

Public Defender

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3	Support and Administrative Staff (Paper #605)
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<u>Item #</u>	<u>Title</u>
4	Pay Progression (Paper #276)



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Joint Committee on Finance

Paper #605

Support and Administrative Staff (Public Defender)

[LFB 2025-27 Budget Summary: Page 531, #3]

CURRENT LAW

Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The Sixth Amendment to the United States Constitution provides, in part, that, "In all criminal prosecution, the accused shall enjoy the right...to have the Assistance of Counsel for his defense." Article I, Section 7 of the Wisconsin Constitution provides that, "In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel..." In *Gideon v. Wainwright* (1963), the United State Supreme Court held that the constitutional right to counsel guaranteed by the United States Sixth Amendment requires the government to provide counsel to indigent criminal defendants. However, under subsequent United States and Wisconsin Supreme Court decisions, there is no absolute right to the appointment of counsel in non-criminal cases carrying no threat of loss of physical freedom.

The cost of providing required counsel to the indigent in Wisconsin is generally the responsibility of the state through the Office of the State Public Defender (SPD). The SPD employs trial and appellate attorneys who represent clients who qualify for SPD representation. Generally, the State Public Defender provides legal representation for indigent persons: (a) facing a possible sentence that includes incarceration; (b) involved in certain proceedings under the Children's and Juvenile Justice Codes (Chapter 48 and 938 of the Wisconsin statutes); (c) subject to petitions for protective placement (Chapter 55 of the Wisconsin statutes); (d) facing involuntary commitment; (e) involved in certain post-conviction or post-judgment appeals; and (f) undergoing proceedings for modification of a bifurcated sentence, if representation has been requested by the indigent person or the case have been referred by a court, and the Public Defender determines that the case should be pursued. Further, unless the individual knowingly and voluntarily waives counsel or appoints his or her own counsel, the SPD must provide counsel to the following individuals without a determination of indigency: (a) those involved in certain proceedings under the

Children's and Juvenile Justice Codes; (b) those subject to petitions for protective placement; and (c) those facing involuntary commitment.

DISCUSSION POINTS

1. The cost of providing counsel to the indigent in Wisconsin is generally the responsibility of the state through the SPD. The Office is primarily funded through general purpose revenue, which is utilized to support trial and appellate staff attorneys as well as reimbursements to private bar attorneys who are assigned indigent legal defense cases. Base resources for the SPD are \$132,777,800 GPR and \$1,498,700 PR and the agency is currently authorized 614.85 GPR and 5.0 PR positions. Of the 614.85 positions employed by the SPD, 376.7 positions are assistant state public defenders (ASPDs).

2. In order to provide representation for indigent clients, the SPD has both a trial division and an appellate division. The trial division is comprised of 36 local trial offices located throughout Wisconsin, while the appellate division is comprised of two appellate offices, located in Madison and Milwaukee. Base resources for the SPD's trial division are \$70,447,900 GPR and 545.85 GPR positions, and base resources for the appellate division are \$6,396,500 GPR and 45.35 GPR positions.

3. Historically, the SPD has attempted to maintain the following ratios between support personnel and staff attorneys: (a) one legal secretary for every five ASPDs; (b) one investigator for every 10 ASPDs; and (c) one client service specialist for every 20 ASPDs.

4. In 2020, the National Association for Public Defense (NAPD) highlighted the importance of support staff in providing defendants with a constitutionally adequate opportunity to present their claims fairly within the adversarial system. The NAPD statement indicates that "public defense systems, at a minimum, should provide one investigator for every three lawyers, one mental health professional, often a social worker, for every three lawyers, and one supervisor for every 10 lawyers. Additionally, there should be one paralegal and one administrative assistant for every four lawyers. Public defense organizations must have adequate staff or have access to adequate staff who perform necessary financial, IT, and human resource services."

5. Based on currently authorized attorney permanent positions, the SPD utilized the NAPD staffing ratios above to estimate support staff permanent position needs of 5.8 legal secretaries, 79.2 paralegals, 45.2 investigators, and 103.6 client service specialists (the Wisconsin SPD equivalent of social workers).

6. Currently, in the trial and appellate divisions, the ratio of attorneys to all support staff permanent positions (legal secretaries, investigators, client services specialists, and paralegals) combined is approximately two attorneys to one support staff. In some of the SPD's smaller offices, there may only be one support staff person on site for three to five attorneys.

7. In the 2021-23 budget, SPD received five positions related to workload issues, including the impact of video evidence. However, the workload impact of video evidence continues to grow. For example, in one of the SPD trial offices, over a four-month period, the office downloaded and

reviewed 7,000 hours of video evidence. In four months, the office had the equivalent of four positions annual hours' worth of video to review.

8. On March 15, 2022, the Governor announced that \$11.5 million in American Rescue Plan Act (ARPA) funding would be used to support 16 additional ASPDs and 11 support positions in Milwaukee County to address court backlogs due to the pandemic. In addition, federal funding supported 14 ASPD and 22 staff positions in offices around the state. The locations of current ARPA-funded staff include: Baraboo, Eau Claire, Elkhorn, Green Bay, Hudson, Janesville, Kenosha, Madison, Milwaukee, Sheboygan, Sparta, Spooner, Stevens Point, Waukesha, and Wausau. In total, federal COVID relief funding provided 63 positions to over 20 counties including 30 ASPDs, 23 paralegals, four investigators, three client services specialists, and three legal secretaries. All of these positions were removed from the SPD's 2023-25 budget as a standard budget adjustment. The 63.0 FED project positions expire July 31, 2025.

9. In order to continue to provide additional litigation and administrative support to partially address workload in the trial and appellate divisions, SB 45/AB 50 provides the SPD \$3,656,800 GPR in 2025-26 and \$3,929,700 GPR in 2026-27 and 52.5 positions annually to address workload issues that contribute to delays in the provision of representation. Positions would include 6.5 appellate attorneys and 46.0 support staff, as follows, to reduce the amount of time staff attorneys spend on non-attorney matters: 24.0 paralegals; 9.0 investigators, 4.0 client services specialists (CSSs), 7.0 legal secretaries, 1.0 human resources specialist, and 1.0 information technology specialist position. It should be noted that only 39.5 of the requested 52.0 positions would replace ARPA positions.

10. *Paralegals.* For paralegals, the current staffing ratio is one permanent paralegal for 28 attorneys. The SPD indicates that due to limited availability of paralegals, attorneys are doing a significant amount of work that could be completed by paralegals. The SPD indicates that 14 paralegals would be placed in trial offices to assist attorneys and would decrease the ratio of attorneys to paralegals by half. The remaining 10 paralegal positions would be used for the Client Appointment Project unit (CAP). This unit focuses on appointing private bar attorneys to trial cases, which is necessary due to the shortage of attorneys taking SPD appointments in Wisconsin. Additional CAP paralegals would allow each region to have a paralegal focusing on appointments and free up current non-attorney staff to directly assist attorneys. Of the expiring ARPA positions, 23.0 are paralegals.

11. *Investigators.* To assist SPD attorneys, public defender investigators interview witnesses, visit crime scenes to gather evidence, prepare diagrams, take photographs, and obtain other information to identify defense issues. The SPD indicates that cases can be delayed, which impacts defendants, SPD attorneys' workloads, and the criminal legal system in general, when there are not a sufficient number of investigators to assist attorneys. The SPD indicates that less urban SPD regions have the most need. For that reason, an additional nine investigators would add one investigator to each region except for Madison and Milwaukee. Of the nine investigators, four would replace expiring project positions.

12. *Client Services Specialists.* Client service specialists (CSS) provide support to SPD attorneys and SPD clients by: (a) gathering pertinent information regarding an individual client's problems and needs; (b) investigating placement, treatment, and educational programs that could

assist the client; and (c) preparing written recommendations to be considered at sentencing and revocation hearings. With four additional CSSs (three of which would replace project positions), the SPD would assign them to assist in geographically large regions.

13. *Legal Secretaries.* According to the SPD, the reliance on single legal secretaries in several SPD offices creates significant coverage gaps during staff absences, disrupting client service and office operations. The SPD indicates that seven additional legal secretaries would allow for two legal secretaries in each office, which would ensure continuous administrative support and maintain consistent client service. Three of the legal secretaries would replace project positions.

14. *Appellate Attorneys.* In addition to support staff, the SPD indicates that there is a need for additional attorneys within the appellate division due to a significant number of pending appointments, lack of private bar attorneys certified and willing to take appellate appointments, and ability to recruit staff appellate attorneys. With the addition of 6.5 appellate attorneys, the SPD intends to handle approximately 60% of appellate cases through staff appellate attorneys. While none of the ARPA positions are appellate attorneys, there are 30 trial attorneys.

15. *Human Resources.* Further, the bill would provide the SPD with 1.0 GPR additional human resources specialist and 1.0 GPR information technology specialist position. Even with an additional human resources specialist, the SPD's ratio would still be one of the highest among state agencies at one HR position per 117 positions (next-highest being the Department of Justice (DOJ) at one to 93). The SPD indicates that an additional HR staff would assist in effectively managing workloads associated with high turnover, including recruitment, onboarding, offboarding, and comprehensive recordkeeping. Note that under s. 16.004(20) of the statutes, which directs DOA to provide human resource service to most executive branch agencies, SPD and DOJ are exempt. None of the expiring project positions is an HR position.

16. *IT Specialist.* According to the SPD, the additional 1.0 IT position would support enterprise-wide IT requirements, help address the growing security risks, and implement modernization initiatives to enhance the efficiency and effectiveness of SPD IT systems. Even with an additional IT specialist, SPD's ratio would still be one of the highest among state agencies at one IT position per 116 positions (next-highest being Corrections at one to 86). None of the ARPA project positions is devoted to IT.

17. In addition to the funding and position authority that would be provided, the bill specifies that SPD staff and attorneys in project positions on the day before the effective date of the bill that were funded by the American Rescue Plan Act may be appointed to the permanent equivalent of those positions. The bill specifies that the transferred employees would maintain the same state employment rights and status that they currently enjoy. Further, the bill specifies that none of the transferred employees who have attained permanent status in class are required to serve a probationary period.

18. Support staff assist ASPDs with various aspects of direct representation requirements such as working with attorneys and clients to investigate and prepare their case for trial, assistance with administrative matters such as drafting and eFiling court documents, and reviewing video evidence. Given that additional staff support would help address the workload impact of ASPDs by allowing attorneys to focus more time on legal representation rather than also performing

administrative, research, and investigative activities, the Committee could provide \$3,656,800 GPR in 2025-26 and \$3,929,700 GPR in 2026-27 and 52.5 GPR positions annually to address workload issues that contribute to delays in the provision of representation [Alternative 1]. This alternative would additionally include a non-statutory provision as described in discussion point #17.

19. If the Committee wishes to provide support, but at lower level than provided under the bill, the Committee could provide: (a) \$2,768,700 GPR in 2025-26, \$2,970,400 GPR in 2026-27, and 39.5 GPR positions annually to maintain positions that would replace already-existing positions [Alternative 2]; or (b) \$1,888,900 GPR in 2025-26, \$1,964,900 GPR in 2026-27, and 26.0 GPR positions annually (half the number in the bill) [Alternative 3]. These alternatives would allow the SPD to determine which specific positions to create based on the agency's needs.

20. As indicated previously, the currently-funded FED positions were removed as a standard budget adjustment. If no action is taken, the federal positions would expire in July, 2025, without replacement and ASPDs or other staff would assume a greater share of the administrative workload than is currently the case. [Alternative 4]

ALTERNATIVES

1. Provide \$3,656,800 GPR in 2025-26 and \$3,929,700 GPR in 2026-27 and 52.5 GPR positions annually to address workload issues that contribute to delays in the provision of representation. Positions would include 6.5 appellate attorneys and 46.0 support staff, as follows, to reduce the amount of time staff attorneys spend on non-attorney matters: 24.0 paralegals; 9.0 investigators, 4.0 client services specialists, 7.0 legal secretaries, 1.0 human resources specialist, and 1.0 information technology specialist position. Further, specify that SPD staff and attorneys in project positions on the day before the effective date of the bill that were funded by the American Rescue Plan Act may be appointed to the permanent equivalent of those positions. Specify that the transferred employees would maintain the same state employment rights and status that they currently enjoy. In addition, specify that none of the transferred employees who have attained permanent status in class are required to serve a probationary period.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$7,586,500	52.50

2. Provide \$2,768,700 GPR in 2025-26 and \$2,970,400 GPR in 2026-27 and a total of 39.5 GPR positions annually to address workload issues for staff assisting State Public Defender attorneys. Further, specify that SPD staff and attorneys in project positions on the day before the effective date of the bill that were funded by the American Rescue Plan Act may be appointed to the permanent equivalent of those positions. Specify that the transferred employees would maintain the same state employment rights and status that they currently enjoy. In addition, specify that none of the transferred employees who have attained permanent status in class are required to serve a probationary period.

ALT 2	Change to Base Funding	Positions
GPR	\$5,739,100	39.50

3. Provide \$1,888,900 GPR in 2025-26 and \$1,964,900 GPR in 2026-27 and a total of 26.0 GPR positions annually to address workload issues for staff assisting State Public Defender attorneys. Further, specify that SPD staff and attorneys in project positions on the day before the effective date of the bill that were funded by the American Rescue Plan Act may be appointed to the permanent equivalent of those positions. Specify that the transferred employees would maintain the same state employment rights and status that they currently enjoy. In addition, specify that none of the transferred employees who have attained permanent status in class are required to serve a probationary period.

ALT 3	Change to Base Funding	Positions
GPR	\$3,853,800	26.0

4. Take no action.

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Joint Committee on Finance

Paper #606

Eligibility, Private Bar Cost-to-Continue, and Compensation for Violent Felony Cases (Public Defender)

[LFB 2025-27 Budget Summary: Page 532, #5 and #7]

CURRENT LAW

The cost of providing required counsel to the indigent in Wisconsin is generally the responsibility of the state through the Office of the State Public Defender (SPD). The SPD employs trial and appellate attorneys who represent clients who qualify for SPD representation. Generally, the State Public Defender provides legal representation for indigent persons: (a) facing a possible sentence that includes incarceration; (b) involved in certain proceedings under the Children's and Juvenile Justice Codes (Chapter 48 and 938 of the Wisconsin statutes); (c) subject to petitions for protective placement (Chapter 55 of the Wisconsin statutes); (d) facing involuntary commitment; (e) involved in certain post-conviction or post-judgment appeals; and (f) undergoing proceedings for modification of a bifurcated sentence, if representation has been requested by the indigent person or the case has been referred by a court, and the Public Defender determines that the case should be pursued. Further, unless the individual knowingly and voluntarily waives counsel or appoints his or her own counsel, the SPD must provide counsel to the following individuals without a determination of indigency: (a) those involved in certain proceedings under the Children's and Juvenile Justice Codes; (b) those subject to petitions for protective placement; and (c) those facing involuntary commitment.

The statutory standard for determining whether an individual accused of a crime is indigent is modeled after the 2011 Wisconsin Works (W-2) eligibility standard for an employment position. While the W-2 financial eligibility requirements for an employment position adjust annually to reflect any changes in inflation captured by an updated federal poverty guideline, under 2011 Act 32, the SPD indigency standard remains linked to the 2011 federal poverty guideline. As a result, in the context of state-appointed counsel, an individual with gross income in excess of 115% of the 2011 federal poverty guideline will generally be considered able to pay the costs of legal

representation. Table 1 below identifies 115% of the 2011 federal poverty guideline, for the 48 contiguous states and the District of Columbia.

TABLE 1

2011 Federal Poverty Guideline for the 48 Contiguous States

<u>Persons in Family</u>	<u>115% of Federal Poverty Line</u>
1	\$12,524
2	16,917
3	21,310
4	25,703
5	30,096
6	34,489
7	38,882
8	43,275
For each additional person, add	\$4,393

It should be noted that these standards do not apply to court-appointed counsel made at county expense, and the decision to appoint such counsel is at the discretion of the circuit court judge.

While the SPD employs trial and appellate attorneys who represent clients who qualify for SPD representation, staff attorneys do not represent all clients who qualify for SPD representation. Indigent legal defense cases are assigned by the SPD to private bar attorneys due to either an overflow of cases in excess of what can be assigned to available SPD staff attorneys, or for cases in which staff attorneys may have a conflict of interest. Private bar attorneys assigned to SPD cases may be paid in one of two following ways: (a) at a statutorily-defined rate of \$100 per hour for time spent in and out of court related to a case, and \$50 per hour for travel related to a case if any portion of the trip is outside the county in which the attorney's principal office is located or if the trip requires travelling a distance of more than 30 miles, one way, from the attorney's principal location; or (b) a flat, per-case contracted fee that may not result in the private attorney receiving more than the attorney would have if the attorney was reimbursed pursuant to the statutory rate.

DISCUSSION POINTS

1. The Office is primarily funded through general purpose revenue, which is utilized to support trial and appellate staff attorneys as well as reimbursements to private bar attorneys who are assigned indigent legal defense cases. In order to provide representation for indigent clients, the SPD has both a trial division and an appellate division. The trial division is comprised of 36 local trial offices located throughout Wisconsin, while the appellate division is comprised of two appellate offices, located in Madison and Milwaukee. Base resources for the SPD's trial division are

\$70,447,900 GPR and 545.85 GPR positions, and base resources for the appellate division are \$6,396,500 GPR and 45.35 GPR positions.

2. Wisconsin statute establishes that each trial division assistant state public defender must meet one of the following annual caseload requirements: (a) 184.5 felony cases; (b) 15 first-degree homicides; (c) 15 sexual predator cases; (d) 492 misdemeanor cases; (e) 246 other cases; or (f) some combination of these categories. [Note that "other" cases generally litigated by the SPD include civil commitment proceedings, felony delinquency proceedings, protective placement proceedings under Chapter 55 of the statutes, juvenile cases, felony diversion cases, revocation hearings, termination of parental rights cases, juvenile waiver proceedings, as well as other miscellaneous cases.] Wisconsin statutes allow the SPD, however, to exempt up to 10 full-time supervisory ASPDs from the caseload requirement due to those attorneys' additional responsibilities. The statutorily-defined caseload requirement is considered a minimum workload for ASPDs, and does not address workload demands such as administrative tasks, training and continuing education requirements, and other justice system activities such as participating in criminal justice coordinating councils and treatment courts.

Private Bar Background

3. As noted previously, while the SPD employs trial and appellate staff attorneys to represent clients who qualify for SPD representation, due to an overflow of cases in excess of what can be assigned to SPD staff, as well as conflict of interests that may exist between SPD staff and potential clients, the SPD must assign certain cases to private bar attorneys.

4. The workload or number of cases the SPD must assign either to a staff or private bar attorney is dependent on a number of factors, such as the number of people who are statutorily defined as "indigent." In addition, changes in statute regarding the number of misdemeanors and felonies, as well as statutorily changing a misdemeanor to a felony will impact the number of cases going to the SPD. Finally, discretion inherent within the criminal justice system impacts the number of cases going to the SPD, such that in one region a case may be handled as an ordinance violation where there is no right to an attorney, while in another it may be handled as a misdemeanor where an indigent defendant would be assigned either a staff attorney or a private bar attorney by the state.

5. In 1978, when the Legislature established the SPD's role in circuit courts, the hourly rate of compensation for appointed lawyers was \$35 (\$25 for travel time). In 1992, private bar compensation was increased to \$50 for in-court time and \$40 for out-of-court time; travel time remained unchanged at \$25. However, in 1995, the rate was reduced for in-court time to a uniform \$40 hourly rate. In 2020, the rate was increased to \$70 per hour. The \$25 hourly rate for travel remained unchanged. In 2023, the rate was increased to \$100 and the rate for travel was increased to \$50 per hour. Currently, private bar attorneys are compensated pursuant to either: (a) a statutorily-defined rate totaling \$100 per hour for time spent related to a case in and out of court, and \$50 per hour for travel of more than 30 miles; or (b) a flat, per-case contracted fee that may not result in the attorney receiving more than he or she would under the statutory rate. Except for a number of misdemeanor cases, private bar attorneys are generally compensated pursuant to the statutory rate.

6. It should be noted that, in addition to the increase in the private bar rate attorney and attorney travel rates, the SPD increased the reimbursement rates on July 1, 2023, for which private

bar attorneys may hire investigators (from \$25 to \$50 per hour) and paralegals (from \$25 to \$35 per hour).

7. Private bar attorneys compensated at the statutory rate are assigned cases on a rotational basis. Private attorneys who desire indigent legal defense cases must submit their name, legal education, and legal experience that qualifies them to provide representation in the types of cases they have expressed an interest in litigating. For each county, the SPD must annually prepare, certify, and update a list of these private attorneys seeking to litigate indigent legal defense cases.

8. Private bar attorneys assigned SPD cases do not have to meet an annual caseload requirement. Base GPR funding for private bar and investigator reimbursements is \$49,822,800 GPR annually. In addition to GPR, the SPD utilizes a portion of the program revenue generated from clients who are able to provide modest payments for legal representation to support private bar reimbursements.

9. In 2023-24, the SPD expended \$36,214,700 on private bar payments. It should be noted that in 2023-24, about 25% of payments to the private bar were assigned before the July 1, 2023, rate change and were paid at the \$70 per hour rate. As of March 31, 2025, the SPD has expended \$34,243,560 on private bar payments. If spending for the last three months of the biennium continue at the average over nine months, the SPD will spend an estimated \$45.7 million on private bar payments resulting in an estimated total expenditure of \$81.9 million over the biennium.

10. In 2023-24, 114,445 new trial cases were assigned to SPD staff attorneys and private bar attorneys. Of the newly-assigned cases, 70,904 trial cases (62%) were assigned to SPD staff, while private attorneys were assigned the remaining 43,541 trial cases (38%). Of these cases assigned to private bar attorneys, 13,390 cases were related to case overflow, 7,036 cases were instances where a client with a private bar attorney has multiple cases (there are efficiencies with assigning those cases to the same attorney), and 23,115 were conflict of interest cases. The SPD projects making a total of 110,788 appointments to staff and the private bar in 2024-25.

11. In general, it is less expensive to assign a case to a staff attorney rather than to assign a case to the private bar. In order to mitigate costs associated with a private bar rate increase (and, thus, an increase in the cost to continue), the SPD is statutorily authorized to submit a passive review request for additional GPR position authority using existing budget authority. This mechanism for balancing private bar and staff attorney caseloads and costs was created in the 2017-19 biennial budget. No ability to increase funding is authorized under this provision.

12. Since 2018, the number of cases with defendants eligible for SPD representation has declined. During that same period of time the number of adult criminal cases opened by the circuit court has declined by 7.3% and this number has rebounded since the pandemic. Table 2 below shows the decline of SPD cases since 2016-17.

TABLE 2

Circuit Court Cases Opened and SPD Appointments, 2016-17 to 2023-24

<u>Year</u>	<u>Total SPD Appointments</u>
2016-17	137,770
2017-18	140,546
2018-19	132,667
2019-20	121,956
2020-21	121,709
2021-22	119,907
2022-23	111,018
2023-24	114,445

Supreme Court Rule and County Court-Appointed Attorneys in Criminal Cases

13. If an individual does not meet the statutory indigency standard of the SPD, but is nonetheless determined by a circuit court to be unable to hire counsel and have a constitutional right to counsel, the court may appoint an attorney at either county, rather than state, expense or require the county to provide a loan to the defendant for counsel (counties subsequently recoup these costs). This type of appointments are called "Dean" appointments, named for a 1991 Wisconsin Court of Appeals case related to indigent defendants who do not qualify for SPD representation. As noted previously, the decision to appoint counsel is at the discretion of the circuit court judge, and each judge has their own criteria for court-appointed counsel. Some counties with multiple judges establish criteria for court-appointed counsel and county loans, typically requiring the defendant to be below 200% of the federal poverty level (\$30,120 for family size of one; \$40,880 for family size of two).

14. It should be noted that, besides reimbursement from the defendant, 2019 Act 9 provided \$1,200,000 GPR in 2019-20 and \$2,400,000 GPR in 2020-21 in the circuit court costs appropriation for court appointments made at county expense.

15. Minimum reimbursement for court-appointed counsel is set through Wisconsin Supreme Court Rules (SCR). Initially, the rate in SCR 81.02 was \$50 per hour, with lesser rates for office and travel time. In 1989, it was raised to \$60 per hour. In 1993, the court increased the rate from \$60 to \$70 per hour and adopted SCR 81.02(1m), permitting county flat-rate contracts. Dane County has used county flat-rate contracts since 2008. Other counties may have adopted similar cost-saving measures in the years since 2011 when the indigency standard was last updated. On June 27, 2018, the Supreme Court ordered an increase in court-appointed counsel rates to at least \$100 per hour, starting January 1, 2020.

16. Additionally, courts have the ability to appoint attorneys at higher rates at county expense. The SPD indicates that some courts have appointed attorneys at rates of \$125 or more an hour, particularly in complex cases that are difficult to appoint. It should be noted that the amount that counties both spend and collect in reimbursements from defendants has steadily increased as shown in Table 3 below. The Attachment identifies expenditures, recoupment, and net costs for counties in

calendar year 2023 for court-appointed defense counsel by county.

TABLE 3
Court-Appointed Counsel, 2018 to 2023

<u>Calendar Year</u>	<u>County-Paid Counsel Expenditures</u>	<u>County-Paid Counsel Recoupments</u>
2018	\$5,584,700	\$3,293,600
2019	6,481,800	3,907,100
2020	7,590,400	3,914,600
2021	8,685,100	4,611,600
2022	10,212,500	4,935,800
2023	13,449,300	5,144,600

Eligibility Requirements

17. It should be noted that 115% of the 2011 federal poverty guideline, shown in Table 1, is less than 85% of the 2024 federal poverty guideline. Table 4 below indicates the various percentages of the 2024 Federal Poverty Guideline.

TABLE 4
Various Percentages of the 2024 Federal Poverty Guideline for the 48 Contiguous States

<u>Household/ Family Size</u>	<u>85%</u>	<u>90%</u>	<u>95%</u>	<u>100%</u>	<u>105%</u>	<u>110%</u>	<u>115%</u>
1	12,801	13,554	14,307	15,060	15,813	16,566	17,319
2	17,374	18,396	19,418	20,440	21,462	22,484	23,506
3	21,947	23,238	24,529	25,820	27,111	28,402	29,693
4	26,520	28,080	29,640	31,200	32,760	34,320	35,880
5	31,093	32,922	34,751	36,580	38,409	40,238	42,067
6	35,666	37,764	39,862	41,960	44,058	46,156	48,254
7	40,239	42,606	44,973	47,340	49,707	52,074	54,441
8	44,812	47,448	50,084	52,720	55,356	57,992	60,628

Various Percentages of the 2024 Federal Poverty Guideline for the 48 Contiguous States

18. Given increasing county Dean appointment costs, decreasing SPD appointments, and the low eligibility standard, it could be argued that an update to the current eligibility standard to qualify for SPD appointment would be appropriate. In its budget request, SPD recommended that the eligibility criteria be set at 115% of the 2024 federal poverty level. This modification is not included in SB 45/AB 50.

19. SPD reviewed the eligibility forms of those who failed to financially qualify in 2023-24.

By increasing the eligibility criteria to 115% of the 2024 federal poverty guideline, SPD estimates that an additional 4,563 appointments would be made.

20. To accommodate the additional appointments, assuming 60% of cases go to a staff attorney, SPD estimates that an additional 23.1 positions would be necessary. These staffing needs could be met by 9.5 trial attorneys, 1.5 appellate attorneys, 2.8 legal secretaries, 2.8 paralegals, 2.8 investigators, 3.7 client service specialists at a total cost of \$1,668,000 in 2025-26 and \$2,069,900 in 2026-27. In addition, assuming 40% of these new appointments go to the private bar, increased private bar appointment costs would be estimated to be \$603,100 in 2025-26 and \$1,503,400 in 2026-27. Total funding for the biennium would be \$5,844,400 GPR.

21. As shown in Table 3, the gross costs incurred by counties of Dean appointments ("County-Paid Counsel Expenditures") has more than doubled from 2018 to 2023. Taking into account recoupments received from clients, net expenditures over the same period have more than tripled, from \$2.3 million in 2018 to \$8.3 million in 2023.

22. To reduce the financial burden on counties associated with increasing Dean appointments and to provide for more uniformity in appointment of counsel for indigent defendants throughout the state, the Committee could update the SPD eligibility standard to 115% of the 2024 FPG effective July 1, 2025. [Alternative A1] This alternative would provide \$2,271,100 GPR in 2025-26 and \$3,573,300 GPR in 2026-27 and 23.1 GPR positions annually.

23. As previously noted, under 2019 Act 9, the circuit court costs appropriation was increased by \$1.2 million GPR in 2019-20 and \$2.4 million GPR in 2020-21 associated with rising costs for Dean appointments. Since 2020-21, funding for the circuit court costs appropriation has been increased only to maintain per-branch funding as additional circuit court branches were authorized. As such, although the Committee could consider reducing funding to counties to reflect the potential benefits of Alternative A1 in terms of lower county expenditures for Dean appointments, because state funding for circuit court costs has not increased on a per-branch basis, increased county costs have not been offset by increases in state support per branch, and counties have had to absorb the increased costs of Dean appointments. Further, increases in circuit court costs have not been limited to court-appointed counsel. For example, costs reported by counties for court interpreters increased from \$2,514,200 in 2021 to \$3,743,200 in 2023 (an increase of \$1,229,000), while payments from the state for court interpreters totaled \$1,566,200 in 2021-22 and \$1,664,200 in 2023-24 (an increase of \$98,000).

24. Note that, because Dean appointment standards and costs vary by county, as do circuit court support payments to counties, if the circuit court costs appropriation were reduced, the combined fiscal impact of reduced Dean appointment costs and reduced circuit court support revenue from the state would also vary by county. For example, the per-branch cost of Dean appointments in 2023 ranged from net expenditures of \$127,000 (Sheboygan County) to \$800 (Washburn County), while in four counties counsel recoupments exceeded expenditures for the year (reported figures from counties are unaudited, counties may not be consistent in how they report costs, and recoupments may be associated with services provided in prior years). In some counties, an update to the indigency standard that applies to the SPD could substantially reduce or eliminate Dean appointment costs, while in other counties, costs for such appointments may still be incurred if the circuit court judge

applies a different standard (higher income threshold) in appointing counsel for a defendant. In addition, any reduction to the Circuit Courts appropriation would be allocated to counties at the discretion of the Director of State Courts.

25. Given that counties can still continue to make Dean appointments, the Committee could take no action. [Alternative A2] Under this alternative, counties would continue to provide court-appointed resources to defendants who may be unable to pay the county back for the costs of their representation.

Raising the Private Bar Rate to \$125 Per Hour for Violent Felony Cases

26. The current \$100 per hour rate has increased the number of attorneys accepting SPD appointments broadly, though the SPD indicates challenges remain in recruiting attorneys to accept the most serious case types. With more serious cases, typically attorneys must have some prior experience handling criminal defense cases. Attorneys with that level of experience often bill at or above the median rate for a criminal law private practitioner. According to the State Bar of Wisconsin's study, 2017 Economics of Law Practice in Wisconsin, the median hourly billing rate for a criminal law private practitioner was \$183. In its agency budget request, the SPD asked that the rate for violent felony cases be increased to \$125 per hour. The SPD indicates that their request is intended to enable the agency to appoint at a rate comparable to county court appointments.

27. 2025 Senate Bill 45/Assembly Bill 50 would modify current law to increase the rate at which private bar attorneys are compensated from \$100 per hour to \$125 for violent felony cases. Violent felony is defined in s. 165.84(7)(ab) of the statutes. The increase in hourly compensation would apply to cases assigned on or after July 1, 2025. The SPD estimates that approximately 3,396 cases annually would qualify as violent felony cases. Because serious cases often take between nine and 12 months to resolve, SPD proposes making this rate effective on July 1, 2025 but delaying the funding increase associated with it to July 1, 2026.

28. It should be noted that if the private bar were to increase the rate to \$125 per hour, the courts may also increase rates, potentially to an amount greater than that for the private bar.

Private Bar Cost-to-Continue

29. To produce the cost-to-continue estimate, the SPD took the number of appointments the SPD was assigned in the last fiscal year and calculated, using case equivalencies set out in SPD administrative rules, the number of felony point equivalent cases the SPD handled. Next, the number of felony point equivalent cases that SPD staff are statutorily required to handle was subtracted. The felony-equivalent cases remaining must be handled through the private bar. The private bar felony points were multiplied by the average cost of a felony case in the last fiscal year available. Further, the SPD increased this average cost of a felony case in the second year by an inflation factor. However, since the introduction of rate increases for private bar attorneys (to \$70 per hour in 2020 and to \$100 in 2023), this method has tended to over-amplify small trends. For this reason, the amounts recommended in SB 45/AB 50 are not listed in the alternatives section of this paper.

30. Instead, there are several assumptions used in determining the number of cases assigned

in the 2025-27 biennium. Assumptions include: (a) no new misdemeanors or felonies are created in statute, and no misdemeanors are newly designated as felonies; (b) there will be no changes in eligibility standards for an SPD attorney; and (c) no unforeseen economic circumstances increase the number of people eligible for Public Defender services. Finally, it is assumed that the number of available staff attorneys will remain the same.

31. Given the difficulty in finding private bar attorneys for serious felony cases, the Committee could choose to specify that the SPD must pay \$125 per hour for cases with charges listed in s.165.84(7)(ab). [Alternative B1] This alternative would provide \$1,432,600 in 2026-27 to increase the private bar rate paid for violent felony cases from \$100 to \$125 per hour effective July 1, 2025.

32. Alternatively, the Committee may wish to adjust funding to reflect current private bar caseloads, but not increase the private bar rate or provide funding for that increase. In order to calculate the estimated funding needed to support the private bar, the 2024-25 actual expenditures through April 30, 2025, plus two more months of the prior 10 month average could be used. Using these amounts, expenditures can be adjusted to reflect bills that are still being submitted and paid at lower attorney and travel rates from the previous biennium.

33. This alternative would support estimated costs if the current \$100 per hour rate is maintained. The reduction in 2025-26 is based on the expectation that expenditures for this purpose will be less than budgeted funding due to the number of bills still being paid out at the \$70 per hour rate for cases appointed before July 1, 2023, rather than the current rate of \$100. Using this methodology, funding for private bar reimbursements could be reduced by \$1,628,100 GPR in 2025-26. [Alternative B2] Under this alternative, funding for the SPD would be \$48,194,700 in 2025-26 and \$49,822,800 GPR in 2026-27.

34. If the Committee takes no action, funding for the private bar would remain at the current level of base funding. [Alternative B3]

ALTERNATIVES

A. Eligibility

1. Provide \$2,271,100 GPR in 2025-26 and \$3,573,300 GPR in 2026-27 and 23.1 GPR positions annually to update the financial eligibility criteria to 115% of the 2024 (instead of 2011) federal poverty guideline to qualify for public defender representation effective July 1, 2025.

ALT A1	Change to Base	
	Funding	Positions
GPR	\$5,844,400	23.10

2. Take no action.

B. Rate Increase and Cost to Continue

1. Provide \$1,432,600 GPR in 2026-27 to increase the private bar rate paid for violent felony cases from \$100 to \$125 per hour effective July 1, 2025.

ALT B1	Change to Base
GPR	\$1,432,600

2. Reduce funding by \$1,628,100 GPR in 2025-26 to reflect actual costs to provide reimbursement to private bar attorneys.

ALT B2	Change to Base
GPR	- \$1,628,100

3. Take no action.

Prepared by: Sarah Wynn
Attachment

ATTACHMENT

Court-Appointed Counsel, 2023

County Name	County-Paid Counsel Expenditures		County-Paid Counsel Recoupments		Net Expenditure	
	Amount	%	Amount	%	Amount	%
Adams	\$62,928	0.5%	\$24,671	0.5	\$38,257	0.5%
Ashland	36,900	0.3	22,426	0.4	14,474	0.2
Barron	228,759	1.7	81,291	1.6	147,468	1.8
Bayfield	33,351	0.2	9,837	0.2	23,514	0.3
Brown	213,361	1.6	177,621	3.5	35,740	0.4
Buffalo	29,143	0.2	19,441	0.4	9,702	0.1
Burnett	29,974	0.2	44,270	0.9	-14,296	-0.2
Calumet	50,014	0.4	39,397	0.8	10,616	0.1
Chippewa	142,982	1.1	60,652	1.2	82,329	1.0
Clark	45,390	0.3	28,792	0.6	16,598	0.2
Columbia	236,716	1.8	99,505	1.9	137,211	1.7
Crawford	29,477	0.2	19,570	0.4	9,907	0.1
Dane	644,802	4.8	252,722	4.9	392,079	4.7
Dodge	115,112	0.9	90,230	1.8	24,882	0.3
Door	91,826	0.7	49,524	1.0	42,302	0.5
Douglas	40,678	0.3	19,666	0.4	21,011	0.3
Dunn	72,541	0.5	31,076	0.6	41,464	0.5
Eau Claire	209,802	1.6	125,774	2.4	84,027	1.0
Florence	10,694	0.1	7,916	0.2	2,778	0.0
Fond du Lac	770,464	5.7	233,718	4.5	536,746	6.5
Forest	30,171	0.2	20,003	0.4	10,168	0.1
Grant	70,045	0.5	63,603	1.2	6,442	0.1
Green	80,257	0.6	8,988	0.2	71,269	0.9
Green Lake	74,818	0.6	37,238	0.7	37,580	0.5
Iowa	98,441	0.7	58,025	1.1	40,416	0.5
Iron	12,878	0.1	4,406	0.1	8,471	0.1
Jackson	78,573	0.6	27,686	0.5	50,887	0.6
Jefferson	49,290	0.4	85,937	1.7	-36,647	-0.4
Juneau	69,341	0.5	0	0.0	69,341	0.8
Kenosha	390,340	2.9	87,047	1.7	303,293	3.7
Kewaunee	57,493	0.4	36,670	0.7	20,824	0.3
La Crosse	143,242	1.1	12,674	0.2	130,568	1.6
Lafayette	57,570	0.4	35,243	0.7	22,327	0.3
Langlade	18,015	0.1	27,405	0.5	-9,390	-0.1
Lincoln	112,145	0.8	26,283	0.5	85,862	1.0

County Name	County-Paid Counsel Expenditures		County-Paid Counsel Recoupments		Net Expenditure	
	Amount	%	Amount	%	Amount	%
Manitowoc	\$327,762	2.4%	\$109,306	2.1%	\$218,456	2.6%
Marathon	499,252	3.7	206,435	4.0	292,817	3.5
Marinette	311,245	2.3	175,045	3.4	136,200	1.6
Marquette	40,867	0.3	31,041	0.6	9,826	0.1
Menominee	0	0.0	0	0.0	0	0.0
Milwaukee	1,837,251	13.7	186,418	3.6	1,650,833	19.9
Monroe	178,595	1.3	71,427	1.4	107,168	1.3
Oconto	148,396	1.1	77,688	1.5	70,708	0.9
Oneida	29,360	0.2	18,264	0.4	11,097	0.1
Outagamie	377,294	2.8	72,226	1.4	305,068	3.7
Ozaukee	144,570	1.1	70,728	1.4	73,842	0.9
Pepin	38,205	0.3	15,539	0.3	22,666	0.3
Pierce	54,856	0.4	42,575	0.8	12,281	0.1
Polk	159,313	1.2	83,578	1.6	75,735	0.9
Portage	138,797	1.0	44,973	0.9	93,823	1.1
Price	1,292	0.0	2,752	0.1	-1,460	0.0
Racine	909,982	6.8	228,003	4.4	681,978	8.2
Richland	83,346	0.6	50,522	1.0	32,823	0.4
Rock	344,474	2.6	183,741	3.6	160,733	1.9
Rusk	45,434	0.3	14,282	0.3	31,152	0.4
Sauk	160,940	1.2	114,271	2.2	46,669	0.6
Sawyer	38,898	0.3	15,354	0.3	23,544	0.3
Shawano	24,648	0.2	13,968	0.3	10,680	0.1
Sheboygan	749,283	5.6	114,261	2.2	635,022	7.6
St. Croix	356,323	2.6	267,606	5.2	88,718	1.1
Taylor	21,389	0.2	12,886	0.3	8,503	0.1
Trempealeau	55,079	0.4	44,939	0.9	10,140	0.1
Vernon	22,753	0.2	3,990	0.1	18,764	0.2
Vilas	22,543	0.2	16,379	0.3	6,164	0.1
Walworth	468,890	3.5	136,456	2.7	332,435	4.0
Washburn	28,420	0.2	27,579	0.5	841	0.0
Washington	358,117	2.7	192,051	3.7	166,066	2.0
Waukesha	431,234	3.2	235,069	4.6	196,165	2.4
Waupaca	121,111	0.9	65,155	1.3	55,956	0.7
Waushara	70,070	0.5	32,209	0.6	37,860	0.5
Winnebago	268,335	2.0	138,135	2.7	130,200	1.6
Wood	<u>143,425</u>	<u>1.1</u>	<u>60,438</u>	<u>1.2</u>	<u>82,986</u>	<u>1.0</u>
Total	\$13,449,279	100.0%	\$5,144,598	100.0%	\$8,304,681	100.0%



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #607

Expert Witness Services, Court Transcripts, Discovery, and Interpreter Funding (Public Defender)

[LFB 2025-27 Budget Summary: Page 532, #6 and 533, #8]

CURRENT LAW

In addition to the United States Constitution and the Wisconsin Constitution providing the right to counsel for individuals accused of a crime, defendants have a constitutional right to "discovery;" that is, the disclosure of the prosecutor's evidence. This constitutional right is incorporated in the Wisconsin Constitution and in s. 971.23 of the statutes. Prosecutors comply with this discovery obligation by making available copies of reports, recordings, and other pertinent investigative materials. Counties and other parties may charge the State Public Defender (SPD) for copying costs incurred in providing these materials. Base funding for transcripts, discovery, and interpreters is \$2,129,700 GPR.

Wisconsin statute states that "if scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if the testimony is based upon sufficient facts or data, the testimony is the product of reliable principles and methods, and the witness has applied the principles and methods reliably to the facts of the case." Expert witnesses are necessary to provide an adequate defense. The SPD indicates that cases have become more complex over time and that, as the complexity of cases increases, so does the need and cost for expert witnesses, psychological evaluations, and risk assessments. The increased complexity in areas such as physical and digital evidence has a significant impact on expert witness costs. Base funding includes an allocation of \$337,600 for expert witnesses for Chapter 980 commitment cases within funding budgeted for trial representation.

DISCUSSION POINTS

1. The cost of providing counsel to the indigent in Wisconsin is generally the responsibility of the state through the SPD. The Office is primarily funded through general purpose revenue, which is utilized to support trial and appellate staff attorneys as well as reimbursements to private bar attorneys who are assigned indigent legal defense cases. In order to provide representation for indigent clients, the SPD has both a trial division and an appellate division. The trial division is comprised of 36 local trial offices located throughout Wisconsin, while the appellate division is comprised of two appellate offices, located in Madison and Milwaukee.

2. The SPD provides representation to indigent persons in criminal and certain civil commitment cases, which often requires experts in various professions to assist with the defense and to advocate for alternatives to confinement. These experts can include psychologists, psychiatrists, shaken baby syndrome/abusive head trauma experts, DNA experts, or computer analysts, who provide written reports and/or testify in court. In criminal and commitment proceedings, it could be an inherent conflict of interest to utilize state experts as expert witnesses for the defense. Expert costs are paid for by the supplies and services budgets of the trial and appellate divisions. In the 2013-15 biennium, the agency received \$337,600 annually to provide the additional resources to retain expert witnesses for sexually violent person commitment cases under Chapter 980 for which the SPD provides representation.

3. Total expenditures for expert witnesses in each year since 2014-15 are shown in Table 1 below. The SPD indicates that the average cost of experts for a non-A, B, or C class or juvenile felony case ("other" felony) is approximately \$3,000 per case with over 200 "other" felony cases annually that requested an expert, which makes it the largest category of expert expenses. The SPD indicates that it has reallocated funding within its appropriation to pay these costs or carried obligations into the next fiscal year by delaying payments.

TABLE 1
Expert Witness Expenditures, 2014-15 to 2023-24

<u>Fiscal Year</u>	<u>Amount</u>
2014-15	\$720,200
2015-16	867,600
2016-17	1,096,400
2017-18	1,065,500
2018-19	1,101,500
2019-20	1,043,900
2020-21	1,024,500
2021-22	990,600
2022-23	1,295,000
2023-24	1,381,600

4. In 2023-24, the SPD incurred a total of \$1,381,600 in expert costs. The allowable expenditures were addressed through reallocation. Given the \$337,600 appropriated in the 2013-15 biennium for expert witness costs in Chapter 980 commitment cases, the difference between that

amount and expenses (\$1,044,000) is the amount included in by Senate Bill 45/Assembly Bill 50.

5. The SPD is responsible for the cost of transcripts of court proceedings that SPD staff and private bar attorneys request from the courts, for copying costs incurred by counties and other parties to provide SPD attorneys with discovery materials, and for the cost of interpreters needed for attorney-client communication and other case preparation (the courts are responsible for the costs of in-court interpreters). Discovery may include video and audio recordings. The SPD experienced an increase in payments for video recordings since 2004-05 due in part to 2005 Act 60 which codified requirements that law enforcement agencies make an audio or audio/visual recording of a custodial interrogation of a juvenile who is suspected of committing a crime if the interrogation is conducted at a place of detention. It also required law enforcement agencies to make a recording, if feasible, of a custodial interrogation of a juvenile suspected of committing a crime if the interrogation is conducted at a place other than a place of detention with some exceptions. Further, 2005 Act 60 provided that custodial interrogations of adult felony defendants should be recorded and admitted into evidence at trial, and that, barring good cause not to do so, the judge may instruct the jury that they may consider the absence of a recording when weighing the evidence. Squad car recordings and security camera recordings also contribute to the increased costs of discovery in this appropriation. Recordings may also entail transcription costs because of the need to present the court with an accurate record of the recorded statement, interrogation, or other conversation.

6. As noted above, discovery may include transcripts. The need for transcripts is a function of the number of type of cases appointed, their complexity, the number and duration of court appearances and trials, and the number of cases in which defendants seek post-conviction (appellate) representation from SPD. In addition, transcript requests have become more numerous and complex as more items have become electronic such as video surveillance, audio and video recordings, and interrogations. Audio and video files take significant time to transcribe since people may talk at the same time or the quality of the audio and video increases the difficulty of creating an accurate transcription. The SPD indicates that it has measures in place to reduce the cost of transcripts, such as reviewing transcript expenditures on a monthly basis to identify higher than average expenditure levels and then verifying that the expenditure was appropriate.

7. Like transcripts, interpreter payments are driven by the number of cases appointed. Interpreters may be needed to aid collection of discovery and in order for the defendant to assist in their defense. The SPD indicates the agency has attempted to mitigate costs for interpreters through language line services. However, that option is not always available when meetings or interviews occur in jails, courthouses, and other non-office settings. The SPD indicates that interpreter costs have increased in general, an issue also affecting costs incurred by courts.

8. All counties bill the SPD for discovery. Discovery payments from this appropriation are driven by the number of cases appointed. In addition, the SPD incurs interest costs on payments made after 30 days, which occurred in 2013-14. Total appropriated funding, expenditures, and the difference between appropriations and expenditures for transcripts, interpreters, and discovery in each year since 2014-15 are shown in Table 2 below. The SPD indicates that it has either reallocated funding within its appropriation or carried obligations into the next fiscal year by delaying payments in order to prevent accumulating a deficit.

TABLE 2**Transcript, Interpreter, and Discovery Total Funding 2013-14 to 2023-24**

<u>Fiscal year</u>	<u>Appropriated</u>	<u>Expended</u>	<u>Difference</u>
2014-15	\$1,325,700	\$2,429,200	-\$1,103,500
2015-16	1,325,700	2,406,100	-1,080,400
2016-17	1,325,700	2,120,700	-795,000
2017-18	1,407,500	2,240,500	-833,000
2018-19	1,407,500	2,050,200	-642,700
2019-20	1,485,100	1,900,000	-414,900
2020-21	1,506,900	1,815,900	-309,000
2021-22	1,506,900	1,908,500	-401,600
2022-23	2,129,700	2,026,500	103,200
2023-24	2,129,700	2,477,300	-347,600

9. As indicated in Table 2, in 2023-24, the SPD incurred a total of \$2,477,300 in transcript, discovery, and interpreter costs. The allowable expenditures were addressed through reallocation of funding. Table 3 shows the expenses for transcripts, discovery, and interpreters in 2023-24 by category of expense.

TABLE 3**2023-24 Expenses for Transcripts, Discovery, and Interpreters**

<u>Purpose</u>	<u>Amount</u>
Transcripts	\$1,190,100
Discovery	1,181,700
Interpreters	<u>105,500</u>
Total	\$2,477,300

10. The SPD has reallocated funding for transcripts, discovery, and interpreters since 2001-02 (with the exception of 2022-23). While the SPD has been able to reallocate funding to support such expenditures, these reallocations have, at least in part, resulted in less funding being available for other agency activities. Given these considerations, the Committee could provide funding based on 2023-24 expenses for experts, transcripts, discovery, and interpreters. [Alternative 1] As a result, an additional \$1,391,600 GPR annually (\$1,044,000 for expert witnesses and \$347,600 for transcripts, interpreters, and discovery) would be provided to support such expenses.

11. In view of the flexibility to fund allowable expenses from other available allocations while also acknowledging shortfalls in budgeted amounts for these purposes in prior years, the Committee could determine an increase in funding only for experts or only for transcript, discovery, and interpreter costs may be appropriate. [Alternatives 2 and 3] Under these alternatives, the SPD

could directly fund a larger portion of the costs of experts, transcripts, discovery, and interpreters, but may still need to reallocate funding in order to address remaining costs for these purposes.

12. Using its existing expenditure authority, the SPD has been able to reallocate expenses in the past for transcript, discovery, and interpreter expenses. Given this, the current level of funding could be considered appropriate. As such, the current level of funding to the transcripts, discovery, and interpreter appropriation could be maintained. [Alternative 4]

ALTERNATIVES

1. Provide \$1,391,600 GPR annually to support payments for experts, transcripts, discovery, and interpreters.

ALT 1	Change to Base
GPR	\$2,783,200

2. Provide \$1,044,000 GPR annually to support payments for experts.

ALT 2	Change to Base
GPR	\$2,088,000

3. Provide \$347,600 annually to support payments for: (a) transcripts of court proceedings; (b) discovery materials; and (c) interpreters for attorney-client communications and other case preparation.

ALT 3	Change to Base
GPR	\$695,200

4. Take no action.

Prepared by: Sarah Wynn

PUBLIC DEFENDER

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
9	Pilot CHIPS Extension