

Justice

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June, 2019

Joint Committee on Finance

Paper #455

Beat Patrol Overtime Grants (Justice)

[LFB 2019-21 Budget Summary: Page 251, #3]

CURRENT LAW

Beat Patrol Overtime

Under 2017 Act 59, \$1,000,000 PR annually was provided during the 2017-19 biennium only to support grants to cities to reimburse overtime costs for uniformed law enforcement officers whose primary duty is beat patrolling. Program revenue funding was provided by funds transferred from the Attorney General's discretionary settlement fund in 2017-18.

Under the program, grants may be utilized to support salary and fringe benefit costs only. Further, the Department of Justice (DOJ): (a) may not award a grant to an individual city in excess of \$400,000 for a calendar year; and (b) may only award grants to the 10 eligible cities submitting an application for a grant that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available under the FBI uniform crime reporting system. In addition, a city must have a population of 25,000 or more in order to be eligible to receive a beat patrol overtime grant.

A city may receive a grant for a calendar year if the city applies before September 1st of the preceding calendar year and provides DOJ all of the following: (a) the reasons why uniformed law enforcement officers assigned to beat patrol need to work overtime; (b) the status of the hiring and training of new uniformed law enforcement officers who will have beat patrol duties; and (c) a proposed plan of expenditures of the grant monies.

Law Enforcement Officer Supplement Grant Program (Beat Patrol Grant)

The Department also administers the law enforcement officer supplement grant program (also known as the beat patrol grant program). The program was created under 1993 Act 193.

Through this grant program, DOJ provides grants to cities to support the salary and fringe benefits costs of employing additional uniformed law enforcement officers whose primary duty is beat patrol. The Department must make grant awards to the 10 eligible cities submitting applications that have the highest rates of violent crime offenses in the most recent full calendar year for which data is available from the FBI's uniform crime reporting (UCR) system. The Department may not award an annual grant in excess of \$150,000 to any one city, and grantees are required to provide a 25% local match to any grant funds received under the program. In order to receive a grant, a city must have a population of 25,000 or more. Cities may generally not utilize grant funding to pay for overtime costs (except in the first year of a city's initial grant under the program).

Awards are made on a calendar year basis and a city may receive a grant for three consecutive years without submitting a new application each year. Grant funding provided under this program must result in a net increase in the number of uniformed law enforcement officers assigned to beat patrol duties, when compared to the number of uniformed law enforcement officers the city assigned to beat patrol on April 21, 1994.

Base funding for the law enforcement officer supplement grant program is \$1,224,900 PR. Program revenue for the grant program is derived from amounts received from the \$21.50 justice information system (JIS) surcharge that is assessed with a court fee for the commencement or filing of certain court proceedings.

GOVERNOR

Provide \$1,000,000 GPR annually in one-time funding for overtime costs for local beat patrol and community policing officers. Create a new GPR appropriation for the overtime grant program.

Modify current law to expand the overtime grant and the beat patrol grant programs to include community policing. Community policing is not defined under the bill.

DISCUSSION POINTS

1. The Department of Justice's Law Enforcement Training and Standards Bureau tracks the number of law enforcement officers in Wisconsin. According to DOJ, as of March, 2019, there were 16,213 law enforcement officers in Wisconsin, comprised of 14,412 full-time officers and 1,801 part-time officers. These officers are employed by 572 law enforcement agencies, including municipal police departments, county sheriff offices, tribal law enforcement agencies, district attorney offices, and state law enforcement agencies. The vast majority of law enforcement agencies in Wisconsin are local law enforcement agencies, such as municipal police departments and county sheriff offices.

Overtime Grant Background

2. The program revenue funding initially provided for the beat patrol overtime grant program was provided from the uncommitted settlement funds in attorney generals discretionary

settlement fund. Under 2017 Act 369, all settlement funds are required to be deposited to the general fund. As a result, PR from discretionary settlement monies are no longer available. [This legislation is currently subject to litigation.]

3. Further, as provided under 2017 Act 59 (the 2017-19 biennial budget) annual funding was provided for the beat patrol overtime grant program is provided on a one-time basis, and is, therefore, not continued after the 2019-21 biennium. However, statutory provisions creating the beat patrol overtime grant program and the appropriation for the grant program are ongoing.

4. Attachment 1 indicates that in the 2018, the City of Milwaukee received a grant of \$150,000 under the program. Four cities received grant funding under the program in 2018 of \$100,000 and the remaining five cities received grant funding of \$90,000. In addition to the amount of each grant, Attachment 1 provides, for 2018, a description of how the grant funding was utilized.

Beat Patrol Grant and Expansion to Community Policing

5. In serving their local municipalities and counties, local law enforcement agencies may assign certain law enforcement officers to patrol services. Under current law, DOJ administers the law enforcement officer supplement (beat patrol) grant program in order to enhance certain cities' ability to provide these patrol services. Through this program, DOJ awards grants to the 10 eligible cities submitting applications that have the highest rates of violent crime offenses. Grants are awarded for the purpose of assisting municipalities employ additional uniformed law enforcement officers whose primary duty is beat patrol, and grants generally may not be utilized to support overtime costs.

6. In recent years the JIS surcharge fund (the PR fund source for the beat patrol grant program) has operated in deficit. In 2017-18, the JIS surcharge fund concluded the fiscal year with a cumulative deficit of \$4.5 million. The administration indicates that the deficit is expected to increase over the 2019-21 biennium.

7. Attachment 2 shows the municipalities in 2017-18 that were awarded a supplemental grant. The table also shows the amount each city's local match as well as a description of how the grant funding was utilized.

Overtime Grant Alternatives

8. Since the beat patrol overtime grants program's original source of PR is no longer available, the continuation of the program requires a new funding source. The regular beat patrol grant uses PR from the JIS surcharge. However, this appropriation is currently in deficit. Due to the unavailability of a PR funding source, GPR is recommended by the Governor to continue the overtime grant program.

9. The administration indicates that GPR funding would be provided to the overtime grant program instead of the original beat patrol program to allow "local departments flexibility in using existing resources." In addition, if funding were provided to the beat patrol program, funding would need to be used for additional officers, and if state funding ended because a municipality no longer qualified for a grant, it would be up to the municipality to determine whether to continue to fund the

additional officers.

10. Given that funding the overtime grant program allows municipalities flexibility in using their existing resources rather than requiring a law enforcement agency to hire new officers, the Committee may provide the recommended funding for the program. [Alternative A1] This alternative would create a new GPR appropriation for the program and provide \$1,000,000 GPR annually over the 2019-21 biennium only.

11. Given the significant support funding the beat patrol overtime program has provided grantees and the need to change the fund the program with another source than PR, the Committee may wish to support the program, but fund a lower amount. For example, \$500,000 GPR annually could be provided. [Alternative A2] This alternative would create a new GPR appropriation for the program and provide \$500,000 GPR annually over the 2019-21 biennium only.

12. Funding for the beat patrol overtime program is not based on any specific funding need, but rather distributed annually on a formula grant basis to qualifying municipalities. Due to this annual formula, the 10 eligible cities submitting an application for a grant that have the highest rates of violent crime index offenses may change annually for those cities on the edge. In addition, as cities in Wisconsin grow, more cities will have a population of 25,000 or more. Thus, for cities towards the bottom of the top 10, this resource for overtime funding may exist one year, but not the next.

13. The Committee could decide to provide the GPR funding to the beat patrol grant program rather than the overtime program for the 2019-21 biennium only to reduce the reliance on providing funding from the JIS surcharge since: (a) the decision whether to continue to fund overtime is ultimately the responsibility of municipalities; (b) the availability of state overtime funding may change on an annual basis; and (c) the JIS surcharge is in deficit. [Alternative A3] This alternative would use the new GPR appropriation for the Beat Patrol Grant and provide \$1,000,000 GPR annually during the 2019-21 biennium only and \$224,900 PR annually.

14. On the other hand, Committee may not wish to create another GPR appropriation and program. As a result, the Committee may choose to take no action. [Alternative A4] Under this alternative, the beat patrol grant program would remain funded from JIS fee revenues and the overtime grant program would be unfunded.

Community Policing

15. Under the bill, grant eligibility under both the beat patrol grant program and the beat patrol overtime grant program, would be extended to not only beat patrol related activities, but also community policing. Community policing is not defined under the bill.

16. The administration indicates that DOJ would have flexibility to develop a definition or criteria for grant awards. According to the administration, "example features of community policing may include: (a) community outreach, (b) connecting with business and community leaders, (c) foot patrols, and (d) meetings with community groups." The administration indicates that "the terms 'beat patrol' and 'community policing' are not mutually exclusive. Beat patrols are often a key element in community policing initiatives. An example of the rationale to expand the program to community

policing would be a third shift officer could be encouraged to attend a community meeting or participate in presentations to school children during school hours when they would not ordinarily be on shift."

17. Given the flexibility adding community policing to the uses of a Beat Patrol Grant, the Committee may wish to follow the bills recommendation. [Alternative B1]

18. In order to maintain the current uses of the program funding, the Committee may choose to take no action. [Alternative B2]

ALTERNATIVES

A. Beat Patrol Overtime Funding

1. *Overtime.* Provide \$1,000,000 GPR annually in one-time funding for beat patrol overtime costs for local beat patrol.

ALT A1	Change to	
	Base	Bill
GPR	\$2,000,000	\$0

2. *Overtime.* Provide \$500,000 GPR annually in one-time funding for beat patrol overtime costs for local beat patrol.

ALT A2	Change to	
	Base	Bill
GPR	\$1,000,000	-\$1,000,000

3. *Beat Patrol.* Provide \$1,000,000 GPR annually in one-time funding for the local beat patrol. Reduce funding for the beat patrol program by \$1,000,000 PR annually during the 2019-21 biennium only.

ALT A3	Change to	
	Base	Bill
GPR	\$2,000,000	\$0
PR	<u>-2,000,000</u>	<u>-2,000,000</u>
Total	\$0	-\$2,000,000

4. Take no action.

ALT A4	Change to	
	Base	Bill
GPR	\$0	-\$2,000,000

B. Community Policing

1. Modify current law to expand the overtime grant and the beat patrol grant programs to include community policing. Community policing is not defined under the bill.
2. Take no action.

Prepared by: Sarah Wynn
Attachments

ATTACHMENT I

Beat Patrol Overtime Grants, January 1, 2018 through December 31, 2018

Grantee	Brief Description	Federal Award
City of Milwaukee	Funds were used to support police personnel for community police work or beat patrols targeting specific local crime issues.	\$150,000
City of Beloit	Funds support the Community Collaboration and Targeted Enforcement project, which focuses on community policing and problem solving to reduce crime, fear, and disorder. The project uses the department's Crime Analyst to prepare crime reports to develop actionable deployment plans in beat area and report out to the community. The department focuses on firearm related violent crime specifically shots fired and shooting incidents.	\$100,000
City of Racine	Funds were used to support police personnel for community policing work and beat patrols, targeting local crime issues throughout the city. The goal of the initiative is to reduce crime and apprehend offenders in the targeted areas. Under this initiative foot, bicycle, and vehicle patrols are used to address crime and violent offenders in areas throughout the city as crime trends dictate.	\$100,000
City of Green Bay	Beat Patrol overtime assignments target problem issues/areas in the City of Green Bay.	\$100,000
City of Kenosha	Funds were used to address crime in a three part manner: (a) to provide officers to youth programs so that youths may interact with officers in a positive manner; (b) to put officers on walking beats or on bikes in identified high crime areas; and (c) to follow up on criminal activity information generated by the beats to address the drug issues at a neighborhood level.	\$100,000
City of West Allis	Funds were used to pay for officers assigned to beat patrol duties on overtime. These duties included traffic enforcement, accident investigations, criminal investigations, neighborhood patrols and overall community policing efforts.	\$90,000
City of Madison	Funds were used to support the Violence Reduction Initiative. The Madison Police Department used crime analysts to identify violent crime "hot spots" throughout the city, looking at weapons offenses, shooting incidents and robberies. Time of day and day of week data was used to determine the best use of our police resources.	\$90,000
City of Manitowoc	Funds were used to support efforts around Human Trafficking and the abuse of Drugs/Heroin/Methamphetamine.	\$90,000
City of Wausau	Funds were used to further problem-oriented and community-oriented policing strategies that target underlying conditions that precipitate quality of life issues The underlying conditions include, but are not limited to: drug use, sales and distribution; prostitution, child enticement, and human trafficking; and traffic crash and pedestrian safety. Initiatives may include: drug interdiction; operations focused upon internet crimes against children, prostitution and human trafficking; details focused upon traffic violations; and improving upon community relationships through education and interaction.	\$90,000
City of Fond du Lac	Funding was used to pay overtime for additional Fond du Lac Police Department officers to act as a coordinated force multiplier and as an important part of strike team operations and community-oriented policing neighborhood patrols.	<u>\$90,000</u>
		\$1,000,000

ATTACHMENT 2

Law Enforcement Officer Supplement (Beat Patrol) Grants Awarded in 2017-18

<u>Grantee</u>	<u>Award</u>	<u>Local Match</u>	<u>Project Description</u>
Beloit	\$121,434	\$40,478	Beloit funded a portion of two beat patrol officers.
Fitchburg	121,434	40,478	Fitchburg Police Department supported two officers.
Fond du Lac	121,434	40,478	Fond du Lac police department funded two street crimes officers.
Green Bay	121,434	40,478	Green Bay maintained five officers to perform beat patrol duties.
Kenosha	121,434	40,478	Kenosha funds were used to support four beat patrol officer positions.
Madison	126,714	42,238	Madison Police Department funds were used to support four police officers' community work through beat patrols.
Milwaukee	126,714	42,238	City of Milwaukee funded a portion of two beat patrol officers.
Racine	121,434	80,024*	City of Racine Police Department funded two beat patrol officers.
Sheboygan	121,434	40,478	City of Sheboygan Police Department funds were used to support one full time sworn police officer's salary and fringe benefits and additional overtime to support increased beat patrol activities in targeted areas of the City of Sheboygan.
West Allis	<u>121,434</u>	<u>169,650*</u>	West Allis Police Department funded a portion of the salary and fringe benefits of three officers assigned to daily patrol duties.
Total:	\$1,224,900	\$577,018	

*Rather than report the minimum 25% match, these two cities reported the municipal funds utilized to support the salaries and fringe benefits that were partially supported by the state grant award.



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June, 2019

Joint Committee on Finance

Paper #456

Continued Funding of TAD Program Expansion and Drug Court Grant Program (Justice)

[LFB 2019-21 Budget Summary: Page 252, #4]

CURRENT LAW

The Department of Justice (DOJ) administers the treatment alternatives and diversion (TAD) grant program. The TAD program provides grants to counties to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol and other drugs. Projects supported by the TAD program typically follow one of two models: pre-trial diversion or adult drug or treatment court. Grants under the TAD program are awarded as part of a five-year competitive cycle (grants are awarded on a competitive basis in the first year of the cycle, and then on a noncompetitive basis for the remaining four years). Funding for the TAD program during the 2017-19 biennium is \$5,989,000 in 2017-18 and \$5,989,200 in 2018-19 (\$4,650,000 GPR annually and \$1,339,000 PR in 2017-18 and \$1,339,200 PR in 2018-19). Program revenue for the TAD program is comprised of the following: (a) \$1,078,400 PR annually from the justice information system (JIS) surcharge; (b) \$10,600 PR in 2017-18 and \$10,800 in 2018-19 from the drug abuse program improvement surcharge (DAPIS) and drug offender diversion surcharge (DODS); and (c) \$250,000 PR in 2017-18 and 2018-19 from a one-time transfer of funds from DOJ.

The Department also administers the drug court grant program. Under the drug court grant program, DOJ provides grants to counties to establish and operate drug courts. Grants must be provided to counties that have not established a drug court. Under statute, a drug court is defined as a court that diverts a substance-abusing person from prison or jail into treatment by increasing direct supervision of the person, coordinating public resources, providing intensive community-based treatment, and expediting case processing. Base funding for this grant program is \$500,000 GPR annually.

GOVERNOR

Provide \$1,000,000 GPR annually in one-time funding for the treatment alternatives and diversion program to fund both new and existing programs as follows:

- a. \$250,000 annually in one-time funding for existing programs to replace \$250,000 PR annually in one-time program revenue funding provided in the 2017-19 biennium.
- b. \$250,000 annually in one-time funding to expand existing programs.
- c. \$500,000 annually in one-time funding for new TAD programs in an appropriation created for counties and tribes that as of the effective date of the bill, have not received a grant under the TAD program.

DISCUSSION POINTS

1. The TAD program was initially created under 2005 Act 25, while the drug court grant program was created under 2013 Act 20. Since inception, funding for the TAD program has grown significantly. Funding for the drug court grant program has remained level since its inception. Table 1 identifies funding appropriated for the TAD program and the drug court grant program from 2006-07 through 2018-19. In reviewing the table, note that federal dollars from the Byrne justice assistance grant program have been utilized in the past to support a TAD grant to Milwaukee County. However, since this funding was supported by an existing federal grant program and was not directly appropriated by the Legislature, these amounts are not included in the table. Currently, the Milwaukee County TAD program receives state funding appropriated for the TAD program.

TABLE 1

Appropriated Funding for the TAD Program and County Drug Court Grant Program 2005-06 Thru 2016-17

<u>Fiscal Year</u>	<u>GPR</u>	<u>PR</u>	<u>Total</u>	<u>PR Funding Sources</u>
TAD Program				
2006-07	\$0	\$755,000	\$755,000	DAPIS and DODS (\$755,000).
2007-08	0	755,000	755,000	DAPIS and DODS (\$755,000).
2008-09	0	755,000	755,000	DAPIS and DODS (\$755,000).
2009-10	0	712,500	712,500	JIS surcharge (\$705,000); and DAPIS and DODS (\$7,500).
2010-11	0	712,500	712,500	JIS surcharge (\$705,000); and DAPIS and DODS (\$7,500).
2011-12	0	1,085,900	1,085,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2012-13	0	1,085,900	1,085,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2013-14	2,500,000	1,085,900	3,585,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2014-15	2,500,000	1,085,900	3,585,900	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$7,500).
2015-16	2,500,000	1,084,000	3,584,000	JIS surcharge (\$1,078,400); and DAPIS and DODS (\$5,600).
2016-17	2,500,000	3,084,100	5,584,100	JIS surcharge (\$1,078,400); one-time transfer from the Department of Health Services institutional operations and charges PR appropriation (\$2,000,000); and DAPIS and DODS (\$5,700).
2017-18	4,650,000	1,339,000	5,989,000	JIS surcharge (\$1,078,400); one-time transfer from DOJ's discretionary settlement funds (\$250,000); and DAPIS and DODS (\$10,600).
2018-19	4,650,000	1,339,200	5,989,200	JIS surcharge (\$1,078,400); one-time transfer from DOJ's discretionary settlement funds (\$250,000); and DAPIS and DODS (\$10,800).
County Drug Court Grant Program				
2013-14	\$500,000	\$0	\$500,000	
2014-15	500,000	0	500,000	
2015-16	500,000	0	500,000	
2016-17	500,000	0	500,000	
2017-18	500,000	0	500,000	
2018-19	500,000	0	500,000	

2. Under 2017 Act 32, an additional \$2,000,000 GPR annually was provided for the TAD program during the 2017-19 biennium only. Act 32 provided an additional \$150,000 GPR annually during the 2017-19 biennium and required that the additional funds be utilized to support TAD grants to counties that do not currently receive a grant under the TAD program. Finally, 2017 Act 59 provided \$250,000 PR annually for the TAD program during the 2017-19 biennium only. Program revenue funds were transferred from the Attorney General's discretionary settlement fund in 2017-18. A new, competitive five-year grant cycle for TAD grants began in January, 2017.

3. As funding for the TAD program has grown, so have the number of grants under the program. After its inception under 2005 Act 25, the TAD program supported six TAD projects operated by seven counties and one tribe (there was one joint project operated by two counties and one tribe). With the increased funding for the TAD program in recent years, DOJ awarded 50 TAD grants totaling \$5,938,900 to projects operated by 50 counties and two tribes in 2019. [Note that of

the \$5,989,200 appropriated for the TAD program, \$50,300 is utilized for a portion of program administration expenses.] In addition, DOJ utilized \$500,000 from the drug court grant program to provide grants to five counties to establish a drug court. [In reviewing the number of drug courts, it should be noted that, on occasion, counties and tribes that do not have a drug court will utilize services provided by an existing drug court in another county.] Appendix I identifies the TAD projects that received a grant award in 2019. Appendix II identifies the counties that received a grant under the drug court grant award in 2019.

4. The TAD program and the drug court grant program support similar county projects. Projects supported by the TAD program typically follow one of two models: pre-trial diversion or drug/treatment court. Under current law, the drug court grant program provides funding to counties to establish and operate drug courts. The Department may only provide drug court grant funding to counties that have not established a drug court.

5. While the TAD program and the drug court grant program support similar county projects, they are two statutorily separate grant programs. The drug court grant program has few statutory requirements associated with the program. That is, current law only requires that DOJ utilize funding under the program to provide grants to counties that have not established a drug court so that the county may establish and operate a drug court. In contrast, the statutes identify several programmatic requirements associated with the TAD program. These requirements include: (a) establishing requirements that counties must follow in order for their TAD project to be eligible for a TAD grant; (b) requiring counties that receive a TAD grant to provide a 25% local funding match; (c) requiring DOJ to annually prepare a progress report that evaluates the effectiveness of the TAD program; (d) requiring DOJ to prepare a comprehensive report on the TAD program every five years that includes a cost-benefit analysis of the program; and (e) requiring grants be awarded on a five-year competitive grant cycle.

6. It should be noted that while the statutes differentiate between the TAD program and the drug court grant program, DOJ administers these two programs in conjunction with one another. Further, DOJ applies the program requirements established for the TAD program to the drug court grant program, while still adhering to the statutory purpose of the drug court grant program.

7. Also note that some counties may run county specific diversion or drug courts to allow for more flexibility in programing without TAD funding. For example, a county may receive non-TAD funding and use it to provide services to a participant who would be ineligible for state funding under TAD.

Provisions Under the Bill

8. *Funding for counties that do not run programs with state TAD funding.* As discussed above, the bill provides DOJ \$500,000 GPR annually during the 2019-21 biennium only to support additional funding for the TAD program. In addition, a new appropriation is created with \$500,000 GPR annually during the 2019-21 biennium only to support funding for new TAD programs. Counties currently not funded include: Calumet, Clark, Door, Florence, Fond du Lac, Forest, Iron, Juneau, Kewaunee, Lafayette, Langlade, Lincoln, Menominee, Oconto, Oneida, Price, Sawyer, Shawano, Vernon, Vilas, Waupaca, and Winnebago. Note that Fond du Lac was previously funded in calendar

years (CY) 2014-2016 and Winnebago was funded in CY 2017, but discontinued the program in CY 2018. Further, the Lac du Flambeau Tribe in Vilas and the Menominee Tribe also receive funding.

9. In the 2016-17 competitive round, Price county applied but is currently unfunded. In the 2017-18 competitive round, the following currently unfunded counties applied: Lafayette, Sawyer, Shawano, Vernon, and Waupaca.

10. In 2017-18, the average TAD grant was \$132,000. Under the bill \$500,000 GPR annually is provided to the existing TAD appropriation to: (a) replace \$250,000 PR annually that was one-time in nature in the 2017-19 biennium and from the Attorney Generals discretionary settlement funds (this replacement of funding would result in no net increase to TAD); and (b) \$250,000 GPR annually to expand existing TAD grants (an average increase of approximately \$5,600 per grantee). The remaining \$500,000 GPR annually is provided to a new appropriation for counties and tribes not currently receiving TAD grants. Based on current average grants, approximately three new grants could be provided using funding recommended in the bill. Further, this funding is one-time in nature and, therefore, would only allow for a two-year grant period.

11. In order to increase funding for TAD programs, specifically for programs not currently receiving TAD funding (\$500,000 GPR annually), continue one-time funding provided under 2017 Act 59 (\$250,000 GPR annually), and provide additional funding on in one-time basis for existing TAD programs (\$250,000 GPR annually), the Committee could approve the Governor's recommendation. [Alternative 1] Under this alternative, funding under the bill would not change, and DOJ's funding would be one-time and, therefore, not a part of the base during the 2021-23 biennium.

12. In reviewing the Governor's recommendations, the Committee could decide to fund some or all of the recommended TAD appropriation increases. Approval of the \$250,000 GPR annual appropriation to replace the one-time PR funding would maintain the current funding level for existing TAD grantees in 2019-21. [Alternative 2a] Provision of an additional \$250,000 GPR annually would allow, for the 2019-21 biennium only, a modest expansion of existing grants. [Alternative 2b] Finally, creation of a new appropriation funded at \$500,000 GPR annually would provide funding, only in the 2019-21 biennium, for new TAD grantees. [Alternative 2c]

13. *Convert one-time funding to ongoing funding.* Rather than provide additional funding for the TAD program during the 2019-21 biennium only, the Committee could provide this funding on an ongoing basis [Alternative 3]. As noted above, TAD grants and drug court grants are awarded on a five-year competitive grant cycle. The current cycle began in January, 2017, and runs through December, 2022. Therefore, providing additional funding for only two years may cause grant amounts to change after the one-time funding is eliminated.

14. *Convert PR funding to GPR.* Current base PR funding for the TAD program relies on two PR appropriations that are in deficit. The \$21.50 justice information system surcharge (JIS) is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment action, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action. In recent years, the JIS surcharge fund has operated in deficit. As indicated in the December, 2018, unsupported overdraft review submitted by DOA to the Committee, the JIS

surcharge fund concluded 2017-18 with a cumulative deficit of \$4.5 million. The administration indicates that the deficit is expected to increase over the 2019-21 biennium.

15. The other PR revenue for TAD is the \$10 drug offender diversion surcharge (DODS) which is assessed for property crime convictions under Chapter 943 of the statutes. The DODS fund has operated in deficit since the creation of TAD. In 2017-18, the DODS surcharge fund concluded the fiscal year with a cumulative deficit of \$1,695,900. The appropriation is expected to continue to carry a deficit through the 2019-21 biennium. Due to the deficit, a comparatively small amount of funding has been provided from DODS as indicated in Table 1.

16. The administration states that "with 50 current existing TAD grants, details have not yet been determined in how to best use this one-time funding to expand existing programs. Additional planning would be needed to determine how to use these funds given the number of existing programs and the fact that it is one-time funding." Given the uncertainty of how funding may be used for new programs and the condition of the PR appropriations that the TAD program draws from, the Committee could, instead, use the GPR funding provided under the bill to replace PR funding for the biennium [Alternative 4]. Under this alternative, \$250,000 GPR annually would be used to replace one-time funding of \$250,000 PR provided in the 2017-19 biennium for the Attorney General's discretionary settlement appropriations to expand TAD programming at either new or existing sites. Further, since the JIS is in deficit, \$750,000 GPR annually could be used to replace \$750,000 PR from JIS to reduce reliance on this source. It can be argued that the provision of GPR allows for a more stable revenue source for a program for which demand has remained consistently strong. The JIS appropriation would continue to support \$328,400 PR annually for TAD grants. This alternative would keep total TAD funding at the same level as in 2018-19 (\$5.99 million) and allow for the reassessment of the condition of PR appropriations that are in deficit, without reducing funding to counties currently receiving funding.

17. As DOJ anticipates preparing another five-year cost-benefit analysis of the TAD program in 2019, and releasing the report before the end of the year, the Committee may wish to wait to provide additional funding until the report is released to make sure any additional funding is directed to the area of greatest need. In addition, under statute, DOJ is required to create an annual progress report. The last publically available report on the program was published in 2014. [Alternative 5]

ALTERNATIVES

1. Include the bill's recommendation to provide \$1,000,000 GPR annually in one-time funding for the treatment alternatives and diversion program to fund both new and existing programs.

ALT 1	Change to	
	Base	Bill
GPR	\$2,000,000	\$0

2. Provide funding on a one-time basis for the treatment alternatives and diversion program as follows [any of the following alternatives may be selected]:

- a. Provide \$250,000 GPR annually to replace one-time PR funding.

ALT 2a	Change to	
	Base	Bill
GPR	\$500,000	\$0

- b. Provide \$250,000 GPR annually to expand existing TAD grants.

ALT 2b	Change to	
	Base	Bill
GPR	\$500,000	\$0

- c. Create a GPR appropriation for grants to counties and tribes not currently receiving a TAD grant, funded at \$500,000 GPR annually.

ALT 2c	Change to	
	Base	Bill
GPR	\$500,000	\$0

3. Modify the bill's recommendation to provide funding in 2019-21 on an ongoing, rather than one-time, basis for the treatment alternatives and diversion program.

4. Provide \$750,000 GPR annually to offset an annual \$750,000 PR reduction from the JIS surcharge appropriation. In addition, provide \$250,000 GPR annually for TAD program expansion at new or existing sites.

ALT 4	Change to	
	Base	Bill
GPR	\$2,000,000	\$0
PR	<u>-1,500,000</u>	<u>-1,500,000</u>
Total	\$0	-\$1,500,000

5. Take no action.

ALT 5	Change to	
	Base	Bill
GPR	\$0	-\$2,000,000

Prepared by: Sarah Wynn
Attachments

APPENDIX I

Treatment Alternatives and Diversion Grant Projects, 2019

Grantee	Award	Project Type	Project Description
Adams County*	\$47,966	Hybrid	Funds will be used to continue the implementation of a Hybrid Treatment Court targeting individuals whose criminal justice involvement is driven by alcohol or other substance use. The next twelve months of the grant period will focus on implementing the Treatment Court process that was established during the planning phase.
Ashland/Bayfield County	\$222,993	Treatment Court	Ashland and Bayfield counties are jointly applying for monies to continue the TAD programs in their respective counties. The grant dollars will be used to continue the TADPRO (treatment, alternatives, and diversion with track level implementation). This is a four track intervention/dosage model using risk and needs (COMPAS and GAIN assessments) to determine level of intervention and treatment needs.
Barron County	\$26,962	Hybrid Court	Funds will be used by the Barron County Drug and Alcohol Court (BCDAC) Program to enhance the current program. These enhancements will include the continued expansion of the current DAC Coordinator/Case Manager role and continue contracting with The Gap for Offender Accountability Sessions and faith-based support inclusive of weekly support groups, mentoring and support group, as explore new treatment availability.
Brown County	\$159,712	Drug Court; Diversion Program	Grant funds will be utilized by the Brown County Treatment Alternatives and Diversion Program in coordination with the Criminal Justice Coordinating Board (CJCB) in effort to maintain and enhance established treatment courts and diversion program; each of which operates to individually meet the specific treatment needs of non-violent offenders in Brown County whom are charged with criminal actions related to their drug and alcohol abuse.
Buffalo/Pepin County	\$111,964	Diversion Program	Funds will operate a dedicated Community Justice Services agency to conduct a universal assessment of all nonviolent adult offenders to inform setting risk based conditions of pretrial release, to determine eligibility for pre-charging and post-charging diversion, and provide risk based alternatives to incarceration at sentencing addressing substance abuse risks and needs.
Burnett/Washburn County	\$125,000	Hybrid Court	Burnett and Washburn Counties will use TAD funds to sustain the joint Matrix IOP program that serves all TAD programming, and a large portion of Northwest Wisconsin. Furthermore, the TAD funding allows for intense wraparound services that includes frequent drug and alcohol testing, intensive case management, immediate incentives and sanctions and consistent community programming.
Chippewa County	\$115,327	Diversion Program	Funds will be used by the Chippewa County Criminal Justice System to continue implementation of its TAD and First Time Offender Diversion Programs. Specifically, funds will be used to support the Diversion Specialist and part-time Assessor/Programmer position. The Diversion Specialist provides case management services, completes COMPAS assessments, monitors drug

Grantee	Award	Project Type	Project Description
			testing compliance, provides cognitive behavioral programming for participants, and runs the First Time Offender Program. The Assessor/Programmer position will complete pre-trial and COMPAS assessments, and offer Evidence Based programs to TAD and Drug Court participants.
Columbia County	\$204,124	OWI Court; Drug Court	Funds will be used by Columbia County Health and Human Services, working in partnership with the Columbia County Criminal Justice Coordinating Council and a variety of partners in the county, to implement an OWI Treatment Court that will focus on 3rd misdemeanor and 4th felony OWI offenders with a blood alcohol content of .15 or more. Funds will also be used to plan and implement an adult drug treatment court. Funds will be used to support the coordinator position and fund treatment services for participants.
Crawford County	\$98,030	Drug Court	Crawford County Treatment Court is designed to provide an alternative to incarceration for non-violent offenders who abuse alcohol or other drugs.
Dane County	\$214,931	Drug Court; Diversion Program	With the full support of the Dane County Criminal Justice Council, TAD Funds will be used to enhance both the Drug Court Diversion Program and the Opiate Diversion Project in Dane County. The Dane County Drug Court Diversion Program, a problem-solving court for individuals at moderate risk to re-offend, will be enhanced through continued development of a cognitive-behavioral approach that is more specific to the population being served. The Opiate Diversion Project, a pretrial diversion program for opiate offenders, will be enhanced by an evaluation of program outcomes and an assessment instrument that has been developed specifically for the program. These enhancements will increase conformity to evidence-based practices, which are expected to increase positive outcomes for individual participants.
Dodge County	\$209,620	OWI Court; Drug Court	Funds will be used by the Dodge County TAD Program for the purpose of continuing and enhancing the existing service provisions of treatment-focused diversion alternatives for individuals whose actions stem from untreated addiction or mental health conditions. Over the past three years, Dodge County has designed and implemented an effective TAD program rooted in evidence-based practices. With the focus turned from program development to enhancement, the TAD team has evaluated practices that would serve to further improve the already outstanding outcomes achieved by the program. Dodge County will continue efforts to evolve the existing program from a diversion structure to that of a Problem Solving Court. Dodge County proposes the addition of Cognitive Behavioral Interventions, Medication Assisted Treatment, Drug Screens, and Residential Treatment to directly address criminogenic need areas of moderate to high risk participants.
Douglas County Health and Human Services	\$108,031	Drug Court	Since 2008, the Douglas County Treatment Court (DCTC) has worked to address the needs of those abusing substances that have historically been jailed or imprisoned. Douglas County developed an evidence based Treatment and utilizes the Matrix model OP program. This program has been unfunded and only made possible by the collaborative efforts of several departments within the county and providers. As a result, the treatment Court has only been able to serve a very small number (2-3) despite growing need.

Grantee	Award	Project Type	Project Description
Dunn County	\$99,566	Diversion Program	Funds will be used by Dunn County to implement a pretrial diversion program to divert nonviolent offenders facing criminal charges related to use of drugs and/or alcohol from the criminal justice system into treatment. Funds will be used to employ a full time Criminal Justice Assessor to assess offenders' risk, need, and responsivity factors and screen and refer for TAD program eligibility. Funds will cover wages and benefits for the assessor, office supplies, drug testing services, and staff travel and training.
Eau Claire County	\$137,213	Multiple Treatment Courts	Enhancement funds will be used by the Eau Claire County Department of Human Services (ECCDHS) to support the provision of evidence-based treatment and services to treatment court participants. Grant dollars will be used to fund regular alcohol and drug testing for individuals in the tri-county Veterans Treatment Court (VTC) in order to promote accountability and monitor progress, as well as to ensure access to needed substance abuse and mental health treatment. Likewise, TAD money will be used to provide a higher fidelity, criminal justice version of the intensive AODA outpatient Matrix Model to participants in the county's Alternatives to Incarcerating Mothers (AIM) and Mental Health courts. Finally, funds will enable treatment court team members to attend training on evidence-based and best practices within the field.
Grant County	\$119,572	Drug Court	Grant funds will be used by the Grant County Treatment Court to support its Drug Court and OWI Court. The funds will support the position of the Treatment Court Coordinator, which will enhance the intensity and accountability of the Treatment Courts by providing hands-on oversight and guidance to Participants and the Treatment Court Team. Participants are individuals convicted of crimes related to or impelled by their substance abuse.
Iowa County	\$65,046	Drug Court	Grant funding will be used to continue developing the county's Drug Treatment Court. Given substance abuse patterns in Iowa County and the surrounding geographical area, it is anticipated that most participants will be heroin, opiate, and methamphetamine users. Admission to the program is based on the criminogenic risks/needs presented by each individual, with the primary target population consisting of individuals with high to medium criminogenic risk and high substance abuse needs. The goal of the program is to reduce incarceration rates and recidivism while helping participants to maintain sobriety through the use of supervision/drug testing, counseling and treatment, appropriate incentives and sanctions, and assistance with education, employment, and housing where possible.
Jackson County	\$88,000	Diversion Program	Funds will be used by the Jackson County CJCC, Department of Health and Human Services and jail to plan and implement a Medication Assisted Treatment re-entry program targeting offenders assessed as medium to high risk and needs related to opioid addiction. This project will promote a reduction in repeat episodes of incarceration at the pre-trial stage through early screening and identification of needs and individualized case planning prior to and after release. Offender accountability, effective evidence-based interventions and enhanced public safety will be promoted through the individualized services provided by a care coordinator, jail staff, medical provider and behavioral health clinician.

Grantee	Award	Project Type	Project Description
Jefferson County	\$174,020	Drug Court; OWI Court	Funds will be used by the Jefferson County criminal justice coordinating council (CJCC) to sustain an OWI Treatment Court and a Drug Treatment Court, which was started in August of 2017. The Jefferson County Treatment Courts will utilize evidenced based strategies to enhance public safety by providing effective monitoring, Court supervision and treatment interventions to program participants. These programs impact more than Jefferson County to include those in adjoining counties due to Hwy 26 and I-94. The CJCC will allow other county's offenders to participate on a case by case basis. The goal of the CJCC is to reduce recidivism rates and enhance public safety.
Kenosha County	\$124,500	Co-occurring Disorders Court	Funds will be used by the Kenosha County Treatment Court to expand the target population to serve individuals with diagnosed co-occurring disorders, enhance program services by expanding the number of random drug/alcohol tests, providing staff development training for team members, and shortening the time between case filing and entry into treatment court. Adhering to the Drug Court Ten Key Components and Wisconsin Treatment Court Standards, the Kenosha County Treatment Court will serve nonviolent offenders with high criminogenic needs/risk as well as co-occurring disorders.
La Crosse County	\$156,885	Diversion Program	The La Crosse County pretrial services program encompasses a broad range of screenings and services, including pretrial diversion and pretrial supervision, and feeds into other alternatives to incarceration, including treatment courts. La Crosse County first received TAD funds in 2014-15 to implement a pretrial services program. In 2018, the County aims to enhance the evidence-based services that are currently in place, with the continued goal of fine-tuning its diversion eligibility grids and processes, continuing to divert low risk offenders from the criminal justice system, honing and validating its pretrial risk grids, and improving timeliness in referrals to treatment alternatives.
Lac du Flambeau Band of Lake Superior Chippewa Indians	\$113,294	Tribal Healing to Wellness Court	The Zaagiibagaa Healing to Wellness Court intends to fund the Cultural Leader, Coordinator and Director to successfully reintegrate participants with their culture and community through activities led by the Cultural Leader, planned with the assistance of the Coordinator and Director. These positions are key to goals set for 2018: (a) reducing recidivism and increasing public safety and (b) reducing prison and jail populations by diverting nonviolent offenders to community based interventions. Travel will bring the team information on practices implemented and results of such within their respective disciplines. With the implementation of the Cultural Leader position, funds will be used for supplies to teach participants traditional practices.
Manitowoc County	\$142,396	Drug Court; Diversion Program	Continued implementation of the Pre-Trial Diversion and Adult Drug Court programs.
Marathon County	\$150,000	Drug Court	The funds will be used by Marathon County to implement an evidence based Drug Treatment Court which will adhere to the Ten Key Components and the Wisconsin Treatment Court Standards. The goals of the program are to promote self-sufficiency in program participants by reducing drug use through individual participation in a community based integrated program of

Grantee	Award	Project Type	Project Description
Marinette County	\$125,557	Drug Court	drug treatment and rehabilitation services. In addition to improving public health, it is the goal of Marathon County to improve public safety by reducing the number of drug related crimes within Marathon County. The program will divert offenders with nonviolent crimes linked to substance abuse from jail, reduce recidivism and increase public safety.
Marquette County	\$100,082	Hybrid Court	Marinette County Health & Human Services, in collaboration with the District Attorney's Office, Clerk of Courts, the Circuit Court Judges, Law Enforcement, Marinette County Administration and the Criminal Justice Coordinating Committee will use funds to continue the current Treatment Drug Court that has been in existence since 2014. The Treatment Drug Court was evaluated in January of 2016 by the Bureau of Justice Assistance and has been implementing enhancements to improve the existing treatment drug court program. The county continues to have an opiate and heroin drug problem and has focused drug court efforts treating individuals with moderate to high risk of re-offending with an AODA diagnosis, with the overall goal of reducing jail population, jail recidivism and criminal activity related to illegal drug use.
Menominee Indian Tribe of Wisconsin	\$98,148	Diversion Program	Funds will be used by Marquette County Department of Human Services, in partnership with the District Attorney, Probation & Parole, Law enforcement, the Court and the Public Defender's office to reduce recidivism rates for non-violent offenders in the program and increase public safety as well as reduce prison and jail populations by diverting non-violent offenders to community based interventions. In addition, the plan is to increase the number of program participants as well as expand law enforcement's participation in the recovery process of the participants.
Milwaukee County	\$380,981	Diversion Program	Funds will be used by Menominee Probation and Parole to ensure direct coordination towards a project for pre- or post-charged, low-risk defendants who qualify and are referred into the treatment alternative program. In direct collaboration with Tribal Justice Departments the program will provide collaboration, treatment and wraparound recovery services for defendants (i.e. on a Deferred Prosecution Agreement) who are in need of alcohol and substance abuse treatment among other treatment programs including wraparound recovery planning.
Milwaukee County	\$380,981	Diversion Program	Funds will be used by Milwaukee County to enhance the current Treatment Alternatives and Diversion and Deferred Prosecution program. The program will be administered by the Office of the Chief Judge, while the services are provided by JusticePoint, Inc. Service. The District Attorney and Public Defender Offices also provide an ample amount of support for the program with dedicated staff ensuring the program runs smoothly. Programming in 2017 included the addition of more cognitive behavioral programming options, including Cognitive Behavioral Interventions-Substance Abuse. This curriculum offers a cognitive behavior change program with emphasis on substance abusers. Further enhancement in 2018 will add Moving On for females, better utilizing gender responsivity to services. Peer Support Specialists will also be added to the current programming under this grant, allowing for a stronger support.

Grantee	Award	Project Type	Project Description
Monroe County Justice Department	\$22,000	OWI Court	Funds will be used by Monroe County's OWI Treatment Court under direction of the program coordinator to secure a process and impact evaluation of the program and to enhance the programs incentives ability. A process and impact evaluation will enhance the program by highlighting strength and weaknesses and giving us insight to the processes that have been employed over the past five years. Additionally, an evaluation would help determine if the program is meeting its goals of reducing recidivism in substance related crimes. Lastly, funds will be used toward incentives budget to ensure proper execution of the system garnering more positive behavior.
Outagamie County	\$178,343	Drug Court; Diversion Program	Outagamie County Criminal Justice Treatment Services will use funds to improve the efficiency and efficacy of coordinated system responses that manages early screening, identification, accurate placement, expedited referral, and triaging of potential candidates into a continuum of risk based interventions, including treatment courts, alternative, and diversion programs. Funds primarily support the critical staff necessary for the expanded use of risk and criminogenic need assessment tools, developing a more efficient process for triaging cases in the District Attorney's Office, and improving outcome measures. The project enhances ongoing efforts to sustain and expand treatment, alternative, and diversion programs in the Outagamie County Justice System that target interventions based on risk and criminogenic needs.
Ozaukee County	\$125,930	Diversion Program	The Ozaukee County Criminal Justice Collaborating Council (CJCC) oversees existing projects that include a Pre-trial Diversion, Alternative to revocation (ATR) case management, and a Sobriety Based Housing option. The goals for the projects are to reduce recidivism, reduce cost associated with re-entry into the Criminal Justice system and provide a wrap around approach at each level of the criminal justice continuum. Any cost savings to the county would be derived from having an effect on repeat offenses. All Ozaukee County TAD Projects share the goal of providing assessment for low to mid-risk level offenders who meet initial criminal history, age, residency, and charge requirements.
Pierce County	\$205,777	OWI Court; Diversion Program	Grant funds will continue to be utilized to continue to support a diversion program and an intoxicated driver improvement program in Pierce County. Grant funds will also be used to continue implementation of an OWI treatment court.
Polk County	\$66,300	Co-occurring Disorders Court	Polk County is seeking to improve the quality of life for Polk County residents through: a) increased responsiveness of the treatment court - improve length of time between initial referral and acceptance into the program; and (b) increasing the number of participants in the program.
Racine County	\$124,975	Hybrid Court	Funds will be used by the Racine County Alcohol and Drug Treatment Court to expand drug and alcohol testing, provide comprehensive mental health screenings, provide staff development training for treatment court team members, as well as maintain the Program Coordinator position, incentives and wraparound services.
Rock County	\$125,000	Drug Court	TAD funding will be used to provide case management and treatment services for its Drug Treatment Court. Drug Court is a collaborative justice system diversion opportunity for medium and high-risk, non-violent offenders with an underlying substance use disorder. Successful

Grantee	Award	Project Type	Project Description
			participants will be diverted from incarceration and will see their charges reduced or dismissed upon completion.
Rusk County	\$123,144	Drug Court	Funds will be used by Rusk County to provide intensive treatment, monitoring, and supervision for participants with AODA addictions who will be involved in an outpatient treatment program provided mainly by Aurora Community Counseling, however due to lack of credentialed service providers in specialized areas, the program needs to enhance services by utilizing providers within neighboring areas.
Sauk County	\$116,733	Drug Court	Funds will be used in Sauk County to continue service to participants of the adult treatment court. In addition, the funds will be used to expand programming to include those crimes involving alcohol, including OWI charges.
Sheboygan County	\$93,079	Hybrid Court	Funds will be used by the Sheboygan County Drug & Alcohol Treatment Court Program to provide an enhanced treatment services Vocational Habilitation, Family Psychoeducation, and Post-Graduation/Alumni Services to break the cycle of substance abuse and criminal behavior.
St. Croix County	\$146,517	Drug Court; Diversion Program	Funds will be used collaboratively by St. Croix County's Treatment and Diversion Program, Adult Drug Court, and Community Justice Collaborating Council to enhance use of risk and needs assessments and evidence based practices (EBPs) in an effort to identify and divert nonviolent offenders as early as possible to appropriate diversion programming.
Taylor County	\$100,000	OWI Court; Drug Court	Funds will be used for a Hybrid OWI/Drug Treatment Court, which is an expansion of the current OWI treatment court accepting only OWI's 2nd and 3rd offenses, to now accepting participants convicted of OWI-2nd Offense through OWI-6th Offense, felony drug-related convictions and ATRs. Funds will be used to: (a) cover the salary and benefits of a part-time drug court coordinator and part-time case manager position; (b) assist in paying for operational expenses/supplies; (c) to pay for training/travel expenses; (d) to pay for contractual services, such as group and individual counseling and AODA services to participants; and (e) to assist in paying for additional drug testing.
Trempealeau County	\$110,000	Hybrid Court	Building on the past 11 years of experience, the project will provide additional case management services for participants, create a community wide sober event, offer specialized treatment services for women and continue to train the Recovery Court team on EBPs.
Walworth County	\$215,000	Drug Court; Diversion Program	Funding will continue to support Walworth County in the enhancement of the Walworth County Pretrial Services Program and Walworth County Drug Court (WCDC) program.
Washington County	\$96,720	Diversion Program	Washington County will continue its second year of implementation of a pre-trial deferred prosecution agreement diversion program for individuals with an opioid use disorder charged with possession of narcotic drugs.
Waukesha County	\$139,680	Drug Court	Funds will be used by the Waukesha County Criminal Justice Collaborating Council (CJCC) to maintain one full-time Case Manager for the Waukesha County Drug Court program, allowing for up to 25 clients to be served with a total program capacity of up to 60 participants with

Grantee	Award	Project Type	Project Description
Waushara County	\$89,782	Drug Court	supplemental federal funding. Rigorous drug testing and client assistance (i.e. transportation) expenses will also be included in the budget, as well as a part-time Recovery Coach Coordinator who will recruit, train, and supervise volunteer Recovery Coaches assigned to TAD clients in the program.
Wood County	\$140,000	Drug Court	Waushara County’s TAD and Safe Streets Program offers a two-tiered treatment court for non-violent offenders confronting alcohol and substance abuse issues. The Waushara County Department of Human Services serves as fiscal agent on behalf of the county Sheriff’s Department, Circuit Court, District Attorney, and Alcohol & Drug Abuse treatment providers, Department of Corrections and State Public Defender’s Office. These agencies are invested in providing community-based intervention and treatment as an alternative to traditional sentencing models to reduce recidivism and increase public safety.
Total	\$5,938,900		Funds will be used by the Wood County Drug Court program and Wood County Human Services to provided treatment and supervision services to high risk/ high need drug addicted people of Wood County. The funds will be used for court staff, treatment court training, drug testing, outpatient treatment, risk/need assessments and inpatient services/ MAT.

*Adams County will receive a total of \$76,436 from both the TAD program and the drug court grant program (see Appendix VIII). Funding will be split as follows: \$47,966 from the TAD program and \$28,470 from the drug court grant program.

APPENDIX II

Drug Court Grant Awards, Calendar Year 2019

Grantee	Award	Project Type	Project Description
Adams County	\$28,470	Hybrid Court	Funds will be used to continue the implementation of a Hybrid Treatment Court targeting individuals whose criminal justice involvement is driven by alcohol or other substance use. The next twelve months of the grant period will focus on implementing the Treatment Court process that was established during the planning phase.
Green County	\$122,900	Drug Court	Green County Human Services will use the funds to create a drug court program in Green County. Funds will be used to continue the progress made in the first year of the grant. The grant will fund the Drug Court Coordinator and AODA Counselor salaries, training for staff, and detox and transport, and drug testing materials.
Green Lake County	\$101,130	Drug Court	Funds will be used by the Green Lake County Treatment Court Program for the coordinator’s salary and benefits, drug screening supplies and lab services, treatment services, and training for members of the Treatment Court Team.
Portage County	\$125,000	Drug Court	Funds will be used by Portage County to fully establish the Portage County Adult Drug Treatment Court.
Richland County	\$122,500	OWI Court	Funds will be used by Richland County to implement and operate a program based on principles of restorative justice that provides an alternative to incarceration for criminal offenders who are alcohol dependent. This program focuses on persons convicted of OWI 3rd to 6th offense and defendants being revoked from probation.
Total	\$500,000		

*Adams County will receive a total of \$76,436 from both the TAD program (see Appendix VII) and the drug court grant program. Funding will be split as follows: \$47,966 from the TAD program and \$28,470 from the drug court grant program.



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June, 2019

Joint Committee on Finance

Paper #457

Nonviolent Offender Treatment Diversion Pilot Program Expansion (Justice)

[LFB 2019-21 Budget Summary: Page 252, #5]

CURRENT LAW

Under 2017 Act 32, an appropriation was created for a diversion pilot program to divert nonviolent offenders to a treatment option. The Act provided \$261,000 GPR for 2017-18 and \$261,000 GPR for 2018-19 for the diversion pilot program and repealed the appropriation on July 1, 2019. In 2018, the Department of Justice (DOJ) selected three sites for the pilot: (a) Superior Police Department; (b) Sauk Prairie Police Department; and (c) Door County Sherriff's Department.

BUDGET BILL

Provide \$511,000 GPR annually in one-time funding to continue and expand the Nonviolent Offender Treatment Diversion Pilot Program created under 2017 Act 32. Repeal the appropriation is as of July 1, 2021.

DISCUSSION POINTS

1. A pre-booking diversion program diverts individuals before any criminal charges are referred to a District Attorney (DA). This strategy is also known as deflection. Individuals can refer themselves to a program or law enforcement can offer the diversion program as an alternative to referring a case to a DA. Existing programming under the Treatment Alternative Diversion Program (TAD) draws participants post-charging by a DA, but either before or after a guilty plea. A drug court typically takes participants after charging and a guilty plea. The administration indicates that drawing individuals from the law enforcement stage of the criminal justice system can result in savings to the counties and state by only involving the circuit court system if a participant's treatment is

unsuccessful.

2. Act 32 initially placed funding in the Committee's appropriation, and provided that monies could be released under a 14 day passive review process once DOJ provided a plan proposal for the program. After examining other diversion programming across the nation, including the Madison Addiction Recovery Initiative (MARI), DOJ submitted a plan proposal. Funding was released on February 6, 2018, applications were requested by June 19, 2018, and grant awards made to three pilot sites soon afterwards. After receiving funding, the three selected sites combined a portion of awarded resources to bring in a national expert on diversion programs to provide training and expertise.

3. At these three sites, prospective participants are either self or law enforcement referred to programming. Once referred to the program, the participants are assessed using the proxy assessment tool. Prospective participants who are low to moderate risk are admitted to the program and assigned to a caseworker. The participant must then complete AODA treatment based on the individual's needs, which may take six to twelve months (TAD programming is typically longer). Like TAD, the capacity of the diversion program is based in part on the local community based treatment network. If the participant successfully completes treatment, any citations are dismissed. If the participant is not successful, charges are referred to the DA's office. After one year of funding and project implementation, the specific progress for each site as noted by DOJ is as follows:

- The Superior Police Department's (PD) program is fully operational and the program has 32 participants. The program's referral process is implemented and the program is working on clarifying and improving their screening process to include an assessment for risk level.
- The Sauk County program is fully operational and has had 48 referrals. As of April, 2019, there were five active participants, seven pending referrals, and two participants have had charges deferred. The county is working with Sauk Prairie PD and Baraboo PD in the county.
- Door County officially started their program, in January, 2019. A pilot group of Sheriff's Department deputies were trained and the remainder of the Sheriff's Department deputies and the Sturgeon Bay PD were trained in March, 2019. As of April, 2019, the program has had four referrals and four participants.

4. The administration indicates that \$261,000 annually would be provided on a one-time for existing programs and \$250,000 annually would be used to expand the program to first-class cities (Milwaukee). The administration states that "providing additional funding will increase treatment and diversion options at the initial law enforcement decision point in additional Wisconsin jurisdictions and allows the state to report outcome and return-on-investment data on a wider and more diverse data set." The administration indicates that a pre-booking diversion program may save costs and time associated with charging a person.

5. Since the programs are still in the pilot phase, one-time funding may be appropriate. Given the identified potential benefits associated with programming for treatment opportunities at the pre-booking stage, the Committee could provide funding to pre-booking diversion programs and extend funding to cities of the first class. [Alternative 1] This alternative would result in \$511,000

GPR annually during the 2019-21 biennium only for the pre-booking diversion program.

6. In 2018, DOJ used a survey process to identify entities that were both ready and willing to receive funding for the pre-booking and diversion program rather than create a formal grant process. This process allowed DOJ more discretion in deciding entities that were ready and able to apply for and receive additional funding. As a result, grants could be provided quickly to recipients interested in implementing programs on a pilot basis. Given the benefits of allowing DOJ to provide funding to sites most ready and willing to accept funding for the pre-booking diversion program, the Committee could provide the funding in Alternative 1, but remove the requirement that \$250,000 annually be provided to cities of the first class. [Alternative 2] This alternative would result in \$511,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program, but not require \$250,000 annually to go to cities of the first class.

7. Since the pilot program has only been in existence since June, 2018, it may be appropriate to continue the pilot at the current sites but not attempt to expand the pilot at this time. Given the short time period with initial pilot sites, the Committee may wish to continue the funding provided in 2017 Act 32 to determine the progress of the pilot program and whether funding should be expanded. [Alternative 3] This alternative would result in \$261,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program.

8. In order to objectively determine whether the pilot program should be continued or expanded, the Committee may wish to require a report on the pilot program and its sites to include a description of each program number of participants and others statistics and performance measures by September 1, 2020. [Alternative 4] Note that as a condition of receiving grant funding, sites are required to spend up to 15% of the amount awarded on contracting with a third party for analysis and evaluation.

9. Given sites may be able and willing to run pre-booking diversion programs without the support of the state and that Act 32 established the program as one-time in nature with no required review or report, the Committee may wish to allow the program to expire as originally provided. [Alternative 5]

ALTERNATIVES

1. Provide \$511,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program. Require that \$250,000 annually be provided to cities of the first class.

ALT 1	Change to	
	Base	Bill
GPR	\$1,022,000	\$0

2. Provide \$511,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program. Do not require any specific amount be provided to cities of the first class.

ALT 2	Change to	
	Base	Bill
GPR	\$1,022,000	\$0

3. Provide \$261,000 GPR annually during the 2019-21 biennium only for the pre-booking diversion program.

ALT 3	Change to	
	Base	Bill
GPR	\$522,000	- \$500,000

4. In addition to one of the alternatives above, provide that DOJ must provide a report describing the services, capability, and progress of the pilot program and sites to the Joint Committee on Finance by September 1, 2020.

5. Take no action.

ALT 5	Change to	
	Base	Bill
GPR	\$0	- \$1,022,000

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June, 2019

Joint Committee on Finance

Paper #458

Internet Crimes Against Children (Justice)

[LFB 2019-21 Budget Summary: Page 253, #7 and #8]

CURRENT LAW

Local units of government are primarily responsible for law enforcement protection and investigating potential crimes. In addition, state statute requires the Department of Justice (DOJ) to investigate crimes that are statewide in nature, importance, or influence. Section 165.70 of the statutes specifically requires DOJ to enforce, among other crimes, the use of a computer to facilitate a child sex crime.

The Internet Crimes Against Children (ICAC) task force unit at DOJ is responsible for investigating internet crimes against children in conjunction with other law enforcement partners in the ICAC Task Force. The budget for the ICAC Unit at DOJ in 2018-19 is \$4,243,700 (all funds) and 35.0 positions. The unit's total funding is comprised of \$2,571,800 GPR, \$1,511,300 PR, and \$160,600 FED, supporting 26.0 GPR, 8.0 PR, and 1.0 FED positions. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement (CLDLE) surcharge and the deoxyribonucleic acid (DNA) surcharge.

The Department's drug law enforcement, crime laboratories, and genetic evidence activities appropriation is supported by revenue from the c CLDLE surcharge and the DNA surcharge. More specifically, money is transferred from the CLDLE and DNA surcharge fund appropriation to the drug law enforcement appropriation. The drug law enforcement appropriation supports activities relating to drug law enforcement, drug law violation prosecution assistance, criminal investigative operations, and activities of the state and regional crime laboratories. Base funding for the drug law enforcement appropriation is \$9,150,900 PR annually.

GOVERNOR

Provide \$750,000 PR annually from the DNA surcharge to fund one-time supplies and services costs related to the ICAC Task Force.

Provide \$84,600 PR in 2019-20 and \$112,800 PR in 2020-21 and 2.0 PR positions annually for the ICAC Task Force. Funding for the positions would come from the \$500 per image or copy child pornography surcharge imposed on a defendant who is sentenced or placed on probation for sexual exploitation of a child or possession of child pornography.

DISCUSSION POINTS

1. The Wisconsin ICAC task force was created in 1998 with federal funding to counter the threat of offenders using online technology to sexually exploit children. The task force conducts investigations, provides investigative, forensic and prosecutorial assistance to police agencies and prosecutors, encourages statewide and regional collaboration, and provides training for law enforcement, prosecutors, parents, teachers, and other community members. The task force also coordinates with the Wisconsin Clearinghouse for Missing and Exploited Children to provide support services to children and families that have experienced victimization. As of August, 2018, there were 253 law enforcement agencies, including DOJ, participating in the Wisconsin ICAC task force.

2. Internet crimes against children cases generally fall into four broad categories: (a) investigations of cyber-tips received from individuals and internet service providers through the National Center for Missing and Exploited Children; (b) online child enticement investigations; (c) "peer-to-peer" 34 investigations; and (d) cases involving other law enforcement agencies. In 2016-17, the ICAC task force opened 2,260 ICAC investigations, while in 2017-18 the ICAC task force opened 2,326 ICAC investigations. The Division took the lead on 668 investigations in 2016-17 and 635 investigations in 2017-18.

3. All 253 law enforcement agencies participating in the Wisconsin ICAC task force have a capacity to conduct "reactive" ICAC investigations, responding to tips or information that an Internet crime against a child may have occurred. In addition, many of these agencies can also conduct "proactive" investigations, such as peer-to-peer investigations and online child enticement investigations.

4. In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the cyber-tiplines program at the National Center for Missing and Exploited Children. In 2016-17, the Wisconsin ICAC task force received 2,203 cyber tips from the National Center for Missing and Exploited Children. From these cyber tips, the ICAC task force opened a corresponding number of cases, of which 405 were investigated by DOJ and the remaining 1,798 were referred to affiliate law enforcement agencies. In 2017-18, the Wisconsin ICAC task force received 1,507 cyber tips from the National Center for Missing and Exploited Children. From these cyber tips, the ICAC task force opened 1,507 cases, of which 238 were investigated by DOJ and the remaining 1,269 were referred to affiliate law enforcement agencies. When the ICAC task force receives multiple cyber tips involving the same suspect, these cyber tips are consolidated into a single case for subsequent follow-up by DOJ or affiliated law enforcement agencies.

5. The Wisconsin ICAC task force made 505 arrests in 2016-17 and 537 arrests in 2017-18. Of the 505 arrests in 2016-17, 72 were made by DOJ special agents. Of the 537 arrests in 2017-18, 89 were made by DOJ special agents. The Department indicates that it does not currently have an electronic reporting system that would permit it to report the case types to which these arrests could be attributed, either for the ICAC task force as a whole or for DOJ. Further, DOJ indicates that its electronic statistical analysis system does not currently permit it to provide data on annual ICAC case closings.

6. Digital forensic analysis (the recovery and investigation of information from devices such as computers and cell phones) is an important element of ICAC cases. The bill would provide funding to support 3.0 new digital forensic analyst positions. This issue is addressed in more detail in a separate budget paper.

ICAC Funding from CLDLE and DNA Surcharge

7. Under 2017 Act 59, \$750,000 PR was provided in each year of the biennium on a one-time basis. Revenue was transferred from the crime laboratory and drug law enforcement surcharge and the DNA analysis surcharge. Funding was used to support: (a) overtime for DCI and local law enforcement ICAC affiliates to increase the number of cases investigated and ensure prompt investigation of tips; (b) for critical equipment; (c) advanced and basic training for the ICAC task force; (d) vehicles for DCI ICAC to expand on-site evidence previews statewide; (e) staff LTEs to help manage tips from the National Center for Exploited and Missing Children; and (f) to provide investigative support to ICAC investigators through WSIC [Wisconsin Statewide Intelligence Center].

8. The bill would provide \$750,000 PR annually during the 2019-21 biennium only to support law enforcement activities relating to ICAC. The administration intends for program revenue for these costs to be supported from a transfer of monies from DOJ's CLDLE and DNA surcharge fund. Under the bill, the fund is projected to have an opening balance of \$5,111,100 and to conclude the 2019-21 biennium with a balance of \$128,700. It should also be noted that, under the bill, the fund is estimated to operate in a structural deficit during the 2019-21 biennium. In 2019-20, total obligations (\$17,270,600) are estimated to exceed annual revenue (\$15,200,000) by \$2,070,600, and in 2020-21, total obligations (\$18,111,800) are estimated to exceed annual revenue (\$15,200,000) by \$2,911,800.

9. The Department indicates that "approximately half of the funding would continue to support overtime for ICAC investigators statewide to keep up with tips and caseloads." In addition, the funding would be for ongoing training due to high turnover and to expand forensic investigative capacity. Further, funding would be used for ongoing maintenance and licensing on forensic hardware and lifecycle replacement.

10. In order to provide DOJ additional funds for law enforcement activities related to ICAC, the Committee could approve the administration's recommendation and provide \$750,000 PR annually during the 2019-21 biennium only to DOJ's ICAC appropriation [Alternative A1]. Under this alternative, funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's drug law enforcement PR appropriation. Funding would be provided on a one-time basis and,

therefore, would not be included in DOJ's base budget for the 2021-23 biennium.

11. The Committee could also approve a reduced level of funding for the ICAC appropriation, as compared to the amount recommended by the administration. Specifically, the Committee could provide DOJ with \$500,000 PR annually (two thirds of the funding recommended by the administration) or \$250,000 PR annually (one third of the funding recommended by the administration) [Alternatives A2a and A2b]. Under Alternatives 2a and 2b, as recommended by the administration, funding for ICAC would be supported by a transfer of funds from DOJ's drug law enforcement appropriation. Further, 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. Alternative A2a would result in a concluding 2020-21 revenue balance of \$628,700 and alternative A2b in a balance of \$1,128,700.

12. The Committee could also modify the administration's recommendation and specify that funding be provided on an ongoing basis, as opposed to a one-time 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 2019-21 biennium. However, funding provided under the bill is intended to support overtime costs at DCI for ICAC related activities, as well as grants to local law enforcement agencies that participate in the Wisconsin ICAC task force for overtime and training costs. It is anticipated that these costs will continue after the 2019-21 biennium. Therefore, an argument can be made that an ongoing funding source should be provided to support these costs. Given the structural funding of the program, GPR rather than PR could be provided to support ICAC supplies and other costs. [Alternative A3]

13. The Committee could also maintain current law and not provide DOJ additional resources at this time for the ICAC appropriation [Alternative A4]. Providing funding for the ICAC appropriation by transferring funds from DOJ's CLDLE and DNA surcharge fund appropriation would reduce the balance in the fund and increase the fund's estimated structural imbalance during the 2019-21 biennium. This alternative would reduce funding under the bill by \$750,000 PR annually.

ICAC Funding from Child Pornography Surcharge

14. The bill provides \$84,600 PR in 2019-20 and \$112,800 PR in 2020-21 and 2.0 PR program and policy analyst positions annually for the ICAC Task Force. Funding for the positions would come from the \$500 per image or copy child pornography surcharge imposed on a defendant who is sentenced or placed on probation for sexual exploitation of a child or possession of child pornography.

15. The Department indicates that an additional 2.0 program and policy analysts (PPAs) are needed to manage the cyber tip referral, administrative subpoena, and tip tracking workloads in order to ensure all referred cases are investigated properly and timely. In addition, the positions would allow DOJ to expand outreach efforts to meet the demand for updated and timely information on risks in order to prevent the sexual exploitation of children. The Department currently has two PPAs in DCI performing these responsibilities. Additional resources are intended to allow current program staff to devote more time to outreach.

16. In order to provide DOJ additional funds for ICAC PPAs, the Committee could approve

the administration's recommendation and provide \$84,600 PR in 2019-20 and \$112,800 PR in 2020-21 and 2.0 PR positions annually to DOJ's ICAC appropriation. [Alternative B1] Under this alternative, funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's PR child pornography surcharge appropriation.

17. *Condition of Child Pornography Surcharge.* Under the bill, the fund is projected to conclude the 2019-21 biennium with a balance of \$599,400. It should also be noted that, under 2013 Act 20, funding for sexual assault victim services grant program (SAVS) is provided from GPR and revenue from the child pornography surcharge. The administration indicates "Based on projections in the next biennium [2019-21], the existing revenue stream is not sufficient to support the current commitment to the SAVs grants and the additional expenditures long-term."

18. In 2018-19, \$2,138,700 GPR is appropriated for providing SAVS grants and administering the program. In addition, in 2018-19, DOJ estimates that the child pornography surcharge will generate \$215,500. Since awards are made on a calendar year (CY) basis, DOJ obligated \$126,800 PR in CY 2019 for the SAVS grant.

19. Under 1993 Wisconsin Act 16, a sexual assault victim services grant program (SAVS) was created, beginning January 1, 1995. Grants are provided by DOJ to eligible nonprofit corporations or public agencies to provide (or subcontract to provide) all the following services for sexual assault victims: (a) advocacy and counseling services; (b) 24-hour crisis telephone services; (c) educational programs on professional intervention and community prevention; and (d) services for persons living in rural areas, men, children, elderly or physically disabled persons, minority groups or other groups of victims that have special needs within the service area of the nonprofit corporation or public agency.

20. An eligible organization may not receive more than 70% of its operating budget from grants provided under this program and may not contract, subcontract or enter into agreements with other organizations or individuals to provide all of the required services. When DOJ reviews grant applications, it must consider local needs for sexual assault victim services, the coordination of the applicant's services with other victim resources, the needs of rural and urban communities, and the needs of existing and proposed programs and services.

21. Given the need to balance funding for ICAC with funding for SAVs, the Committee may wish to provide a more moderate increase in funding and positions. If half of the amount provided in the bill was approved, \$42,300 PR in 2019-20 and \$56,400 PR in 2020-21 and 1.0 PR position annually would be provided to DOJ's ICAC appropriation. [Alternative B2] While the provided amount would be less than recommended in the bill, more funding may be available for SAVs grants.

22. On the other hand, given concerns regarding the balancing of funding for ICAC with funding for SAVs, the Committee may wish to prioritize funding to SAVs and not provide additional positions or funding to ICAC. [Alternative B3]

ALTERNATIVES

A. ICAC Funding from CLDLE and DNA Surcharge

1. Provide DOJ's ICAC appropriation \$750,000 PR annually during the 2019-21 biennium only. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

ALT A1	Change to	
	Base	Bill
PR	\$1,500,000	\$0

2. Provide the Department a reduced level of funding for the ICAC appropriation, in either of the following manners. Funding for ICAC activities provided under Alternatives 2a or 2b would be supported by a transfer of funds from DOJ's drug law enforcement appropriation. Alternatives 2a and 2b would modify the bill to authorize such a transfer of funds. Funding provided under Alternatives 2a or 2b would be provided during the 2019-21 biennium only and, therefore, would not be included in DOJ's base budget for the 2019-21 biennium.

a. Provide \$500,000 PR annually for the ICAC appropriation. This alternative represents two-thirds of the funding recommended.

ALT A2a	Change to	
	Base	Bill
PR	\$1,000,000	-\$500,000

b. Provide \$250,000 PR annually for the ICAC appropriation. This alternative represents two-thirds of the funding recommended in the bill.

ALT A2b	Change to	
	Base	Bill
PR	\$500,000	-\$1,000,000

3. Modify the bill and provide DOJ's ICAC program \$750,000 GPR annually on an ongoing basis. Reduce funding by \$750,000 PR annually funded from DOJ's CLDLE surcharge and the DNA surcharge.

ALT A3	Change to	
	Base	Bill
GPR	\$1,500,000	\$1,500,000
PR	<u>0</u>	<u>-1,500,000</u>
Total	\$1,500,000	\$0

4. Take no action.

ALT A4	Change to	
	Base	Bill
PR	\$0	-\$1,500,000

B. ICAC Funding from Child Pornography Surcharge

1. Provide DOJ's ICAC appropriation \$84,600 PR in 2019-20 and \$112,800 PR in 2020-21 and 2.0 PR positions annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's child pornography surcharge.

ALT B1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$197,400	2.00	\$0	0.00

2. Provide DOJ's ICAC appropriation \$42,300 PR in 2019-20 and \$56,400 PR in 2020-21 and 1.0 PR position annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's child pornography surcharge.

ALT B2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$98,700	1.00	-\$98,700	- 1.00

3. Take no action.

ALT B3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	-\$197,400	- 2.00

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June, 2019

Joint Committee on Finance

Paper #459

Crime Laboratory Analysts (Justice)

[LFB 2019-21 Budget Summary: Page 254, #10]

CURRENT LAW

The Department of Justice's (DOJ) Crime Laboratory Bureau operates the state's three regional crime laboratories, located in Madison, Milwaukee, and Wausau. Under s. 165.75(3) (a) of the statutes, the purpose of the state crime laboratories is to "provide technical assistance to local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. ...[T]he laboratories shall maintain services and employ the necessary specialists, technical and scientific employees for the recognition and proper preservation, marking and scientific analysis of evidence material in the investigation and prosecution of crimes in such fields as firearms identification, the comparison and identification of toolmarks, chemistry, identification of questioned documents, metallurgy, comparative microscopy, instrumental detection of deception, the identification of fingerprints, toxicology, serology and forensic photography."

GOVERNOR

Provide \$376,600 GPR, \$207,800 PR in 2019-20 and \$502,100 GPR, \$477,100 PR in 2020-21, and 9.0 GPR and 5.0 PR positions annually for operations at the state crime laboratories and to increase digital forensic services provided to local law enforcement. These positions would consist of 5.0 PR DNA analysts, 3.0 GPR Crime Scene Response Examiners, 3.0 GPR Toxicologists, 2.0 GPR firearm and toolmark examiners, and 1.0 GPR evidence examiner. Program revenue positions would be funded from the crime laboratory and drug law enforcement surcharge. [This does not include 3.0 GPR positions for the digital forensics unit addressed in a separate LFB paper.]

DISCUSSION POINTS

Background

1. The state crime laboratories are responsible for providing scientific and technical assistance to state and local law enforcement agencies, upon their request. The budget in 2018-19 for the state crime laboratories (less amounts budgeted for deoxyribonucleic acid (DNA) analysis) totals \$14,921,300 (all funds) and 98.53 positions. The state crime laboratories' funding is comprised of \$6,752,200 GPR, \$8,157,500 PR, and \$11,600 FED, as well as 54.33 GPR, 44.0 PR, and 0.2 FED positions.

2. The three state crime laboratories are currently authorized the following types of specialists (excluding specialists for DNA analysis): (a) fingerprint and footwear examiners; (b) controlled substance analysts; (c) forensic program technicians; (d) toxicologists; (e) forensic imaging specialists; (f) firearms and toolmark examiners; (g) trace evidence examiners; (h) forensic science training coordinators; and (i) identification technicians. In addition to these specialist positions, additional supervisory and support positions include forensic scientist supervisors, office associates, forensic science program chiefs, justice supervisors, a crime laboratory director, information services personnel, and an executive staff assistant.

3. The state crime laboratories are also authorized positions for DNA analysis activities. These positions include: (a) DNA analysts; (b) forensic scientist supervisors; and (c) forensic program technicians. Table 1 identifies the caseload of the state crime laboratory analysts during 2017-18. Many cases referred to the state crime laboratories require more than one type of analysis. As a result, the total number of case types opened and completed by the crime laboratories, as identified in Table 1, is larger than the total number of distinct law enforcement cases referred to the crime laboratories.

TABLE 1

Analyst Caseloads in 2017-18

<u>Case Type</u>	<u>Opened</u>	<u>Completed</u>
DNA databank	30,606	30,518
DNA analysis	6,463	5,367
Controlled substances	5,772	5,617
Toxicology	2,205	2,184
Identification	1,622	1,182
DNA screening	996	914
Photo work order	747	737
Firearms	451	248
Trace evidence	143	133
Crime scene response	77	76
Field photo	64	61
Forensic imaging	47	37
Footwear or tire track	29	18
Toolmarks	16	1
Familial search	6	6
Bloodstain pattern analysis	<u>2</u>	<u>2</u>
Total	49,246	47,101

4. Employees of the state crime laboratories may undertake an investigation of criminal conduct only upon the request of a sheriff, coroner, medical examiner, district attorney, chief of police, warden or superintendent of any state prison, state agency head, the Attorney General or the Governor. The Department is authorized to decline laboratory services in any case that does not involve a potential felony charge. The state crime laboratories generally do not accept misdemeanor cases. Following such a request, the laboratories must collaborate fully in the complete investigation of criminal conduct and bring to bear the full range of their forensic skills.

5. As stated in the budget in brief, "the Wisconsin crime laboratories are a vital part of the criminal justice system, providing unbiased, factual information for police, prosecutors and the courts. Over the past eight years, backlogs at the crime laboratories have increased, jeopardizing investigations and delaying justice."

Wisconsin State Crime Lab Needs Assessment

6. In 2018, the Wisconsin State Department of Justice contracted the National Forensic Science Technology Center at Florida International University (NFSTC) to perform a needs assessment of the Wisconsin State Crime Laboratory Bureau (WSCLB). To improve the productivity and efficiency of analytical sections, a detailed analysis and review of the workflow from the time of evidence receipt through completion of analysis was performed.

7. The report presented "assessor observations of the Laboratory Bureau as a whole as well as individual observation from each laboratory site and/or pertaining to a specific discipline.

Observations reported are based upon direct review of data by an assessment team member or information provided by a staff member that is substantiated, where possible." Each observation was followed by a recommended course of action for consideration.

8. The requested additional position authority for crime scene response examiners and the evidence technician are based on the minimum recommendations in the NFSTC report. In addition, the report recommended 6.0 additional DNA lab technicians and 3.0 additional toxicology lab technicians. However, while recommending a similar number of positions in the same areas, the administration recommends 5.0 DNA analysts and 3.0 toxicologists. The administration indicates that providing position authority for additional analysts instead of lab technicians may allow DOJ greater flexibility when hiring. Where applicable, excerpts from the NFSTC report are included below.

Crime Scene Response Unit

9. The Madison, Milwaukee and Wausau crime laboratories have a Crime Scene Response Unit (CSRU), which provides 24 hour, seven days a week crime scene investigation assistance to law enforcement agencies at major violent crime scenes and autopsy examinations investigations in all 72 counties. The CSRUs primarily respond to homicides, officer-involved shootings, and clandestine grave sites. In calendar year 2016, the CSRUs responded to 88 requests for assistance by law enforcement, while in 2017 the CRSUs responded to 91 requests with approximately 1,900 hours at these scenes. Depending on the type of scene, anywhere from three to five crime lab employees responded to each scene. In addition to responding to requests for assistance, the CSRUs also provide training to local officers in crime scene investigation techniques.

10. Volunteers for the CSRUs are drawn from the staff of various units within the WSCLB. Currently, there are twenty-two individuals employed by the WSCLB from multiple disciplines and all three Bureau locations that volunteer as members of the CSRU. These individuals receive specialized forensic training in crime scene photography, blood stain pattern, casting, body fluid collection, blood borne pathogens, fingerprint and footwear development and recovery, bullet trajectory, buried body recovery, and processing vehicles.

11. While these volunteers are on call, they earn \$2.25 per hour. When on a crime scene, employees are paid their normal hourly rate. The NFSTC report noted "There is little to no incentive to volunteer for the CSRU. On-call pay is low." In addition, the report noted that despite the amount of time an employee may spend on call their required caseload is not adjusted accordingly. Particularly the report noted that over time, the additional duties associated with working on the CSRU "not only prove to be a drain on the responding staff members, but also an additional burden on the staff within the individual units at the laboratory. At any given time, half of the staff of a unit may be responding to a crime scene that delays casework, technical reviews, validations and many other laboratory activities."

12. The report recommended creating positions, at least one at each lab, dedicated solely to the CSRU. The reported noted that this "could have a positive impact on limiting the amount of time other staff members have to spend on CRSU related responsibilities." In response, DOJ indicated that current crime lab position authority does not allow for dedicated CSRU staff, but that LTEs [limited-term employees] have been utilized."

Toxicology

13. The crime laboratories provide forensic toxicology services for law enforcement agencies. Forensic toxicology is generally an analysis of bodily specimens to determine the presence of chemicals that are harmful or for which ingestion is in some way defined as a criminal offense. The laboratories identify and quantify the amount of drugs, alcohol, and poisons in biological specimens such as blood, urine, or tissue. The information is used by law enforcement to help determine if laws have been violated and if criminal charges are warranted. Forensic toxicologists also assist in postmortem investigations to establish cause or circumstances of death. Depending on the case, toxicology testing can range from a single blood alcohol test to a determination of the concentration of multiple drugs and their metabolites in a single biological sample. Testing for the presence and quantity of alcohol is the most common toxicological test performed by the crime labs.

14. Full toxicology services are provided by the Madison and Milwaukee Crime Laboratories. The Wausau Crime Laboratory provides toxicology services only as it relates to blood alcohol content. For other toxicological services, the Wausau region is served by the Madison crime laboratory. The Crime Lab currently has 8.0 toxicology positions. In 2017-18, the crime labs opened 2,205 toxicology cases, and completed 2,184 cases.

15. The report observed that toxicologists spend significant time on tasks that could be accomplished by a technician, which may limit the amount of time that can be spent on casework. Based on this observation, the report recommended that at least one technician position per laboratory be authorized. Technicians would assist with managing case workloads and prioritization, evidence returns, and prepping samples. Therefore, position authority for 3.0 toxicologists and related funding are recommended in the bill.

Evidence Specialist

16. Evidence specialists complete work involving the proper receiving, storage, security and disposition of evidence submitted to the laboratory in compliance with crime lab accreditation requirements. Strict documentation of the evidence chain of custody is an integral part of this position. This position works closely with law enforcement personnel, District Attorneys and their office personnel, and crime laboratory analysts. There are currently 12.0 evidence examiners with four at each of the three laboratory locations.

17. The report observed that there are insufficient clerical or evidence positions at the Madison laboratory for the workload. Due to the inadequacy of staff, controlled substance and toxicology analysts have to retrieve their own evidence, put together case jackets, file their own cases and answer discovery and open letter requests, which takes analyst time away from casework. The report recommended that an additional evidence specialist for the Madison laboratory.

Firearms/Toolmarks

18. This activity involves the examination of firearms and ammunition, as well as toolmarks and suspect tools, serial number restoration, and distance determination tests. To determine whether a firearm recovered in the case was the firearm that fired the bullets and cartridge cases that have been

recovered, the laboratory compares the recovered bullets and cartridge cases with laboratory fired bullets and cartridge cases from the suspected firearm. A subsequent microscopic examination permits a final determination to be made. Recovered firearms and cartridges may also be compared to other firearms cases in the Midwest through the use of the National Integrated Ballistic Information Network (NIBIN) computer system. The Milwaukee crime lab provides firearms analysis services for the entire state, though the Madison crime lab has the potential to provide this service as well. The Crime Labs currently employ five firearm and toolmark examiners.

19. The Department indicates that "although not in the assessment recommendations, there has been recent recognition of the impact the increasing turnaround times for firearms and toolmark evidence results is having on investigations and prosecutions throughout the state." Therefore, the bill recommends providing position authority for 2.0 firearms and toolmark examiners to assist in addressing the evidence backlog. The Department would use these positions to reopen the firearms examination laboratory in the Madison Crime Laboratory. The department indicates that opening the Unit in the Madison Crime Lab "will improve continuity of operations if operations at the Milwaukee Crime Laboratory are interrupted by an emergency or critical situation."

DNA Analysis

20. *DNA/Serology.* This type of analysis involves the identification and characterization of biological materials, including blood, semen and other body fluids. Except for identical twins, each individual's genetic profile is unique. The genetic profile of a suspect developed from submitted biological material may be compared to the genetic profile developed from biological material collected from a crime scene to link a suspect to a crime. DNA/serology analysis services are provided by the Madison and Milwaukee crime labs. The Wausau crime lab region is served by Madison crime lab.

21. *DNA Databank.* The DNA Databank stores DNA profiles from samples on all convicted offenders and, beginning on April 1, 2015, the profiles of certain individuals arrested for violent felonies. The state system is connected to the national system to help identify suspects when unknown DNA is found at a crime scene. While the DNA databank is located at the Madison crime laboratory, the databank includes DNA profiles from samples which were analyzed and catalogued at the Milwaukee crime laboratory.

22. Table 2 below describes the main categories of persons that must have biological samples collected.

TABLE 2

Circumstances Requiring DNA Samples 1995 to Present

<u>Date</u>	<u>Circumstances</u>
Prior to January 1, 2000	Certain sex offenders and persons ordered by a judge following conviction or adjudication of certain serious crimes.
After January 1, 2000	Individuals who have either been found guilty of a felony or are in prison for any felony committed in Wisconsin. Individuals committed as sexually violent persons.
After April 1, 2015	Individuals who have been found guilty of a misdemeanor. Individuals who are arrested for or charged with a felony defined as a violent crime (the sample would be tested only after a probable cause determination).

23. Biological samples collected as a result of one of the reasons discussed above (except if the biological specimen is obtained from an individual at arrest, or when a juvenile is taken into custody, for a violent crime) are analyzed by the crime laboratories. The crime laboratories enter the data obtained from the DNA analysis into the DNA databank. The laboratories may compare the data obtained from one specimen with data obtained from other specimens. The laboratories may also make the data obtained from the analysis available to those in connection with criminal or delinquency investigations, including law enforcement agencies, prosecutors, defense attorneys, and the subject of the data.

24. In addition to analyzing biological specimens submitted as a requirement under state law, the crime laboratories must analyze the DNA in human biological specimens that are provided pursuant to any of the following requests: (a) a law enforcement agency regarding an investigation; (b) a defense attorney regarding his or her client's specimen, pursuant to a court order; and (c) an individual regarding his or her own specimen, subject to rules established by the Department. The laboratories may compare the DNA data from the provided specimen with data obtained from other specimens. The laboratories may also make this data available to those in connection with criminal or delinquency investigations, including law enforcement agencies, prosecutors, defense attorneys, and the subject of the data. The data obtained from one of these provided specimens may be used in a criminal or delinquency proceeding. However, the DNA data obtained from a specimen provided pursuant to one of the requests enumerated above may not be included in the DNA databank.

25. To handle the volume of DNA analysis, the crime labs employ 69 DNA analysts. As of July 1, 2018, there were 278,150 DNA profiles in the state's convicted offender database, comprised of 266,318 offender profiles and 11,832 arrestee profiles. "Casework" DNA profiles are developed from biological specimens from crime scenes that are not tied to a specific individual. As DNA profiles are added to the convicted offender DNA database, DOJ is increasingly able to match

"casework" DNA profiles with either known profiles in the convicted offender DNA database or with other "casework" profiles in the casework index. As of July 1, 2018, there were 18,703 casework DNA profiles in the state database.

26. Convicted offender DNA profiles and "casework" DNA profiles are both stored on the same computer server. This server currently has a storage capacity for up to 5,000,000 DNA profiles. Approximately 2,200 DNA profiles are added to the DNA databank every month from casework, criminal offenders, and violent felony arrest sample submissions, however this number varies significantly.

27. The report observed that the number of staff completing DNA analysis is not sufficient. The report further observed that since DNA staff conduct technical duties, volunteer for crime scene response, conduct technical reviews, or are involved in validations (review of other analysts or third-party lab work to verify findings) in addition to casework, these staff may have insufficient time for casework. Therefore, while staff are efficient, they are unable to complete a sufficient number of cases for the caseload.

28. The report recommended hiring three DNA technicians for each of the two DNA units for a total of six additional positions. These technicians would assist with managing case workloads and prioritization, evidence returns, and prepping samples. The report also suggested that the DNA section would benefit from identifying a validation team and a CSRU. This ensures that validations are completed in a more timely manner.

29. The crime lab responded by stating that WSCLB began to conduct pilots to streamline processes associated with DNA analysis. In addition, DOJ hired 5.0 LTE forensic biologists positions to assist with DNA analysis workflows. The biologists are responsible for evidence preparation for the analysts, which keeps the analysts focused on casework. Due to the limitations of LTE positions, DOJ was unable to retain these trained LTE employees at the WSCLB.

30. As a result of the various report recommendations, the administration recommends hiring 5.0 PR DNA analysts. The administration intends for program revenue funding to be supported from a transfer of monies from DOJ's CLDLE and DNA surcharge fund. Under the bill, the fund is projected to have an opening balance of \$5,111,100 and to conclude the 2019-21 biennium with a balance of \$128,700. It should also be noted that, under the bill, the fund is estimated to operate in a structural deficit during the 2019-21 biennium. In 2019-20, total obligations (\$17,270,600) are estimated to exceed annual revenue (\$15,200,000) by \$2,070,600, and in 2020-21, total obligations (\$18,111,800) are estimated to exceed annual revenue (\$15,200,000) by \$2,911,800.

31. The administration indicates that second year of expenses for PR DNA analysts was miscalculated. Therefore, the in the second year \$282,100 PR is recommended to support these 5.0 PR positions rather than \$477,100 PR. With this correction the DOJ's CLDLE and DNA surcharge fund conclude the 2019-21 biennium with a balance of \$323,700.

Provisions Under the Bill

32. Given the recommendations in the NFSTC report, the Committee may wish to provide

the recommended positions and funding. [Alternatives A1 and B1] These two alternatives would provide \$376,600 GPR, \$207,800 PR in 2019-20 and \$502,100 GPR, \$282,100 PR in 2020-21, and 9.0 GPR and 5.0 PR positions annually for operations at the state crime laboratories and to increase digital forensic services provided to local law enforcement.

33. One of the focuses of the NFSTC report was using analyst positions as much as possible for casework and moving other tasks to more technical positions more suited for the combination of administrative and scientific tasks that take analyst time away from casework. In order to accomplish this goal, the entire number of suggested positions may not be needed. If the Committee wishes to provide additional support for the crime labs, but do so in a way that will allow the assessment of caseloads at a middle point, a reduced number of positions may be provided. [Alternative A2 and/or B2] This combination of alternatives would provide \$282,200 GPR, \$108,000 PR in 2019-20 and \$376,300 GPR, \$146,600 PR in 2020-21, and 6.4 GPR and 2.6 PR positions annually for operations at the state crime laboratories and to increase digital forensic services provided to local law enforcement. These positions would consist of 1.6 GPR Crime Analysts, 1.6 GPR Crime Scene Response Examiners, 1.6 GPR Toxicologists, 1.0 GPR firearm and toolmark examiner, 0.6 GPR evidence examiner, and 2.6 PR DNA analysts. Note that part-time positions are provided in 0.6 position increments instead of 0.5 increments to ensure that part-time positions qualify for benefits. Alternative B2 would result in a concluding 2020-21 with an estimated revenue balance of \$787,200.

34. Given the condition of the DOJ's CLDLE and DNA surcharge fund, the Committee could consider funding the DNA analysts or a portion of the positions with GPR instead of PR [Alternative B3 or B4] This alternative would provide either 5.0 or 2.6 GPR DNA analyst positions. Further, provision of GPR would allow for a stable revenue source for positions for which demand has remained consistently strong.

35. Given that DOJ has managed caseloads through the use of LTE positions, the Committee may not wish to provide additional positions. [Alternative A3 and B5]

ALTERNATIVES

A. GPR Positions

1. Provide \$376,600 GPR in 2019-20 and \$502,100 GPR, in 2020-21, and 9.0 GPR annually for operations at the state crime laboratories to increase services provided to local law enforcement. These positions would consist of 3.0 GPR Crime Scene Response Examiners, 3.0 GPR Toxicologists, 2.0 GPR firearm and toolmark examiners, and 1.0 GPR evidence examiner.

ALT A1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$878,700	9.00	\$0	0.00

2. Provide \$200,500 GPR in 2019-20 and \$267,300 GPR in 2020-21, and 4.8 GPR positions annually for operations at the state crime laboratories to increase services provided to local

law enforcement. These positions would consist of 1.6 GPR Crime Analysts, 1.6 GPR Crime Scene Response Examiners, 1.6 GPR Toxicologists, 1.0 GPR firearm and toolmark examiner, and 0.6 GPR evidence examiner.

ALT A2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$467,800	6.40	- \$577,700	- 5.60

3. Take no action.

ALT A3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	- \$1,236,200	- 12.00

B. DNA Analysts

1. Provide \$207,800 PR in 2019-20 and \$282,100 PR in 2020-21, and 5.0 PR DNA analyst positions annually for operations at the state crime laboratories.

ALT B1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$489,900	5.00	- \$195,000	0.00

2. Provide \$108,000 PR in 2019-20 and \$146,600 PR in 2020-21, and 2.6 PR DNA analyst positions annually for operations at the state crime laboratories.

ALT B2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$254,600	2.60	- \$430,300	- 2.40

3. Provide \$207,800 GPR in 2019-20 and \$282,100 GPR in 2020-21, and 5.0 GPR DNA analyst positions annually for operations at the state crime laboratories.

ALT B3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$489,900	5.00	\$489,900	5.00
PR	<u>0</u>	<u>0.00</u>	<u>- 684,900</u>	<u>- 5.00</u>
Total	\$489,900	5.00	- \$195,000	0.00

4. Provide \$108,000 GPR in 2019-20 and \$146,600 GPR in 2020-21, and 2.6 GPR DNA

analyst positions annually for operations at the state crime laboratories.

ALT B4	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$254,600	2.60	\$254,600	2.60
PR	<u>0</u>	<u>0.00</u>	<u>- 684,900</u>	<u>- 5.00</u>
Total	\$254,600	2.60	- \$430,300	- 2.40

5. Take no action.

ALT B5	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	\$0.00	- \$684,900	- 5.00

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Joint Committee on Finance

Paper #460

Digital Forensic Crime Analysts (Justice)

[LFB 2019-21 Budget Summary: Page 254, #10]

CURRENT LAW

Local units of government are primarily responsible for law enforcement protection and investigating potential crimes. In addition, state statute requires the Department of Justice (DOJ) to investigate crimes that are statewide in nature, importance, or influence. Section 165.70 of the statutes specifically requires DOJ to enforce, among other crimes, the use of a computer to facilitate a child sex crime.

The Internet Crimes Against Children (ICAC) task force unit at DOJ is responsible for investigating Internet crimes against children in conjunction with other law enforcement partners in the Internet Crimes Against Children Task Force. The budget for the ICAC Unit at DOJ in 2018-19 is \$4,243,700 (all funds) and 35.0 positions. The unit's total funding is comprised of \$2,571,800 GPR, \$1,511,300 PR, and \$160,600 FED, supporting 26.0 GPR, 8.0 PR, and 1.0 FED positions. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement surcharge and the DNA surcharge.

The Digital Forensics Unit (DFU) was originally established in 2008, it focused mainly on investigating ICAC cases with material recovered from computers. Currently, none of the crime analysts work exclusively on ICAC but it is still the majority of the overall workload. With the proliferation of digital devices (for example, smart phones and smart watches) and their capacity, DFU work in the central laboratory and field offices also includes assisting with arson, homicide, kidnapping, human trafficking, drug trafficking, critical incident, white collar and public integrity cases.

GOVERNOR

Provide \$153,200 GPR in 2019-20 and \$204,300 GPR in 2020-21, and 3.0 GPR positions annually to increase digital forensic services provided to local law enforcement.

DISCUSSION POINTS

1. The ICAC program currently has 35.0 FTE. The unit is currently authorized the following positions: (a) 14.0 criminal analysts; (b) 19.0 special agents; (c) 1.0 program and policy analyst; and (d) 1.0 information services (IS) network services specialist. Ten crime analysts are located in Madison at the Risser Justice Center in the main digital forensic laboratory. There is one crime analyst assigned to the Eau Claire, Wausau, Appleton, and Milwaukee DCI field offices. The Department indicates that the services of DFU are particularly important as there are only 13 counties in the state in which at least one law enforcement agency has a digital forensic unit and there are limited digital forensic capabilities in nine counties.

2. In 2006-07, the ICAC task force was initially authorized 10.0 GPR positions. The provisions of 2007 Act 20 and 2009 Act 28, each provided an additional 5.0 positions for the task force. Additional positions were provided under 2011 Act 32 when 11.0 new positions were authorized. Finally, 2013 Act 20 provided 5.0 more ICAC positions.

3. Digital forensic analysis is an important element to the successful prosecution of ICAC cases. Criminal analysts are responsible for conducting on-site forensic previews of evidence and subsequently developing the evidence more thoroughly in the laboratory. The analysis involves: (a) the creation of a duplicate image of relevant evidence; (b) an examination of all relevant computer files; and (c) restoring information pertinent to the investigation. Department staff indicates that this work can be laborious often due to the large volume of data involved in ICAC investigations. In 2016-17, the ICAC task force conducted forensic ICAC examinations of 1,464 hard drives and 2,782 cell phones, for a total of 1,640 terabytes examined. In 2017-18, the ICAC task force conducted forensic ICAC examinations of 1,623 hard drives and 3,118 cell phones for a total of 680 terabytes examined.

4. Criminal analysts in the DOJ ICAC Digital Forensics Unit investigate crimes committed using the computer and analyze information contained in electronic formats. The personnel in this unit are trained to conduct forensic analysis of digital evidence. These cases include Internet crimes against children cases, audio and video enhancements, cell phone forensics, and other digital evidence and technical assistance cases. In 2016-17, these DOJ criminal analysts at the DOJ ICAC Digital Forensics Unit opened 550 cases and closed 526 cases, while in 2017-18 they opened 622 cases and closed 575 cases. Forensic ICAC cases are opened separately from criminal investigations initiated by the Wisconsin ICAC task force. Forensic ICAC cases are opened for the specific purpose of conducting forensic examinations of electronic devices. One forensic ICAC case is designated for the total number of devices submitted in a case.

5. The administration recommends the addition of 3.0 criminal analysts to assist the DFU with investigations. These positions would add to those available to assist with onsite investigations. Through the work of criminal analysts searching electronic devices associated with a suspect,

probable cause can be established on-site, which would give evidence sufficient for an arrest, much more quickly than if materials needed to be sent to a central location for analysis. These positions would be stationed at three DCI field offices. The department indicates that it would reallocate another position in order to all four DCI field offices.

6. Given the assistance that the additional criminal analyst positions can give with field investigations, the Committee may provide the additional 3.0 GPR positions. [Alternative 1] This alternative would provide \$153,200 GPR in 2019-20 and \$204,300 GPR in 2020-21, and 3.0 GPR positions annually.

7. To provide half the field offices with an additional crime analyst, the Committee may provide 2.0 additional crime analyst positions. [Alternative 2] This alternative would provide \$102,100 GPR in 2019-20 and \$136,100 GPR in 2020-21, and 2.0 GPR positions annually.

8. On the other hand, while the additional positions could provide increased assistance with ICAC, the workload has been managed using the current 14.0 criminal analysts. As a result, the Committee may decide to take no action at this time. [Alternative 3]

ALTERNATIVES

1. Provide \$153,200 GPR in 2019-20 and \$204,300 GPR in 2020-21, and 3.0 GPR positions annually to increase digital forensic services provided to local law enforcement.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$357,500	3.00	\$0	0.00

2. Provide \$102,100 GPR in 2019-20 and \$136,100 GPR in 2020-21, and 2.0 GPR positions annually to increase digital forensic services provided to local law enforcement.

ALT 2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$238,200	2.00	- \$119,300	- 1.00

3. Take no action.

ALT 3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	- \$357,500	- 3.00

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Joint Committee on Finance

Paper #461

Pay Progression -- Assistant Attorneys General (Justice)

[LFB 2019-21 Budget Summary: Page 254, #12]

CURRENT LAW

Under 2011 Act 238 and 2013 Act 20, assistant district attorneys (ADAs) and deputy district attorneys (DDAs) are compensated pursuant to a merit-based pay progression plan under which prosecutors may receive annual salary adjustments. Act 20 also established a pay progression plan for assistant state public defenders (ASPDs) and assistant attorneys general (AAGs) that mirrors the pay progression plan provided to assistant and deputy district attorneys. The merit-based pay progression plan consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between an attorney's lowest hourly salary and the attorney's highest possible annual salary. Notwithstanding the creation of a 17 hourly salary step pay progression plan, District Attorneys, the State Public Defender, and the Attorney General may: (a) deny annual salary increases to individual ADAs, DDAs, ASPDs, and AAGs; or (b) increase the salary of individual ADAs, DDAs, ASPDs, and AAGs by up to 10% per year. In order to be eligible for pay progression, individuals generally must have served the state as an ADA, DDA, ASPD, or AAG for a continuous period of 12 months or more.

The Department of Justice (DOJ) has utilized existing resources, including discretionary settlement funds, to support salary adjustments for AAGs. Under 2017 Act 369, discretionary settlement funds are required to be deposited into the general fund. This provision is currently under litigation.

The Department of Justice is currently authorized 101.40 AAG and AAG supervisor positions, including 78.25 GPR attorneys, 18.9 PR attorneys, and 4.25 FED attorneys.

GOVERNOR

Provide funding equal to a 2% increase for all AAGs on January 1, 2020 and 2021. No amounts are provided in compensation reserves for AAGs for a general wage adjustment (2%/2% for other state employees in 2019-21). Rather, the 2%/2% amounts are included in DOJ's budget and may be distributed at the discretion of the Attorney General.

The bill provides \$70,100 GPR, \$15,600 PR, and \$3,500 FED in 2019-20 and \$141,500 GPR, \$31,600 PR, and \$6,200 FED in 2020-21 to support pay progression plan for assistant attorney general attorneys.

DISCUSSION POINTS

1. On May 28, 2019, the Committee addressed the issue of pay progression funding related to the District Attorneys, State Public Defender, and DOJ in budget paper #270-Revised. On that date, the Committee adopted a motion to provide pay progression funding of 2% in January, 2020, and an additional 2% in January, 2021, for the District Attorneys and State Public Defender. Pay progression funding for DOJ was set aside to be reviewed with other Justice budget issues. This paper addresses only the pay progression associated with DOJ.

2. Under the 2017-19 state employee compensation plan established by the Division of Personnel Management in the Department of Administration (DOA), the minimum hourly salary for AAGs is \$25.14 per hour (\$52,291 annually), while the maximum salary for these employees is \$60.74 per hour (\$126,339 annually). Generally, the compensation plan allows DOJ to hire AAGs at a rate up to \$42.94 per hour (\$89,315 annually).

3. The pay progression plan for AAGs exists to increase employee retention by creating a path for experienced attorneys to move from the minimum salary level to the maximum salary level. The pay progression plan consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the minimum salary level and the maximum salary level. One full salary step totals \$2.09 per hour, or \$4,356 annually. Notwithstanding the creation these 17 steps, AAGs may, at the discretion of their supervisor, receive up to a 10% increase in their salary on an annual basis until the attorney reaches the maximum allowable salary under the compensation plan. Once an attorney reaches the maximum salary level, the attorney may no longer receive salary adjustments under the pay progression plan. Under the pay progression plan, AAGs are eligible to receive a salary adjustment after having been employed in such a position for 12 continuous months.

4. Table 1 identifies funding provided to the District Attorneys and the SPD for pay progression during the 2013-15, 2015-17, and 2017-19 biennia, as well as a brief description of how the funding was utilized. Table 1 also identifies amounts recommended in the bill for pay progression during the 2019-21 biennium. Note that similar information for funding allocated for AAG's for pay progression from 2014-15 through 2017-18 is provided in Table 2.

TABLE 1**Funding Appropriated for Pay Progression for the District Attorneys
and the State Public Defender, 2013-14 through 2020-21**

<u>Fiscal Year</u>	<u>District Attorneys</u>		<u>State Public Defender</u>	
	<u>Appropriated Amount</u>	<u>Utilization of Funding</u>	<u>Appropriated Amount</u>	<u>Utilization of Funding</u>
2013-14	\$1,018,400	Increase salaries of eligible attorneys to the next hourly salary step.	\$997,000	Increase salaries of eligible attorneys to the next hourly salary step.
2014-15	3,625,500	Increase salaries of certain attorneys by, on average, 6.6%, and provide other attorneys a one-time lump sum of \$2,000.	1,978,600	Increase salaries of eligible attorneys by, on average, 4.4%.
2015-16	0		0	
2016-17	556,900	Increase salaries for eligible attorneys by, on average, 2%.	481,300	Increase salaries for eligible attorneys attorneys by, on average, 2%
2017-18	1,005,700	Amounts may be utilized at the discretion of the District Attorneys. However, funding was intended to increase salaries of eligible attorneys by \$1.97 per hour.	1,280,300	Amounts may be utilized at the discretion of the State Public Defender. However, funding was intended to increase salaries of eligible attorneys by, on average 5%.
2018-19	2,606,000	Amounts may be utilized at the discretion of the District Attorneys. However, funding was intended to increase salaries of eligible attorneys by \$1.97 per hour.	2,607,300	Amounts may be utilized at the discretion of the State Public Defender. However, funding was intended to increase the salaries of eligible attorneys by 5%.
2019-20*	273,600	Amounts may be utilized at the discretion of the District Attorneys. However, funding is intended to fund a, on average, 2% increase on January 1, 2020.	300,300	Amounts may be utilized at the discretion of the State Public Defender. However, funding is intended to fund a 2% increase on January 1, 2020.
2020-21*	817,400	Amounts may be utilized at the discretion of the District Attorneys. However, funding is intended to fund a, on average, 2% increase on January 1, 2021.	903,100	Amounts may be utilized at the discretion of the State Public Defender. However, funding is intended to fund a 2% increase on January 1, 2021.

*Information related to 2019-20 and 2020-21 are based on amounts approved by JFC on May 28, 2019.

TABLE 2**Funding Utilized for Pay Progression for the Assistant Attorneys General
2014-15 through 2017-18**

<u>Fiscal Year</u>	<u>Funded Amount</u>	<u>% Increase over Base</u>
2015	\$405,122	8.41%
2016	410,779	8.66
2017	384,550	6.59
2018	283,046	3.64

5. When budgeting for salary adjustments under the pay progression plan, greater amounts are typically appropriated in the second year of the biennium when compared to the first year of the biennium to support both: (a) any salary increases awarded in the first year of the biennium; and (b) any additional salary increases provided in the second year of the biennium. Ongoing support for any salary increases provided during the 2019-21 biennium will likely be included in the full funding of continuing position salaries and fringe benefits standard budget adjustment included in the 2021-23 biennial budget bill.

6. The Department of Justice does not have a separate GPR appropriation to support salary adjustments for assistant attorneys general under the pay progression plan. Until 2018, DOJ supported salary adjustments through the utilization of existing resources, including discretionary settlement funds. Discretionary settlement funds were amounts received by DOJ as a result of certain litigation that may be expended by DOJ for any purpose permitted by state law, at the discretion of the Attorney General.

Attorney Retention

7. In LFB Paper #270 information is provided on attorney retention and reasons for separation for ADAs, SPD, and AAGs under discussion points #6 through #16 and in Appendices III and IV.

Pay Progression Provisions Under the Bill

8. The bill provides the Department of Justice with funding in order to support salary increases for AAGs under the pay progression plan. While DOJ would have discretion in administering pay progression amounts, the appropriated amounts under the bill are intended to support a 2% per hour pay increase to AAGs eligible under the pay progression plan on January 1, 2020 and 2021. Total funding for pay progression for DOJ is provided on a one-time basis, and would, therefore, not be included in the agency base budget for the 2021-23 biennium.

9. *Budget Bill.* Given the benefits of reducing attorney turnover, the Committee could provide funding to DOJ to support salary adjustments under the pay progression plan. Funding could be provided in the manner recommended by the budget bill [Alternative 1]. This alternative is intended to provide a 2% increase in 2019-20 and another 2% increase in 2020-21. This would result in AAG pay progression funding totaling \$70,100 GPR, \$15,600 PR, and \$3,500 FED in 2019-20 and \$141,500 GPR, \$31,600 PR, and \$6,200 FED in 2020-21. Funding for pay progression would be provided on a one-time basis.

10. *Bill and Technical Modifications.* Amounts calculated for pay progression under the bill are based on payroll data from August, 2018. Funding for AAGs under the bill was intended to support a 2% increase on January 1, 2020 and 2021, but would only support a 2% increase on January 1, 2020.

If the Committee wishes to provide the pay progression levels recommended by the budget bill for AAGs, but also wishes to account for these issues, the Committee could modify pay progression funding to support a 2% salary increase in January 2020 and 2021 by increasing AAG funding by \$12,900 GPR, \$1,200 PR, and \$1,600 FED in 2019-20 and \$110,600 GPR, \$20,400 PR, and \$9,200

FED in 2020-21 [Alternative 2]. Alternative 2 would result in AAG pay progression funding totaling \$83,000 GPR, \$16,800 PR, and \$5,100 FED in 2019-20 and \$252,100 GPR, \$52,000 PR, and \$15,400 FED in 2020-21. This alternative is consistent with what was provided to ADAs and ASPDs under Motion #103.

11. If the Committee wishes to provide pay progression, but at a lower level than that recommended by the budget bill for AAGs, the Committee could modify pay progression funding to support a 1% salary increase in January 2020 and 2021 by reducing AAG funding by \$28,600 GPR, \$7,200 PR, and \$900 FED in 2019-20 and \$15,400 GPR, \$5,700 PR, and increasing by \$1,500 FED in 2020-21 [Alternative 3]. Alternative 3 would result in AAG pay progression funding totaling \$41,500 GPR, \$8,400 PR, and \$2,600 FED in 2019-20 and \$126,100 GPR, \$25,900 PR, and \$7,700 FED in 2020-21.

12. *One-Step Increase for AAGs.* The Committee could increase the amounts provided to AAGs and support a one-step increase (\$2.09 per hour) on July 1, 2019-20 and 2020-21. In order to provide a step increase (and account for the issues identified under discussion point #10), the Committee could increase AAG funding by \$292,500 GPR, \$52,300 PR, and \$17,800 FED in 2019-20 and \$553,500 GPR, \$93,800 PR, and \$28,900 FED in 2020-21 [Alternative 4]. This alternative would result in AAG pay progression funding totaling \$362,600 GPR, \$67,900 PR, and \$21,300 FED in 2019-20 and \$695,000 GPR, \$125,400 PR, and \$35,100 FED in 2020-21.

13. *Various Percentage Increase.* Alternatively, the Committee may wish to provide AAG with funding to support a different level of pay increase, as compared to what is provided under the bill. Under the pay progression plan, the maximum annual salary increase that may be provided to an AAG is 10%. Appendix I identifies the cost of providing DOJ funding to support pay increases between 1% and 10% in July, 2019, and 2020 (rather than January 1, 2020, and 2021, under the bill) for AAGs as a reflection of a change to the bill. Appendix I also identifies the cost of providing one-full step under the pay progression plan (\$2.09 per hour). Appendix I identifies these costs if: (a) pay increases are provided in both years of the biennium; (b) pay increases are only provided in 2019-20; and (c) pay increases are only provided in 2020-21. Appendix II provides similar information for non-GPR fund sources within the Department of Justice.

14. *Delete Funding.* On the other hand, the Committee could decide to eliminate all funding for pay progression for AAGs [Alternative 5]. This alternative would reduce funding under the bill for DOJ by \$70,100 GPR, \$15,600 PR, and \$3,500 FED in 2019-20 and \$141,500 GPR, \$31,600 PR, and \$6,200 FED in 2020-21.

15. As pay progression is a commitment to move AAGs from the minimum hourly salary available to these employees (currently \$25.14 per hour) to the maximum available hourly salary available to these employees (currently \$60.74 per hour), pay progression is a substantial ongoing financial commitment for the state. Further, since the state must continue to support the cost of past salary increases, the annual cost of supporting the pay progression plan builds on itself. For example, the cost of supporting a 5% annual salary increase for AAGs under the pay progression plan would be \$292,500 GPR in 2019-20 and \$553,500 GPR in 2020-21. It is estimated that providing a similar 5% annual salary increase during the 2021-23 biennium would cost \$1,070,900 GPR in 2021-22 and \$1,353,500 GPR in 2022-23 through full funding of salary and fringe benefits and additional funding

for pay progression. The cost of pay progression for AAGs would still be higher than these estimates if funding is provided for 10% annual pay progression increases, as is allowable under current law.

16. The ultimate annual cost of pay progression, however, depends on turnover rates. A higher turnover rate reduces the annual cost of pay progression as more highly compensated attorneys would be replaced by lower compensated attorneys. It should be noted, however, that one of the goals of the pay progression plan is to reduce attorney turnover.

ALTERNATIVES

1. *Budget Bill.* Include the administration's recommendation to provide AAG pay progression funding totaling \$70,100 GPR, \$15,600 PR, and \$3,500 FED in 2019-20 and \$141,500 GPR, \$31,600 PR, and \$6,200 FED in 2020-21. Funding would be provided on a one-time basis. Funding under the bill was intended to support a 2% per hour pay increase to AAGs eligible under the pay progression plan on January 1, 2020 and 2021.

ALT 1	Change to	
	Base	Bill
GPR	\$211,600	\$0
PR	47,200	0
FED	<u>9,700</u>	<u>0</u>
Total	\$268,500	\$0

2. *Budget Bill with Technical Modification.* Provide AAG pay progression funding totaling \$83,000 GPR, \$16,800 PR, and \$5,100 FED in 2019-20 and \$252,100 GPR, \$52,000 PR, and \$15,400 FED in 2020-21. Funding would be provided on a one-time basis. Funding is intended to support a 2% per hour pay increase to AAGs eligible under the pay progression plan on January 1, 2020 and 2021.

ALT 2	Change to	
	Base	Bill
GPR	\$335,100	\$123,500
PR	68,800	21,600
FED	<u>20,500</u>	<u>10,800</u>
Total	\$424,400	\$155,900

3. *1% Increase.* Provide AAG pay progression funding totaling \$41,500 GPR, \$8,400 PR, and \$2,600 FED in 2019-20 and \$126,100 GPR, \$25,900 PR, and \$7,700 FED in 2020-21. Funding would be provided on a one-time basis. Funding is intended to support a 1% per hour pay increase to AAGs eligible under the pay progression plan on January 1, 2020 and 2021.

ALT 3	Change to	
	Base	Bill
GPR	\$167,600	- \$44,000
PR	34,300	- 12,900
FED	<u>10,300</u>	<u>600</u>
Total	\$212,200	- \$56,300

4. *One-Step Increase.* Provide AAG pay progression funding totaling \$362,600 GPR, \$67,900 PR, and \$21,300 FED in 2019-20 and \$695,000 GPR, \$125,400 PR, and \$35,100 FED in 2020-21. Funding would be provided on a one-time basis. Funding is intended to support a one step (\$2.09) pay increase to AAGs eligible under the pay progression plan on July 1, 2019 and 2020.

ALT 4	Change to	
	Base	Bill
GPR	\$1,057,600	\$846,000
PR	193,300	146,100
FED	<u>56,400</u>	<u>46,700</u>
Total	\$1,307,300	\$1,038,800

5. Take no action.

ALT 5	Change to	
	Base	Bill
GPR	\$0	- \$211,600
PR	0	- 47,200
FED	<u>0</u>	<u>- 9,700</u>
Total	\$0	- \$268,500

Prepared by: Sarah Wynn
 Appendices

APPENDIX I

Summary of GPR Pay Progression Costs During the 2019-21 Biennium for the Department of Justice By Percent Increase Pay Increases in 2019-20 and 2020-21, Change to Bill

<u>Percent Increase</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2019-21 Biennium</u>
Pay Increases in 2019-20 and 2020-21, Change to Bill			
1%	\$12,900	\$27,800	\$40,700
2%	96,000	196,500	292,500
3%	178,300	345,000	523,300
4%	259,900	485,700	745,600
5%	331,800	621,100	952,900
6%	402,900	744,200	1,147,100
7%	470,300	861,700	1,332,000
8%	537,100	975,500	1,512,600
9%	601,400	1,086,400	1,687,800
10%	664,900	1,188,000	1,852,900
One Step Increase*	\$292,500	\$553,500	\$846,000
Pay Increase in 2019-20 Only, Change to Bill			
1%	\$12,900	-\$57,300	-\$44,400
2%	96,000	26,900	122,900
3%	178,300	110,400	288,700
4%	259,900	193,200	453,100
5%	331,800	266,300	598,100
6%	402,900	338,500	741,400
7%	470,300	407,100	877,400
8%	537,100	475,100	1,012,200
9%	601,400	540,500	1,141,900
10%	664,900	605,300	1,270,200
One Step Increase*	\$292,500	\$226,500	\$519,000
Pay Increase in 2020-21 Only, Change to Bill			
1%	-\$70,100	-\$57,300	-\$127,400
2%	-70,100	26,900	-43,200
3%	-70,100	110,400	40,300
4%	-70,100	193,200	123,100
5%	-70,100	266,300	196,200
6%	-70,100	338,500	268,400
7%	-70,100	407,100	337,000
8%	-70,100	475,100	405,000
9%	-70,100	540,500	470,400
10%	-70,100	605,300	535,200
One Step Increase*	-\$70,100	\$226,500	\$156,400

*One step under the pay progression plan totals \$2.09 per hour, or \$4,347 annually.

APPENDIX II

Summary of Pay Progression Costs During the 2019-21 Biennium for the Attorney Generals Pay Increases in 2019-20 and 2020-21, Change to Bill*

Percent Increase	Assistant Attorney Generals (PR)			Assistant Attorney Generals (FED)		
	2019-20	2020-21	2019-21 Biennium	2019-20	2020-21	2019-21 Biennium
Pay Increases in 2019-20 and 2020-21						
1%	\$1,200	\$3,400	\$4,600	\$1,600	\$4,100	\$5,700
2%	18,100	38,700	56,800	6,700	14,500	21,200
3%	34,900	63,900	98,800	11,800	20,000	31,800
4%	51,800	88,900	140,700	16,900	25,500	42,400
5%	63,900	110,200	174,100	19,800	31,100	50,900
6%	75,500	128,100	203,600	22,500	36,700	59,200
7%	87,200	142,800	230,000	25,100	42,400	67,500
8%	98,700	155,000	253,700	27,800	46,100	73,900
9%	108,600	167,200	275,800	30,500	49,800	80,300
10%	118,200	178,300	296,500	33,100	53,600	86,700
One Step Increase**	\$52,300	\$93,800	\$146,100	\$17,800	\$28,900	\$46,700
Pay Increase in 2019-20 Only						
1%	\$1,200	-\$14,200	-\$13,000	\$1,600	-\$1,100	\$500
2%	18,100	3,200	21,300	6,700	4,000	10,700
3%	34,900	20,600	55,500	11,800	9,100	20,900
4%	51,800	38,000	89,800	16,900	14,200	31,100
5%	63,900	50,600	114,500	19,800	17,100	36,900
6%	75,500	62,800	138,300	22,500	19,800	42,300
7%	87,200	75,000	162,200	25,100	22,400	47,500
8%	98,700	87,100	185,800	27,800	25,100	52,900
9%	108,600	97,500	206,100	30,500	27,800	58,300
10%	118,200	107,700	225,900	33,100	30,400	63,500
One Step Increase**	\$1,290,900	\$1,313,300	\$2,604,200	\$1,704,700	\$1,752,800	\$3,457,500
Pay Increase in 2020-21 Only						
1%	-\$15,600	-\$14,200	-\$29,800	-\$3,500	-\$1,100	-\$4,600
2%	-15,600	3,200	-12,400	-3,500	4,000	500
3%	-15,600	20,600	5,000	-3,500	9,100	5,600
4%	-15,600	38,000	22,400	-3,500	14,200	10,700
5%	-15,600	50,600	35,000	-3,500	17,100	13,600
6%	-15,600	62,800	47,200	-3,500	19,800	16,300
7%	-15,600	75,000	59,400	-3,500	22,400	18,900
8%	-15,600	87,100	71,500	-3,500	25,100	21,600
9%	-15,600	97,500	81,900	-3,500	27,800	24,300
10%	-15,600	107,700	92,100	-3,500	30,400	26,900
One Step Increase**	-\$15,600	\$1,313,300	\$1,297,700	-\$3,500	\$1,752,800	\$1,749,300

*The bill provides the AAG pay progression with \$15,600 PR and \$3,500 FED in 2019-20 and \$31,600 PR and \$6,200 FED in 2020-21.

**One step under the pay progression plan totals \$2.09 per hour, or \$4,347 annually.

JUSTICE

LFB Summary Items for Which No Issue Paper Has Been Prepared (Revised)

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
2	Standard Budget Adjustments -- Technical Transfers Within the Same Alpha Appropriation
7 (part)	Division of Criminal Investigation Continued Funding (excluding Internet Crimes Against Children, Addressed in Paper #458)
9	Criminal Prosecutorial and Investigative Resources
13	Program Revenue Reestimates
14	Position Realignment

LFB Summary Items Addressed in a Previous Paper

<u>Item #</u>	<u>Title</u>
11	Crime Laboratory Pay Progression (Paper #173)
12	Pay Progression (Paper #270 -- Revised)

LFB Summary Items Removed From Budget Consideration

<u>Item #</u>	<u>Title</u>
6	Transfer Office of School Safety
15	Powers of the Attorney General
16	Settlement and Relator Appropriations
17	Qui Tam Actions for False Claims