



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 3

TO: MEMBERS OF THE SPECIAL COMMITTEE ON CRIMINAL JUSTICE FUNDING AND STRATEGIES

FROM: Anne Sappenfield, Senior Staff Attorney

RE: Draft Final Report

DATE: December 1, 2010

This Memo proposes a format and some content of a final report for the Special Committee on Criminal Justice Funding and Strategies. The Special Committee is scheduled to meet on December 2, 2010, and for a final meeting in early January. Chair Taylor has requested that the committee create a final report that sets forth its recommendations.

The proposed report is divided into three parts:

- Statistics relating to Wisconsin crime, prison population, and recidivism rates and a brief description of current funding of the criminal justice system.
- An overall recommendation that the state create a comprehensive approach to funding and overseeing the state's criminal justice functions.
- Specific recommendations.

The proposed format and initial content of the final report is as follows:

### **BACKGROUND**

There were several themes in the Special Committee's discussions that underlie the recommendations of the committee. First, there was an agreement among committee members that criminal justice is core function of state government. Second, committee members emphasized in their discussions that the primary goal of the criminal justice system is public safety. Finally, committee members recognized that many aspects of the criminal justice system cannot be privatized. For

example, it is solely the function of the state to prosecute offenders and to ensure proper supervision of convicted offenders.

### **STATISTICS**

In Wisconsin, there is evidence that the current criminal justice system has not made progress in reducing violent crime and recidivism.

In 2008, Governor Doyle, Chief Justice Abrahamson, Senator Risser, and Representative Huebsch requested technical assistance from the Council of State Governments Justice Center (“Justice Center”) to provide technical assistance to Wisconsin. The goal of the technical assistance was to reduce spending on corrections and reinvest the savings in strategies to increase public safety. As part of its work in Wisconsin, the Justice Center gathered and analyzed data regarding Wisconsin’s crime rate, prison population growth, and recidivism rates.

The Justice Center found that between 2000 and 2007, Wisconsin’s prison population increased 14%. The Justice Center projects that the prison population will increase by 25% from 2008 to 2019. In this same period, however, Wisconsin’s violent crime rate increased 23%. In that period, Milwaukee County’s violent crime rate increased by 42% and Brown County’s by 70%. Dane and Brown Counties bear a proportionate share of the violent crime in Wisconsin based upon population. Milwaukee County, however, with 16% of the state’s population, bears 54% of the state’s violent crime. In the same period, Minnesota’s violent crime rate grew by 3% and Michigan’s was reduced by 3%.

The Justice Center also considered recidivism rates and found that 40% of persons released from prison in 2005 were reincarcerated in prison within two years. In 2000, this rate in Wisconsin was 11% lower. [The Council of State Governments Justice Center, *Justice Reinvestment in Wisconsin, Analyses and Policy Options to Reduce Spending on Corrections and Increase Public Safety*, pp. 1-4 (May 2009).]

For the 2009-11 budget, judicial and legal services constitute 1.8% of appropriated general purpose revenue (GPR). For comparison, correctional services constitute 7.2% of appropriated GPR. In 2009-11, \$2,252,212,400 GPR is appropriated to the Department of Corrections; \$64,471,600 GPR is appropriated for district attorneys; \$153,988,500 GPR is appropriated to the State Public Defender Board; \$241,468,100 GPR is appropriated for the court system; \$81,344,100 GPR is appropriated to the Department of Justice (DOJ); and \$2,244,900 GPR is appropriated to the Office of Justice Assistance (OJA).

### **OVERALL RECOMMENDATION -- TAKING A COMPREHENSIVE APPROACH TO THE CRIMINAL JUSTICE SYSTEM IN WISCONSIN**

The Special Committee recommends creating a state-level body or other mechanism under which Wisconsin would take a more comprehensive approach to criminal justice funding, supporting best practices and effective programs, ensuring accountability of the various components and programs in the criminal justice system, and creating policy that governs the criminal justice system.

A recurring theme in discussions of the Special Committee was the need for mechanisms or an infrastructure to treat the criminal justice system in Wisconsin as one system whose components depend upon the effective functioning of the other components.

Several ways of achieving this goal were discussed by the Special Committee:

- ***State-level criminal justice coordinating council.*** In Wisconsin, over 30 counties have local criminal justice coordinating councils. Testimony to the committee indicates that these councils have been very effective in bringing together the various players in the local criminal justice system to find approaches to increasing public safety that work well in their community. These councils have been able to innovate to create alternatives to prosecution and incarceration that save money and increase public safety. The councils have also been able to create support to maintain programs that work. A state-level council could support the local councils, facilitate communication between councils, consider state-level strategies to improve the criminal justice system, and hold criminal justice programs accountable.
- ***Community justice act.*** Information was presented to the Special Committee that shows that some states have had good success with community justice acts. This alternative would create a less centralized approach to criminal justice funding and policymaking. One way to implement a community justice act is to provide more general funding to counties to allow them to develop ways to address crime issues in their counties and also the accountability for increasing public safety in their counties.

### **OTHER RECOMMENDATIONS**

The Special Committee makes the following specific recommendations:

#### ***1. Increase funding and positions for district attorneys' offices***

The Special Committee heard testimony in favor of creating additional prosecutor positions in Wisconsin. At the Special Committee's first meeting, Chief Justice Abrahamson, Attorney General J.B. Van Hollen, State Public Defender Nicholas Chiarkas, the Wisconsin District Attorney's Association, and the Association of State Prosecutors all separately testified in favor of increasing the number of prosecutor positions. In addition, Patti Seger, Executive Director, Wisconsin Coalition Against Domestic Violence testified in favor of increasing the number of prosecutors in Wisconsin.

In the testimony, the argument was made that currently, prosecutors' caseloads are too high resulting in prosecutors not having time to consult with crime victims or to pursue alternatives to prosecution or incarceration.

#### ***2. Increase the hourly rate for private attorneys who accept appointments from the State Public Defender's Office***

Committee members raised concerns that the current hourly wage of \$40 is too low to attract high-quality private attorneys to represent indigent clients in Wisconsin.

***3. Allocate to courts a larger share of surcharge revenue collected***

Court and county personnel discussed the challenges they face that could be ameliorated if they were permitted to keep more of the revenue they collect through imposing surcharges. Currently, this funding is primarily used to fund state-level programs.

***4. Appropriate more GPR to criminal justice functions***

Currently, many programs and services within the criminal justice system are partially or entirely funded by revenue generated through surcharges. Over time, this funding source has been unstable due to the inability to collect 100% of surcharges ordered. Therefore, committee members support providing the criminal justice system with a more stable, reliable source of funding.

***5. Explore ways to improve the information that is available to policymakers when a new crime or an increased criminal penalty is proposed***

Under current law, the Joint Review Committee on Criminal Penalties may prepare reports to discuss the impact of legislation that includes a proposed new crime or increased criminal penalty. The report is included with the bill and is available to members of the Legislature and the public. Committee members discussed whether there are other ways to quantify and make available information on the fiscal impact of new criminal penalty bills.

***6. Review current criminal offenses to determine whether it would be more efficient to prosecute them as ordinance violations***

The committee members noted that there are several minor misdemeanor offenses in the Criminal Code that are likely pled down to ordinance violations frequently. The committee members expressed an interest in reviewing certain lower level misdemeanor offenses to determine the effect on public safety and on criminal justice spending of handling these cases as ordinance violations.

***7. Maintain current funding levels for the Treatment and Diversion Program***

The Treatment and Diversion Program was created by the 2005-07 Biennial Budget Act. It operates in six sites and its goal is to develop treatment and diversion alternatives to jail and prison sentences for non-violent offenders with drug and alcohol problems. Formal evaluations of the program are ongoing and there will be outcome data available in approximately one year. There are indications that the outcomes are positive, and the committee supports ongoing funding of this effort.

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