

# Justice

## Law Enforcement Services

(LFB Budget Summary Document: Page 370)

### **LFB Summary Items for Which an Issue Paper Has Been Prepared**

<u>Item #</u>	<u>Title</u>
4 (part)	Internet Crimes Against Children (Paper #510)
4 (part)	Division of Criminal Investigations Field Operations (Paper #511)
5	School Safety Operations (Paper #512)
6 & 10	Violent Crime Prosecutors and Continuation of Sexual Assault Resource Prosecutor (Paper #513)
7 (part)	Program Administration Support (Paper #514)
11	Beat Patrol Programs Unencumbered Balances (Paper #515)
13	Continuation of Elder Abuse Hotline and Elder Justice Program (Paper #516)

### **LFB Summary Item to be Addressed in a Subsequent Paper**

<u>Item #</u>	<u>Title</u>
7 (part)	Sexual Assault Victim Services Grants (Justice -- Victim and Witness Services) (Paper #541)

### **LFB Summary Items Removed From Budget Consideration**

<u>Item #</u>	<u>Title</u>
1	Law Enforcement Recruitment, Retention and Wellness Grant Program
2	Community Policing and Community Prosecution Grant Program
3	Office of Missing and Murdered Indigenous Women
9	Regional Drug Prosecutors Report
12	Tribal Law Enforcement Assistance
14	Hate Crime Hotline
15	Universal Background Check
16	Citizenship Requirement for Police Officers
17	Rename Shot Spotter Grant Program

(over)

**LFB Summary Item Addressed in Standard Budget Adjustments (Paper #105)**

<u>Item #</u>	<u>Title</u>
8	Regional Drug Prosecutors



## Legislative Fiscal Bureau

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June 6, 2023

Joint Committee on Finance

Paper #510

### Internet Crimes Against Children (Justice -- Law Enforcement Services)

[LFB 2023-25 Budget Summary: Page 371, #4 (part)]

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#### 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, created in 1998, 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 2022-23 is \$5,375,500 (all funds) and 38.6 positions. The unit's total funding is comprised of \$4,288,800 GPR, \$829,300 PR, and \$257,400 FED, supporting 35.6 GPR, 1.0 PR, and 2.0 FED positions the majority of which are special agents. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement (CLDLE) surcharge and the DNA surcharge.

The Department's drug law enforcement, crime laboratories, and genetic evidence activities appropriation is supported by revenue from the 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 \$9,317,000 PR annually.

## 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, 2022, there were 309 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" investigations; and (d) cases involving other law enforcement agencies. In 2021-22 the ICAC task force opened 4,049 ICAC investigations. The Division took the lead on 595 investigations in 2021-22.

3. All 309 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 2021-22, the Wisconsin ICAC task force received 6,344 cyber tips from the National Center for Missing and Exploited Children. From these cyber tips, a total of 3,298 tips resulted in investigation by DOJ (901 tips) or were referred to affiliate law enforcement agencies (2,397 tips). 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. In 2021-22, the Wisconsin ICAC task force made 447 arrests. Of the 447 arrests made by the Wisconsin ICAC task force in 2021-22, 76 arrests were made by DOJ special agents. The Department staff 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.

### A. ICCA Investigative Positions

6. Assembly Bill 43/Senate Bill 70, would provide \$223,000 GPR in 2023-24 and \$279,100 GPR in 2024-25 and 3.0 GPR positions annually (two special agents and one criminal analyst) to assist with an increase in the number of cybertips [Alternative A1]. The Department indicates, "the special agents will be able to support the ICAC Taskforce given the increasing numbers of cybertip investigations referred by the National Center for Missing and Exploited Children." The table below shows the increase in cybertips.

	<u>Total Cybertips</u>	<u>Annual Increase</u>
2018-19	2,845	
2019-20	3,040	7%
2020-21	3,920	29%
2021-22	5,712	46%

7. This increase in cybertips has resulted in an increase in the average monthly cybertip per 1.0 ICAC position from around 70 in 2018-19 to 133 in 2021-22, which represents a 90% increase in caseload. To reduce the average number of cybertips handled by each position, DOJ requested an increase of 5.0 positions.

8. In order to provide DOJ with some additional funding and positions for law enforcement activities related to ICAC, but at a lower amount, the Committee could provide \$111,500 GPR in 2023-24 and \$139,600 GPR in 2024-25 and 1.5 GPR positions annually to DOJ's ICAC appropriation. [Alternative A2]

## **B. ICAC Local Assistance**

9. Further, AB 43/SB 70 would provide \$250,000 PR annually during the 2023-25 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 \$8,013,600 and to conclude the 2023-25 biennium with a balance of \$8,703,900.

10. Under 2015 Act 369 (also known as Alicia's Law), \$1,000,000 was transferred from the CLDLE surcharge and the DNA surcharge to a new continuing appropriation that may be used for criminal investigative operations and law enforcement relating to Internet crimes against children, prosecution of Internet crimes against children, and activities of state and local Internet crimes against children task forces.

11. Under 2017 Act 59 and again under 2019 Act 9, \$750,000 PR was provided in each year of the biennium on a one time basis to the same continuing appropriation. This funding was made permanent under 2021 Act 58. Revenue was transferred from the CLDLE surcharge and the DNA surcharge. Funding is 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].

12. The bill includes \$250,000 PR annually to increase Alicia's Law funding for DCI and local ICAC taskforce affiliates, increasing funding to \$1 million per year. The Department indicates that this funding is intended "to increase the support available to local law enforcement agencies participating in the statewide ICAC Taskforce as affiliates, which have increased from 229 in 2015 when the funding began to 309 currently, an increase of 74%." The additional funding is intended "to

support overtime reimbursement for case investigations, training, software and hardware for local law enforcement officers investigating ICAC cases."

13. In order to provide DOJ additional funds for law enforcement activities related to ICAC, the Committee could provide \$250,000 PR annually during the 2023-25 biennium 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 drug law enforcement PR appropriation.

14. The Committee could also approve a reduced level of funding for the ICAC appropriation, as compared to the amount recommended. Specifically, the Committee could provide DOJ with \$125,000 PR annually. [Alternative B2] Under this alternative, funding for ICAC would be supported by a transfer of funds from DOJ's drug law enforcement appropriation and would result in a concluding 2022-23 revenue balance of \$8,953,900.

15. The Committee could also maintain current law and not provide DOJ additional resources at this time for the ICAC appropriation. [Alternative B3]

## **ALTERNATIVES**

### **A. ICAC Investigative Positions**

1. Provide DOJ's GPR allocation for ICAC under the Division of Law Enforcement Services appropriation \$223,000 GPR in 2023-24 and \$279,100 GPR in 2024-25 and 3.0 GPR positions annually for the ICAC task force.

<b>ALT A1</b>	<b>Change to Base Funding</b>	<b>Positions</b>
GPR	\$502,100	3.00

2. Provide DOJ's GPR allocation for ICAC under the Division of Law Enforcement Services appropriation \$111,500 GPR in 2023-24 and \$139,600 GPR in 2024-25 and 1.5 GPR positions annually for the ICAC task force.

<b>ALT A2</b>	<b>Change to Base Funding</b>	<b>Positions</b>
GPR	\$251,100	1.50

3. Take no action.

## **B. ICAC Local Assistance**

1. Provide DOJ's ICAC appropriation \$250,000 PR annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

<b>ALT B1</b>	<b>Change to Base</b>
PR	\$500,000

2. Provide DOJ's ICAC appropriation \$125,000 PR annually. Funding for the ICAC appropriation would be supported by a transfer of funds from DOJ's CLDLE surcharge and the DNA surcharge.

<b>ALT B2</b>	<b>Change to Base</b>
PR	\$250,000

3. Take no action.

Prepared by: Sarah Wynn







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June 6, 2023

Joint Committee on Finance

Paper #511

### **Criminal Investigation Support (Justice -- Law Enforcement Services)**

[LFB 2023-25 Budget Summary: Page 371, #4 (part)]

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#### **CURRENT LAW**

Various provisions of the Wisconsin Statutes require DOJ to become involved in active law enforcement activities. Under s. 165.50 of the statutes, DOJ is required to investigate crime that is statewide in nature, importance or influence, and to conduct arson investigations.

Further, the Department is specifically authorized to enforce Chapter 108 of the statutes (Unemployment Insurance and Reserves), and selected statutory provisions regulating or prohibiting the following: (a) prostitution; (b) illegal gambling; (c) smoking; and (d) carrying carry concealed weapons.

Finally, under s. 165.70 of the statutes, DOJ is authorized to investigate and enforce selected statutory provisions regulating certain conduct or prohibiting certain crimes that are statewide in nature, importance, or influence. These provisions include: (a) prostitution; (b) illegal gambling; (c) controlled substances; (d) battery or intimidation of jurors and witnesses; (e) machine guns; (f) extortion; (g) usurious loans; (h) loan sharking; (i) obstruction of justice; (j) arson; and (k) use of a computer to facilitate a child sex crime. With respect to these latter provisions under s. 165.70, the statutes stipulate that it is not the intent to deprive local law enforcement of its concurrent power and duty to enforce these provisions.

The statutes generally provide DOJ agents the powers of peace officers in carrying out these responsibilities. Under s. 939.22(22) of the statutes, a peace officer is defined as "any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes."

The Department of Justice's Division of Criminal Investigation (DCI) is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the

Department. In addition, in representing the state, or any state department, agency, official, employee or agent, the Department's Division of Legal Services may utilize the investigative expertise of DCI. Finally, DCI will also provide investigative assistance to local law enforcement, when requested, to help solve serious crimes.

The budget for the Division in 2022-23 is \$23,952,500 (all funds) and 157.15 positions. The Division is organized into four bureaus: the Field Operations Bureau Eastern Region, the Field Operations Bureau Western Region, the Special Operations Bureau, and the Human Trafficking Bureau. The narcotics enforcement activities of the Division are separately budgeted, but narcotics enforcement is a part of the Field Operations Bureaus. The internet crimes against children task force unit is also separately budgeted but elements of the unit report to both the Field Operations Bureaus and the Special Operations Bureau.

## DISCUSSION POINTS

1. The Field Operations Bureau is responsible for the majority of investigative resources deployed throughout the state. There are regional field offices in Madison, Milwaukee, Appleton, Eau Claire and Wausau. Additionally, supervisors and staff work at the High Intensity Drug Trafficking Area (HIDTA) in Milwaukee, and the Lake Winnebago Area Multi-Agency Enforcement Group (LWAM) in the Fox Valley region. Special agents and civilian staff work with Wisconsin's local, county, state and federal partners as well as agencies in other states investigating crimes of statewide significance or importance.

2. Requests for assistance from local law enforcement related to increased identification of cybercrimes and trafficking targeting children; opiate and child abuse death prevention; forensic genetic genealogy case review and evidence identification; crimes against the elderly; and assistance to local and federal law enforcement regarding violent crimes in southeast Wisconsin may be trending upward. In 2022, there was a dip in annual cases. However, during that year, turnover increased due to several retirements, thus temporarily reducing DCI's ability to respond to requests for assistance. In 2023, DCI's caseload is increasing with decreased caseload capacity due to the training of 20 new special agents starting in March, 2023.

3. The table below shows cases assigned to a DCI agent that had a local assistance component, requests from law enforcement partners for information and assistance relating to a non-DCI involved case (non-investigative assists). (DCI-only cases are not included.)

<u>CY</u>	<u>Cases</u>	Non-Investigative <u>Assists</u>	<u>Total</u>	<u>Officer Involved Critical Incidents</u>
2020	4,506	2,526	7,032	19
2021	5,095	2,396	7,491	21
2022	4,406	2,082	6,488	14
2023 Jan-Apr	1,644	706	2,350	8
2023 Projection			7,050	

4. In order to provide criminal investigative support and technical assistance for local law enforcement agencies, the bill would provide \$550,500 GPR in 2023-24 and \$682,400 GPR in 2024-25 and 7.0 GPR positions annually (6.0 special agents and 1.0 criminal analyst) for criminal investigations. [Alternative 1] The Division has identified the likely assignments for the 7.0 positions as 2.0 financial crimes/elder financial exploitation special agents and 5.0 major crimes special agents. These caseloads are described below.

5. *Major Crime Caseload.* The Field Operations Bureaus are in charge of investigating major crimes. According to DOJ, major crimes include violent crimes and cases of a sensitive nature. Sensitive cases are those cases of statewide nature, scope, or importance that may require special investigative techniques and close coordination with local law enforcement or a prosecutor. Sensitive cases may also require special victim resources, depending on the nature of the criminal conduct. Examples of sensitive cases could include: serial sexual assaults; missing person investigations; child abductions; or crimes committed against a public official. These cases are handled at the field office level within the Bureau. In 2021-22, the Bureau opened 81 major crime investigations and closed 83 investigations.

6. *Financial Crimes Caseload.* The Field Operations Bureaus conduct criminal investigations of complaints relating to: (a) economic or "white collar" crimes (such as embezzlement, theft, bank fraud, security fraud, health care fraud, insurance fraud and identity theft); and (b) antitrust violations (such as bid rigging, territory allocation and restraint of trade). The Bureau generally conducts investigations at the request of local district attorney offices and local law enforcement agencies, as well as through coordination with assistant attorneys general or as a result of citizen reports. In 2021-22, the Bureau opened seven financial crimes cases and closed 23 cases.

7. The Division has 98.25 special agents (75.6 GPR, 18.15 PR, 2.5 FED, and 2.0 SEG) and all positions are either currently filled or seven have been vacant for less than six months. Further, DCI has 29 criminal analysts (21.5 GPR, 4.5 PR and 3.0 FED) and all positions are currently filled.

8. In order to provide assistance, but at a lower level, the Committee could provide 5.0 GPR positions. [Alternative 2] This alternative would provide \$393,200 GPR in 2023-24 and \$487,500 GPR in 2024-25 and 5.0 GPR positions annually for criminal investigations. Alternatively, 3.0 GPR positions and \$235,900 and \$292,400 could be provided. [Alternative 3]

9. If no additional positions are provided, DCI will continue to use base resources to assist local law enforcement. [Alternative 4]

## ALTERNATIVES

1. Provide \$550,500 GPR in 2023-24 and \$682,400 GPR in 2024-25 and 7.0 GPR positions annually for criminal investigations.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$1,232,900	7.00

2. Provide \$393,200 GPR in 2023-24 and \$487,500 GPR in 2024-25 and 5.0 GPR positions annually for criminal investigations.

<b>ALT 2</b>	<b>Change to Base Funding                  Positions</b>	
GPR	\$880,700	5.00

3. Provide \$235,900 GPR in 2023-24 and \$292,400 GPR in 2024-25 and 3.0 GPR positions annually for criminal investigations.

<b>ALT 3</b>	<b>Change to Base Funding                  Positions</b>	
GPR	\$528,300	3.00

4. Take no action.

Prepared by: Sarah Wynn



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June 6, 2023

Joint Committee on Finance

Paper #512

### Office of School Safety (Justice -- Law Enforcement Services)

[LFB 2023-25 Budget Summary: Page 372, #5]

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#### CURRENT LAW

The Office of School Safety (OSS), created under 2017 Act 143, established school safety grants, made changes related to school safety plans, and required mandatory reporting of threats of school violence. In conjunction with the Department of Public Instruction (DPI), the Office was required to create model practices for school boards and private schools to use when developing or reviewing a school safety plan. The Office is be required to consult with the Wisconsin School Safety Coordinators Association and the Wisconsin Safe and Healthy Schools Training and Technical Assistance Center. When requested, the Office is required to assist a school board or the governing body of a private school in developing or reviewing the school safety plans. In addition, the Office is required to offer, or contract with a state agency to offer, training to school teachers, school counselors, and coaches on school safety. Act 143 allows DOJ to collect fees from schools that receive a grant for the training and created an appropriation to receive these fees. Training subjects are required to include trauma informed care.

Act 143 provided the OSS with an unclassified director. The director is appointed by the Attorney General.

Further, Act 143 allocated \$100 million in grant funding to OSS to improve school safety. As of December, 2022, OSS has allocated \$99,982,800 of those funds to nine school safety grant initiatives. No unallocated funds remain.

Act 143 also required schools to submit specified information to the OSS. Every school board, governing body of a private school, and operator of a charter school was required to provide blueprints of each school building and facility to the OSS, and to local law enforcement agencies, by July 1, 2018, and annually thereafter.

Annually (before each January 1), every school board and governing body of a private school is also required to file the following with the Office of School Safety:

- a. copy of its school safety plan;
- b. the date of the required annual safety drill or drills held during the previous year;
- c. certification that the school board or governing body reviewed a required written evaluation of the drill or drills;
- d. the date of the most recent school training on school safety and the number of attendees; and
- e. the most recent date on which the school board or governing body consulted with a local law enforcement agency to conduct required, on-site safety assessments.

## **DISCUSSION POINTS**

1. In order to assist with this annual requirement, 2021 Act 58 placed \$2,000,000 GPR in the Joint Committee on Finance GPR supplemental appropriation in 2021-22 for school safety mapping grants for release upon request and approval by the Committee. Subsequent to Act 58, 2021 Act 109 was enacted to allow school boards and the governing bodies of private schools to submit critical incident mapping data, in lieu of blueprints, to the relevant law enforcement agency and the OSS, and similarly requires the OSS to compile such data and maintain its confidentiality, subject to the exception allowing law enforcement access upon request. Further, Act 109 created a grant program to fund school critical incident mapping. Under the Act, DOJ is required to award grants to school boards and the governing bodies of private schools to assist in complying with statutory requirements to submit blueprints or critical incident mapping data for each school building and facility to local law enforcement agencies and OSS. Act 109 required DOJ to submit an annual report providing an account of the awarded grants and the expenditures made with the grant moneys to the Co-Chairs of the Joint Committee on Finance.

2. On May 31, 2022, JFC released the funds for grants to DOJ. The Department allowed school districts and private school governing bodies to apply for up to \$5,000 per school building, totaling up to \$200,000 per school district or private school governing body. According to DOJ, award amount limits were intended to ensure the equitable availability of funding for critical incident mapping. The Department anticipates funding would be sufficient to support the mapping of at least 400 school buildings. As of December, 2022, all monies had been awarded.

3. In addition to state school safety grants, the Office was awarded \$2.2 million in federal grants from the U.S. Department of Justice Bureau of Justice Assistance over two years to create a Resource Center. The Resource Center is intended to provide the following services: (a) develop and implement a state-run threat reporting system; (b) threat assessment consultation; (c) create a critical incident response team; and (d) general school safety guidance.

4. The Office is currently supported by more than \$1.8 million in American Rescue Plan

Act funding which will end in December of 2023. As of May, 2023, the Office has a total of 16 positions (3.8 GPR and 12.2 FED positions) and utilizes a number of limited-term employee positions. These positions are all currently filled, but 11.0 FED positions were removed as noncontinuing elements by standard budget adjustments beginning in 2023-24.

5. On September 1, 2020, OSS launched Speak Up, Speak Out (SUSO), a 24/7 statewide confidential reporting system free to all Wisconsin schools. The program offers a threat reporting system, threat assessment consultation, critical incident response and general school safety guidance. According to OSS, "SUSO aims to promote the reporting of concerns before violence happens." From May, 2022, to May, 2023, SUSO received 3,871 tips from 63 counties of which bullying and suicide threats were the most reported. The five counties with the most calls to SUSO were Waukesha, Outagamie, Douglas, Winnebago, and Dane.

6. In 2022, OSS established and trained twelve Critical Incident Response Teams (CIRTs) around the state. According to OSS,

"CIRTs are designed to provide all Wisconsin K-12 public, private, charter and tribal schools with access to a regionally based team to support them if a critical incident ever occurs at their school. Each CIRT is made up of volunteers who are part of a multi-disciplinary team. These teams include law enforcement officers, school administrators, counselors, psychologists, social workers, nurses, teachers, school safety experts, and representatives from other related professions. The mission of the CIRT program is to minimize the psychological impact of a school critical incident; provide resources to help stabilize the school community; work to identify individuals that may require long-term mental health services after a critical incident occurs; and offer support to school administrators and educators. Wisconsin is the first state to implement regionally based CIRTs on a statewide basis."

7. Further, OSS indicates that OSS staff are certified to train a number of courses related to both the logistical and psychological crisis response. The Office offers these free trainings to any Wisconsin school upon request. Trainings may assist school staff in responding to crisis in a way that may promote psychological recovery or establish standardized response and reunification for any school crisis whether natural or manmade. From May, 2022, to May, 2023, the OSS provided presentations and trainings in 62 counties with 5,837 attendees. The Office continues to explore ways to expand the trainings offered.

8. In order to ensure continuation of the services provided to schools by the OSS, the Committee could decide to provide GPR once federal funding has ended as contained in AB 43/SB 70. [Alternative 1] This would provide \$387,800 GPR and 6.0 GPR positions in 2023-24 and \$608,300 GPR, -\$7,300 FED and 7.2 GPR, and -0.2 FED positions in 2024-25 related to the Office. The table below shows the funding associated with the OSS after the removal of non-continuing elements and other standard budget adjustments, the Governor's recommendation, and the resulting total of funding and positions associated with OSS.

	2023-24				2024-25			
	GPR		FED		GPR		FED	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
Base and Standard								
Budget Adjustments	\$566,500	3.80	\$306,600	1.20	\$566,500	3.80	\$42,400	0.20
Governor's Recommendations	<u>387,800</u>	<u>6.00</u>	<u>0</u>	<u>0.00</u>	<u>608,300</u>	<u>7.20</u>	<u>-7,300</u>	<u>-0.20</u>
Total	\$954,300	9.80	\$306,600	1.20	\$1,174,800	11.00	\$35,100	0.00
Total (All Funds)			\$1,260,900	11.00			\$1,209,900	11.00

9. In order to provide support, but at an amount less than that of the bill, the Committee could provide \$199,800 GPR and 3.0 GPR positions in 2023-24 and \$290,400 GPR, -\$7,300 FED and 3.0 GPR, and -0.2 FED positions in 2024-25 related to OSS. [Alternative 2]

10. If no action is taken, base funding (\$556,500 and 3.8 GPR positions) for the Office would remain. The Office would be required to continue to provide its statutory functions including providing schools training, managing existing grants, and the annual review of information required under s. 118.07 identified at the beginning of this paper. [Alternative 3]

## ALTERNATIVES

1. Provide \$387,800 GPR and 6.0 GPR positions in 2023-24 and \$608,300 GPR, -\$7,300 FED and 7.2 GPR, and -0.2 FED positions in 2024-25 related to OSS.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$996,100	7.20
FED	<u>- 7,300</u>	<u>-0.20</u>
Total	\$988,800	7.00

2. Provide \$199,800 GPR and 3.0 GPR positions in 2023-24 and \$290,400 GPR, -\$7,300 FED and 3.0 GPR, and -0.2 FED positions in 2024-25 related to OSS.

ALT 2	Change to Base	
	Funding	Positions
GPR	\$490,200	3.00
FED	<u>- 7,300</u>	<u>-0.20</u>
Total	\$482,900	2.80

3. Take no action.

Prepared by: Sarah Wynn





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June 6, 2023

Joint Committee on Finance

Paper #513

### **Violent Crime Prosecutors and Continuation of Sexual Assault Resource Prosecutor (Justice -- Law Enforcement Services)**

[LFB 2023-25 Budget Summary: Page 372, #6 and Page 373, #10]

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#### **CURRENT LAW**

While district attorneys are primarily responsible for prosecuting criminal and juvenile delinquency offenses at the trial or hearing level, DOJ's Division of Legal Services represents the state in felony and other significant criminal and juvenile delinquency cases on appeal. In addition, the Division: (a) represents the state in prisoner and sexually violent person ("sexual predator") conditions of confinement suits; (b) assists DAs, when requested, in certain criminal prosecutions; and (c) initiates criminal prosecutions and sexual predator commitments under limited circumstances. These prosecutorial and related functions constitute only a portion of the work of the Division and are primarily the responsibility of the following units in the Division: (a) Criminal Appeals; (b) Civil Litigation; and (c) Criminal Litigation. The criminal justice workload of the Division of Legal Services is generally GPR funded, supported by the Division's general program operations appropriation.

#### **DISCUSSION POINTS**

1. *Statutory Authorization.* Attorneys in the Criminal Litigation Unit frequently act as "special prosecutors." Under s. 978.045 of the statutes, a court may appoint a special prosecutor either on its own motion or at the request of a district attorney. A special prosecutor has all of the powers of a district attorney and may assist a district attorney in the prosecution of persons charged with a crime, in grand jury or John Doe proceedings, in sexually violent person commitment proceedings, or in investigations. Further, before a court makes a special prosecutor appointment that exceeds six hours per case, the court or the requesting district attorney must request assistance from staff in other prosecutorial units or from an assistant attorney general in DOJ's Criminal Litigation Unit.

2. Section 165.255 of the statutes provides that DOJ may represent the state in commitment proceedings for sexually violent persons under Chapter 980.

3. Under s. 165.60 of the statutes, the Department of Justice is authorized to enforce Chapter 108 of the statutes (Unemployment Insurance and Reserves). Furthermore, under s. 108.14(3m) of the statutes, the Department of Workforce Development, the Labor and Industry Review Commission, or the state may request representation from the Department of Justice in cases regarding unemployment insurance fraud. The Criminal Litigation Unit is responsible for handling such cases regarding unemployment insurance fraud.

4. Finally, under s. 165.25(3) of the statutes, DOJ is required to consult and advise with district attorneys, when requested by them, in all matters pertaining to the duties of their office. This consultation frequently involves the Criminal Litigation Unit.

5. *Program Administration.* Unit attorneys act as "special prosecutors" throughout Wisconsin by court motion or at the request of a district attorney. Frequently, these appointments involve homicide and white-collar crime cases, and other cases where the district attorney is unable to act. Most of the unit's criminal prosecutions result from such "special prosecutions." The unit's remaining criminal prosecutions involve cases for which the Department has original jurisdiction to initiate the criminal case. Table 1 identifies the criminal referrals to the unit by case type and case disposition for 2021-22.

**TABLE 1**  
**Criminal Referrals**

	<u>2021-22</u>
<i>Case Type</i>	
Special Prosecution	11
Assistance Request	24
Original Jurisdiction	<u>10</u>
Total	45
<i>Case Resolution</i>	
Charged	19
No Charge or Ongoing Investigation	<u>7</u>
Total	26

6. Unit attorneys also handle sexual predator commitments and currently process a significant portion of all such commitments in the state. Under current law, a petition alleging that an individual is a sexually violent person may be filed by either: (a) DOJ, at the request of the agency with the authority or duty to release or discharge the person (either the Department of Corrections or the Department of Health Services); or (b) a district attorney. If an individual is found guilty of a sexual violent offense, he or she is sentenced to prison, while if an individual is found not guilty of or not responsible for a sexually violent offense by reason of insanity or mental disease, defect, or illness, he or she is committed to an institution under the Department of Health Services (DHS). Subsequent

to an individual serving a prison sentence or being released from the care of DHS for having committed a sexually violent offense, the individual may be committed to DHS as a sexually violent person based on the petition filed by DOJ or a district attorney. If, after a trial, an individual is determined to be a sexually violent person, the court must enter a judgment on the finding and commit the person as a sexually violent person. In that event, the court must order the person committed to the custody of DHS for control, care, and treatment until the person is no longer a sexually violent person.

7. In 2021-22, the unit received 12 sexually violent person referrals and assumed these referrals. All other sexually violent person commitments were handled by district attorneys. Sexual predator commitment cases assumed by the Department generally stay open for an extended period of time as there are ongoing annual evaluations of sexual predator commitments. In 2021-22, the unit represented the state in 70 post-commitment proceedings.

8. The Criminal Litigation Unit meets the Department's statutory responsibility to consult and advice with district attorneys, in part, through the staffing of an on-call service that state prosecutors can contact for advice. Further, the unit targets publications and training sessions to local prosecutors. In addition, the unit sponsors training for newly elected district attorneys. This training reviews the duties of the office of district attorney and highlights the resources that are available through DOJ and other state and federal agencies.

9. Under 2017 Act 261, \$300,000 and 2.0 GPR attorney project positions were created to assist the Division of Criminal Investigation (DCI) in the field offices of Wausau and Appleton and to assist district attorneys in the prosecution of drug-related offenses. The Department of Justice is required to submit an annual report to the Joint Committee on Finance on the project prosecutor attorney positions that describes the activities and assesses the effectiveness of the attorneys in assisting DCI in the Appleton and Wausau field offices. Note that at a 13.10 meeting on February 15, 2023, the Joint Committee on Finance made these 2.0 field prosecutor positions permanent. In 2021, the project attorneys assisted with 63 drug related cases.

#### **A. Violent Crime Prosecutors**

10. The bill would expand DOJ's role in supporting and assisting local agencies statewide through prosecutors at DOJ with specific expertise. The Department has developed a special prosecutor model, including AAGs assigned as regional special drug prosecutors, a sexual assault resource prosecutor, and a traffic safety prosecutor. The 2.0 additional AAGs and 1.0 paralegal advanced proposed under Assembly Bill 43/Senate Bill 70 would expand the scope of assistance to include additional types of violent crimes such as homicides, not limited to drug trafficking or sexual assault.

11. The special prosecutor model is intended support DA offices across the state but one of the additional positions is intended to focus on violent crime in southeastern Wisconsin. Special prosecutors could provide training and consultation in addition to taking on prosecutions at the request of DA's. This may be of assistance to smaller offices with particularly complex or time-consuming cases or offices in larger counties with high turnover or vacant positions. According to DOJ, "special prosecutors are a tool to adapt to evolving public safety needs and ensure local prosecutors have the

training, expertise and resources to effectively prosecute cases of violent crime."

12. Given the assistance that specialized AAGs can provide to local offices, the Committee could provide two violent crime AAGs and one paralegal-advanced as would be provided in AB 43/SB 70. [Alternative A1] This alternative would provide \$185,800 GPR in 2023-24 and \$242,800 GPR in 2024-25 and 3.0 positions starting in October, 2023.

13. The Division of Legal Services currently has two vacant ARPA-funded AAGs in the Criminal Litigation and Public Integrity unit. These positions are removed in conjunction with standard budget adjustments. If the Committee wishes to provide support for prosecutorial assistance to local district attorneys but at a lesser amount that provided under AB 43/SB 70, 2.0 GPR violent crime prosecutor positions could be provided when the federal positions expire in December, 2023. [Alternative A2] This alternative would provide \$85,900 GPR in 2023-24 and \$161,900 GPR in 2024-25 and 2.0 GPR positions.

## **B. Sexual Assault Resource Prosecutor**

14. In addition, the bill would continue the responsibilities of a sexual assault resource prosecutor project position created under 2019 Act 9 that ends in July, 2023. This position has provided local offices assistance in the following ways: (a) case consultations for DAs through review of cases and recommendations; (b) strategic support in issues related to trials and sentencings hearings, she assists with legal and social science research; (c) technical assistance; (d) the prosecutor training day at Wisconsin Forensic Interviewer Guideline training; and (e) developed and spearheaded the two and 1/2-day regional training courses to help DAs navigate sexual assault cases. This position is also removed as a standard budget adjustment.

15. The Department indicates that few county district attorney's offices have the resources to have a prosecutor specialize in sexual assaults. Therefore, most assistant district attorneys assigned to a sexual assault prosecution would benefit from consulting with a colleague with previous experience. In addition, DOJ indicates that staffing this position at the state level ensures that prosecutors in every county have training, mentorship, and direct legal support to prosecute sexual assaults. Further, the resource prosecutor provides a resource for DAs requesting a special prosecutor or needing assistance due to ADA turnover or vacancies.

16. Given the specialized assistance that this sexual assault prosecutor provides, and that project positions are statutorily limited to four years, the Committee may decide to make the position permanent. [Alternative B1] This alternative would provide \$58,400 GPR in 2023-24 and \$78,000 GPR in 2024-25 and 1.0 position for an assistant attorney general to continue providing training and resources for prosecutors on sexual assault cases. Funding provided would start the positions in October, 2023.

## ALTERNATIVES

### A. Violent Crime Prosecutors

1. Provide \$185,800 GPR in 2023-24 and \$242,800 GPR in 2024-25 and 3.0 GPR positions to provide prosecutorial assistance to county district attorneys related to violent crimes cases. Funding provided would start the positions in October, 2023. [This alternative may not be selected with Alternative 2.]

ALT A1	Change to Base Funding	Positions
GPR	\$428,600	3.00

2. Provide \$85,900 GPR in 2023-24 and \$161,900 GPR in 2024-25 and 2.0 GPR positions to provide prosecutorial assistance to county district attorneys related to violent crimes cases. Funding provided would start the positions in December, 2023. [This alternative may not be selected with Alternative 1.]

ALT A2	Change to Base Funding	Positions
GPR	\$247,800	2.00

3. Take no action.

### B. Sexual Assault Resource Prosecutor

1. Provide \$58,400 GPR in 2023-24 and \$78,000 GPR in 2024-25 and 1.0 GPR position for an assistant attorney general to continue providing training and resources for prosecutors on sexual assault cases. Funding provided would start the positions in October, 2023.

ALT B1	Change to Base Funding	Positions
GPR	\$136,400	1.00

2. Take no action.

Prepared by: Sarah Wynn





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June 6, 2023

Joint Committee on Finance

Paper #514

### Program Administration Support (Justice -- Law Enforcement Services)

[LFB 2023-25 Budget Summary: Page 372, #7 (part)]

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#### CURRENT LAW

To assist local units of governments, tribes, and organizations provide the public with law enforcement, rehabilitation, and victim and witness services, the state administers several state and federally funded criminal justice grant programs.

The responsibilities of administering criminal justice related grant programs are split between DOJ's Division of Management Services, Division of Law Enforcement Services, Division of Criminal Investigation, and Office of Crime Victim Services. The Division of Management Services is generally responsible for: (a) developing and monitoring the Department's budget and finances; (b) providing human resource services to the Department; and (c) providing information technology services to the Department.

#### DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide \$64,300 GPR in 2023-24 and \$82,500 GPR with 1.0 GPR position annually for criminal investigations. This position was originally intended to be a criminal analyst associated with the Hate Crime Hotline (Page 374, #14 in the LFB Summary of the Governor's Budget Recommendations). However, since that item was removed from consideration, the Department now indicates that it would hire a grant specialist instead.

2. The Department indicates that the position authority needed to administer grants is not associated with the amount of the grant funding, but the complexity of the grant program. Generally, a formula-based grant with a pre-defined recipient list requires less resources to administer than a competitive grant requiring the establishment of application criteria, priorities and a rating scale and panel. Further, grants that are funding capital improvements or depreciable assets are generally more

workload-intensive to administer than those reimbursing for personnel costs or non-depreciable supplies.

3. The Department administers the Treatment Alternatives and Diversion grant program, the Drug Court grant program, the Child Advocacy Center grant program, the Law Enforcement Officer grant program, the Law Enforcement Drug Trafficking Response Grants, County/Tribal Law Enforcement grant programs, Local Anti-Drug Task Force grants, Community-Oriented Policing Housing, Body Camera grants, and the Youth Diversion grant program. This list does not include any additional federal grants the Department administers.

4. The Department has 5.5 grant specialists (0.72 GPR, 1.3 PR, and 3.48 FED) for administering these grants and other federal grants.

5. In order to provide the Department with additional resources to administer grants, the Committee could provide a grant specialist. [Alternative 1] This alternative would provide \$64,300 GPR in 2023-24 and \$82,500 GPR in 2024-25 and 1.0 position annually.

6. If the Committee takes no action, the Department's resources for administering grants would remain at base level. [Alternative 2]

## ALTERNATIVES

1. Provide \$64,300 GPR in 2023-24 and \$82,500 GPR in 2024-25 and 1.0 position annually.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$146,800	1.00

2. Take no action.

Prepared by: Sarah Wynn





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June 6, 2023

Joint Committee on Finance

Paper #515

### **Beat Patrol Overtime Grant Program Unencumbered Balance (Justice -- Law Enforcement Services)**

[LFB 2023-25 Budget Summary: Page 373, #11]

#### **CURRENT LAW**

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. The appropriation was originally funded with a one-time transfer of discretionary settlement revenues specified in 2017 Act 59.

Under the program, grants were utilized to support salary and fringe benefit costs only. Further, DOJ: (a) could not award a grant to an individual city in excess of \$400,000 for a calendar year; and (b) could 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 was required to have a population of 25,000 or more in order to be eligible to receive a beat patrol overtime grant. A city could receive a grant for a calendar year if the city applied before September 1st of the preceding calendar year and provided 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.

In 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.

Annual funding provided for the beat patrol overtime grant program was provided on a one-time basis, and was, therefore, not continued after the 2017-19 biennium. However, statutory provisions creating the beat patrol overtime grant program and the appropriation for the grant program did not have a sunset date. Further, due to the reimbursement nature of the grant program, not all funds granted were expended.

Current base funding for the appropriation is \$0. [Note that under current law, the appropriation is to be used for police overtime grants, rather than the beat patrol program.]

## DISCUSSION POINTS

1. The police overtime grants appropriation is an annual appropriation with an unencumbered revenue balance of \$190,800. AB 43/SB 70 would provide expenditure authority of the same amount to enable DOJ to provide one time grants in 2023-24 to eligible cities to reimburse overtime costs for uniformed law enforcement officers whose primary duty is beat patrolling. [Alternative 1] If grants are distributed in the same proportion as in 2018, Milwaukee would receive \$28,620; the next four cities would receive grants of \$19,080, and the remaining cities, \$17,172. [Note that the cities eligible for grants could be different in 2023-24 than in 2017-18.]
2. Since the funding was provided on a one-time basis and the program has not had funding since 2019, the Committee could lapse \$190,800 to the general fund. [Alternative 2]
3. Given that the police overtime grant program was intended to be one-time in nature in 2017-19 biennium, the PR appropriation and associated statutory language could be repealed at the end of the 2023-25 biennium under either Alternative 1 or 2. [Alternative 3]
4. In no action is taken, funding would remain in the appropriation. [Alternative 4]

## ALTERNATIVES

1. Provide \$190,800 in increased expenditure authority in 2023-24 for beat patrol overtime grants.

ALT 1	Change to Base
PR	\$190,800

2. Lapse \$190,800 to the general fund from the beat patrol overtime grants appropriation.

ALT 2	Change to Base
GPR-REV	\$190,800

3. In addition to Alternative 1 or 2, repeal the police overtime grant program at the end of the 2023-25 biennium.
4. Take no action.

Prepared by: Sarah Wynn



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June 6, 2023

Joint Committee on Finance

Paper #516

### **Elder Abuse Hotline (Justice-- Law Enforcement Services)**

[LFB 2023-25 Budget Summary: Page 373, #13]

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#### **CURRENT LAW**

The Medicaid Fraud Control and Elder Abuse Unit (MFCEAU) investigates and prosecutes crimes committed against vulnerable adults in nursing homes and other facilities, as well as fraud perpetrated by providers against the Wisconsin Medicaid program. Under ss. 49.49 and 49.846 of the statutes, the Department of Justice (DOJ) and the district attorneys are responsible for prosecution of criminal laws affecting the medical assistance program, including Medicaid fraud, as well as the health, safety and welfare of recipients of medical assistance. The unit also prosecutes civil enforcement actions affecting Medicaid.

In 2021-22, the unit received 71 referrals, opened 11 cases, and closed five investigations related to elder abuse. Two criminal convictions related to elder abuse were obtained in 2021-22.

#### **DISCUSSION POINTS**

1. The Department received a 2019 Office for Victims of Crime Building State Technology Capacity and Elder Abuse Hotlines grant "to implement visionary statewide technology programs to enhance victims' access to services, foster innovation and efficiency in the provision of services, improve the quality of services, and improve the accessibility and responsiveness of victim service organizations." The grant was \$440,000 and ran from October 2019 to September, 2022.

2. Since September, 2022, American Rescue Plan Act (ARPA) funding has supported the hotline in two phases from DOJ and DHS funds. This funding will allow the program to continue until June 30, 2024.

3. The hotline officially launched in May, 2020, and is operated by the Greater Wisconsin

Agency on Aging Resources. The hotline operates during business hours, but the website allows for reporting anytime. The Department indicates that in approximately 2.5 years under the federal grant, the hotline expended an average of \$177,600 per year from May, 2020, to October, 2022. The Department estimates the ongoing annual cost is \$133,000. From January, 2023, to May 14, 2023, the Elder Abuse Hotline has received 594 calls.

4. The Department indicates that the calls may include reports of financial exploitation, physical abuse, sexual abuse, or neglect. The calls come from professionals, concerned family members, neighbors, and victims who need assistance on how to make a report and/or seek professional guidance. The hotline may call local resources and provide required information before connecting callers to their local resources. The hotline may then work with county adult protective services staff to conduct safety visits to assess the allegations and work towards ensuring safety of that victim or a referral to law enforcement if there is immediate danger.

5. The Department provided the following examples of outcomes:

- The hotline received a referral call from a bank regarding suspicious activity. While the bank was unable to contact the victim, the hotline was able to contact the appropriate county adult protective service, which sent a letter to the victim. The victim informed the hotline coordinator that he was able to close his banking accounts.

- A community member reported an older adult left outside of an apartment building without water or food all day where they resided with a family member. The hotline and county adult protective services were able to place the victim into safer housing.

- A family member reported concerns of financial abuse by the victim's stepson. The hotline was able to discuss the facts of the case, confirmed that this was an immediate concern, and coordinated an investigation with adult protective services and local law enforcement to address the abuse.

- A victim contacted the hotline in need of a restraining order against her son who was in jail due to a domestic violence case. Further, the local domestic violence agency could not assist with a restraining order as the program only served intimate partners domestic violence. The hotline coordinated with the Elder Rights Project to secure an attorney to assist the victim with a restraining order (the court ordered a four-year injunction).

6. In order to continue to have an elder abuse hotline, the Committee may provide \$250,000 GPR in 2024-25. Under the bill, a continuing appropriation would be created to support the hotline. [Alternative 1] Under a continuing appropriation, funding appropriated may be used over multiple fiscal years until fully expended. Providing funding in the second year of the 2023-25 biennium would also provide an ongoing base for the appropriation. As a result, the hotline would have a \$250,000 annual base, plus any unexpended funding from prior fiscal years.

7. Given that funding for the program is estimated to be approximately \$135,000 GPR in 2024-25, the Committee could provide that amount instead. In addition, this alternative would create a new annual, rather than continuing, appropriation. [Alternative 2] While under an annual

appropriation, funding in 2024-25 would provide ongoing base funding for the appropriation, unexpended monies would lapse to the general fund, unlike under a continuing appropriation.

8. The Department indicates that if funding is not provided, it will not be able to absorb the costs at current levels. [Alternative 3]

## ALTERNATIVES

1. Provide \$250,000 GPR in 2024-25 to support the operation of the elder abuse reporting hotline and grants to organizations to promote protection of elders. Create a continuing appropriation to provide support for the hotline.

ALT 1	Change to Base
GPR	\$250,000

2. Provide \$135,000 GPR in 2024-25 in a new annual appropriation to support the operation of the elder abuse reporting hotline and grants to organizations to promote protection of elders.

ALT 2	Change to Base
GPR	\$135,000

3. Take no action.

Prepared by: Sarah Wynn

