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Joint Committee on Finance

Paper #411

Drug Enforcement Activities (Justice)

[LFB 2017-19 Budget Summary: Page 270, #11]

CURRENT LAW

The Department of Justice's Division of Criminal Investigation (DCI) is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the Department. Under s. 165.70 of the statutes, DOJ is required to investigate crime that is statewide in nature, importance, or influence. In addition, the statutes require DOJ to enforce Chapter 961 of the statutes (Uniformed Controlled Substances Act). Notwithstanding, s. 165.70 stipulates that it is not the intent to deprive local law enforcement of its concurrent power to enforce these provisions.

The Department's drug law enforcement, crime laboratories, and genetic evidence activities PR appropriation is authorized to support activities relating to drug law enforcement, drug law violation prosecution assistance, criminal investigative operations, and activities of the state crime laboratories. This appropriation is supported by revenue from the crime laboratory and drug law enforcement (CLDLE) surcharge and the deoxyribonucleic acid (DNA) surcharge. More specifically, money is transferred from the CLDLE and DNA surcharge fund to the drug law enforcement appropriation. Base funding for the drug law enforcement appropriation is \$8,731,500 PR.

GOVERNOR

Provide the Department \$500,000 PR annually during the 2017-19 biennium only to support overtime, fleet costs, training, and other supplies and services for Division of Criminal Investigation activities related to drug law enforcement. Funding under the bill is provided on a one-time basis and would, therefore, not be included in DOJ's base budget for the 2019-21 biennium.

DISCUSSION POINTS

1. The bill provides DOJ with \$500,000 PR annually during 2017-19 only to support activities of DCI related to drug law enforcement. Program revenue for these costs would be supported by a transfer of monies from the CLDLE and DNA surcharge fund. As identified in a separate paper on this fund, under the bill, the fund is projected to conclude the 2017-19 biennium with a balance of \$2,322,100. Therefore, the fund has a sufficient balance to support additional funding for drug law enforcement activities, as recommended by the Governor. However, it should also be noted that, under the bill, the fund is estimated to operate in a structural deficit during the 2017-19 biennium. In 2017-18, total obligations (\$16,235,700) are estimated to exceed annual revenue (\$15,000,000) by \$1,235,700, and in 2018-19, total obligations (\$16,603,000) are estimated to exceed annual revenue (\$15,000,000) by \$1,603,000.

2. Adjusted base funding and position authority for DCI totals \$17,304,400 (all funds) annually and 151.80 positions. Funding and position authority is comprised of \$9,894,200 GPR and 97.30 GPR positions, \$5,753,600 PR and 45.75 PR positions, \$1,268,400 FED and 6.00 FED positions, and \$388,200 SEG and 2.75 SEG positions. According to DOJ, DCI has 25.0 special agents, 2.0 special agents-in-charge, and 1.0 criminal analyst devoted full-time to drug enforcement investigations. In addition, DOJ estimates that it utilizes 22.26 FTE positions, including special agents and supervisory and support staff, for drug enforcement activities. This estimate is based on the workloads of individuals who work on various case types. [Note that these amounts do not include \$420,000 GPR and 4.0 GPR positions annually that would be provided to DOJ under 2017 Special Session Assembly Bill 10 (SS AB 10) to support 4.0 special agents in DOJ who would focus on drug trafficking and drug interdiction investigations. As of this writing, SS AB 10 has been passed by the Assembly, and the Senate has yet to act on the bill.]

3. Funding provided under the bill was initially requested by the Department in its agency budget request. [Although, it should be noted that DOJ requested this funding on an ongoing basis, while the Governor recommends providing funding during the 2017-19 only]. According to DOJ, funding was requested to offset a decrease in federal funds available to DOJ from the federal asset forfeiture program.

Background on the Federal Asset Forfeiture Program and State Forfeiture Law

4. The federal Department of Justice (US DOJ) and the federal Department of the Treasury (US Treasury) each administer a federal asset forfeiture program through which the Wisconsin DOJ receives funds. Federal agencies that participate in the US DOJ asset forfeiture program include law enforcement agencies within the US DOJ (such as the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives) as well as a few law enforcement agencies outside the US DOJ (such as the Office of Criminal Investigation in the Food and Drug Administration). Federal agencies that participate in the US Treasury asset forfeiture program include US Customs and Border Protection, US Immigration and Customs Enforcement, the Internal Revenue Service, and the US Secret Service. While the programs have a few differences in the way in which the two programs are administered by the federal government, the programs generally follow similar guidelines. [Unless otherwise noted, the following discussion of the federal asset forfeiture program relates to both programs administered by the US DOJ and the

5. Under federal law, property derived from a crime, involved in a crime, or that which makes a crime easier to commit generally may be seized and forfeited without compensating the owner of the property. Title to seized assets may be transferred to the federal government through judicial forfeiture or administrative forfeiture. Criminal and civil forfeiture are the two forms of judicial forfeiture, which is the process by which property may be forfeited to the federal government by a filing of a forfeiture action in a federal court. Criminal forfeiture is an action brought as part of the criminal prosecution of a defendant that includes the forfeiture of property used or derived from the crime. If the defendant is convicted, the judge or the jury may find that the property is forfeitable. Only the defendant's interest can be forfeited in a criminal case because criminal forfeiture is part of the sentence in the criminal case. Civil forfeiture is a proceeding that may be brought against the property rather than against the person who committed the offense. Civil forfeiture does not require criminal charges against the owner of the property or a criminal conviction. The government must prove the forfeiture and the connection between the property and the crime by a preponderance of the evidence. Forfeiture may be applicable to property that is traceable as proceeds of the offense, that facilitated the offense, or that was involved in money laundering.

6. In contrast to criminal and civil forfeiture, administrative forfeiture is the process by which property may be forfeited to the federal government without judicial involvement. Federal seizing agencies perform administrative forfeitures. Seizures must be based on probable cause. If the property owner files a claim, the administrative forfeiture process stops and the federal government must bring a forfeiture action in federal court or return the property to the claimant. The seizing agency forwards the claim to the relevant United States Attorney's Office for action. Federal law limits the use of administrative forfeiture to the following types of property: (a) monetary instruments (such as cash, checks, and bonds) of unlimited value; (b) hauling conveyances (such as vehicles used to transport or store illegal drugs) of unlimited value; and (c) other property (such as jewelry) of a value of \$500,000 or less. All other property must be forfeited through a form of judicial forfeiture. Real property, such as land or buildings, may not be forfeited administratively.

7. Any state or local law enforcement agency that directly participates in an investigation or prosecution that results in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture (this is commonly known as the equitable sharing program). State and local law enforcement agencies may participate in the equitable sharing program in one of two ways.

8. Law enforcement agencies may conduct a joint investigation in which federal agencies work with state or local law enforcement agencies to enforce federal criminal laws. For example, joint investigations may originate from participation on a federal task force. If, as a result of the joint investigation, money or property is federally forfeited, equitable shares of the net proceeds from such forfeitures are allocated to each law enforcement agency participating in the joint investigation that bears a reasonable relationship to the agency's direct participation in the investigation resulting in the forfeiture.

9. The other way in which a state or local law enforcement agency may participate in the equitable sharing program is through an adoptive seizure. An adoptive seizure occurs when a state

or local law enforcement agency seizes property and requests one of the federal agencies participating in the asset forfeiture program to adopt the seizure and proceed with federal forfeiture. Federal agencies may adopt such seized property for forfeiture when the conduct giving rise to the seizure is in violation of federal law and where federal law provides for forfeiture. In adoptive seizures, the federal government generally retains 20% of the net proceeds of the forfeiture, while the state and local law enforcement agency may receive 80% of the net proceeds.

10. With regards to adoptive seizures, note that on January 16, 2015, the US Attorney General and the Director of the Executive Office for Asset Forfeiture in the US Treasury ordered the curtailment of the federal adoption of property seized by state or local law enforcement under state law. Specifically, the US Attorney General prohibited the federal adoption of property seized by state or local law enforcement under state law, except for property that directly relates to public safety concerns, including firearms, ammunition, explosives, and property associated with child pornography. To the extent that seizures of property other than these four specified categories are considered for federal adoption under the public safety exception, such seizures may not be adopted without the approval of the Assistant Attorney General for the US DOJ Criminal Division. The Director of the Executive Office for Asset Forfeiture in the US Treasury ordered that federal agencies may adopt state and local seizures only for property that implicates public safety concerns, which includes: firearms, ammunition, explosives, instrumentalities of child pornography, adulterated food products, counterfeit consumer goods, and similar items that pose a public health or safety concerns. These two directives do not affect equitable sharing resulting from joint investigations.

11. Under the federal asset forfeiture program, funds provided to state and local law enforcement agencies through the equitable sharing program must be used to increase or supplement the resources of the receiving state or local law enforcement agency. Shared funds may not be used to replace or supplant the appropriated resources of the recipient. Further, receiving agencies generally may not commit to spending shared funds for a certain purpose in advance of receipt of the funds.

12. Funds and property received under the equitable sharing program may be used for the following purposes: law enforcement operations and investigations; law enforcement training and education; law enforcement, public safety, and detention facilities; law enforcement equipment; joint law enforcement operations; contracting for services; law enforcement travel and per diem; law enforcement awards and memorials; drug and gang education and other awareness programs; state or local law enforcement agency's matching contributions for a state or federal grant program; transfer to other law enforcement agencies; and support of community-based programs. Generally, the following constitute impermissible uses of funds and property received from the equitable sharing program: use of forfeited property by non-law enforcement personnel; creation of endowments or scholarships; use contrary to the laws of the state or local jurisdiction; use for personal or political purposes; purchase of food and beverages; extravagant expenditures; petty cash accounts and stored value cards (such as a prepaid credit card); purchase of items for other law enforcement agencies; costs related to lawsuits; loans; and money laundering operations.

13. Wisconsin state law also provides for the forfeiture of property that is involved in a

crime. State statutes contain two different sections regarding the judicial forfeiture of property, with a section relating to forfeitures stemming from drug crimes under the Uniform Controlled Substance Act (Chapter 961 of the statutes), and another section relating to forfeitures under the sentencing chapter (Chapter 973 of the statutes) related to other crimes.

14. *Drug crime forfeitures under state law.* Under Chapter 961, the following are subject to forfeiture: (a) all controlled substances or controlled substance analogs that have been manufactured, delivered, distributed, dispensed, or acquired in violation of Chapter 961; (b) all raw materials, products, and equipment that are used, or intended for use, in manufacturing, compounding, processing, delivering, distributing, importing, or exporting any controlled substance; (c) all property that is used, or intended for use, as a container for the property described under "a" or "b"; (d) subject to certain exceptions, vehicles that are used, or intended for use, to transport, sell, or receive property described under "a" or "b" or for the purpose of transporting any property or weapon used, to be used, or received in the commission of, a felony under Chapter 961; (e) all books, records, and research products and materials, which are used, or intended for use, in violation of Chapter 961; (f) all property, real or personal, including money, directly or indirectly derived from or realized through the commission of any crime under Chapter 961; (g) drug paraphernalia used in violation of Chapter 961; and (h) masking agents used in violation of Chapter 961.

15. A district attorney has 30 days after the property is seized to commence a judicial forfeiture action under Chapter 961 in relation to a drug crime, except that the defendant may request that the forfeiture proceeding be adjourned until after adjudication of any charge concerning a crime which was the basis for the seizure of the property (such a request from the defendant must be granted by the Court). Under these proceedings, a court may render a judgement *in rem* (a judgement that determines the status or condition of property itself and that operates directly on the property itself) or against a party personally, or both.

16. When property is forfeited under Chapter 961, the agency whose officer or employee seized the property must do one of the following: (a) retain the property for official use; (b) sell the property, if it is not required to be destroyed by law and it is not harmful to the public, and retain 50% of the proceeds for payment of forfeiture expenses and deposit the remaining 50% of the proceeds into the Common School Fund; (c) require the sheriff of the county in which the property was seized to take custody of the property and remove it for disposition in accordance with law; (d) forward the property to the Crime Laboratory Bureau in DOJ for disposition; (e) if the property forfeited is money and the amount does not exceed \$2,000, retain 70% of the funds for the payment of forfeiture expenses and deposit the remainder in the Common School Fund; and (f) if the property forfeited is money and the amount exceeds \$2,000, retain 50% of the funds for the payment of forfeiture expenses and deposit the remainder in the Common School Fund.

17. *General crime forfeitures.* Generally, under Chapter 973, all property, real or personal, including money, used in the course of, intended for use in the course of, or directly or indirectly derived from or realized through the commission of any crime is subject to seizure and forfeiture. State law provides for civil forfeiture, under which a court may render a judgement *in rem* or against a party personally, or both, as well as criminal forfeiture, under which a court may order forfeiture along with a judgement of conviction of a criminal offense. With regards to civil

forfeiture, a district attorney has 30 days after the property is seized to commence a forfeiture action in relation to a general crime, except that the defendant may request that the forfeiture proceeding be adjourned until after adjudication of any charge concerning a crime which was the basis for the seizure of the property (such a request from the defendant must be granted by the Court).

18. When property is forfeited under Chapter 973, the agency seizing the property may do one of the following: (a) if the property is a vehicle, retain the vehicle for official use; (b) if the property is not required by law to be destroyed or transferred to another agency, sell the property and retain 50% of the proceeds and deposit the remaining 50% of the proceeds to the Common School Fund; and (c) if the forfeited property is money, deposit 100% of the money to the Common School Fund.

Provisions under the Budget Bill

19. The bill provides the Department with \$500,000 PR annually during the 2017-19 biennium only in order to support certain supplies and services costs at the Division of Criminal Investigation. These supplies and services costs include unscheduled case-driven overtime for special agents, law enforcement vehicle fleet costs, travel and training for DCI special agents and local law enforcement partners, investigative funds (such as funds utilized to "buy" illegal drugs during the course of a drug investigation), and maintenance and replacement costs of protective and investigative equipment. According to DOJ, in recent years, the Department has utilized one-time funding sources, such as revenue from the federal asset forfeiture program and discretionary settlement revenue received by the Attorney General, to support some of these costs. Specifically, DOJ indicates that federal asset forfeiture revenue is generally utilized to support drug crime investigations.

20. Attorney General discretionary settlement revenues are settlement funds that, as a result of certain litigation (most commonly cases involving a violation of consumer protection laws), are received by the Department and may be utilized at the discretion of the Attorney General. In certain circumstances, the terms of the court's ruling or the state's settlement agreement requires that discretionary settlement funds be utilized for specific purposes, such as for consumer protection purposes. In other instances, these funds may be expended for any purpose permitted by state law, at the discretion of the Attorney General.

21. Table 1 identifies the balance of funds DOJ has received from the federal asset forfeiture program from state fiscal year 2011-12 through 2016-17 (as of December 31, 2016). As identified in Table 1, revenues from the program have fluctuated in recent years, in part due to large, one-time seizures from which DOJ received funding in 2012-13 and 2013-14. Further, expenditures from federal asset forfeiture funds increased between 2013-14 and 2015-16 as DOJ relied more heavily on the use of these funds to support DCI investigations. As a result of DOJ's increasing usage of federal asset forfeiture funds, the balance of these funds at the end of 2015-16 was \$364,200, compared to \$1,828,400 at the end of 2011-12 (a decrease of 80%). Further, as of December 31, 2016, DOJ had a federal asset forfeiture fund balance of \$182,200.

TABLE 1**Wisconsin Department of Justice Federal Asset Forfeiture Funds**

	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16*</u>	<u>2016-17**</u>
Opening Balance	\$1,841,300	\$1,828,400	\$2,140,800	\$2,987,800	\$1,821,300	\$364,200
Revenue	455,700	704,800	1,798,700	432,000	337,700	298,000
Expenditures	468,600	392,400	951,700	1,598,500	1,794,800	480,000
Ending Balance	\$1,828,400	\$2,140,800	\$2,987,800	\$1,821,300	\$364,200	\$182,200

*Note that from December 21, 2015, through March 28, 2016, the US DOJ suspended payments to state and local law enforcement agencies due to financial solvency issues with its asset forfeiture fund. The US DOT did not make a similar suspension of payments.

**Amounts for 2016-17 are through December 31, 2016.

22. Table 2 provides a more detailed categorization of how DOJ has utilized its federal asset forfeiture funds from 2011-12 through 2015-16. As identified in Table 2, in recent years, DOJ has utilized federal asset forfeiture funds to support a greater level of its costs related to its law enforcement fleet and case-driven overtime. With regards to fleet costs, note that these expenditures generally include assessments from the Department of Administration (DOA) to DOJ for leasing law enforcement vehicles that are owned by DOA. In December, 2016, under a monthly lease, DOJ leased 135 vehicles from DOA, of which 103 vehicles were equipped as police vehicles and assigned to law enforcement personnel, two vehicles in DCI and seven vehicles at the state crime laboratories were equipped and used for crime scene response and for transporting staff to meetings, conferences, and court testimony, and the remaining 23 vehicles were assigned to specific work units in DOJ or used in a department pool for general business travel. In total, DOJ spent \$1,053,400 (all funds) on DOA fleet charges in 2015-16. Therefore, DOJ utilized federal asset forfeiture revenue to support 77.5% (\$816,400) of these costs in 2015-16.

TABLE 2**DOJ Expenditures of Federal Asset Forfeiture Funds, 2011-12 through 2015-16**

<u>Category</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>
Fleet	\$242,200	\$136,800	\$677,700	\$757,200	\$816,400
Overtime	0	2,000	29,500	327,100	700,200
Telecommunication services and equipment	17,000	27,800	75,700	94,400	58,300
Investigative funds*	NA	NA	NA	NA	93,700
Training and travel	200	200	9,500	30,400	14,200
Other	<u>209,200</u>	<u>225,600</u>	<u>159,300</u>	<u>389,400</u>	<u>112,000</u>
Total	\$468,600	\$392,400	\$951,700	\$1,598,500	\$1,794,800

*Note that due to available data, DOJ was only able to differentiate investigative fund expenditures from "other" expenditures beginning in 2015-16.

23. With regards to future revenue received under the federal asset forfeiture program, DOJ estimates that it will receive between \$300,000 and \$400,000 of revenue per year. This estimate is based on revenue received in the most recent two full fiscal years (2014-15 and 2015-16), as well as insight from staff at the Division of Criminal Investigation. As of December 31, 2016, DOJ received \$298,000 in federal asset forfeiture revenue in 2016-17. Notably, DOJ indicates that, "The reduction in revenue can be attributed to a shift to taskforce-based operations and few large one-time seizures that are unlikely to be repeated regularly. DCI makes the most effective use of positions and resources by conducting most investigative work under a taskforce model through collaborative partnerships with federal, [and] other state and local law enforcement agencies. As a result, DCI may qualify for a small portion of seized assets based on the relative contribution to the effort compared to cases which DCI worked alone."

24. As of March, 2017, DOJ has 101 equitable sharing payment requests pending with the federal government associated with seized assets with a total value of \$24,465,700. [Note that each request is tied to specific asset.] It is anticipated that these requests will continue to generate revenue in future years as long as the federal government continues to make equitable sharing payments, however, the extent of revenue is unknown. The dates associated with these requests range from 2007 through 2017, as it can take several years for a seizure resulting from an investigation to lead to forfeiture and a possible equitable sharing payment. Further, DOJ's final share of the assets, as approved by the federal government, is unknown. As discussed above, when a joint investigation results in a federal asset forfeiture, equitable shares of the net proceeds from such forfeitures are allocated to each law enforcement agency participating in the joint investigation that bears a reasonable relationship to the agency's direct participation in the investigation resulting in the forfeiture. Finally, it should be noted that these equitable sharing payment requests include requests for forfeitures for which a final judicial decision is still pending. As a result, equitable sharing payments may not be made in certain cases where a court decides not to impose a forfeiture.

25. The Department utilizes funding from the federal asset forfeiture program to support its DCI activities, particularly as they relate to drug crime investigations. In recent years, the balance of these funds has diminished. Further, based on estimated future revenue from the program, it is unlikely that DOJ will be able to continue to utilize federal asset forfeiture revenue to support DCI to the extent it has in recent years. The bill provides DOJ with \$500,000 PR annually during the 2017-19 biennium only to support DCI. According to DOJ,

"If this funding is not provided, or only provided in the FY 2017-19 biennium, the department will make every effort to continue to support these critical ongoing activities using one-time balances to the extent funding is available. In prior biennia when revenues were not sufficient to support DCI's basic operating expenses, the department was forced to implement short-term spending reductions which substantially impaired DCI's ability to complete timely investigations and respond to local law enforcement agency requests for support."

26. In recognition of DOJ's decreasing balance of federal asset forfeiture funds, the Committee could approve the Governor's recommendation and provide DOJ \$500,000 PR annually during the 2017-19 biennium only to support supplies and services for the Division of Criminal Investigation [Alternative 1]. Program revenue would be supported by a transfer of funds from the

CLDLE and DNA surcharge fund. Further, funding would be provided during 2017-19 only, and, therefore, would not be included in DOJ's base budget for the 2019-21 biennium.

27. As noted above, under the bill, the CLDLE and DNA surcharge fund is projected to conclude the 2017-19 biennium with a balance of \$2,322,100. Therefore, the fund has a sufficient balance to support additional funding for drug law enforcement activities, as recommended by the Governor. However, the fund is projected to operate in a structural deficit during the 2017-19 biennium. In 2017-18, total obligations (\$16,235,700) are estimated to exceed annual revenue (\$15,000,000) by \$1,235,700, and in 2018-19, total obligations (\$16,603,000) are estimated to exceed annual revenue (\$15,000,000) by \$1,603,000.

28. Given the projected structural deficit in the CLDLE and DNA surcharge fund, as well as the uncertainty surrounding future revenue received from the federal asset forfeiture program, the Committee could decide to provide DOJ a reduced level of funding as compared to what is recommended by the Governor. Specifically, the Committee could provide DOJ with \$375,000 PR annually in 2017-19 only (75% of the amount recommended by the Governor) or \$250,000 PR annually in 2017-19 only (50% of the amount recommended by the Governor) [Alternative 2a and 2b]. Alternative 2a would reduce funding under the bill by \$125,000 PR annually and Alternative 2b would reduce funding under the bill by \$250,000 PR annually. To the extent that DOJ requires additional funds during the biennium, it could request increased expenditure authority under s. 16.515 of the statutes.

29. The Committee could also modify the Governor's recommendation and provide funding on an ongoing basis, as opposed to a one-time basis [Alternative 3]. While the Governor recommends providing funding during the 2017-19 biennium only, DOJ initially requested that funding be provided on an ongoing basis. The administration indicates that it recommends providing funding on a one-time basis due to the uncertainty of future revenue from the CLDLE surcharge and the DNA surcharge after the 2017-19 biennium. However, funding provided under the bill is intended to support costs for overtime, law enforcement vehicle fleet charges, training for DCI agents and local law enforcement partners, and other investigatory supplies and services costs. It is anticipated that these costs will continue after the 2017-19 biennium. Therefore, an argument can be made that an ongoing funding source should be provided to support these costs.

30. On the other hand, the Committee could decide not to provide DOJ additional resources at this time. The Department has been able to utilize its ongoing base budget, as well as one-time revenue sources such as federal asset forfeiture revenue and Attorney General discretionary settlement funds, to support DCI's costs in recent years. Therefore, it could be argued that DOJ could continue to do so during the 2017-19 biennium. Further, future revenue from the federal asset forfeiture program is unknown. To the extent that DOJ is unable to support DCI with its existing resources during the 2017-19 biennium, DOJ could request increased expenditure authority under s. 16.515 of the statutes, as needed.

31. In addition, while it is estimated that sufficient funds will exist from the CLDLE and DNA surcharge fund during the 2017-19 biennium to support funding under the bill, it is also anticipated that the fund will operate in a structural deficit during the biennium. Eliminating funding under the bill for drug law enforcement would reduce the fund's estimated structural deficit.

32. Finally, with regards to Attorney General discretionary settlement revenue, it should be noted that as a result of the national settlement with Volkswagen, the Department received \$11,428,800 in Attorney General discretionary settlement revenue. [A separate paper will be prepared on the Volkswagen settlement and the use of those funds.] Of this \$11,428,800, \$2,000,000 was transferred the Department of Financial Institutions to support the demolition, deconstruction, and rehabilitation of foreclosed and blighted properties in the City of Milwaukee. The remaining \$9,428,800 was retained by DOJ to be utilized as discretionary settlement funds. Of this amount, DOJ indicates that it intends to utilize approximately \$5.5 million to support ongoing IT modernization projects and improvements for its IT infrastructure and the law enforcement databases that DOJ manages. In addition, DOJ intends to utilize approximately \$4 million to support the operations of the Division of Criminal Investigation, such as costs for special agent and criminal analyst overtime, maintenance and replacement of protective and investigative equipment, and investigative services. The Department has expressed that it would utilize both funding under the bill for drug law enforcement, as well as this discretionary settlement revenue, to support DCI activities related to drug law enforcement. However, given the significant amount of one-time funding received by DOJ from the Volkswagen settlement, an argument could be made that additional funding for DCI activities should not be provided at this time. As noted above, to the extent that DOJ is unable to utilize its base resources to support DCI, DOJ could request an expenditure authority increase under s. 16.515.

33. For these reasons, the Committee could remove the Governor's recommendation and not provide the Department additional resources for DCI drug law enforcement [Alternative 4]. This alternative would reduce funding under the bill by \$500,000 PR annually.

ALTERNATIVES

1. Approve the Governor's recommendation and provide the Department of Justice's drug law enforcement, crime laboratories, and genetic evidence activities PR appropriation \$500,000 PR annually during the 2017-19 biennium only to support overtime, fleet costs, training, and other supplies and services for Division of Criminal Investigation activities related to drug law enforcement. Funding would be provided on a one-time basis, and, therefore, would not be included in DOJ's base budget for the 2019-21 biennium.

ALT 1	Change to	
	Base	Bill
PR	\$1,000,000	\$0

2. Provide funding to DOJ to support supplies and services for the Division of Criminal Investigation activities related to drug law enforcement in either of the following manners. Funding under Alternatives 2a and 2b would be provided on a one-time basis, and, therefore, would not be included in DOJ's base budget for the 2019-21 biennium.

a. Provide DOJ with \$375,000 PR annually during the 2017-19 biennium only. This

alternative represents 75% of the funding recommended by the Governor.

ALT 2a	Change to	
	Base	Bill
PR	\$750,000	- \$250,000

b. Provide DOJ with \$250,000 PR annually during the 2017-19 biennium only. This alternative represents 50% of the funding recommended by the Governor.

ALT 2b	Change to	
	Base	Bill
PR	\$500,000	- \$500,000

3. Provide funding to DOJ on an ongoing basis, as opposed to a one-time basis. Funding provided on an ongoing basis would be included in DOJ's base budget for the 2019-21 biennium. *Alternative 3 may be chosen in addition to Alternative 1, 2a, or 2b.*

4. Remove the Governor's recommendation.

ALT 4	Change to	
	Base	Bill
PR	\$0	- \$1,000,000

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