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☞ Details: Proposed Audit: Allocation of State Resources for District Attorney Positions

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2012)



WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

December 1, 2006

Mr. Timothy C. Baxter, President
Wisconsin District Attorneys Association
220 North Beaumont Road
Crawford County Courthouse
Prairie du Chien, Wisconsin 53821

Dear Mr. Baxter:

Thank you for contacting us to express the continued interest of the Wisconsin District Attorneys Association in the Legislative Audit Bureau's study of the allocation of district attorney positions.

When the Joint Legislative Audit Committee considered the audit request during a public hearing on August 29, 2006, its deliberations were enhanced by the testimony of several district attorneys and their staff from across the state. The Legislative Audit Bureau also understands the importance of considering the issues raised by those offering testimony, including the numerous factors affecting workload, such as differences in county population, case filing methodologies, inmate cases, and judicial staffing.

Your association's position on the adequacy of current staffing levels is well understood, and the Audit Bureau noted in its testimony that it would include an assessment of the total number of staff called for under the current allocation methodology, as well as potential needs under alternative methodologies it may develop during the course of its review. However, we wish to reaffirm that both the original audit request and the audit scope approved by the Joint Legislative Audit Committee focused on the allocation of existing resources. You may recall that during the public hearing, some Audit Committee members questioned whether the district attorneys present were willing to accept a re-allocation of existing staff resources, because continued fiscal constraints make the appropriation of additional funds for district attorney staff uncertain. It appeared the district attorneys present understood and accepted the proposition of re-allocation.

The Legislative Council's Special Committee on District Attorney Funding and Administration provides another avenue for addressing the funding constraints noted by your association. We are confident that the expected thoughtful analyses provided by the Audit Bureau and the Legislative Council's Special Committee will inform policy makers during 2007-09 biennial budget deliberations.

Sincerely,

Senator Carol Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: Members, Joint Legislative Audit Committee

Janice Mueller
State Auditor

Terry Anderson, Director
Legislative Council

SENATOR ROESSLER
P.O. Box 7882 • Madison, WI 53707-7882
(608) 266-5300 • Fax (608) 266-0423

REPRESENTATIVE JESKEWITZ
P.O. Box 8952 • Madison, WI 53708-8952
(608) 266-3796 • Fax (608) 282-3624

W D A A

Tim Baxter, President
220 North Beaumont Road
Crawford County Courthouse
Prairie du Chien, WI 53821

Wisconsin District Attorneys Association

Tim Baxter, President
Ralph Uttke, President-Elect
Dick Dufour, Treasurer/Secretary
Scott Horne, Past President
Elma Anderson, At large member
Adam Gerol, At large member

Jeffrey Greipp, At large member
Winn Collins, At large member
Patrick Kenney, At large member
Jacalyn LaBre, At large member
Roy Korte, DOJ Rep
Elyce Vos, Executive Director

November 8, 2006

Senator Carol Roessler
Room 8 South State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Representative Suzanne Jeskewitz
Room 314 North State Capitol
P.O. Box 8952
Madison, Wisconsin 53708

Dear Senator Roessler and Representative Jeskewitz:

We are writing to ask that the mission of the current Legislative Audit Bureau study of the District Attorney Program be modified to include a broader examination of the DA Program's staffing needs. Many of us who left the public hearing on August 29, 2006 understood that the LAB study would focus on the adequacy of the case weighting formula developed in the early 1990's from which our optimum staffing levels are derived. We thought this would necessarily embrace the larger question of the adequacy of current DA staffing across the state.

The public hearing included presentations from numerous prosecutors about the perilous levels of DA staffing and the impact this has on public safety. Our most current workload analysis tells us that our program needs more than 117 new positions, and this according to a methodology which likely understates our program's needs.

Among the many failings of the current workload methodology is that it doesn't include any time allotted to cases which are investigated but not charged. It fails to take into account increased time burdens for any of the legislatively or judicially created obligations of the last ten years,

Wisconsin District Attorneys Association

P.O. Box 1702

Madison, WI 53701

(608) 513-1161

including numerous changes to sexual assault and child molestation laws which involve access to confidential victim counseling and treatment records, the use of expert testimony in the guilt phase of criminal cases, and the time burden of reviewing taped interrogations, surveillance or "squad car" videos. Identity fraud cases were essentially unknown when the methodology was created and the child pornography cases of today are far more numerous and complex than they were before the advent of today's internet. It would take pages to recite the litany of reasons why the methodology is out of date but suffice it to say that the effects of our insufficient staffing are readily apparent and directly impact public safety.

The Director of State Courts, John Voelker, touched upon this exact theme in his most recent address at the Wisconsin Judicial Conference on November 8, 2006. Regarding the Judiciary's own updated time study Voelker stated:

There are numerous reasons why the formula needed to be updated, and these will be discussed on Friday, but the primary one is this - the Legislature is not interested in a decade old time study, with recognized deficiencies, as evidence for the need for additional judgeships.

At the September meeting of the Wisconsin District Attorney's Association we were informed that the focus of this LAB study would be on potentially reallocating existing staff resources. We were informed that any reexamination of the case weighting and needs assessment formula would be secondary to that.

The District Attorney Program's current needs are expressed in the 2003 - 2005 Workload Analysis, a copy of which is attached. These numbers are derived from the 1995 methodology. Currently the District Attorney program has 420.65 prosecutors, where optimally it should have 537.98. However, many of these 420.65 prosecutors are not state funded positions at all and not necessarily perpetual in duration. Dozens of these are funded by program revenues and subject to the continuation of the federal programs which sponsor them.

The Workload Analysis demonstrates that eight counties have positions which would be considered surplus under the existing formula. Together, the surplus totals 1.83 full time equivalent positions with each of the eight counties having an average 'surplus' of .22 FTE prosecutors.

Alternatively the Workload Analysis shows that there are 63 counties with staffing needs or deficits totaling 119 FTE positions. Stated otherwise, in 63 counties the average prosecutor is doing the work of 1.4 people according to the old formula, which also failed to take into account the administrative responsibilities of an elected or deputy DA. By contrast the State Public Defender has numerous attorney positions that are relieved of caseload to varying degrees in recognition of these administrative tasks. Merely offsetting the needed positions by the surplus positions would have no meaningful effect on our staffing problems.

Every prosecutor would welcome a reassessment of the current workload methodology which is no longer relevant to our current case obligations. We hope that we are merely mistaken but we now believe that merely reshuffling current staffing is the primary focus of the LAB study. If so it would not be a meaningful exercise at all. In fact it would be contrary to the legitimate public safety concerns which necessarily flow from the failure of our program to meet its obligations.

The very best police work is useless without effective prosecutors who have sufficient time, resources and training to do their jobs. Too many recent newspaper headlines reflect the consequences.

Thank you for your time and consideration in this matter. If you have any questions, or would like to further discuss any matters or issues, please do not hesitate to contact me. My office telephone number is (608) 326-4802.

Sincerely,

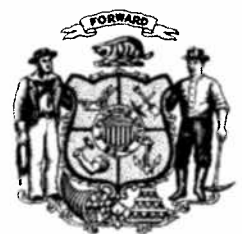
A handwritten signature in black ink, appearing to read "Timothy C. Baxter". The signature is fluid and cursive, with the first name "Timothy" and last name "Baxter" clearly distinguishable.

Timothy C. Baxter
President
Wisconsin District Attorneys Association

cc: Sen. Robert Cowles
Sen. Scott Fitzgerald
Sen. Mark Miller
Sen. Julie M. Lassa
Rep. Samantha Kerkman
Rep. Dean Kaufert
Rep. David Travis
Rep. David Cullen



WISCONSIN STATE LEGISLATURE



8/29/06 - DA Scope P.H.

(1)

Sen. Cowles: Ratio of DA - Pop

DA - Police Officers

- Non-english speaking population

- # of referrals from other counties

↳ how DA count / handle cases - multiply folders - 1 case

Rep. Karlman: Will you be looking at P.D.?

↳ Jan - Not at their workload, only as it relates to how it affects DA-formula (1999 LAB work criticized)

Sen. Kessler - Relationship to judges? - part of formula

↳ will look at as it relates to formula # of judges to # of DA?

Sen. Fitz. - Thinks the scope should include the impact on DA's of correctional institutions

Phil Werner, Dir. of State Prosecutor's Office, ^{get extra copy} Written Testimony
JF - Thinks comment on not enough info ... not happy with

• Baxter (DA, Crawford County) Pres. of DA Assn

- Thanks for undertaking

- expand to cover all aspects of DA's position

- See DA in Crawford County

• Lawrence Lasse & John Zawadzki Brown County DA's office

- weights system not a good barometer

end

- referrals have to be included
- not a matter of fact
- not all counties charge in the same manner
 - ↳ # of counts charged
 - ↳ referrals
- atty to pop ratio
- atty to police ratio
 - ↳ law enforcement has gotten better
- correctional cases still factored into the need
 - ↳ unique
- colleges in county
 - ↳ # of referrals/types
 - ↳ misdemeanors ~~can~~ creates a lot of work
- non-english speaking population

SJ: Should there be more guidelines vs good judgment/discretion on prosecuting same crime diff in diff counties
 ↳ Oversight w/ diff difficult to enforce

John: - - -

- Some cases that never generate a charge take the most time.

all midw city - Sensitive crimes ②

- Sensitive crimes

③ mc Chris Levy?

• Jeff Gierb (MC-ADA) June Foley - Victim advocate

- unified in 112 DA's - short
- turnover a problem - 50% in MC; some statewide (last 6 yrs) need for experienced prosecutors
- lot of time spent coordinating w/ local & fed law enforcement

R.C - Do you buy into the old formula?

↳ speaking today on behalf of state prosecutors
 So you don't?

↳ can't speak today on that

SJ - Who is in your bargaining unit

↳ More important to get to you in writing

- ③ - responsibilities increase, but don't get a raise
- cases getting more difficult to prosecute (law changes, technology)

Note: Moved - Justice
 2nd - Cowles

10-0 (scribbled out)