

**Legislative Fiscal Bureau**

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September 24, 1998

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Workforce Development: Section 13.10 request to Transfer Funding to the Division of Vocational Rehabilitation Client Services Appropriation – Agenda Item XIV

The Department of Workforce Development (DWD) requests the transfer of \$338,500 GPR from the reserve in the Joint Committee on Finance's GPR appropriation [20.865(4)(a)] and \$83,600 GPR from the Department's Division of Vocational Rehabilitation (DVR) general program operations appropriation [20.445(5)(a)] to the Division's purchased services for clients appropriation [20.445(5)(bm)] in 1998-99.

BACKGROUND

Under current law, DVR is required to advise and assist any disabled individual who applies to DVR for vocational rehabilitation services. Rehabilitation services provided by Division staff include individual assessments and evaluations, developing individualized rehabilitation programs, obtaining physical and psychiatric treatment, and securing and supervising other services, such as vocational training, that are part of an individual's vocational rehabilitation program. The individual rehabilitation programs are designed to assist the person to become capable to compete in the labor market, practice a profession, be self-employed, raise a family and make a home, and participate in sheltered employment or other gainful work.

Under Title I-B of the federal Vocational Rehabilitation Act, state funding of 21.3% is required as a match to federal funding of 78.7% for vocational rehabilitation services which move a disabled person toward employment.

ANALYSIS

Disabled individuals apply for services at one of the 21 DVR field offices and staff counselors arrange medical, psychological and vocational evaluations to determine eligibility and for subsequent rehabilitation services for those deemed eligible. The field staff develop individual rehabilitation plans, provide guidance and counseling, and in some cases, job placement services. Other services that are provided can include medical treatment, transportation, training and education at technical schools, and occupational licenses, tools, equipment and supplies. DVR counselors purchase required services and materials for individual clients from local vendors.

DVR also provides for certain rehabilitation services that are needed for individual rehabilitation plans through contracts with other governmental agencies. Counselors develop plans for services for individual clients and the plans are reviewed to determine client needs. In certain cases, DVR contracts with governmental units to provide ongoing, new or expanded services based on these client needs. For example, DVR could contract for interpreter or job training services offered by a technical college. The governmental units can contract with private, nonprofit organizations to provide these services. Typically the DVR client is given a purchase order for the services and the agency is reimbursed for services provided.

The primary source of funds for DVR rehabilitation services is Federal Title I-B funds. Each year the federal government allocates a certain amount of these funds to each state. A match of 21.3% state funds to 78.7% federal funds is required to receive federal monies. A state must provide the required amount of matching funds or it will not receive its total federal allotment for that year. This funding is used to provide services to disabled individuals and to cover related administrative and operational expenses. The total amount of Title I-B funds allocated to Wisconsin is \$45,834,500 for federal fiscal year 1998 and \$46,934,750 for federal fiscal year 1999.

State matching funds are provided through DVR program revenue and GPR appropriations and third-party contracts. DVR funding of \$10,390,200 GPR and \$376,500 PR in state fiscal year 1997-98 and \$10,330,400 GPR and \$380,300 PR in state fiscal year 1998-99 was appropriated to match federal Title I-B funds. ^{23.4%}

Third-party contracts generally involve an agreement between DVR and another governmental agency. The governmental agency typically agrees to provide a rehabilitation service and the 21.3% in matching funds required to capture the federal funds. As a result, the services that a vocational rehabilitation counselor might otherwise purchase for a client with state GPR funds would be provided through a contract with the third-party agency. ^{22.8%}

Historically, DVR has used third-party contracts to provide a portion of the state match used to capture federal vocational rehabilitation funds. Often, the third-party governmental agencies can provide general, new or expanded services to DVR clients. However, in recent years, DVR has increased its use of third-party contracts as a source of state matching dollars. The percentage of total client service funding provided through third-party contracts will increase from 2.3% in

federal fiscal year 1992 to an estimated 24.1% in federal fiscal year 1999. A significant factor in the increased reliance on third-party dollars is the reduction of GPR matching funds. In both the 1995-97 and 1997-99 biennial budgets, annual base level GPR funding for client services was reduced by \$500,000. In both cases, DVR increased the amount of third-party matching funds to offset the loss of GPR. As a result, DVR relies on obtaining a certain amount of third-party matching dollars to capture the total amount of federal rehabilitation funds that are allocated to Wisconsin.

The increasing use of third-party matching funds has proven to be controversial. The GPR matching funds that are appropriated to DVR for client services are typically distributed to vocational rehabilitation counselors in the Division's district offices. The counselors use this money to purchase services and materials for individual clients. The decrease in base level GPR funding reduced the amount of funds available for individual counselor budgets. Instead, matching funds from third party contracts was substituted. The provision of some services through contracts with governmental agencies rather than individual purchases can be workable. However, a number of advocates and officials believe there are serious problems with the current situation.

A primary criticism of the use of third-party contracts is that the services that are purchased through the contracts do not always match the needs of individual clients. Also, many of the contracted services are not directed at severely disabled individuals. For example, a contract for interpreter services will not benefit people with orthopedic impairments. In some cases, the services may match individual needs but be provided at a location some distance from the client. In these instances, the transportation costs can further reduce counselor budgets. On the other hand, counselors can often avoid these problems by purchasing individual services and materials with the GPR funding. Many also believe that the GPR reduction caused a temporary shortfall of funding for individual client services earlier this year and led to the temporary denial or delay of services to disabled persons.

Conversely, some have criticized DVR for not fully exploring all possible methods for capturing third-party funding that would match client needs. Federal regulations allow the use of matching funds from cooperative agreements, establishment grants and contributions. DVR has primarily relied on cooperative agreements for third party matching funds. It could be argued that the Division should attempt to obtain matching funds through establishment grants and contributions. However, the Division has entered into a memorandum of agreement with Rehabilitation for Wisconsin to provide matching funds for establishment grants. DVR also attempted to establish an agreement for contributions with Badger Association of the Blind but the federal Rehabilitation Services Administration found that the agreement did not comply with federal regulations.

DWD is requesting the transfer of GPR funding to DVR's client services appropriation. The Department indicates that the current appropriated amount of state GPR and PR funding and expected third party matching funds will not be sufficient to capture the total amount of federal funding allocated to Wisconsin for federal fiscal years 1998 and 1999. The Department does not expect to be able to generate the amount third part matching funds that would be necessary given

the level of GPR and PR funding. In addition, a provision included in the 1997-99 budget gives DVR specific authority to request GPR funding if third-party matching funds are not available to offset the reduction in GPR matching funds. DWD has requested transfer of \$338,500 GPR from the Committee's GPR appropriation and \$83,600 GPR from the DVR's state operations appropriation.

The \$338,500 GPR in the Committee's appropriation was part of a larger amount of 1997-98 funding that was placed in the appropriation in 1997 Wisconsin ACT 27 (the 1997-99 budget) to fund the KIDS computer system. That amount was left in the appropriation after the Committee voted to transfer the remaining balance of KIDS funding at the December 1997, s. 13.101 meeting. The Committee voted to maintain the \$338,500 as a reserve at the June 1998, s.13.101 meeting. DWD now indicates that it does not anticipate using the funding for the KIDS system.

The \$83,600 GPR in DVR's general program operations appropriation is funding that was appropriated to cover the costs of transmitting financial transactions to the state computerized accounting system (WISMART). The method of transmitting the information has changed and the related costs have decreased. As a result, that funding is not needed to pay transmission charges.

In its request, DWD indicates that the total of \$422,100 in GPR funding that would be transferred should be sufficient to provide a match for the state's entire federal allotment of vocational rehabilitation funds for federal fiscal years 1998 and 1999. In addition, the funding would increase DVR's GPR base level funding for client services to increase the amount of GPR matching funds for future years. Since the Department submitted its request, the expected amount of GPR and PR matching funds has changed. As a result, the additional amount of GPR funding that would be required in 1998-99 to provide a sufficient match for federal funds has increased to \$669,800.

The table below shows the Federal allotments and the related matching funds for federal fiscal years 1998 and 1999. The table shows state GPR and PR matching funds and the expected third party matching dollars. Note that the state GPR and PR match are state fiscal year amounts while all other amounts in the table are for federal fiscal years. Also, fiscal year 1998-99 GPR and PR amounts include the expected pay plan and rent supplements. As the table shows, the client services appropriation would need \$669,800 GPR in additional funding in 1998-99 to have sufficient matching funds to capture the entire federal allotments for 1998 and 1999.

1997 - 157,300
(-93,100)

Federal Vocational Rehabilitation Allotment and State Matching Funds*

Fiscal Year	Federal Allotment	Total Required Match	State GPR and PR Matching Funds	Third Party Matching Funds	Additional Required Matching Funds
1998	\$45,834,500	\$12,405,000	\$10,766,700	\$1,245,800	\$392,500 - 1,245,800
1999	46,934,750	12,702,800	10,809,100	1,616,400	277,300 - 1,616,400
Total Additional Required Funding			10,924,500	1,421,000	\$669,800
			10,849,500	1,303,300	

*These are federal fiscal year amounts except for state GPR and PR matching funds which are state fiscal year amounts.

+247,700 = +51,162,910

+3144,600

As noted, the total amount of additional matching funds required receive to all federal Title I-B funds for 1998 and 1999 is \$669,800 rather than the requested \$422,100. In addition, \$83,600 of the \$422,100 that would be transferred to the client services appropriation would come from the Division's general program operations appropriation which is also used to provide matching funds. Although this funding transfer would increase case services funding, it would not capture additional federal funds. As a result, approval of the Department's request would provide DVR with an additional \$338,500 GPR to offset an expected \$669,800 shortfall in available matching funds.

The table shows that of the total amount of \$669,800 in additional matching funds that are required, \$392,500 is necessary to obtain the full 1998 federal allotment and \$277,300 is required to obtain the 1999 federal allotment. If the Department's request is approved, the \$338,500 GPR that would be transferred from the Committee's GPR appropriation would be used to provide a match for the 1998 federal allotment. DVR would still need \$54,000 to capture the entire 1998 federal allotment and \$277,300 to capture the 1999 allotment. This latter amount indicates that DWD would project a permanent shortfall of matching funds of this magnitude. The actual future shortfalls would depend upon the federal allotment, the amount of third party matching funds and base level GPR and PR matching funds in future years.

DWD staff indicate that the Department will obtain the additional \$54,000 in matching funding for the 1998 federal allotment from state matching funds that would otherwise be used to match the 1999 federal allotment. However, this means that an additional \$54,000 in matching funds or a total of \$331,300 would be required to fully match the state's 1999 allotment of federal vocational rehabilitation funds. The total includes the \$277,300 additional funds needed to match the 1999 allotment plus the \$54,000 that would be shifted to match the 1998 federal allotment. Because federal fiscal year 1999 overlaps the first quarter of state fiscal year 1999-2000, state GPR funding for 1999-2000 year could be used to make up the shortfall in matching funds for the 1999 federal allotment. DWD staff estimate that if the \$338,500 GPR transferred from the Committee's appropriation is included as base level funding, DVR will eventually have sufficient matching funds (including third party matches) to stop using current state fiscal year monies to match prior year federal allotments.

Under the provisions of s. 13.101(3), the Committee is authorized to provide supplemental funding in cases where an emergency exists and where no funds are available. DWD has requested a supplement that would be used to capture federal funds that would otherwise probably be lost on October 1. However, the Department has requested that the supplement be included as base level funding which would carry over into future years. Adjusting the Department's permanent funding level could be given a more comprehensive review during budget deliberations. As an alternative, the Committee could approve the transfer of the \$338,500 from its GPR appropriation as a one-time transfer of funds. This would allow DVR to capture most of the 1998 federal allocation of vocational rehabilitation funds. A second alternative would be to provide DVR with a \$392,500 GPR supplement. This would be the entire amount of additional funding that would be necessary to capture all of the 1998 federal allotment. Changes to the Division's base level appropriations could be considered during the 1999-2000 budget process. In addition, during the current state fiscal year the DVR could pursue other avenues to obtain third party matching, such as obtaining matching funds through establishment grants or contributions.

ALTERNATIVES

1. Approve the Department's request to transfer \$338,500 GPR in 1998-99 from the Committee's GPR appropriation [20.865(4)(a)] and \$83,600 GPR in 1998-99 from DVR's state operations appropriation [20.445(5)(a)] to DVR's client services appropriation [20.445(5)(bm)].
2. Modify the Department's request to provide a one-time supplement of \$338,500 GPR in 1998-99 from the Committee's GPR appropriation [20.865(4)(a)] to DVR's client services appropriation [20.445(5)(bm)].
3. Modify the Department's request to provide a one-time supplement of \$392,500 GPR in 1998-99 from the Committee's GPR appropriation [20.865(4)(a)] to DVR's client services appropriation [20.445(5)(bm)].
4. Deny the request.

Prepared by: Ron Shanovich

Tommy G. Thompson
Governor
Linda Stewart
Secretary

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State of Wisconsin
Department of Workforce Development

September 2, 1998

The Honorable Tim Weeden
Senate Chair, Joint Committee on Finance
1 East Main Street, Room 203
Madison, WI 53702

The Honorable John Gard
Assembly Chair, Joint Committee on Finance
315 North State Capitol
Madison, WI 53702

Dear Senator Weeden and Representative Gard:

The Department of Workforce Development (DWD) requests approval of the Joint Committee on Finance under s. 13.10 to transfer \$338,500 GPR in 1998-99 from the Committee's appropriation under s. 20.865(4)(a) and \$83,600 GPR from the appropriation under s. 20.445(5)(a) to the Department's appropriation under s. 20.445(5)(bm) for vocational rehabilitation services. This request is to make the transfer a permanent adjustment to the appropriation's base budget.

The Committee currently has \$338,500 GPR in its appropriation that was reserved for KIDS systems changes in 1997-98. In June, the Department presented a s. 13.10 request that asked that these funds remain in the JFC appropriation as a reserve. The Committee approved this request. The Department now requests that the \$338,500 be transferred to the Division of Vocational Rehabilitation (DVR) case aids appropriation.

Costs of operating and maintaining the state accounting system (WISMART) in DOA are charged back to agencies proportionately across respective funding sources. Recently, the method for transmitting financial transactions to (WISMART) has been changed and as a result, costs have decreased for the Department. When allocated across department funding sources, the GPR costs of these financial service chargebacks for DVR will be less than the amount budgeted for this purpose. The Department requests that \$83,600 GPR saved as a result of these reduced charges be transferred from the state operations appropriation to the aids appropriation for services to individuals with disabilities.

During development of the 1997-99 biennial budget, the legislature anticipated the possibility that vocational rehabilitation services might need a supplement. Therefore, Wisconsin Act 27, section 9126 (3m), created a specific nonstatutory provision detailing criteria which the Division of Vocational Rehabilitation could use to assess the need for seeking an adjustment. Section 9126 (3m) states that:

*In the event that amounts
funding is not*

*appropriated ... are insufficient ... and matching
available ... the department may make a request*

SEC-7792-E (R. 07/97)

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under section 13.10...

Budget adjustments in the last two biennia have converted \$1.0 million in GPR authority for DVR into program revenue authority. Since DVR's primary funding mechanism is a federal-state matching program with a match ratio of 78.7% to 21.3%, this conversion has translated into an increased need for obtaining third-party matching funds.

At this time, financial records and increased experience with third-party issues, indicate that the combination of appropriated GPR plus program revenue and third-party matching funds will not be sufficient to fully capture the federal funds being made available to Wisconsin. The table below summarizes the current structure for matching the federal allotment.

Federal Allotment and Associated Match

FFY	Initial Allotment	Total Match Required	GPR & PR Match Available	3rd-Party Needed	3rd-Party Commitments	Unmet Need
1998	\$45,834,500	\$12,405,000	\$ 10,924,000	\$1,481,000	\$ 1,245,800	\$235,200
1999	\$46,934,750	\$12,702,800	\$ 10,899,500	\$1,803,300	\$ 1,616,400	\$186,900
Total Unmet Need						\$422,100

The SFY99 statutory authority for GPR alpha aids appropriation 20.445 (5)(bm) is \$5,354,500. — This appropriation allows for the purchase of goods and services related to vocational rehabilitation as authorized under chapter 47, Wis. Stats. Because this is an aids appropriation, there are no budgeted FTE's. There have been no prior 13.10 requests on behalf of DVR.

Before the conversion of \$1.0 million in GPR authority to PR authority, DVR's standard third-party partnerships took place with government entities. Many of these relationships have been maintained. However, the necessary expansion of third-party agreements is governed by federal regulations. These regulations place restrictions on the source of funds and require that funds supplement, not supplant, existing services or be used to provide new services. The effect of these conditions, in practice, is that third-party funds are generally not a direct replacement for discretionary GPR and PR matching funds.

While DVR has increased the amount of third-party activity through renewal of existing contracts and development of new contracts, recently enacted federal regulations related to 'contributed funds' have created contracting limitations that make further expansion difficult. In August, the US Department of Education's Rehabilitation Services Administration informed DVR that the use of contributed funds would not qualify as match due to reversion to donor restrictions.

DVR's plan for covering the unmet need, as shown above, was to make use of contributed funds as match. Because this option is not available, DVR will renew \$235,200 in expiring third-party agreements on September 30, 1998. This will prevent the lapsing of federal funds in FFY98. The effect, however, is to simply move the unmet need forward into FFY99. Therefore,

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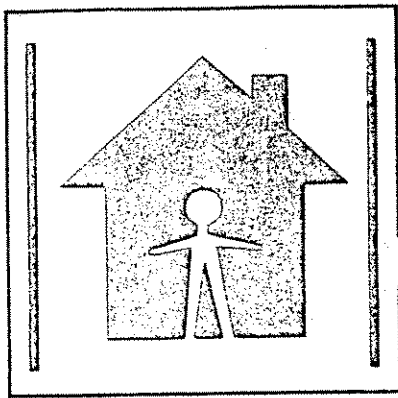
under the current structure for matching the federal allotment, DVR will lapse a total of \$1,559,590 in federal funds in FFY99.

Since the federal allocation is greater than the resources available to match it, reallocation of the base budget is not an option. For the same reason, waiting for the biennial budget is not a viable alternative due to the resulting lapse of federal funds. Should this request not receive Joint Committee on Finance approval, the immediate effect will be the lapse of federal funds. Longer term impacts of not approving the request will include decreased federal allocations due to not meeting maintenance of effort requirements and closure of additional order of selection categories to ensure funding is available to provide full vocational rehabilitation services to eligible consumers.

I will be representing the Department at the September 24, 1998 s. 13.10 meeting.

Sincerely,

Linda Stewart
Secretary



The **ABLE** Coalition

*"Advocating for Better Community Living Environments for People with Disabilities
and People who are Elderly."*

THE ABLE AGENDA ON THE 1999-2001 STATE BUDGET:

*The Full Citizenship -
A Coalition of 71 Organizations
414-329-4500 (Voice)
414-329-4511 (TTD)*

*The Older Adult Services Provider
- A Coalition of 75 Organizations
414-291-7500*

*ARC Milwaukee
414-774-6255*

*Center for the Deaf &
Hard of Hearing
414-790-1040*

*National Multiple Sclerosis Society
- Wisconsin Chapter
1-800-242-3358*

*IndependenceFirst
414-291-7520 (Voice/TTY)*

*United Cerebral Palsy of
Southeastern Wisconsin
414-329-4500 (Voice)
414-329-4511 (TTD)*

*Wisconsin Coalition for Advocacy
414-342-8700 (Voice/TTD)*

"FUND THE COMMUNITY PROMISE IN THE NEW MILLENNIUM"

The ABLE Coalition represents the combined voices of advocates who care about persons who are elderly and those with disabilities. We believe that powerful economic and social forces have converged to create the environment for a major expansion of community-based long term care in this budget:

- ✓ **Fact:** Wisconsin is enjoying record prosperity, employment and state surpluses.
- ✓ **Fact:** As documented in the LTC Redesign process, there is a bias in Long Term Care funding toward institutional care. Not enough funding goes to *community-based* long term care.
- ✓ **Fact:** The shortfall in community funding makes waiting lists continue to grow.
- ✓ **Fact:** Census figures show a 74% national unemployment rate among persons with severe disabilities. There are more than 100,000 residents of working age in Wisconsin who have a severe work disability. With record low unemployment rates in the general population and employee shortages, Wisconsin employers are looking for alternate hiring pools.

For waiting lists and the funding bias to be addressed, we need a major infusion of new dollars in community-based programs like COP, Community Aids, and Family Support. This would level the playing field and build the infrastructure to make Long Term Care Redesign work in the New Millennium. Without a major infusion, Redesign may be unrealistic and therefore difficult for many people to support.

With sufficient investment in employment and training programs for persons with severe disabilities, we can decrease the unemployment rate among this group and provide new resources to employers.

"Invest in Individuals not Institutions"

FOR THE 1999-2000 BIENNIUM, THE ABLE COALITION SUPPORTS:

LONG TERM CARE REDESIGN ("FAMILY CARE")

▪ A Single Entry Point for long term care services and the development of a LTC system in which the funds follow the individuals. ABLE is concerned that consumers continually be brought into the discussion of the ongoing development of Family Care. At this time, ABLE supports the Survival Coalition's modifications to the DHFS Family Care proposal. Regardless of what happens to any Family Care legislative proposals, ABLE supports having a plan for allocating the resources currently in the budget to other community-based long term care programs in the event the legislation fails.

PROGRAMS TO SUPPORT COMMUNITY LIVING

- Community Options Programs (COP, COP-W & CIP): Increase funding to serve the 8,000 individuals on the waiting list. Estimated cost: \$50 million GPR dollars over the biennium.
- Brain Injury Waiver: Full funding for all existing Brain Injury Waiver slots and additional funding to pay for all HCFA approved slots for the biennium.

MEDICAL ASSISTANCE

- Co-Payments: No additional MA co-payment burden to SSI/DI recipients.
- Personal Care: ABLE supports the Wisconsin Coalition of Independent Living Centers' initiative to raise the Medicaid Personal Care Services reimbursement rate by \$4.00 an hour to \$15.50/hour. This rate increase is necessary to ensure that Personal Care Workers (PCWs) earn a liveable wage and to enhance the viability of this profession and service. Estimated cost: \$23 million dollars over each year of the biennium (\$9.5 million GPR dollars and \$13.5 million federal dollars).

SUPPLEMENTAL SOCIAL SECURITY INCOME (SSI)

- Provide parents with disabilities receiving SSI the pre W-2 grant levels for the care of their dependent children. This assistance, known as the "Caretaker Supplement" (or C-Supp) should be funded with TANF dollars. Estimated cost: \$9 million in GPR and \$17 million TANF in FY 00, \$100.3 million GPR and \$16 million TANF in FY 01.
- Maintain the current State supplement payments to individuals receiving federal SSI support, allowing federal COLA increases to pass through to individual recipients.

LIFESPAN RESPITE

- ABLE supports the initiative of the Respite Care Association of Wisconsin to pass the Lifespan Care Bill. The Lifespan Care Bill would a) establish a statewide vehicle to coordinate efficient, consistent, quality respite care in Wisconsin; b) allocate funds for start-up costs and maintenance; and c) increase families' /primary caregivers' respite care options and availability. Estimated cost: \$250,000 in GPR dollars.

FOR THE 1999-2000 BIENNIUM, THE ABLE COALITION SUPPORTS:

COMMUNITY AIDS

- Full restoration for the lost federal funding in Community Aids. Estimated cost: \$8 million dollars.

EMPLOYMENT OPPORTUNITIES

- Restoration of \$3 million in GPR over the biennium to the Division of Vocational Rehabilitation to maximize employment training and placement opportunities. ABLE supports increases in community aids to increase supported employment opportunities.

- ABLE supports the following with regard to the Wisconsin Works (W-2) program:

- ✦ The expansion of child care subsidy eligibility to children with disabilities or chronic health conditions (estimated cost of \$1.5 million TANF dollars);
- ✦ Disregarding SSI as a source of unearned income when determining W-2 program eligibility;
- ✦ Eliminating the barrier to receiving W-2 grants for parents who have a prior employment history and are caring for a child with a disability;
- ✦ The expansion of W-2 supportive services to include intensive case management and benefit counseling for parents with disabilities;
- ✦ The elimination of W-2 time limits for families headed by a parent with a disability who is unable to work yet ineligible for Social Security;
- ✦ The elimination of W-2 Transition category or an increase of the W-2 Transition grant to equal that of the Community Service Job (CSJ) income level;
- ✦ The full funding of Kinship Care, to facilitate faster eligibility determinations (currently takes 8-12 weeks) and to provide Kinship Care assistance as of the date of application.

TRANSPORTATION

- Eliminate Wisconsin Statue 59.968 (9) (b) which poses a barrier to cross-county paratransit services and the full implementation of the ADA. ABLE supports an increase in funding for the 85.21 program. Estimated cost: \$16 million from DOT resources over the biennium.

TECHNOLOGY

- Increase funding to maintain and capacity-build the WisTech program, AgriBility and the Parent Education Project for persons with disabilities. The investment is critical as long-term federal funding is scheduled to decline over the biennium. Estimated cost: \$343,000 in GPR dollars.
- ABLE supports an initiative to establish a \$1 million dollar low- or no-interest loan fund for persons with disabilities in need of adaptive equipment and/or other mechanical, technological or structural accommodations.

THE ONLY WAY FOR LTC REDESIGN TO WORK IN THE YEAR 2000

IS TO START TO FUND IT NOW!

Feds seek disabled who were denied services

Investigation of complaints about state agency widens

By MARY ZAHN
of the Journal Sentinel staff

A federal investigation into allegations the state Division of Vocational Rehabilitation illegally failed to provide services to disabled people seeking work has widened to include a call for clients denied services to contact federal authorities.

"To my knowledge this has never been done before," said Douglas Burleigh, regional commissioner of the federal Rehabilitation Services Administration, which monitors the use of federal money to help the disabled find jobs.

"It's quite unusual."

Burleigh said he was seeking public comment after attending a July 9 meeting in Milwaukee, in which allegations of service cuts due to a shortage of state funds were discussed.

Among those attending were Judy Heumann, assistant secretary of the U.S. Department of Education and DVR administrator Judy Norman-Nunnery.

Advocates for disabled DVR clients, he said, made a half-hour presentation at the meeting documenting what they said was a decrease in the purchase of client serv-

Douglas Burleigh, federal official:

"We take this very, very seriously."

ices over a six-month period.

The advocates alleged it was because of DVR funding cuts.

"This is necessary to verify the allegations that were pres-

ented," Burleigh said Tuesday.

"We take this very, very seriously. We have no choice but to determine whether the allegations were based in fact by issuing a call for people who have experienced delays due to funding problems to come forward. We feel the best way to make it safe for consumers to come forward in a less-than-full public glare would be to invite individuals to contact me directly."

Linda Stewart, secretary of the state Department of Workforce Development, said in a prepared statement Tuesday that the state was fully cooperating with federal officials and was "committed to ensuring individuals receive appropriate services."

Records show that the federal agency began questioning the state's vocational rehabilitation spending in February when job counselors were told their agency was running out of money.

Since that time, advocates and service providers for the disabled have complained that services have been cut.

State officials said cuts to the DVR budget were made to avoid tax increases.

At the same time, DVR ad-

Please see DVR page 2

THURSDAY, JULY 30, 1998

MILWAUKEE JOURNAL SENTINEL — FINAL EDITION

Denial of opera seat led to civil rights law

Page 2



MILWAUKEE METRO AND STATE NEWS

DVR/Federal investigation widens

From page 1

ministrators have adamantly maintained that no client services were delayed or denied because of the cuts.

Federal law does not allow state rehabilitation agencies to deny or delay needed services to disabled people as a way of dealing with a budget problem.

The only legal option for states running short of money, federal officials say, is to triage cases and stop spending money on people who are not defined as severely disabled — something Wisconsin has rejected.

Notices calling for public comment on the situation will be placed this week in the Milwaukee Journal Sentinel, the Madison Capital Times and Wisconsin State Journal.

In addition, the notices will be distributed to disability advocates and to agencies and organizations representing or serving disabled people in Wisconsin.

The results of the investigation, Burlleigh said, will be included in a comprehensive report reviewing the state's DVR operations.

That periodic review began last year but was expanded to investigate allegations of client service cuts earlier this year.

Disabled people who feel they have been denied services can contact the U.S. Rehabilitation Services Administration. Comments will be kept confidential and should include a description of the denial, the reason given, the date and whether the situation has been resolved. Written and audio-taped comments will be taken until August 28 and should be sent to: Douglas Burlleigh, Regional Commissioner, Rehabilitation Services Administration, 5th floor, 10220 N. Executive Hills Blvd., Kansas City, MO 64153. Comments may also be sent by fax or E-mail at: douglas_burlleigh@dod.gov. The fax number is (816) 891-0807.

If the state is found to have denied or delayed services because of budget cuts, authorities said, the Rehabilitation Services Administration would most likely order the state to cut down on the number of clients served and focus on the most severely disabled.

Frustrated members of the state Rehabilitation and Planning Advisory Council are also continuing their investigation into the agency's claims that no services were denied in light of contradictory statements from advocates, clients and service providers, according to Mel Storty, chairman of the advisory group.

He said the agency's immediate fiscal crisis abated in March when administrators used \$2.7 million in a reserve fund to get them through the current fiscal year ending June 30.

Council members want to know how the agency intends to address future shortfalls.

The state is scheduled to receive more than \$50 million in federal money for this fiscal year and has a budget of more than \$65.4 million to help about 23,000 physically and mentally disabled clients find jobs.

Judy Norman-Nunnery, DVR's administrator, has acknowledged that the agency had a projected \$2.8 million deficit for serving clients earlier this year but that "no services that were essential were denied or delayed."

However internal DVR memos show that at least two key client service providers were lost because of DVR budget problems. Vendors provide a host of services.

In addition, memos show that district offices had been instructed "to continue conservancy measures which have already been set in place."

At the same time, district offices were told to continue client services.

FOCUS / HEALTH CARE

State funding shift limits services to disabled

By David Schuyler

The state's Division of Vocational Rehabilitation plans to increase its reliance on funding sources that waste money and will cause reduced services, say advocates for people with disabilities.

The Wisconsin Division of Vocational Rehabilitation administers the federal Vocational Rehabilitation Program, which assists people with disabilities in finding and maintaining

Thompson administration relies on new funding to reduce state costs; advocates complain of delays

employment.

In the 1999-2000 biennial budget now being formulated by Gov. Tommy Thompson, the Division of Vocational Rehabilitation will continue to decrease its reliance on state money, according to the Department of Workforce Development secretary's office. The DVR is a division

of the DWD.

Advocates for people with disabilities claim that funding the division through these "third party agreements" means less money for counselors to spend on individual services.

"It's ridiculous to try to fund the program the way they want to fund it," said Charlene Dwyer,

disability advocate representative and past chair to the state Rehabilitation Planning and Advisory Council.

DVR counselors work with clients to provide services as part of a vocational rehabilitation plan.

Services can include disability assessments, vocational or psychological evaluations, training, college education and job placement.

The population of people with disabilities in Wisconsin is estimated at 100,000, according to 1996 figures. In the federal fiscal year ended Sept. 30, 1998, the DVR served 34,532 people.

In the same fiscal year, the DVR placed 4,643 people in jobs, including 3,632 in wage or salaried positions, 344 in supported employment requiring a job coach, and 238 self-employed, said Rick Hall, DVR program specialist.

MATCHING FUNDS

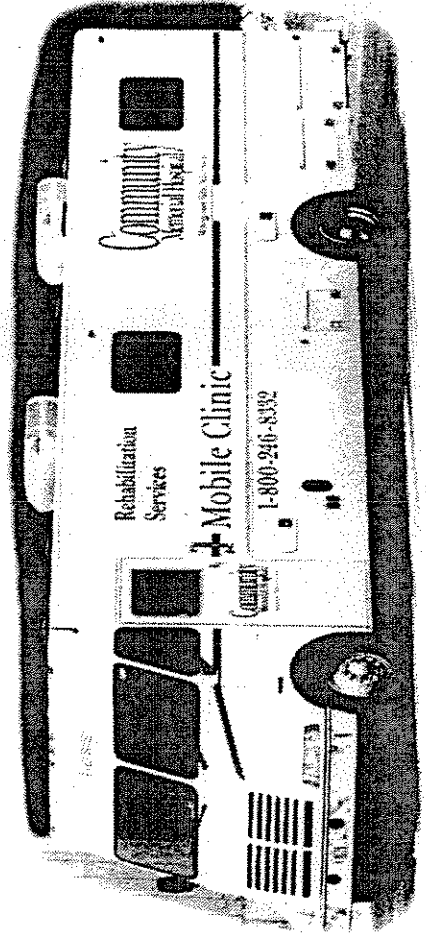
As the administrator of a federal program, the DVR is funded primarily with federal dollars. In order to capture the federal money, how-

ever, the state must provide matching funds equal to about 22 percent of the federal allotment, which is about \$46.7 million in the current fiscal year, Hall said.

Another option available to capture the allot-

"It's ridiculous to try to fund the program the way they want to fund it."

— Charlene Dwyer,
Rehab Planning/ Advisory Council



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ment, which is about 30 percent of the total fiscal year, Hall said.

Another option available to capture the allotment is what is called third party cooperative agreements. A third party is a state agency other than the DVR, a local government agency or a nonprofit organization which contributes money to the DVR to be used as state matching funds.

In recent years, the percentage of the state's contribution of matching dollars has been reduced, leaving the division to rely more heavily on third party match, said Robert Stuva, executive director of Rehabilitation for Wisconsin Inc. in Madison.

From about 1994, the growing federal allotment began to outstrip the state's ability to generate matching funds, he said.

"To handle that, the department began to put out calls for money from other public agencies," Stuva said.

The problem with third party match is that it limits the options DVR counselors have in serving clients, said Stuva.

"The agency that puts up the matching does call the shots as to what types of services that money can provide," he said.

Those services, many advocates say, don't necessarily serve the people who need the most assistance.

COLLEGE CONNECTIONS

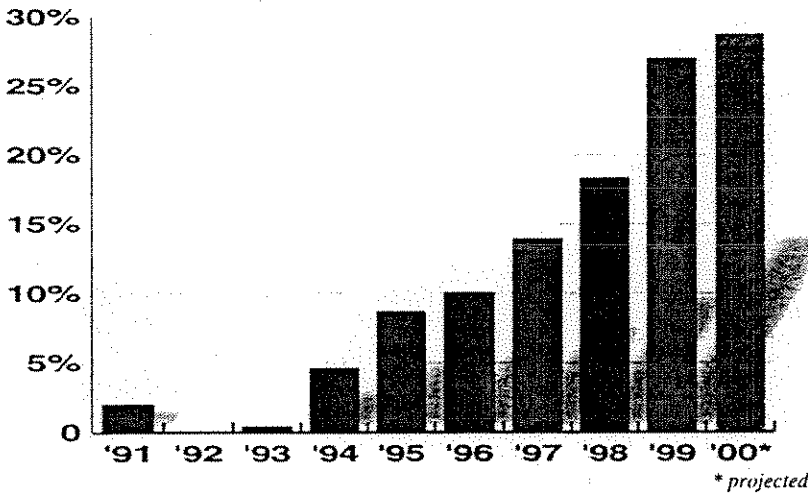
Approximately 60 percent of the cooperative agreements made by DVR are with community colleges and universities, Stuva said.

The majority of the services provided by those institutions are tutorial and interpreting services for DVR clients, said Linda Vegoe, coordinator at the Client Assistance Program in Madison, a federal program which addresses complaints from DVR clients.

Vegoe's concern regarding third party con-

Third-party funding

The Wisconsin Division of Vocational Rehabilitation has relied increasingly on third-party funding sources outside the state government in recent years.



Sources: Rehabilitation Services Administration, Legislative Fiscal Bureau, Department of Workforce Development

tracts with the educational institutions is that the people who are able to use those services aren't high priority clients.

"They would probably fall on the lower end of the scale," she said.

Advocates also say that the resulting reduction in general purpose money, which can be used at a counselor's discretion, would result in fewer available services.

Proving that point is difficult, they admit.

"There's been some real service delays," said Julie Alexander, who is independent living services and advocacy coordinator at IndependenceFirst, a Milwaukee nonprofit organization that assists people with disabilities in living on their own.

"(The delays) are there," she said. "It's just hard to document."

The Rehabilitation Services Administration, the federal agency overseeing the states' vocational rehab divisions, recently completed a draft report on alleged service problems experienced by DVR clients in early 1998. The final report will be completed once the DVR has the opportunity to respond to the RSA's findings, Vego said.

The percentage of DVR services paid for with third-party funds was about 2 percent in 1991, according to a 1995 report from RSA. By 1998, that figure grew to 18.3 percent, according to a state Legislative Fiscal Bureau report.

FREEZING STATE'S SHARE

The percentages are rising not only because of the increasing amounts of third-party funds, but also because the state has frozen its share

of the money for case services at 1997 levels.

The state's contribution for 1999 fiscal year will be the same as that in the last two years, said Lenn Schneider, DVR budget analyst.

And the trend is expected to continue.

The Department of Workforce Development plans to increase its reliance on third-party funding in the next two years, said Jan Van Vleck, special assistant to the secretary's office at the Department of Workforce Development.

In federal fiscal year 1999, the DVR is expected to receive 27 percent of its case services budget through third-party contracts. In 2000, the percentage will rise to 28.7 percent, Van Vleck said.

The division is relying more on third-party funding due to budget cuts across the board, Van Vleck said.

The governor has asked all departments to suggest cuts of 5 percent in their budgets, said Mark Bugher, secretary of the Department of Administration.

The administration also believes that the third-party funding is good for the state.

"This does provide an opportunity to help reduce the reliance on taxpayers," said Bob Hanle, team leader for the education and training team in the state budget office of the Department of Administration.

"This is a legitimate way of capturing federal money," he said.

It is still possible for the Thompson administration to pump more state money into the DVR.

"It's not too late for the governor to add to the budget," said disability advocate Dwyer.

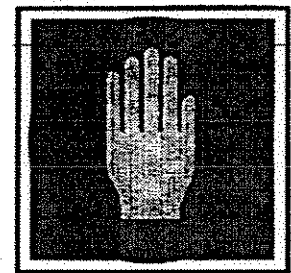
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March 26, 1999

Representative John Gard & Senator Brian Burke
Co-Chairs, and Members, Joint Committee on Finance

Dear Representative Gard, Senator Burke and Committee Members:

My name is Mary Goulding and I am the Vice-President of AFSCME Council 40. We represent over 30,000 employees who work for cities, counties, school districts, and private sector health care facilities throughout Wisconsin with the exception of Milwaukee County.

I appear before you today to address two very important issues to AFSCME Council 40. This is by no means our complete list of concerns but are two issues that will have significant impacts on our members.

The first issue is the Governor's proposal for Family Care. AFSCME has been supportive of the Family Care Concept and worked with the Department to explore ways in which we can better serve our citizens in need of Long Term Care. We agree that the current funding streams and categorical protections inhibit efficient service delivery. We also agree that consumers are best served when they have the freedom to make choices—*informed choices*—about their care options. We agree that in a state as rich with resources as Wisconsin that no citizen should be left to languish on a waiting list.

We believe that the Legislature should allow more than one model to be tested. Testing only the model in the Governor's proposal assumes this to be the only model that may meet the goals that you, and the Governor, have for this system of care. This is a time for innovation yet we must be careful not to "throw the baby out with the bath water". We must build upon what works in our current system and craft new solutions for what doesn't.

We concur with recommendations offered by county representatives and the advocacy groups for the developmentally disabled which offer alternative models that build on the current system. These alternative models would require few, if any statutory, or waiver authority changes. Expansion of the current MA waiver authority to provide new consumers and consumers on the waiting list with funds from CIP and COP waiver funding would be a simple, bureaucracy free measure to provide consumers with Long Term Care services.

We believe that one of the biggest problems in our current system is the lack of information on characteristics of the populations to be served and the costs to serve them. The most critical part of these pilots will be the collection of uniform data from which to make future projections and policy decisions. The current system has been under funded in large part due to the inconsistency of assessment measures and their relationship

in the public service

to staffing for the care needs of citizens in various client groups. Equally as important will be an independent evaluation component to measure the effectiveness of models piloted.

We strongly oppose the statutory changes being made in this budget. We believe it is premature to make these statutory changes before legislators have had the opportunity to view the results of the pilots and have determined which model will best meet the goals of a new Long Term Care system.

The Department has proposed language to create Family Care Districts in order to address the "conflict of interest" questions raised by the Health Care Finance Administration. The language seems to guarantee that all rights afforded to employees working for the county will be preserved if the employees transfer to the Family Care District. We would ask that the legislature ensure that these rights are in fact protected in the language that creates these districts. Our system of merit based employment in county government has served citizens well and must be preserved.

Finally, there is a very critical question that needs to be answered as we discuss Family Care. What is the role of "safety net institutions" in Family Care? We do not see any reference made to these institutions in the pilots and feel strongly that the Department must address how the most severely disabled and medically acute citizens will be served in Family Care.

In short our recommendations for Family Care are: 1) test more than one model 2) develop a uniform and comprehensive database of information and provide funds for independent evaluations of the models piloted 3) remove the statutory language changes from this budget 4) protect all of the rights and privileges currently available to public employees who may work in a Family Care district and 5) Direct the Department to provide more information on how the most severely disabled and medically fragile will be supported in this system and how they will provide support to the safety net institutions that provide this care.

Our second issue is one we hope will be included in this budget and is related to Family Care. AFSCME, along with numerous other unions who represent health care workers and our employers, is requesting that the legislature pass a 7% Nursing Home Wage Pass Thru to address the significant wage and benefit issues in the Nursing Homes. The wage and benefit issues are having a noticeable impact on the ability of nursing homes to deliver consistent, quality care to our vulnerable citizens. Here is a sampling of some of the problems noted in a recent survey done by the two nursing home associations:

*Over 75% of the homes indicated their ability to be fully staffed was worse or significantly worse than two years ago.

*94% of the homes used overtime to fill staffing needs.

*Over one half (54.2) of the facilities were forced to use temporary help to fill staffing needs.

*Of the staff who no longer work for the nursing home, 60% identified wages, benefits or short staffing as their reason for leaving.

*Seventeen facilities had to suspend admissions due to staff shortages.

*Turnover rates for full time certified nursing assistants increased again this year. The turnover rate for 1998 was 57% up from 54% in 1997. When county nursing home turnover rates are excluded the turnover rate exceeds 68%. Turnover seriously impacts quality.

The nursing home budget language will magnify the problems we are experiencing. It will fall far short of meeting the costs nursing homes have already incurred to serve Medicaid residents. County nursing homes care for a disproportionate share of this state's medically fragile and developmentally disabled citizens. Many also have some form of mental illness. Medicaid fails to reimburse homes that provide care to Medicaid recipients at a level that will cover their costs of care. As a consequence homes must find other revenue sources to cover the cost of care for these citizens. In county homes it is most often the county taxpayer that must cover the deficits in Medicaid funding with county tax levy.

The funds we are requesting are significant; \$17 million GPR and \$41.3 million all funds for fiscal year 1999-2000. We believe the cost of not funding our homes in a manner that will ensure adequate staffing and quality care is even greater. Please consider this important request.

I thank you for allowing me to appear before you today.

Mary Goulding
Vice-President AFSCME Council 40, AFL-CIO
Chair, Brown County Labor Council

*Questions regarding testimony should be directed to:
Jennifer Grondin
AFSCME Legislative Council
(608) 836-6666*

Testimony of Robert Chicks
Chairman, Stockbridge-Munsee Community Band of Mohican
Indians

March 26, 1999

Members of the Committee, my name is Robert Chicks and I am the Chairman of the Stockbridge-Munsee Community Band of Mohican Indians. I am here today to express the Stockbridge-Munsee Indian Tribe's view regarding the State's 2000-2001 fiscal budget. More particularly, I urge the Committee to fulfill the State's promise to allocate the moneys that this Tribe and the State agreed to this past summer, as stipulated in the amendment to the Gaming Compact between the State of Wisconsin and the Stockbridge-Munsee Tribe.

In August, the Governor and I signed an amendment to the gaming compact between the Tribe and the State of Wisconsin. The amendment contains a provision that this Tribe is to make a payment to the State in the amount of \$650,000 in each of the next five years. Notwithstanding that the payment, or tax, violates the Indian Gaming Regulatory Act, the Governor and the Tribe agreed that the Governor would **consult with the Tribe for the distribution of monies paid to the State.**

Unfortunately, the Governor's Native American Initiative contained in the biannual budget was prepared without any consultation with this Tribe. In other words, this Tribe is forced to deal with another broken promise.

This Committee has the opportunity to remedy this. More specifically, this Committee has the power and authority to produce a budget in line with the promises made by the Governor on behalf of the State of Wisconsin to consult with this Tribe.

One such promise involves the use of the monies in accordance with the signed agreement between the State of Wisconsin and this Tribe. Let me share with you some of the key terms of agreement. The agreement states that the monies paid to the State would be used for:

- 1) Economic development initiatives to benefit Tribes and/or American Indians within Wisconsin,
- 2) Economic development initiatives in regions around casinos,
- 3) Promotion of tourism within the State of Wisconsin,
- 4) Support of programs and services in Shawano County, where the Tribe is located,
- 5) Public safety initiatives on the Stockbridge-Munsee Reservation.

The Committee needs to understand that the Governor's Native American Initiative does not come close to fulfilling the obligations that the Governor promised to this Tribe. The Tribe understood that Shawano County, the communities around the reservation, and our tribe were going to benefit directly from the Tribe's payment to the State.

The Governor's Native American Initiative creates no new programs that benefit Shawano County, the communities around our reservation, or our tribe. The Governor's Initiative similarly lacks any substantial increases in the development of existing programs. In fact, many of the monies simply replace existing programs. Of the 31 programs in the Governor's Native American Initiative, only 10 could be considered new programs. Few, if any, abide by the agreement that the State signed with our Tribe.

Today, I invite the Committee to consider using the monies derived from the gaming compacts to fund local government projects that benefit communities around our reservation. Funding local projects is what the Tribe contemplated, and is entirely consistent with the promise made by the Governor in our agreement. Additionally, this solution will not require additional taxes, nor require increases in shared revenue.

My purpose today is not to examine and analyze each program contained in the Governor's American Indian Initiative. I and other Tribal leaders plan on attending future budget hearings to present specific comments and solutions. However, there are two programs in the Initiative that I will comment on today.

One new proposed program in the Governor's Initiative is designed specifically to fight Indian tribes. The Governor's initiative would fund the Department of Justice to hire an attorney to "focus solely on Indian related litigation." I can assure this Committee that when I signed the amendment with the State of Wisconsin, the farthest thing from my mind was to fund an attorney for the State to litigate against Indian Tribes.

Perhaps the money allocated to this program would be better spent hiring a liaison to aid in negotiations and assist in finding solutions that arise out jurisdictional disputes. Negotiation toward agreements between the State, local governments and our Tribe should take the place of costly and divisive litigation. This notion is simply a matter of respect for one another in a government to government relationship.

Our Tribe and the local governments are continuously working toward agreements that benefit our local communities. All though there will always be some differences, we know that many positive developments can and do occur when we work together to find solutions. This respects and honors a long-standing government to government relationship.

Another new program is one that funds 2.5 million dollars in FY 2000 and 5.5 million dollars in FY 2001 to businesses negatively impacted by gaming. I do not know what "businesses negatively impacted" is exactly. I

do know however that business and commerce is booming in our region and around the state. I also know that it is bad policy for the State to encourage businesses to align themselves against Tribal governments.

I believe that this funding should be geared toward assisting business that can benefit and have benefited from gaming. We believe that the State and this Tribe should look at the positive impact of gaming, and build upon that foundation to aid in continued economic development. This approach is consistent with "economic development initiatives" contained in the agreement that I signed with the Governor in August.

This Committee has a great responsibility to uphold the promises made by the State of Wisconsin to this and other Indian tribes regarding the consultation process and the use of the monies from the Indian tribes.

I am also concerned that when the programs and monies contained in the Governor's Initiative are commingled with other state programs and monies, this appears to be more of a general tax, or assessment, which the Indian Gaming Regulatory Act specifically and clearly prohibits.

It is the intention of the Stockbridge-Munsee Tribe, along with the other tribal governments, to submit a more technical analysis of the specific line item proposals in this budget. This Committee should also know that just yesterday, our Tribal Council met with the Shawano County Board and

local town boards to discuss formulation and submission of a joint proposal with specific goals and recommendations that we will submit at a later date. We trust that prior to the time that the final budget is formulated, the formal promise made to this Tribe will be honored. It is imperative that the Tribes play an equal role in these government to government matters, especially when the expenditures of tribally generated revenues are involved.

STATE

SECTION
B

Records B-2
Deaths B-3

GREEN BAY PRESS-GAZETTE

Expanded gambling

The state about \$23 million a year from gambling profits, or almost 60 times the \$350,000 a year paid under the previous seven-year compacts, Bugher said.

The state's cut under the new agreements is comparable to Wisconsin's 7.9 percent corporate income tax rate, state negotiators said.

Annual payments range from \$65,000 from the Red Cliff Band of Lake Superior Chippewa to \$7.5 million from the Ho-Chunk Nation.

Gaming compacts

Tribe	Date renewed	Annual payment	5-year payment
Lac Courte Oreilles	Feb. 13, 1998	\$420,000	\$2,100,000
Mole Lake	Feb. 20, 1998	260,000	1,300,000
Oneida	May 8, 1998	4,850,000	24,250,000
Bad River	June 12, 1998	230,000	1,150,000
Red Cliff	Jan. 15, 1999	64,685	323,425
St. Croix	June 18, 1998	2,200,000	11,000,000
Stockbridge-Munsee	Aug. 12, 1998	650,000	3,250,000
Potawatomi	Dec. 3, 1998	6,375,000	31,875,000
Menominee	March 9, 1999	747,371	3,736,855
Ho-Chunk	Dec. 11, 1998	7,500,000	37,500,000
Lac du Flambeau	Dec. 13, 1998	736,000	3,690,000
Total		\$24,035,056	\$120,175,280

Source: Governor's Office

The Brown County District Attorney's Office makes two requests in submitting its 1999-2001 biennium budget.

- I. WE ARE REQUESTING THAT AN EXISTING ASSISTANT DISTRICT ATTORNEY POSITION WHICH IS OUR SEXUAL PREDATOR PROSECUTOR BE MADE FULL-TIME AND GIVEN FTE STATUS.
- II. SECONDLY, WE ARE REQUESTING AN ADDITIONAL 100.0 FTE POSITION IN LIGHT OF OUR NEED AS DEMONSTRATED BY THE STATE-WIDE PROSECUTOR WORKLOAD DATA.
 - I. Sexual Predator Position As Full-Time FTE - We are seeking to convert the full-time sexual predator position to permanent status based upon:
 - A. We already have a full-time prosecutor in the position.
 - B. The United States Supreme Court has ruled sexual predator laws such as Chapter 980 constitutional and thus sexual predator cases will continue.
 - C. The position has been included in state-wide data analyses. It states Brown County has 11 FTE positions. Even with this position included in statistical data the studies indicate the need for additional prosecutors in the Brown County District Attorney's Office.
 - D. The sexual predator position is supporting 17 other counties as envisioned when the position was created.
 1. We are handling referrals in other counties.
 2. Other counties have consulted with our sexual predator prosecutor for assistance on Chapter 980 issues.
 - E. The sexual predator prosecutor is handling a full caseload of sexual predator cases which are often as difficult and more time consuming as major homicide prosecutions.
 1. An average file contains hundreds of pages of documents and usually measures four to eight inches in depth.
 2. A national seminar recently held in Washington, D.C., indicates the average preparation time for a sexual predator case is 240 hours. The cases usually involve four hearings. Almost all sexual predator cases go to trial, which usually last greater than one day.
 3. Defense attorneys have become more aggressive in this area, seeking depositions, interrogatories and other time consuming discovery procedures which are often not available in normal criminal cases. Our attorney has attended numerous out-of-town depositions.
 4. A Seattle prosecutors office, which prosecutes comparable sexual predator cases, has four full-time attorneys handling six sexual predator

cases. Our sexual predator prosecutor is currently handling nine active sexual predator files.

F. Based upon a regional survey our office expects to handle between 10 and 20 new sexual predator cases in 1998 and 12 to 14 new cases in 1999.

1. These numbers do not include old cases which will come back to court year after year when the respondent petitions the court for supervised release and discharge.
2. We anticipate more post-commitment petitions under Sections 980.08, 980.09 and 980.10 in the next two years.

G. Our sexual predator prosecutor often must cover courts and dictate complaints when needed due to other staff shortages.

H. New victim's rights legislation creates additional burdens on all prosecutors including the amount of work which must be done in sexual predator cases.

I. To remove this attorney, especially one with expertise in this area, would have a severe negative impact in our office.

1. The ability to effectively handle increasing complex Chapter 980 cases may be compromised.
2. It will result in other prosecutors having decreasing time to devote to other criminal cases.

II. The State Is Requesting An Additional Full-Time Position Due To Work Load And Staffing Needs.

A. The state statistical analyses supports the addition of additional prosecutors for Brown County based upon caseload.

1. There is a need for 2.3 FTE using the 1227 hours analysis and .62 FTE using the 1411 hours guideline.
2. The numbers listing cases filed do not correctly state the amount of complaints actually filed and in court in Brown County during 1997. Felonies and misdemeanors have been understated by 11% and 10% respectively.
3. There will be an 11% increase in felony filings and a 12% increase in misdemeanor complaints in 1998.

B. Newly passed victim rights legislation will create enormous burdens not only on victim witness programs but also prosecutors with large caseloads.

1. There will be increased pressure on prosecutors to maintain their level of effectiveness while complying with the new law.
2. The attorneys will have less time to review all incoming referrals.

JUSTIFICATION FOR MAINTAINING SEXUAL PREDATOR POSITION

It makes sense to convert this position in our office to full time FTE status. We currently have an assistant district attorney position whose funding expires in June of 1999. This is one of the four sexual predator positions which was awarded state-wide during the last budget session. Its function was to handle all aspects of sexual predator cases. This attorney was also to provide technical training and expertise to other neighboring counties who had sexual predator referrals. (Actually, the specific obligations of the sexual predator positions in relation to other counties were never specifically delineated.)

Supporting other counties. - Kendall Kelley is currently our sexual predator prosecutor. He has handled all sexual predator referrals in Brown County and also is in the process of handling referrals from Waupaca and Kewaunee Counties. Because the original position was funded with the understanding that the attorney was to give technical assistance to other counties in the same geographical area, we sent out a questionnaire to the 17 neighboring counties in northeastern Wisconsin. This comprises one-fourth of the counties in the state. We offered a range of assistance from supplying forms to providing consultation to handling the entire referral through trial and commitment. (For example, one such case he is involved in is the Waupaca case of *State v. Robert Addington*.) Time spent on sexual predator cases in other specified counties should be considered for the sexual predator position in Brown County because in the future we will be completing the work for said counties such as Waupaca. We have included copies of the correspondence which was sent to other counties and their responses. Our office is complying with the stated purpose of the original sexual predator legislation.

Sexual predator cases are time consuming. - A national conference on sexual predator laws around the country indicated that the average preparation time for a sexual predator case is 240 hours. This is because of the voluminous files which must be reviewed by the prosecutor. The paperwork consists of court records, the Department of Corrections file, and psychiatric reports including risk factor analysis. Our experience has been that an average file contains hundreds of pages anywhere from four to eight inches in depth.

Furthermore, there are a number of lengthy court appearances associated with sexual predator cases. There are normally four hearings which include a probable cause hearing, a motion hearing, trial and dispositional hearing. Almost all sexual predator cases go to trial. These trials are multiple day affairs and have lasted as long as an entire week. This is due in part to the necessarily lengthy direct and cross-examinations of expert witnesses. Prosecutor Kelley has already tried three sexual predator cases this year. Two have been successfully prosecuted and a third trial is to be completed in September. Others are calendared for later in the year. As a further example of how time consuming these cases are, a Seattle prosecutor's office which prosecutes under a comparable sexual predator law, has four full time attorneys handling six sexual predator

files. The Brown county sexual predator attorney is currently handling nine active sexual predator cases (Dobeck, Jorgenson, Sanders, Linders, Loret, Eagans, Bergmann, Wilson, and Addington).

The unique quasi-civil nature of sexual predator cases has also added to the time invested in these matters. Defense attorneys have become more aggressive and are utilizing depositions, interrogatories and other time consuming discovery procedures which are often not available in normal criminal cases. Our prosecutor has had to attend numerous out-of-town depositions.

The number of cases will increase. - It is our understanding that a primary reason that the sexual predator positions were originally funded for only two years was that at the time of their inception there was a question as to whether or not there would continue to be sexual predator cases in the future. When the last state budget was being debated, the United States Supreme Court was hearing arguments on the constitutionality of sexual predator statutes around the country. There was a very real possibility that the sexual predator laws (such as Chapter 980 in Wisconsin) would be invalidated as unconstitutional.

However, by a five to four vote the Supreme Court ruled that sexual predator laws were constitutional. Therefore it is correct to say that sexual predator cases are here to stay, and that they will continue to increase in number as more individuals fit the definition of "sexually violent person".

The increase in workload for our sexual predator prosecutor will be due to two factors: 1) an increase in the number of new cases referred from the Department of Corrections and 2) old cases will continue to come back to court year after year as the respondent petitions the court for supervised release or actual discharge from his commitment.

The Department of Corrections grossly underestimated the number of Chapter 980 cases which were to find their way into the criminal justice system. At the time the law was enacted in 1994, it was said there would be 10 to 20 sexual predator referrals state-wide. The actual number has been over 100. Based upon a survey of all counties the Brown County District Attorney's Office expects to handle between 10 and 20 new sexual predator cases in 1998, 12 to 14 new cases in 1999, and a similar quantity in the year 2000.

Under Chapter 980 a respondent can petition the court every six months after commitment for supervised release, and once a year he can petition for discharge. Most of the Chapter 980 cases handled by the Brown County District Attorney's Office have been relatively recently completed. Most persons committed prior to 1997 have not spent a considerable amount of time in Chapter 980 confinement. Most have not been at the Wisconsin Resource Center long enough to complete the 2 year 8 month treatment

program. As more of these individuals complete this program it is expected their petitions for supervised release or discharge will be filed with the court.

New area of the law requires expertise. - Prior to the creation of the sexual predator position, the attorney who handled the defendant's underlying sexual assault case would be assigned the sexual predator Chapter 980 referral. If the current position was eliminated, we would have to revert back to the old method where five to six prosecutors would be tired up with these lengthy files. Clearly it is more efficient to have one prosecutor who handles all such cases and who is able to stay abreast with current developments in this area of the law.

The sexual predator laws, although held constitutional by the courts, remain new and in many ways unclear, thereby creating an ambiguous legal area. For example, Chapter 980 has a criminal and civil element to its cases. This hybrid has made for some confusion and therefore more work in the handling of these cases. Research is an evolutionary process and research time in this area will continue to increase. New cases are being decided in the appellate courts (for example, a recent 30 page Court of Appeals decision defining the term "substantially probable").

This area is also complex due to the substantial work with expert testimony. Therefore, to effectively implement Chapter 980 commitments it is necessary to have specialists, or in other words, prosecutors who are experts in this area. Due to the heavy caseloads facing every prosecutor in our office as well as other counties, there is really nowhere else to refer Chapter 980 cases other than to individuals with a specific expertise.

The Brown County District Attorney's Office has that expertise in prosecutor Kelley. He has attended conferences around the country concerning aspects of sexual predator laws such as Chapter 980. He has rapidly gained knowledge and developed the much needed expertise to be effective. He spend time researching legal issues on the many motions brought in these cases. They range from *Zanelli* (the release of information contained in presentence investigations to psychiatrists) to the hybrid nature of the proceedings (arguing questions of whether criminal or civil rules apply). Kelley has worked to set up a system involving forms and briefs with our computers geared specifically towards Chapter 980 cases.

Workload shows need for additional prosecutors. - The data compiled by the Department of Administration and Wisconsin District Attorneys Association to varying degrees both show the need for additional prosecutors in the Brown County District Attorney's Office. These statistics already count Brown County with 11 full time equivalent positions. In other words, state statistics already include the sexual predator position as a full-time position on par with the other assistants in our office. Even keeping this position full-time will not erase the additional need for prosecutors. If we

lose a full-time position, the adverse effect on our office will be immediately felt. With the sexual predator cases having to be handled by other prosecutors they will have a harder time being as effective given the need for expertise. Furthermore, they will experience less time to devote to other cases assigned to them.

The position has duties beyond sexual predator duties. - Although for the foregoing reasons the position is needed to continue handling sex predator cases, this position is also extremely important in our office because it is often necessary for Kelley to appear in court to handle felony and misdemeanor hearings. This is due to the occasions when due to a shortage of attorneys there are not enough prosecutors to cover the ten criminal courts (which includes the court commissioners). Kelley also dictates misdemeanor complaints to assist our misdemeanor prosecutors. His position is full time but often due to circumstances beyond our control we must utilize him in another capacity.

The victim rights legislation will increase prosecutorial burdens. - The passage of victim rights legislation which becomes effective on December 1, 1998, will undoubtedly increase time spent on all cases handled by the District Attorney's office. This will include sexual predator cases. We interpret the right to confer portion of the new law to mean that all former victims of the Chapter 980 defendant must be contacted and met with prior to the disposition of the case.

Summary: The need to protect the public. - These are very serious cases. Most predators who have been deemed sexually violent individuals have already been convicted of a number of serious sex offenses. The justification for sexual predator legislation has been the need to protect the public from future sexual violence where there is a reasonable likelihood of re-offending. Given the complexities of the new law, the time which must be devoted to these cases to adequately prepare and try them, and the other case workloads on the Brown County District Attorney's Office, we respectfully request maintaining our sexual predator position in the next budget by converting it to a full-time FTE position.

C. Other unique reasons still exist in Brown County which justify an additional prosecutor position.

1. Due to scheduling and court calendars there are still times when there are not enough attorneys to cover all courts in session.
2. The number of violent crime among youth and increased white collar crime requires more prosecutor time to review.

D. We have utilized temporary assistant district attorneys and special prosecutors in an attempt to continue our normal levels of effectiveness. The change in requirements for special prosecutor appointments makes it unlikely said patchwork solutions will be available in the future.

JUSTIFICATION FOR NEW PROSECUTOR POSITION

The Brown County District Attorney's Office has in other years presented complete documentation as to the many unique reasons why additional staff is necessary in Brown County. This was done in times before a state-wide statistical study was in place. Many of the same unique situations still exist; however, this year the workload study also supports additional prosecutors for Brown County.

Unique circumstances. In past years there have been occasions when our office did not have enough attorneys to cover court due to the number of courts handling criminal cases at the same time. The Brown County judges have attempted to work with our office to help alleviate some of the scheduling problems. However, the fact is the bulk of the increase in overall caseload in Brown County courts is due to criminal cases. There are simply not enough spaces on court calendars to avoid the overlapping of criminal cases in many of these courts. Therefore, this continues to be an intermittent problem.

Another concern of the attorneys has been there is often not enough time to adequately review many of the referrals. Caseload backup has increased due to the number of evidentiary hearings which take up much of the assistant district attorney's time.

Statistical inaccuracies. - We have often pointed out some of the short comings of the past numerical studies used to justify new attorneys. Brown County has always felt that tabulating referrals would be much more informative and accurate in terms of need. Attorneys can only produce so many complaints with just so much time. It is the number of complaints issued which are counted in the statistical analyses. The number of referrals is a true indication of just how busy the office is. It tells just how much more work needs to be done. In effect, it forecasts the workload of any newly created prosecutor's position.

There is still some question as to the accuracy of the state statistics. They show a figure of 911 felonies in Brown County for 1997. We have heard that the state counts only cases which have an initial appearance within the year in question.

We have included a copy of our final felony file created in 1997. The number is 97-CF-1035. This is the actual number of felony cases our office reviewed and issued in 1997. We pulled file 97-CF-911. It shows the initial appearance was in November 1997. Obviously there were a number of felonies greater than 911 which were not only issued but had their initial appearance in 1997. They were not included in the statistics and thus the total number of felonies in Brown County is understated by approximately 11%.

This same analysis holds for misdemeanor cases. The state lists a total of 1,742 misdemeanor cases filed. A copy of our final 1997 misdemeanor file, 97-CM-1968, is enclosed. There were 1,968 misdemeanor referrals reviewed and complaints filed in 1997. The number 97-CM-1742 indicates the initial appearance date was December 4,

1997. Once again a significant number of misdemeanors (approximately 10%) were excluded from the final totals for Brown County.

There may be a state-wide skewering of statistics, but clearly there is a significant understatement of Brown County cases.

State statistics alone show necessity for additional positions. - Even using these third party state tabulated and apparently understated statistics, there is shown to exist a need for additional prosecutors in Brown County. There is a need for 2.3 FTE positions using the Wisconsin District Attorneys Association analysis and .62 FTE using the Department of Administration numbers.

The current statistical data trend shows Brown County to have a need for additional prosecutors. Whatever standard is used (1227 or 1411 hours) there is a trend for an increasing need over the last three years. The figure of need in 1997 taken alone is greater than the average from 1995 to 1997.

Projected 1998/1999 statistics. - The following is a showing of those types of cases filed in Brown County through August 1, 1998 (7 months of 1998) and the projected year end totals if the current rate of prosecution continues.

Type	Total 8/01/98	12/31/98 Projected	% Increase Over 1997	Projected 1999
Felony	675	1,157	11.6%	1,291
Misdemeanor	1,267	2,172	12.1%	2,434
Criminal Traffic	911	1,561	1.9%	1,591
Juvenile Delinq.	190	325	30.2%	423
Juvenile Chips	114	195	41.5%	276

It is interesting to note that during the last Brown County proposed budget request for 1997-1998, we projected an 11% increase in felonies for 1997 to 1998 and only a 7% increase in misdemeanors for the same time period. Depending upon the impact of victim rights legislation, the projected rates of increase are expected to be greater than originally thought for 1997 to 1998 and 1998 to 1999.

Types of cases prosecuted. - Brown County is the fourth largest county in the state. While state crime rate statistics may be leveling off, the number of referrals to Brown County continues to increase. This is especially true in relation to serious crimes by teenagers (note the increase in delinquency petitions). Unfortunately, drive-by-shootings and other violent gang conduct is becoming more common place in referrals in our office. The more serious cases often require more significant amounts of time on the part of our prosecutors.

The other type of felony case we are experiencing more is the embezzlement case. We currently are prosecuting a situation where a deputy treasurer stole more than

\$200,000 from the Brown County Treasurer's Office. More internal theft referrals are being sent to our office. Most likely this increase is a result of society creating situations where more such thefts occur, more employees are reporting these cases, and the fact police agencies are more adept at investigating and solving these crimes.

Victim rights legislation will require additional time spent on cases and create a greater need for more attorneys. - The past needs and justification for new prosecutor positions in Brown County continue to exist. However, an important new factor which justifies the addition of another prosecutor (in addition to maintaining the current sexual predator position) is the advent of victims' rights legislation which becomes effective December 1, 1998. Although well intentioned, this legislation was passed with apparently little consideration for the impact that it would have especially in larger district attorney offices.

Enclosed is a copy of an article expressing concerns of the Milwaukee County District Attorney's Office. Our office had expressed similar concerns at hearings across the state. We agree the bulk of the bill is good, positive legislation for victims. Yet the cold hard fact is that the legislation will increase the responsibilities and therefore the workload on the prosecutors who handle cases involving victims.

Specifically, the right to confer will take up considerable amounts of time in many cases. Time spent dealing with victims in one case will take away time that could be spent reviewing and issuing charges in another referral. This effect is to lower the statistics of complaints which are filed. While one victim is exercising the right to confer another victim's case will sit longer unless there is an additional prosecutor to pick up the slack. Prosecutors in Brown County have always been willing to meet with victims and have initiated discussions with victims in certain cases. However, most cases are prosecuted based on reports generated by police agencies and never go to trial. It is anticipated most of the victims will exercise their right to confer and thus there will be more time consumed with more conferences. We have already had victims believe the new law means they can veto plea negotiations or that the attorney must meet with them a third or fourth time even if there really is nothing new to discuss.

The new legislation could lead prosecutors to become much more cautious in their charging decisions and in the handling of a case. This is to avoid having problems which could lead to referral of the new victim rights board. Those complaints could result in the attorney held liable for violation of the new legislation and subject to forfeitures up to \$1,000.

Summary - If one used population average per prosecutor in comparison with other counties, Brown County would require roughly 14 attorneys. Many of the same facts in Brown County raised in the past necessitating new prosecutor positions still exist. There is now a new factor -- that of victim rights legislation and its impact on prosecutors' offices across the state which will increase the need for more attorneys.

Brown County needs to keep its sexual predator position. Further, even with this prosecutor already in the office there appears to be only 10 to 12 counties that have an FTE need greater than Brown County based on state-wide workload studies. Most of the counties are in the same numerical ballpark in needing two to three new FTE positions. If the state authorizes additional prosecutors in view of the state budget surplus, we respectfully request Brown County receive one of the new prosecutor positions. We are asking that the 1999-2001 budget reflect 12 FTE positions for our office.

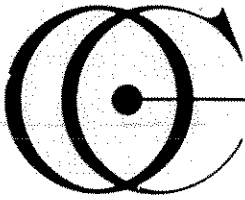
CASE STATISTICS

BROWN COUNTY

	<u>1998</u>	<u>1997</u>
Felonies:	1,186	1,029
Misdemeanors:	2,593	1,960
Criminal Traffic:	1,535	1,601
*Traffic:	6,428	7,244
Juv. Delinquency:	321	227
Juv. Chips:	148	136

***In 1997 the Clerk of Courts counted *each traffic citation* rather than each incident date as they did in 1996 and resumed the practice in 1998. Therefore, 1997 numbers are distorted.**

****The above numbers do not reflect civil case filings or sexual predator filings by Brown County.**



OUTAGAMIE COUNTY

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JUSTICE CENTER

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LAW CLERK

Jeffrey S. Froehlich

March 3, 1999

Assemblyman John Gard
315 North
State Capitol
P O Box 8952
Madison WI 53708-8952

RE: Additional State Prosecutors in Upcoming Budget

Dear John:

Over the next several weeks, the people of Outagamie County will watch with great interest the important budget decisions that will be made by the Joint Committee on Finance and the Governor. As you and the committee members make many difficult decisions, I strongly urge you to address the critical need for additional prosecutor positions in several counties within the State, including Outagamie County.

Outagamie County has not added a permanent assistant district attorney position since 1988. However, the caseload in our county has close to doubled over the last ten years. In 1998, felony files (821) were up 128% from 1991. Temporary help has been received in the form of a drug prosecutor position through grant funds, but that position covers Winnebago, Outagamie and Fond du lac Counties. Further, that position is not permanent and is renewed on a year-to-year basis depending on the sometimes questionable availability of funds.

The people of Outagamie County and Northeast Wisconsin are very proud of the efforts of you and many other lawmakers made on behalf of law enforcement over the last several years. Your enthusiastic and hard work on law enforcement issues is greatly appreciated. During the same time, prosecutors and law enforcement officers have been enthusiastic and have worked many

March 3, 1999

PAGE 2

hours to fight crime despite significant limitations on our resources. Despite the efforts of many on behalf of law enforcement, a point has been reached where the significant caseloads can't be handled with the limited amount of resources. We have done our best over the last ten years without help from the State, but we have now reached the critical point where we must get some help.

I have enclosed materials in support of Outagamie County's budget request. I, and the people of Outagamie County, would greatly appreciate your support and the support of other committee members in obtaining additional prosecutor positions for our county. If you have any questions on this issue, please do not hesitate to contact me.

Sincerely,


Vince Biskupic
District Attorney

cc: VIA FAX: Assemblyman Steven Wieckert
VIA FAX: Assemblyman Dean Kaufert
VIA FAX: Assemblyman Al Ott
VIA FAX: Senator Robert T. Welch

attachments

**OUTAGAMIE COUNTY
DISTRICT ATTORNEY'S OFFICE
1990 - 1998 CASELOAD**

According to computer generated case numbers assigned by Clerk of Courts.

YEAR	CASES						
	CF	CM	CT	JV	TR	JC-TP-JO	SC-CV-FO
1998	821	2011	1036	572	657	194	117
1997	719	2031	984	451	671	159	103
1996	688	1712	1032	361	815	255	99
1995	516	1297	988	461	716	257 231/12/14	90
1994	493	1309	880	401	704	298	62
1993	426	1273	705	448	656	316	60
1992	363	1123	694	376	603	284	30
1991	360	1081	653	374	417	240	42
1990	378	1020	711	306	402	232	67

CF = CRIMINAL FELONY
 CM = CRIMINAL MISDEMEANOR
 CT = CRIMINAL TRAFFIC
 JV = JUVENILE VIOLATION
 TR = TRAFFIC (CIVIL/FORFEITURE)
 JC = JUVENILE CHIPS (CHILD IN NEED OF PROTECTIVE SERVICE)
 TP = TERMINATION OF PARENTAL RIGHTS
 JO = JUVENILE ORDINANCE
 SC = SMALL CLAIMS
 CV = CIVIL
 FO = FORFEITURE

CASELOAD.DA

THE POST-CRESCENT

WEDNESDAY, DECEMBER 23, 1998

Wisconsin's Best Newspaper

50¢

Felonies at record high in Outagamie

Caseload has more than doubled since '92

By Andy Thompson
Post-Crescent staff writer

The crime rate in the Fox Valley has been declining or stabilizing in recent years, but the number of felony prosecutions in Outagamie County continues to rise significantly.

As of this week, county prosecutors had filed 792 felony charges during 1998, eclipsing the previous

record of 719 that was set in 1997. The county's felony caseload has more than doubled since 1992, and has been steadily rising every year since then.

"This is just a continuation of a trend," said Outagamie County Dist. Atty. Vince Biskupic.

Biskupic said it is conceivable that felony case filings could reach 800 by the end of 1998. This year's felonies will be at least 10 percent higher than last year's record level, according to the county's chief prosecutor.



BISKUPIC

Juvenile cases are up by more than 100 over the 1997 level, and criminal traffic cases - which

Biskupic said felony charges run the gamut in terms of offenses, ranging from violent crime to white-collar criminal activities to property offenses and crimes against children.

Biskupic said the continual rise in felonies - despite statistics that reveal crime has leveled off or dropped - reflects solid police work by area agencies and a harmonious relationship between law enforcement departments and prosecutors.

Over the last three or four years, law enforcement, prosecutors and court personnel are maximizing our

efforts to promptly get cases through the court system," Biskupic said. "Beyond these concerted efforts, there has been an increase in serious property crimes and we're charging more failure-to-pay child support cases than had been charged in previous years."

Biskupic said his office has placed an emphasis on working with county law enforcement agencies in an effort to ensure that cases that police refer to the district attorney

Please see FELONIES, A-6

FELONIES: Number of cases hits all-time high in 1998

From A-1

for prosecution actually result in felony and misdemeanor case filings.

The number of cases in which prosecution is declined after police have made a referral is dropping, Biskupic said.

"Our office is trying to devote more time to assisting law enforcement in the investigation stages to make sure the cases are thoroughly prepared and ready for court as soon as they're sent over (for prosecution)," he said.

That assistance can include preparing search warrants, issuing subpoenas and providing advice on the pursuit of follow-up interviews in an investigation, according to Biskupic.

"It's a team effort," he said. "It's a reflection of law enforcement and prosecutors working together to bring better cases to court."

Biskupic said training and recruitment standards for law enforcement have been enhanced in recent years, raising the level of police expertise in preparing cases.

OUTAGAMIE COUNTY DISTRICT ATTORNEY'S OFFICE CASELOAD

YEAR	FELONY	MISDEMEANOR	CRIMINAL TRAFFIC	TRAFFIC	JUVENILE
1998 <small>(thru 12/21)</small>	792	1,982	1,035	543	553
1997	719	2,031	984	671	451
1996	688	1,712	1,032	815	361
1995	516	1,297	988	716	461
1994	493	1,309	880	704	401
1993	426	1,273	705	656	448
1992	363	1,123	694	603	376
1991	360	1,081	653	417	374
1990	378	1,020	711	402	306

SOURCE: computer-generated case numbers assigned by the Clerk of Courts

"We're seeing very effective law enforcement with the staff that the agencies have at this time," he said.

Biskupic said he is not taken

aback that felony case filings have risen every year since 1991.

"It doesn't surprise me in that every day, I see my staff of prose-

cutors and secretaries tirelessly working to get their cases to court fast so victims can receive prompt accountability," he said.

12/95

Outagamie DA feeling the heat of more cases

■ **Biskupic is seeking state funds to hire another prosecutor**

By Andy Thompson
Post-Crescent staff writer

A 15% hike in felony cases in 1994 reflects an increase in serious crime in the Fox Cities coupled with solid police work, according to Outagamie County Dist. Atty. Vince Biskupic.

Biskupic said 491 felonies were filed in 1994, compared with 426 in 1993. Misdemeanor cases were up slightly, from 1,273 in 1993 to 1,293 in 1994.

"I think it's a combination of things: An increase in serious crime plus better detection by police agencies in solving these crimes," said Biskupic.

Biskupic, who took over as the county's chief prosecutor in September, said about 40% of the felonies were filed in the last quarter of 1994. Felonies in Outagamie County have risen by nearly 35% since 1992, according to Biskupic.

Biskupic said the statistics are evidence that another assistant district attorney is needed in Outagamie County. There now are six assistant prosecutors but Biskupic said the heavy workload supports the hiring of a seventh assistant.

Efforts are under way to obtain authorization from the state to hire another prosecutor. Biskupic said legislators will consider the request early in 1995.

Biskupic said the number of prosecutors in Outagamie County has not changed since the spring of



DIST. ATTY. VINCE BISKUPIC says Outagamie County hasn't added any prosecutors in nearly seven years.

1988. He noted that there are seven circuit courts in the county and an active court commissioner's office, making it difficult to cover all of the various proceedings with the current staff.

"The workload and the stress level are pushing them to their limit," he said. "We think it's time we get (another prosecutor)."

Biskupic said criminal traffic cases increased by 24% in 1994 and non-criminal traffic cases rose by 7%.

Juvenile case filings dropped from 448 in 1993 to 398 in 1994. Biskupic said the reduction may have been due to an attempt to try diversionary programs in some cases instead of prosecutions.

OUTAGAMIE COUNTY
LAB TIME AVAILABLE WORKSHEET

(BASED ON 1997 FIGURES)

1.	Number of Class A Homicides	0 (x 100 hrs/case)	=	0
2.	Number of Class B Homicides	2 (x 100 hrs/case)	=	200
3.	Number of Sexual Predators	2 (x 100 hrs/case)	=	200
4.	Number of Felonies	719 (x 8.49 hrs/case)	=	6,104
5.	Number of Misdemeanors	2031 (x 2.17 hrs/case)	=	4,407
6.	Number of Criminal Traffic	984 (x 1.68 hrs/case)	=	1,653
7.	Number of Juvenile Delinq.	451 (x 3.32 hrs/case)	=	1,497
8.	Number of CHIPS Cases	145 (x 2.61 hrs/case)	=	378
9.	Number of TPR Cases	55 (x 7.00 hrs/case)	=	385
10.	Number of Writs of Habeas Corpus	6 (x 2.00 hrs/case)	=	12
11.	Number of Inquests	0 (x 64 hrs/case)	=	<u>0</u>
			TOTAL:	<u>14,836</u>

Divided by 1227
equals # of FTEs
needed in office: 12.1

Divided by 1411
as changed by state
officials 6/98: 10.5

**NUMBERS BASED ON CASES ACTUALLY FILED WITH THE OUTAGAMIE COUNTY CLERK OF COURTS OFFICE

SECOND AMENDED
OUTAGAMIE COUNTY
LAB TIME AVAILABLE WORKSHEET

(BASED ON 1997 FIGURES)

1.	Number of Class A Homicides	0 (x 100 hrs/case)	=	0
2.	Number of Class B Homicides	2 (x 100 hrs/case)	=	200
3.	Number of Sexual Predators	2 (x 100 hrs/case)	=	200
4.	Number of Felonies	628 (x 8.49 hrs/case)	=	5,332
5.	Number of Misdemeanors	1797 (x 2.17 hrs/case)	=	3,899
6.	Number of Criminal Traffic	1023 (x 1.68 hrs/case)	=	1,719
7.	Number of Juvenile Delinq.	443 (x 3.32 hrs/case)	=	1,471
8.	Number of CHIPS Cases	145 (x 2.61 hrs/case)	=	378
9.	Number of TPR Cases	55 (x 7.00 hrs/case)	=	385
10.	Number of Writs of Habeas Corpus	6 (x 2.00 hrs/case)	=	12
11.	Number of Inquests	0 (x 64 hrs/case)	=	<u>0</u>
			TOTAL:	<u>13,596</u>

Divided by 1227
equals # of FTEs
needed in office: 11.08

Divided by 1411
as changed by state
officials 6/98: 9.64

**NUMBERS BASED ON PROCEDURES FOLLOWED BY STATE COURTS INDICATING THAT CASES SHOULD NOT BE COUNTED UNTIL AN INITIAL APPEARANCE TAKES PLACE IN COURT.