	0.0
Racine	77,100	1.8	38,800	1.5	38,300	2.2
Richland	21,500	0.5	13,300	0.5	8,200	0.5
Rock	171,600	4.0	67,800	2.7	103,800	5.9
Rusk	26,700	0.6	13,900	0.5	12,800	0.7
Sauk	68,900	1.6	62,700	2.5	6,200	0.4
Sawyer	16,500	0.4	19,400	0.8	-2,900	-0.2
Shawano	1,800	0.0	1,000	0.0	800	0.0
Sheboygan	109,900	2.6	92,600	3.7	17,300	1.0
St Croix	76,700	1.8	54,500	2.2	22,200	1.3
Taylor	15,300	0.4	11,500	0.5	3,800	0.2
Trempealeau	19,600	0.5	25,300	1.0	-5,700	-0.3
Vernon	22,800	0.5	6,300	0.2	16,500	0.9
Vilas	17,000	0.4	6,200	0.2	10,800	0.6
Walworth	56,600	1.3	49,300	1.9	7,300	0.4
Washburn	24,500	0.6	27,400	1.1	-2,900	-0.2
Washington	138,200	3.2	102,300	4.0	35,900	2.0
Waukesha	119,200	2.8	96,400	3.8	22,800	1.3
Waupaca	44,000	1.0	29,900	1.2	14,100	0.8
Waushara	14,100	0.3	21,200	0.8	-7,100	-0.4
Winnebago	102,500	2.4	69,400	2.7	33,100	1.9
Wood	<u>31,800</u>	<u>0.7</u>	<u>32,300</u>	<u>1.3</u>	<u>-500</u>	<u>0.0</u>
Total	\$4,295,500		\$2,529,600		\$1,765,900	

APPENDIX X

State Public Defender Trial Division Offices

