

1995-96 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee on
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ 95hrJC-Fi_Misc_pt61

➤ Record of Comm. Proceedings ... RCP

➤ **

I. State Prosecutors Office -- Stuart Morse, Director

The department, on behalf of the Milwaukee County District Attorney's Office, requests the creation of 1.0 FTE GPR assistant district attorney position and a supplement of \$3,800 GPR in 1995-96 and \$49,500 GPR in 1996-97 from the Committee's appropriation under s. 20.865(4)(a), to the District Attorneys' salaries and fringe benefits appropriation under s. 20.475(1)(d), to enforce the state's Sexual Predator law.

Governor's Recommendation

Deny the request.

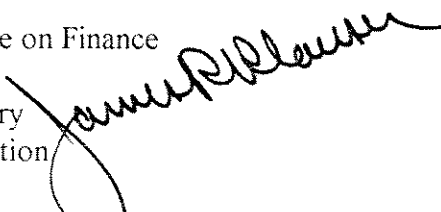
CORRESPONDENCE MEMORANDUM

STATE OF WISCONSIN
Department of Administration

Date: April 10, 1996

To: Members, Joint Committee on Finance

From: James R. Klauser, Secretary
Department of Administration



Subject: Section 13.10 request from the Milwaukee County District Attorney's Office for an additional assistant district attorney position.

Request

The Department of Administration, on behalf of the Milwaukee County District Attorney's Office requests a supplement of \$3,800 GPR in FY96 and \$49,500 GPR in FY97 from the Committee's s. 20.865(4)(a) appropriation and authorization for 1.0 FTE permanent GPR assistant district attorney (ADA) position in the District Attorney's s. 20.475(1)(d) appropriation to address the additional workload generated by the Sexual Predator law.

Background

The Sexual Predator law, enacted as 1993 Wisconsin Act 479 and upheld as constitutional by the Wisconsin Supreme Court in December 1995, subjects certain convicted sexual offenders to continued confinement or supervised release after they have completed their prison sentences. Prisoners are only subject to continued confinement or supervised release after the following legal steps have been taken:

Petition/Probable Cause Hearing: The prosecution must petition the court for continued confinement or supervised release, demonstrating *probable cause* that the defendant is a sexually violent person suffering from a mental disorder that makes it "substantially probable" that the person will engage in future acts of sexual violence.

Trial: If the petition is successful, a trial (a jury trial may be requested) must be held (within 45 days of the probable cause hearing) where the prosecution must prove *beyond a reasonable doubt* (just as in a criminal trial) that the defendant is a sexually violent person suffering from a mental disorder that makes it "substantially probable" that the person will engage in future acts of sexual violence.

After a person is found to be a sexual predator and assigned confinement, the person may file a petition every six months to be transferred to a supervised release program. Further, the person may petition annually for a reexamination of his/her status as a sexual predator. Consequently, sexual predator cases do not conclude until discharge or death of the offender.

Members, Joint Committee on Finance
April 10, 1996
Page 3

Since the requested ADA position would not be available in time to address the one-time backlog of trials that have been delayed by the legal challenge to the Sexual Predator law, the request no longer meets the emergency provisions of s. 13.101(3)(a). Therefore, it is appropriate to deny the request at this time. In addition, reviewing the resource needs related to the sexual predator caseload should be evaluated within the context of the 1997-99 biennial budget to ensure a fair and comprehensive review of the needs of district attorney offices statewide and other GPR priorities in general.

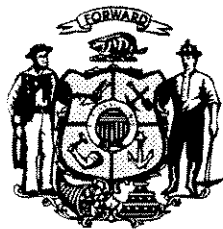
Recommendation

Deny the request.

Prepared by: Michael Heifetz
267-0370

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
JAMES R. KLAUSER
SECRETARY



I
Mailing Address:
Post Office Box 7869
Madison, WI 53707-7869

DATE: February 21, 1996

TO: Rick Chandler, Administrator
Division of Executive Budget and Finance

FROM: Linda Seemeyer, Administrator
Division of Administrative Services *Linda Seemeyer*

SUBJECT: **13.10 REQUEST FROM THE MILWAUKEE COUNTY DISTRICT ATTORNEY**

Request

The Milwaukee County District Attorney's office has submitted a request (attached) for 1.0 GPR FTE assistant district attorney (ADA) position to allow it to devote adequate prosecutorial resources to the additional workload generated by the state's new sexual predator statute. In accordance with s. 978.11, the Department of Administration is forwarding it to you. The DA requests that the position start as soon as possible following approval by the Joint Committee on Finance under s. 13.10. Assuming a June 10, 1996 start date, approving the request would cost \$3,800 GPR in FY 96 and \$49,500 GPR in FY 97. Funding would be from s. 20.865(4)(a).

Background

1993 Wisconsin Act 479 created Chapter 980 Wis. Stats., the sexual predator law, under which certain prisoners, who are about to be released from the Wisconsin prison system, are identified as potential sexual predators. Either the Department of Justice or the DA in the jurisdiction where the original crime took place or in the jurisdiction where the person will reside upon release from prison may then petition the court to find the person to be a sexual predator. If so found by the court, the person is subject to either confinement or supervised release as well as to treatment until that determination is no longer appropriate. DOJ is referring all cases to district attorneys for filing determinations, provides them with legal advice and defend any appeals.

The initial determination petition alleges the person is suffering from a mental disorder which creates a substantial probability that he or she will engage in future acts of sexual violence. The DA office defends its position at a probable cause hearing, which is held within 48 hours after filing the petition. Within 45 days of the probable cause hearing, the person is tried, before a jury if requested. Jury trials take longer than bench trials and most persons choose a jury. At trial, the rules of evidence apply. Prosecutors prepare by finding and interviewing the person's victims and others who were involved. In some cases, there are multiple previous convictions. These cases are usually quite old, as these persons generally have served very lengthy sentences. Thus, the case files are often difficult to locate. Finally, prosecutors review the person's prison treatment record. The burden of proof is on the state to prove beyond a reasonable doubt that if released the person would be a threat to the community. If adjudged a sexual predator and sent to a secure facility, the person may petition every six months to be transferred to a supervised release program. Annually the person may petition for a redetermination of his or her sexual predator status. The person may request the annual redetermination be a jury trial. The DA's office represents the state in both of these types of hearings. Preparation requires reviewing treatment history and showing by clear and convincing evidence that continued secure confinement during treatment remains essential to community safety or that the person continues to meet the Chapter 980 criteria for a sexual predator. In December 1995, the Supreme Court upheld the constitutionality of the law.

Analysis

In Milwaukee, 19 cases are at the initial determination stage and two new cases are received each month. (The large number of pending determinations is the result of the constitutional challenge.) While the Milwaukee DA states he is attempting to meet this additional work via staff reassignment, he states he needs the additional 1.0 FTE ADA position for the following reasons: 1) There has been a significant expansion of other critical work areas since the passage of the 1995-97 budget (see statistics attached). 2) The recent enactment of the juvenile justice reforms increased the adult felony caseload effective January 1, 1996. Despite the transfer of seventeen year olds to adult court, the data for January 1996 shows an increase in juvenile cases. When the new and generally tougher provisions in the juvenile code go into effect on July 1, 1996, a further increase in the number of juvenile cases is expected. 3) Other adult cases continue to rise since the biennium began, including those that are assigned to the speedy drug courts. (The speedy violent crime courts cases have shown a decline from 1994 to 1995. Preliminary data for the first two months of 1996 should be available in mid-March.) 4) The policy of aggressively pursuing domestic abuse cases, even when the victim refuses to press charges, has resulted in a 20 percent increase in the filing of such cases in recent years and many additional prosecutorial hours spent closely reviewing all domestic abuse cases to determine their prosecutorial merit. 5) An additional criminal court was established on November 1, 1995 when a civil court was transferred to the criminal division. This necessitated assigning prosecutorial staff to cover it which placed a further strain on available staff.

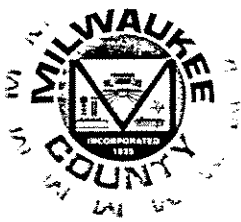
On a longer term basis, the DA states that the DA office workload from the sexual predator law will increase cumulatively as each newly determined sexual predator represents the potential for three hearings, including one jury trial, each year. Data from the first 19 cases in Milwaukee show these persons' ages range from 18 to 75, their average is 38 and their median is 35. Thus the DA believes that the need for additional prosecutorial staff based on the impact of Chapter 980 will be reflected in future biennial budget requests.

Fiscal Analysis

The Milwaukee DA Office requests 1.0 FTE ADA to be hired at the minimum to "back-fill" for an experienced ADA who would be assigned the sexual predator caseload. If the ADA is hired on June 10, 1996, the FY 96 salary and fringe benefit costs would be \$3,800 GPR. The FY 97 cost would be \$49,500 GPR. The funds would be from the net unreserved balance available to the Joint Finance Committee under s. 20.865(4)(a). The funds would be transferred to s. 20.475(1)(d).

Attachments

cc: Stuart Morse, Director, State Prosecutors Office, DOAS
Richard Wagner, Budget Analyst, DOAS
E. Michael McCann, Milwaukee County District Attorney
James Martin, Milwaukee County Deputy District Attorney



OFFICE OF DISTRICT ATTORNEY

RECEIVED 10:48
Milwaukee County

E. MICHAEL McCANN • District Attorney

Robert D. Donohoo
Jon N. Redden
Carol Lynn White
James J. Martin

Richard P. Klinkowitz
Thomas A. Schulz
Alexander G. Sklenarz
Frederic E. Matesic
Robert E. Kraemer
William J. Molitor
Gerald R. Falk
Patrick J. Kenney
Donald S. Jackson
Gale G. Shelton
Terry Magowan
Gary D. Mankorn
David Robles
Deborah Daley
Fern S. Siegel
Peg Tarrant
Douglas J. Simpson
Carol L. Kraft
Cynthia G. Brown
Norman A. Gahn
Mario S. Spalatin
George N. Pnetz, III
Alice E. Read
Stephanie Gineris Rothstein
Carol E. Stauder
Steven H. Giamm
Mary Anne Smith
Mark S. Williams
Linda Johnson
John M. Stoiber
Thomas L. Potter
David Feiss
Karen E. Christenson
Rayann Chandler Szychlinski
Elisa Castellon
Carole Manchester
Kenneth R. Berg
Benbow P. Cheesman, Jr.
Lovell Johnson, Jr.
Warren D. Zier
Timothy J. Cotter
Carol Berry Crowley
Steven V. Licata
Brad Vorpani
Jane Carroll
Thomas J. McAdams
Paul Tiffin
Susan Jean Sommer
Miriam S. Falk
Phyllis M. DeCarvalho
Dennis P. Murphy
Christopher Ford
Christine M. Abbott
Phillip A. Aneff
Bruce J. Landgraf
Mary K. McCann
Denis J. Stingi
Jorge A. Gomez
David M. Lerman
Janet C. Protasiewicz
DeAnn L. Heard
William E. Hanrahan
Debra M. Sciano, SSND
Patricia A. McGowan
Irene Parthum Gail
Karen A. Loebe
Nancy Ettenheim
Marcelia DePeters
Ronald S. Dague
JoAnn M. Hornak
Jonathan D. Slick
Catherine A. Gaudreau
Laura G. Arbuckle
Lori S. Korbium
Christopher A. Liegel
Kanne O'Byrne
Mana Williams
Marshall B. Murray
James W. Frisch
Kurt B. Benkley
James C. Griffin
William P. Pipp
Audrey Skwierawski
Joanne L. Hardtke
Carl Jordan
John T. Chishalm
Megan P. Carmody
Laura A. Crvello
Brian R. Austin
La Chelle Olive
Derek C. Mosley
Shawn Pomoje
Brian J. Resier

February 2, 1996

Stuart Morse, Director
State Prosecutors Office
Post Office Box 7869
Madison, Wi. 53707-7869

RE: Creation of One Position of Assistant District Attorney in Milwaukee County
Pursuant to Sections 13.10 and 13.101, Stats.

Dear Mr. Morse:

We are requesting, pursuant to sections 13.10 and 13.101, Stats., the creation of one position of assistant district attorney in Milwaukee County because of an emergency created by the implementation of the Sexual Predator Law in chapter 980 of the Wisconsin Statutes. The requested position should be created as soon as possible at the minimum starting salary because the position will be used to "back fill" the duties of an experienced assistant who will be assigned to the office's Sensitive Crimes Unit.

Chapter 980 requires notification to the Attorney General or appropriate district attorney of any person pending release who may fit the statutory criteria for commitment as a sexual predator. A petition filed under chapter 980 must allege that the person is suffering from a mental disorder which creates a substantial probability that the person will engage in future acts of sexual violence. The court must conduct a probable cause hearing on the petition within 72 hours of filing, and the person is entitled to a jury trial on the petition within 45 days of the probable cause hearing. The rules of evidence apply at trial, the person has a right to counsel, including a public defender if indigent, and the state must prove the petition beyond a reasonable doubt to a jury of 12 which must reach a unanimous verdict. If found to be a sexual predator, the court must commit the person to the custody and care of the Department of Health and Social Services (DHSS) and determine whether the person requires care in a secure institution or is appropriate for supervised release. If committed to a secure facility, the person may petition for release every six months and must be released unless the state can show clear and convincing evidence to the court that continued secure treatment is required. In addition, annual reexaminations must be conducted, the person may petition for discharge annually, and the person must be discharged on the petition unless the state can convince a jury of six that the person is still a sexual predator.

Although chapter 980 was effective on June 2, 1994, the far reaching implications of implementation of the law are only now becoming apparent. The Milwaukee

County District Attorney's Office has filed petitions on 19 sexual predator cases, and two cases are currently under review for issuance of petitions. The 19 cases pending in Milwaukee County Circuit Court have not yet gone to trial because proceedings on the cases were delayed pending the Wisconsin Supreme Court's determination of the constitutionality of chapter 980. In opinions filed on December 8, 1995, in State v. Carpenter, No. 94-1898; State v. Schmidt, No. 94-2024; State v. Post, No. 94-2356; and State v. Oldakowski, No. 94-2357, the supreme court ruled that chapter 980 is constitutional. Trial courts in Milwaukee County had dismissed 11 of the 19 cases, ruling that chapter 980 was unconstitutional. The court of appeals reinstated these prosecutions on January 24, 1996, in light of the supreme court's decision upholding the constitutionality of chapter 980, and these eleven cases will be scheduled for trial later this month after the records on the cases are remitted to the trial courts from the court of appeals. Of the remaining eight pending cases, two remain in the court of appeals on other issues, and the other six are scheduled for trial by April. The alleged sexual predator has a right to a jury trial within 45 days of the probable cause hearing unless the court finds good cause for a continuance, so resolution of the 19 pending cases will put severe strain on the Milwaukee County District Attorney's Office and the courts. In addition, the cases will never be finally resolved until death or discharge of the offender because persons found to be sexual predators are entitled to a court hearing every six months and an annual discharge hearing before a jury. Moreover, assistant attorney general Thomas Fallon, who coordinates the handling of sexual predator cases for the Attorney General, has advised us that the Attorney General is receiving an average of six sexual predator referrals per month from DHSS and the Department of Corrections (DOC). We estimate that we will receive one or two of these six referrals each month, which means that the caseload will continue to grow as new referrals are made and as sexual predators return to court two or three times per year until discharge or death.

Sexual predator cases must be vigorously and expertly prosecuted because the persons subject to chapter 980 petitions are among the most dangerous offenders in the criminal justice system. Frequently they are repeat offenders who prey on children and other vulnerable members of society. Many of them are serial rapists whose conduct is life threatening and has a devastating effect on the lives of victims and families. Failure to provide additional staff to properly prepare and prosecute sexual predator cases will have severe consequences that reverberate through the community. The 19 cases pending in Milwaukee County must be resolved quickly so this request for an additional position cannot be deferred until the next state budget cycle.

Sexual predator cases pose unique challenges, and prosecutions will be complex and time consuming. A person found to be a sexual predator faces an indefinite, probably lifelong, commitment to the custody of DHSS, so few cases will be resolved short of trial; offenders confronted with a choice of freedom or a lifelong commitment to DHSS almost invariably will choose to go to trial to seek release. Moreover, as pointed out above, a finding that a person is a sexual predator does not conclude the case because a sexual predator is entitled to a court hearing every six months and an annual discharge hearing at which the state must prove to a jury that the offender is still a sexual predator. Homicides and other serious felonies, by and large, are concluded when the defendant is found guilty at trial; sexual predator cases will not be concluded until discharge or death of the offender.

Sexual predator cases will require extensive investigation and preparation. Many of these offenders have been incarcerated for years, and their records maintained by DHSS and DOC are voluminous. The offenders have had numerous contacts with social workers, psychologists, and parole and probation officers, and prosecutors will have to carefully review these files for relevant evidence. In addition, prosecutors will have to locate the victims and key witnesses on the predicate crimes for trial, a daunting task when one considers that many of the alleged sexual predators have committed numerous crimes over several decades, and interview family members, friends, and associates of the offenders to develop evidence to establish that the person is a sexual predator. These cases also present novel evidentiary issues that require extensive research and briefing, such as the applicability of the physician-patient privilege concerning communications between offenders and DOC/DHSS psychologists and evaluators, the reliability of studies predicting future dangerousness, available treatment for sexual predators, and the reliance of state's expert witnesses on hearsay statements of victims and witnesses in DOC reports. The complexity and time consuming nature of sexual predator cases cannot be overestimated.

We are making every effort to reassign existing staff to meet the challenges posed by the implementation of chapter 980, but find that we cannot carry out the constitutional duties of the office without the creation of an additional position of assistant district attorney. There are currently seven assistants in the office's Sensitive Crimes Unit who prosecute sexual assault and child abuse cases in three courts in the Milwaukee County Violent Crimes Courts project, and sexual predator cases are assigned to these courts. The project, which is widely regarded as a national model for swift and certain justice in criminal cases, has been extremely successful in reducing the time from initial appearance to disposition in sexual assault cases. Sexual assault cases now average only 72 days from initial appearance to finding of guilt or innocence, compared to an average of 221 days before the project was expanded in November 1992 to include sexual assault cases. However, the seven attorneys in the Sensitive Crimes Unit cannot be expected to continue the Speedy Trial project and take on the added responsibility of investigating and preparing sexual predator cases for trial within 45 days of a probable cause hearing. 1995 Wisconsin Act 27, which requires criminal prosecution of 17 year olds as of January 1, 1996, also will significantly affect the unit's workload by increasing the number of sexual assault and child abuse cases that must be prosecuted by the unit's seven attorneys. We must assign another assistant district attorney to the unit to assist in the prosecution of sexual predator cases and continue the success of the speedy trial project.

No new assistant district attorney positions have been created in Milwaukee County during the 1993-95 and 1995-97 bienniums except for one program revenue position dedicated to statewide DNA training and prosecution and a second program revenue position dedicated to felony drug cases that was created effective January 7, 1996. From 1993 to 1995 in Milwaukee County, felony filings increased from 5,577 to 6,988, or 25.3 percent; misdemeanor filings, fueled by a more aggressive prosecution policy in domestic violence cases, increased 19 percent; and juvenile filings increased 9.1 percent. The rising tide of crime, the creation of new crimes, the upgrading of several misdemeanors to felonies, and increased penalties for existing crimes have severely limited our ability to meet the challenges posed by the implementation of chapter 980 without the creation of a new position of assistant

district attorney. Since October 1993, the legislature has created new felony crimes for delivery or possession with intent to deliver methcathinone; battery to a judge, DILHR employee, bus driver, or secure correctional facility employee; discharging a firearm from a vehicle; stalking; carrying a handgun in a tavern; criminal gang crime; carjacking; failure to report to jail; sexual assault and crimes against children; and firearms offenses. The misdemeanor crimes of fleeing an officer and "joyriding" were upgraded to felonies, and many misdemeanor battery cases were upgraded to felonies with the creation of an intermediate, felony substantial battery statute. Moreover, the maximum term of imprisonment for Class B felonies such as first degree sexual assault and armed robbery was increased from 20 to 40 years; penalties were increased for gang crimes, serious sex crimes and violent crimes, and Class B felonies for prior offenders; and life imprisonment was mandated for "persistent repeaters" under the "Three Strikes and You're Out" bill, 1993 Wisconsin Act 289. The workload increases resulting from these changes have left us without sufficient staff to meet the sizeable challenges posed by the prosecution of sexual predator cases under chapter 980.

For these reasons, we are requesting the creation of one position of assistant district attorney as soon as possible. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "E. Michael McCann". The signature is written in dark ink and is positioned above the typed name.

E. Michael McCann
District Attorney

EMM/JJM

Sheet2

	Wage rate	Hours	Wage cost	Fringe %	Fringe cost	Total cost
June 10, 1996 - June 22, 1996	\$17.762	160	\$2,841.92	31.65%	\$899.47	\$3,741.39
June 23, 1996 - December 7, 1996	\$17.762	880	\$15,630.56	31.65%	\$4,947.07	\$20,577.63
December 8, 1996 - June 21, 1997	\$18.295	1200	\$21,954.00	31.65%	\$6,948.44	\$28,902.44
Total FY 97						\$49,480.07
Grand total						\$53,221.46

Stuart Morse, Director
State Prosecutors Office
608-264-9500

Some statistics from the Milwaukee County Clerk of Circuit Court
on 1995 filings:

	1994	1995	% Change
Felony	6,612	6,988	5.7
Misd/Traffic	20,323	24,960	22.8
Juvenile	9,372	10,014	6.9

I'm also faxing Chart F from our 1995-97 budget submission which
reflects that all of the 1995 filing figures were above our 1995
estimates.

Jim Martin
2-12-96

MILWAUKEE COUNTY DISTRICT ATTORNEY'S OFFICE CASE FILINGS

CHART F

CASE TYPE	YEAR							
	1991 ACTUAL	1992 ACTUAL	1993 ACTUAL	1994 6 Mos	1994 EST	1995 EST	1996 EST	1997 EST
FELONY	<u>5,543</u>	<u>5,658</u>	<u>5,577</u>	<u>3,249</u>	<u>6,500</u>	<u>6,750</u>	<u>7,000</u>	<u>7,250</u>
SUB-TOTAL	<u>5,543</u>	<u>5,658</u>	<u>5,577</u>	<u>3,249</u>	<u>6,500</u>	<u>6,750</u>	<u>7,000</u>	<u>7,250</u>
MISDEMEANOR	8,525*	10,354	12,476	5,768	12,500	12,750	13,000	13,250
TRAFFIC CRIMES	3,399*	8,606	8,502	4,287	8,600	8,700	8,800	8,900
COUNTY ORDINANCES	27,219	27,516	32,043	14,555	31,000	32,000	32,000	32,000
JUVENILE TRAFFIC	<u>837</u>	<u>951</u>	<u>1,021</u>	<u>446</u>	<u>950</u>	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
SUB-TOTAL	<u>39,980</u>	<u>47,427</u>	<u>54,042</u>	<u>25,056</u>	<u>53,050</u>	<u>54,450</u>	<u>54,800</u>	<u>55,150</u>
DELINQUENCY	6,037	6,244	5,676	2,814	5,750	6,000	6,250	6,500
CHIPS & TPR	<u>3,490</u>	<u>3,545</u>	<u>3,502</u>	<u>1,621</u>	<u>3,500</u>	<u>3,600</u>	<u>3,700</u>	<u>3,725</u>
SUB-TOTAL	<u>9,527</u>	<u>9,789</u>	<u>9,178</u>	<u>4,435</u>	<u>9,250</u>	<u>9,600</u>	<u>9,950</u>	<u>10,225</u>
GRAND TOTAL	<u>55,050</u>	<u>62,874</u>	<u>68,797</u>	<u>32,740</u>	<u>68,800</u>	<u>70,800</u>	<u>71,750</u>	<u>72,625</u>

*Disputed Figure. See explanation on Chart E.

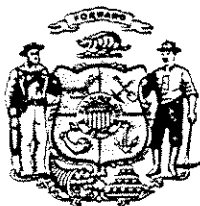
Special courts data

<i>Milwaukee Special Court Cases, 1994-1995</i>		
	1994	1995
Speedy Drug Crime Court Cases	1345	1580
Speedy Violent Crime Court Cases		
Homicides	133	108
Sexual Assaults	285	230
Total	418	338

STATE OF WISCONSIN

SENATE CHAIR
TIM WEEDEN

119 Martin Luther King, Jr. Blvd.
Suite LL1
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-2253



ASSEMBLY CHAIR
BEN BRANCEL

119 Martin Luther King, Jr. Blvd
Suite LL2
P.O. Box 8952
Madison, WI 53707-8952
Phone: (608) 266-7746

JOINT COMMITTEE ON FINANCE

Date: February 7, 1996

To: State Agency Heads

From: Senator Tim Weeden, Co-Chair
Representative Ben Brancel, Co-Chair
Joint Committee on Finance

Subject: April Meeting of the Joint Committee on Finance under s. 13.10

The Joint Committee on Finance has tentatively scheduled its next quarterly meeting under s. 13.10 for Tuesday, April 16, 1996 on the First Floor of 119 Martin Luther King, Jr. Blvd. The time has not yet been set. A status summary of the committee's GPR supplemental appropriation is attached.

All agency requests and reports for consideration at the meeting should be addressed to the Joint Committee on Finance Co-Chairs. Send two copies of all requests and reports directly to the Legislative Fiscal Bureau and 40 copies to the attention of Dan Caucutt, the committee's secretary for s. 13.10 actions, in the Division of Executive Budget and Finance, 10th Floor, Administration Building, 101 E. Wilson Street.

Agency requests must be received by 4:00 p.m., Monday, March 18. Late requests will not be accepted.

Requests should indicate who will represent the agency at the meeting, and it is suggested that this general format be followed as requests are prepared:

Brief Summary of Request
Background of Request
How Request Meets Statutory Criteria [see s. 13.101(3) and (4)]

cc: Agency Budget Contacts

JOINT COMMITTEE ON FINANCE APPROPRIATION SUMMARY

[reflecting Committee actions through January 29, 1996]

	<u>1995-96</u>	<u>1996-97</u>	<u>1995-97 Biennium</u>
Biennial Appropriation Amount [s. 20.865(4)(a)]	\$11,368,000	\$13,797,600	\$25,165,600
<u>Reserved For:</u>			
H&SS – CARES Computer System for Econ. Support Progs.	\$1,587,000	\$1,796,600	\$3,383,600
H&SS – KIDS Computer System for Child Support Enforcement	5,759,200	7,522,100	13,281,300
H&SS – AFDC Consolidated Child Care	870,900	885,700	1,756,600
H&SS – Child Care Administration	60,300	65,800	126,100
H&SS – AFDC Self-Initiated Child Care	76,400	63,600	140,000
WCC – Minimum Wage Increases	150,000	0	150,000
WI Institute for School Executives Payments	125,000	125,000	250,000
H&SS – Community Options Program Data Collection	50,000	0	50,000
H&SS – Self Suffic. First/Pay for Performance Waiver Progs. (Act 12)	2,337,000	2,986,600	5,323,600
Sub-total Reserved Balance	<u>\$11,015,800</u>	<u>\$13,445,400</u>	<u>\$24,461,200</u>
<u>Releases from Reserved Balance</u>			
KIDS Computer System for Child Support Enforcement (10/26/95)	\$2,316,400	\$0	\$2,316,400
Self Sufficiency First/Pay For Performance Waiver Program (12/12/95)	2,274,300	2,986,600	5,260,900
Total Releases	<u>\$4,590,700</u>	<u>\$2,986,600</u>	<u>\$7,577,300</u>
Remaining Reserved Balance	\$6,425,100	\$10,458,800	\$16,883,900
Net Unreserved Balance Available	\$352,200	\$352,200	\$704,400
<u>Releases from Unreserved Balance</u>			
Judicial Commission-Judicial Council Meeting Expense (12/12/95)	\$10,000	\$10,000	\$20,000
UW System/UW-Extension Pay Plan Funding (12/12/95)	56,900	0	56,900
Total Releases	<u>\$66,900</u>	<u>\$10,000</u>	<u>\$76,900</u>
Net Unreserved Balance Remaining	\$285,300	\$342,200	\$627,500
<u>TOTAL AVAILABLE</u>			
(Net Reserved & Unreserved Balance Remaining)	\$6,710,400	\$10,801,000	\$17,511,400



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April 16, 1996

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Justice--Section 13.10 Request Relating to the Redesign of the Transaction Information for the Management of Enforcement (TIME) System--Agenda Item II

The Department of Justice requests the allocation of \$69,800 SEG for 5.0 SEG project positions in 1995-96 and \$360,600 SEG for 7.0 SEG project positions in 1996-97 to implement its plan to redesign the TIME system. In addition, delete \$37,500 PR in 1995-96 and \$107,100 PR in 1996-97 with 2.0 PR project positions from the TIME system user fees appropriation to reflect the transfer of these positions to SEG funding. The requested project positions would be authorized for a four-year period.

BACKGROUND

The Department of Justice operates and maintains the Transaction Information for the Management of Enforcement (TIME) system. The system is the telecommunications network that links, via DOJ mainframe computers, local law enforcement agencies with state and national criminal history records, wanted and missing person information and stolen vehicle information. Annual funding of \$1,048,500 SEG is provided from the transportation fund. In addition, \$2,242,700 PR in 1995-96 and \$2,256,100 PR in 1996-97 is appropriated for operations, training and law enforcement services relating to the TIME system, funded from user fees paid by the law enforcement agencies accessing the system.

did JR a DOA/DOJ budget request?
Under 1995 Act 27, \$93,700 PR in 1995-96 and \$107,100 PR in 1996-97 (from the TIME system user fee appropriation) with 2.0 PR four-year project positions was provided for a TIME system redesign project. The budget act also required DOJ and DOA to jointly and cooperatively develop a TIME system plan to convert the TIME system to a client/server system and to meet federal crime information standards. A report on the system plan was required to be submitted

for approval by the Joint Committee on Finance, under a 14-day passive review process, no later than January 1, 1996. The plan could include a request for necessary position authority relating to system maintenance, technical support and development.

On January 26, 1996, the Departments of Justice and Administration submitted the TIME plan to the Committee. The two agencies reached a consensus on the redesign of the system. However, while DOJ maintained that additional staff resources (from SEG funding) were needed for the implementation of the plan, DOA indicated that the need for new state positions was unclear. According to DOA officials, the feasibility of contracting for redesign services and reallocating base positions for the plan's implementation needed further evaluation. The Committee approved the portions of the plan agreed upon by the two agencies for redesigning the TIME system (and the release of \$533,200 SEG annually from unallotted reserve for the project) and indicated that by law additional SEG position authority, if necessary, would require separate approval by the Committee under s. 13.10 of the statutes.

ANALYSIS

The TIME system, and similar systems in other states, are subject to the policy requirements of the National Crime Information Center (NCIC). New NCIC standards (referred to as NCIC 2000) require major revisions and improvements to these systems in the coming years. All states will be required to upgrade systems and rewrite software in order to provide mug shot and fingerprint image storage and retrieval capability and other data quality and system security improvements. The January, 1996, redesign plan for the TIME system addresses these federal requirements.

* The overall TIME system redesign plan has been agreed to by DOJ and DOA and approved by the Committee. Further, DOA information technology officials indicate that the overall level of resources proposed by DOJ (under the s. 13.10 request) to implement the plan is not in question. The issue that remains concerns whether these resources should be used for hiring state positions to implement the plan or for contracting with private providers for most of the redesign work.

The DOJ request, in part, would transfer the 2.0 PR project positions authorized for the TIME system redesign under Act 27 to SEG funding. The Department argues that this transfer would be appropriate in that both the PR user fee appropriation and the SEG appropriation are solely for the support of the TIME system and the transfer would help to address a potential deficit in the user fee appropriation. The request also includes 5.0 additional SEG project positions for the implementation of the TIME plan. Under the request, 7.0 SEG project positions would be devoted to the TIME system redesign project, as follows: (a) three positions, including one transferred from PR, would be allocated for applications development; (b) three positions, including one transferred from PR, would be allocated for technical support; and (c) one position for management of the programmatic, administrative and policy issues relating to the project.

The Department is also authorized two permanent positions, funded from the TIME user fee appropriation, for programming and operating functions relating to the current TIME system, which must be maintained until the new system is operational. These two positions would remain following the implementation of the new system.

DOJ officials indicate that the implementation of the TIME system plan requires a core staff of DOJ employees, available on a daily basis, to ensure that the design work efficiently meets the needs of the law enforcement community and that the subsequent operation and maintenance of the system is effectively managed. The Department indicates that not all design work must be done with state employees. Rather, officials indicate, certain basic structural designs, particularly relating to the data bases utilized by the system, should be performed in-house in order to efficiently achieve a system that fully meets law enforcement needs and NCIC 2000 standards. This basic structural work should, according to DOJ, be performed by DOJ employees who are attuned to these needs and standards. Once these basic structural designs are in place, additional programming to implement the structure could be contracted for.

Justice also argues that the continuing operation and maintenance of the TIME system would benefit from this core group with in-house knowledge of the system. According to DOJ officials, the complexity of the TIME system and its movement to the NCIC 2000 standards and the critical nature of its function in supporting the daily work of law enforcement, require a sufficient level of staff support. It should be noted, however, that the DOJ s. 13.10 request is for four-year project positions. Following the termination of these positions, the Department would still be authorized two permanent PR positions for on-going TIME system technical support and maintenance.

The allotment of the TIME system SEG appropriation in 1995 Act 27, after the Committee's approval of the TIME redesign plan in February, 1996, and under the current DOJ request is shown in the following table:

<u>Line Item</u>	<u>Act 27 (Annual)</u>	<u>JFC (Annual)</u>	<u>DOJ Request 1995-96</u>	<u>DOJ Request 1996-97</u>
Salary and fringe	\$0	\$0	\$29,400	\$305,800
Supplies and services	328,800	525,400	565,800	520,900
Permanent property	0	453,300	453,300	221,800
Unallotted reserve	<u>719,700</u>	<u>69,800</u>	<u>0</u>	<u>0</u>
	\$1,048,500	\$1,048,500	\$1,048,500	\$1,048,500

DOA information technology officials indicate that the TIME system plan could be implemented without additional position authorization, if private vendors are effectively utilized. These officials argue that the current market makes contracting a more attractive option. For example, DOA officials note that recruiting and retaining personnel for state management

information specialist positions is becoming more difficult because of competition for these employees from the private sector. Qualified state MIS employees are sometimes recruited by private firms willing to pay higher salaries. Further, these officials indicate that qualified vendors are available to perform design and implementation work. While some state personnel are viewed as necessary to oversee and maintain control of contracted work, DOA officials indicate that the 4.0 positions currently authorized for DOJ (two of which were authorized under Act 27) should be sufficient for this role. Contracting could also be done, according to DOA, to partially maintain the current TIME system, freeing up, at least partially, two of the existing permanent staff members to work on the development of the new system. While DOA supports contracting for the system development work, no estimate is made of the actual costs of these contracts.

Under this approach, the Committee could approve the allocation of \$37,500 SEG in 1995-96 and \$100,800 SEG in 1996-97 (and a decrease in PR expenditure authority as reflected in the request) with 2.0 project positions transferring from user fees to SEG funding. No additional state positions would be authorized. The remaining funds in unallotted reserve (\$32,300) would be released for vendor contracts in 1995-96.

Crit of Issue

The arguments made by DOJ and DOA, with respect to the need for additional positions, each have merit. DOJ argues that it has greater expertise to efficiently design system structures that meet law enforcement needs compared to a private firm without this expertise. Further, they argue that the private firm may be able to complete the job, but perhaps with more time, effort and cost. DOA information technology officials have experience in system development projects and believe that private vendors have the capacity to perform this work efficiently. Finally, both agencies appear to agree that some level of core staffing at DOJ is essential, although there is disagreement on the number of staff necessary.

The TIME system is a critical tool for law enforcement work and the safety of law enforcement personnel. The system is also a very complex data processing operation that is moving to a more sophisticated operations platform. Given both the importance and the complexity of the system, the Committee may wish to partially address the concerns of both agencies. Scaling back the staff request would require DOJ to make greater use of private vendors in the redesign of the system, but still provide some additional project positions to ensure that DOJ staff can play a central role in the applications development and technical support of the new system. In addition to the transfer of the two current project positions from user fees to SEG funding (one for applications development and one for technical support), one alternative would be to authorize two additional project positions: one for technical support (in 1996-97) and one for project management (in 1995-96). This alternative would allocate \$48,000 SEG in 1995-96 for a total of 3.0 SEG project positions and \$206,100 SEG in 1996-97 for a total of 4.0 SEG project positions. Again, the remaining funds in unallotted reserve (\$21,800) would be released for vendor contracts for 1995-96.

It could also be argued that DOA and DOJ have not met the requirement specified under Act 27 to jointly and cooperatively develop a TIME system plan to convert the TIME system to a client/server system and to meet federal crime information standards. The staff resources (state

positions or contract staff) required to implement the redesign may be viewed as integral to the required plan. The Committee could direct the two agencies to develop an agreement regarding staff resources prior to Committee action on any staffing request.

ALTERNATIVES

1. Approve the DOJ request to allocate \$69,800 SEG for 5.0 SEG project positions in 1995-96 and \$360,600 SEG for 7.0 SEG project positions in 1996-97 to implement the redesign of the TIME system. In addition, delete \$37,500 PR in 1995-96 and \$107,100 PR in 1996-97 with 2.0 PR project positions from the TIME system user fees appropriation to reflect the transfer of these positions to SEG funding.

2. Allocate \$37,500 SEG in 1995-96 and \$100,800 SEG in 1996-97 for 2.0 SEG project positions in each year to implement the redesign of the TIME system. In addition, delete \$37,500 PR in 1995-96 and \$107,100 PR in 1996-97 with 2.0 PR project positions from the TIME system user fees appropriation to reflect the transfer of these positions to SEG funding. Further, \$32,300 remaining in unallotted reserve in 1995-96 would be released for vendor contracts.

3. Allocate \$48,000 SEG for 3.0 SEG project positions in 1995-96 and \$206,100 SEG for 4.0 SEG project positions in 1996-97 to implement the redesign of the TIME system. In addition, delete \$37,500 PR in 1995-96 and \$107,100 PR in 1996-97 with 2.0 PR project positions from the TIME system user fees appropriation to reflect the transfer of these positions to SEG funding. Further, \$21,800 remaining in unallotted reserve in 1995-96 would be released for vendor contracts.

4. ~~Deny the request~~ and direct DOA and DOJ to develop an agreement on the staffing requirement for implementation of the TIME system redesign.

come back in June

Prepared by: Art Zimmerman