

State Criminal Justice Functions

Informational
Paper

77

Wisconsin Legislative Fiscal Bureau
January, 2005

State Criminal Justice Functions

Prepared by

Paul Onsager

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703

TABLE OF CONTENTS

Introduction.....	1
Chapter 1 - Services to Law Enforcement Agencies by the Department of Justice.....	2
Training and Standards Bureau.....	2
Crime Information Bureau.....	5
State Crime Laboratories.....	10
Chapter 2 -- Law Enforcement Activities of the Department of Justice.....	14
Law Enforcement Activities of the Division of Criminal Investigation (DCI).....	14
Narcotics Bureau.....	14
Gaming Enforcement Bureau.....	17
Remaining DCI Operations.....	18
Chapter 3 -- Prosecutorial Responsibilities of District Attorneys.....	22
Duties and Responsibilities of District Attorneys.....	22
District Attorney Funding and Staffing.....	23
Prosecutorial Workload.....	25
Chapter 4 -- Prosecutorial and Related Responsibilities of the Department of Justice.....	28
Criminal Appeals Unit.....	28
Civil Litigation and Employment Unit.....	29
Criminal Litigation, Antitrust, Consumer Protection, and Public Integrity Unit.....	30
Chapter 5 -- Office of the State Public Defender.....	32
Representation of the Indigent.....	32
Creation of the State Public Defender Function.....	34
Current Public Defender Operations.....	36
Appendices	
Appendix I -- Department of Justice Organizational Chart.....	39
Appendix II -- Organizational Chart of the Office of the State Public Defender.....	40
Appendix III -- State Crime Laboratory Service Areas.....	41
Appendix IV -- 2000, 2001 and 2003 Court-Appointed Counsel at County Expense.....	42
Appendix V -- State Public Defender Trial Division Offices.....	45

State Criminal Justice Functions

Law enforcement, prosecution, and public defense are three critical components of the state's criminal justice system. This paper focuses on the involvement of the Department of Justice (DOJ), district attorneys (DAs) and the Office of the State Public Defender (SPD) in these three areas.

While local units of government are primarily responsible for providing law enforcement protection, DOJ provides law enforcement services to state and local law enforcement agencies. In addition, DOJ is charged with certain law enforcement responsibilities under state statute. The budget for DOJ in 2004-05 totals \$77,150,700 and 553.45 full-time equivalent positions. The Department's total funding is comprised of \$33,962,000 general purpose revenue (GPR), \$35,156,600 program revenue (PR), \$7,715,700 federal revenue (FED) and \$316,400 segregated revenue (SEG). Among the staff authorized for the Department are 108.33 crime laboratory personnel and 89.0 special agents (law enforcement officers). The organizational chart for DOJ is included as Appendix I.

Under state law, criminal prosecutions are primarily the responsibility of elected DAs and their prosecutorial staff. The budget for the state district attorneys function in 2004-05 totals \$40,963,100 and (as of December 1, 2004) 430.0 positions. The state funded DA function is comprised of \$38,904,700 GPR and \$2,058,400 PR. All of the 430.0 state positions are attorney prosecutors. Other than for the state-funded costs of prosecutors' salaries and fringe benefits, the remaining staff and other costs of DA offices are generally the responsibility of Wisconsin counties. These county-supported costs and positions are not reflected in these figures.

There are 71 elected district attorneys in Wisconsin. Each county in the state is termed a

"prosecutorial unit" except that Shawano and Menominee counties form a two-county prosecutorial unit and jointly elect a single district attorney.

While DAs are primarily responsible for criminal prosecutions in the state, DOJ is responsible for: (1) representing the state in all appeals of felony convictions, as well as in appeals of other significant criminal and juvenile delinquency cases; (2) representing the state in prisoner and sex predator conditions of confinement suits; (3) assisting DAs, when requested, in certain criminal prosecutions; and (4) initiating criminal prosecutions and sexual predator commitments under certain circumstances. Among the staff authorized for DOJ are 90.85 attorneys, some of whom are responsible for meeting these obligations of the Department.

Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The SPD is generally responsible under state law for providing this required counsel to the indigent. The budget for the SPD in 2004-05 totals \$76,482,900 and 527.55 positions. The Office's total funding is comprised of \$75,176,300 GPR and \$1,306,600 PR. Among the staff authorized for the SPD are 307.5 attorney positions in the trial and appellate divisions. The SPD also contracts with private bar attorneys to address a portion of the agency's caseload. The organizational chart for the SPD is included as Appendix II.

The criminal justice functions of these agencies are summarized in the following five chapters of this paper. The first two chapters focus on the law enforcement services and responsibilities of DOJ. The third and fourth chapters discuss the prosecutorial functions of DAs and DOJ. The final chapter provides a discussion of the state's public defender function as carried out by the SPD.

SERVICES TO LAW ENFORCEMENT AGENCIES BY THE DEPARTMENT OF JUSTICE

Wisconsin law requires counties, cities, and those villages with a population of more than 5,000 to provide law enforcement services to their citizens. Towns and smaller villages are also permitted to provide law enforcement services to their residents. In addition, certain state agencies have specifically defined law enforcement responsibilities. These agencies include: (1) DOJ's Division of Law Enforcement Services and its Division of Criminal Investigation; (2) the State Patrol under the Department of Transportation; (3) the State Capitol Police; (4) the UW Police under the University of Wisconsin System; and (5) the Bureau of Law Enforcement under the Department of Natural Resources (DNR).

The Department of Justice's Division of Law Enforcement Services is charged with meeting the agency's statutory responsibilities to state and local law enforcement agencies. The budget for the Division in 2004-05 is \$28,710,200 and 195.0 positions. The Division is organized into five bureaus. These are the: (1) Training and Standards Bureau; (2) Crime Information Bureau; (3) Milwaukee Crime Laboratory; (4) Madison Crime Laboratory; and (5) Wausau Crime Laboratory.

Training and Standards Bureau

The Division's Training and Standards Bureau has the following responsibilities: (1) staffing the Law Enforcement Standards Board; (2) administering the training and certifications requirements for law enforcement, tribal law enforcement, jail, and secure detention officers; and

(3) administering the county-tribal law enforcement grant program.

The Bureau's budget in 2004-05 is \$134,000 GPR, \$9,414,700 PR and 26.67 PR positions. The Bureau's staff consists of education consultants or training officers (10.0), program assistants (4.5), attorneys (2.0), an administrator of the county-tribal law enforcement grant program (1.0), and other supervisory and support personnel (9.17).

Much of the Bureau's funding supports: (1) reimbursements for preparatory training by new law enforcement recruits and for annual recertification training by certified officers; and (2) law enforcement grants to counties under the county-tribal law enforcement grant program.

The Bureau's program revenue-funded budget is supported by the penalty surcharge (\$8,629,600 and 25.67 positions) and by tribal gaming revenue (\$785,100 and 1.0 position). The penalty surcharge supports the Bureau's law enforcement training and certification activities. Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge of 24% of the total fine or forfeiture. Forty-eight percent (48%) of all penalty surcharge revenues are allocated to DOJ to fund the costs of recruit training, annual recertification training, and laboratory equipment for the state crime laboratories. Tribal gaming revenue funds the county-tribal law enforcement grant program.

Law Enforcement Training and Certification

Statutory Authorization. The Law Enforcement

Standards Board (Board) is established under s. 165.85 of the statutes and is attached to DOJ. The Board consists of the following 14 members: (1) six local law enforcement officers; (2) two local government officials; (3) one district attorney; (4) one public member; (5) a representative of the FBI; (6) the Attorney General; (7) the Administrator of the Division of Law Enforcement Services; (8) the Superintendent of the State Patrol; (9) the Director of the Bureau of Law Enforcement at DNR; and (10) the Executive Director of the Office of Justice Assistance.

When the Board was created, the Legislature included the following policy statement relating to the Board's responsibilities: "The legislature finds that the administration of criminal justice is of statewide concern, and that law enforcement work is of vital importance to the health, safety and welfare of the people of this state and is of such a nature as to require training, education and the establishment of standards of a proper professional character. The public interest requires that these standards be established and that this training and education be made available to persons who seek to become law enforcement, tribal law enforcement, jail or secure detention officers, persons who are serving as these officers in a temporary or probationary capacity and persons already in regular service."

The Board has the following duties: (1) ensure that law enforcement, tribal law enforcement, jail, and secure detention recruits meet the minimum qualifications for recruitment; (2) oversee and fund the training of such recruits; (3) certify such recruits as officers upon the successful completion of their training; (4) oversee and fund the annual recertification training of certified law enforcement, tribal law enforcement, jail, and secure detention officers; (5) certify schools and instructors that provide preparatory training to recruits and recertification training to certified officers; and (6) maintain a statewide updated record of all certified officers.

Under s. 165.86 of the statutes, the Department is to supply the staffing needs of the Board, and is to coordinate all preparatory and recertification training activities in law enforcement in the state.

Minimum Qualifications for Recruits. Law enforcement, tribal law enforcement, jail, and secure detention recruits generally must meet the following minimum qualifications: (1) possess a valid driver's license; (2) be 18 years of age; (3) not have been convicted of any federal felony or any offense which, if committed in Wisconsin, could be punished as a felony; (4) possess a high school diploma; (5) possess either a two-year associate degree from a Wisconsin technical college system district or its accredited equivalent from another state, or a minimum of 60 fully accredited college level credits; (6) be of good character; (7) be free from any physical, emotional or mental condition which might adversely affect the performance of one's duties as a law enforcement, tribal law enforcement, jail, or secure detention officer; and (8) submit to and satisfactorily complete an oral interview with the employing authority.

Preparatory Training of Recruits. Law enforcement and tribal law enforcement recruits must successfully complete a minimum of 400 hours of preparatory training in order to be certified as a law enforcement officer in Wisconsin. Under 2001 Wisconsin Act 16, the Legislature provided funding to increase the number of hours of preparatory training for law enforcement recruits from 400 hours per recruit to 520 hours. In 2003-04, 670 law enforcement recruits underwent such training. Table 1 identifies the amounts expended by the Board in 2003-04 to provide reimbursement for this training. The reimbursements covered the recruits' tuition, lodging, meals, and mileage costs.

Jail and secure detention recruits must successfully complete a minimum of 120 hours of preparatory training in order to be certified. In 2003-04, 398 jail and secure detention recruits underwent preparatory training and received

Table 1: DOJ Reimbursement of Law Enforcement Recruit Training (2003-04)

Type of Law Enforcement Recruits	Reimbursement
Local	\$655,100
State	68,900
Tribal	<u>2,200</u>
Total	\$726,200

reimbursements totaling \$356,900 (\$261,600 PR and \$95,300 GPR). The reimbursements covered costs for tuition, lodging, meals, mileage, salary and fringe benefits.

Annual Recertification Training. Law enforcement, tribal law enforcement, jail, and secure detention officers must complete a minimum of 24 hours of additional training each year in order to maintain their certification. In 2003-04, this recertification requirement applied to 15,891 certified officers.

Under 2001 Wisconsin Act 16, the Legislature provided additional permanent funding to increase the reimbursement rates for annual recertification training from \$160 to \$220 per law enforcement officer. In 2003-04 these reimbursements totaled \$3,531,500 PR (an average of \$200 per eligible officer).

Act 16 also provided DOJ with funding of \$350,000 PR annually, which enabled the Bureau to resume offering a law enforcement management training program. Additional funding of \$150,000 PR annually was also provided to expand training for specialized law enforcement officers. In 2003-04, the Bureau sponsored 138 law enforcement management and specialized training courses which were offered to approximately 3,700 participants at a cost of \$753,200 PR.

Certification of Schools and Instructors to Train Recruits and to Provide Recertification Training. The Board certifies schools based on the adequacy of facilities and the competency of staff

and faculty. A new instructor must complete a teaching methods course and other specialized instructor training as designated by the Board. Table 2 identifies the number of academies and instructors (including the number of new instructors) certified to provide preparatory training and recertification training in 2003-04. The table also identifies the number of law enforcement agencies that are authorized to provide some recertification training to their officers. Currently, state and local law enforcement agencies may provide recertification training to their own officers and are only required to utilize certified training instructors for courses in which the Board specifies the content.

Table 2: Number of Certified Academies and Instructors (2003-04)

Training Certifications	Number
Academies	22
All Instructors	2,050
New Instructors	520
Agencies Authorized to Train	620

Statewide Roster of Certified Officers. The Board must maintain a current statewide roster of certified officers. As necessary, new officers must be certified to the list and existing officers must be decertified from the list. Grounds for decertification include: (1) termination of employment with the law enforcement agency for any reason; (2) failure to comply with a rule or order of the Board relating to curriculum or training; or (3) failure to make child or family support payments. Table 3 identifies the number and type of active certified officers on the roster in October, 2004.

County-Tribal Law Enforcement Grant Program

Statutory Authorization. Section 165.90 of the statutes creates the county-tribal law enforcement grant program, and assigns the program's

Table 3: Number of Active Certified Officers (October, 2004)

Type of Officer	Number
Law Enforcement	12,076
Law Enforcement and Jail	2,202
Jail	1,818
Jail and Secure Detention	339
Secure Detention	144
Law Enforcement, Jail, and Secure Detention	75
Tribal	<u>46</u>
Total	16,700

administrative responsibility to DOJ. While the program is assigned for state budgetary purposes to the Training and Standards Bureau, the program is administered by the Division of Management Services.

In order to receive funding under the program, a county with one or more federally-recognized Indian reservations within or partially within its boundaries must enter into an agreement with an Indian tribe located in the county to establish a cooperative county-tribal law enforcement program. The county and tribe must develop and annually submit to DOJ a joint program plan, and report on the performance of law enforcement activities on the reservation in the previous fiscal year.

Program Administration. The program is budgeted \$708,400 PR annually for county-tribal law enforcement grants. The program's budget for administration in 2004-05 is \$76,700 PR and 1.0 PR position.

Table 4 identifies the grant amounts awarded to counties and tribes for calendar year 2004 grant activities. Although some of the grants were awarded to programs that include tribal police departments, most of the grants help pay for services provided by county sheriffs to Indian reservations and communities. Funding for the grants and for program administration is provided from tribal gaming revenues.

Table 4: Grants Awarded to Counties and Tribes in 2004

County/Tribe	Amount
Ashland/Bad River	\$57,855
Bayfield/Red Cliff	68,312
Brown/Oneida	27,395
Forest/Sokaogon	36,054
Forest/Potawatomi	45,490
Jackson/Ho Chunk	35,289
Juneau/Ho Chunk	43,440
Menominee/Menominee	51,964
Monroe/Ho Chunk	25,897
Outagamie/Oneida	27,743
Polk/St. Croix	23,409
Sauk/Ho Chunk	26,573
Sawyer/Lac Courtes Oreilles	80,096
Shawano/Stockbridge	63,476
Vilas/Lac du Flambeau	74,622
Wood/Ho Chunk	<u>20,785</u>
Total	\$708,400

Crime Information Bureau

The Division's Crime Information Bureau has the following responsibilities: (1) administration and maintenance of Wisconsin's criminal history database; (2) administration and maintenance of the Transaction Information for the Management of Enforcement (TIME) System; and (3) operation of the handgun purchaser record check program.

The Bureau's budget in 2004-05 totals \$1,751,700 GPR and \$6,505,200 PR and 21.0 GPR and 39.0 PR positions. The Bureau's staff consists of criminal history record personnel (25.0), information technology personnel (11.5), fingerprint technicians (7.0), and supervisory and support personnel (16.5).

The Bureau's program revenue-supported budget is funded by criminal history search fees (\$3,465,900 and 25.0 positions), TIME System user fees from law enforcement agencies (\$2,643,100 and 6.0 positions), and the \$8 handgun purchaser

record check fee (\$396,200 and 8.0 positions).

The Bureau assesses a number of criminal history search fees to various users who request a search of the state's criminal history database for purposes unrelated to criminal justice. Further, as a part of the TIME System, the Bureau is authorized to assess fees on law enforcement and tribal law enforcement agencies for rentals, use of terminals, and related costs and services associated with the system. Finally, handgun dealers are assessed an \$8 handgun purchaser record check fee for each handgun check completed by the Bureau.

Criminal History Database

Statutory Authorization. Under s. 165.83(2)(a) of the statutes, DOJ is directed to obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested or taken into custody in Wisconsin for a variety of offenses. These offenses include:

- An offense which is a felony or which would be a felony if committed by an adult;
- An offense which is a misdemeanor, which would be a misdemeanor if committed by an adult or which is a violation of a local ordinance, and the offense involves burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances or controlled substance analogs, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks;
- An offense charged or alleged as disorderly conduct but which relates to an act under the previous bullet point;
- A fugitive from justice; or
- Any other offense designated by the

Attorney General.

Within 24 hours of an arrest, the arresting agency must generally forward to DOJ all of the following for inclusion in the criminal history database: (1) fingerprints in duplicate; (2) full face, profile and full length photographs; and (3) other available identifying data. Photographs are forwarded at the discretion of the arresting agency; however, any such photographs retained locally must be available to be forwarded to DOJ if requested by the Department. Each year over 150,000 new arrest events are submitted by Wisconsin law enforcement agencies to the Crime Information Bureau. The majority of this information is submitted electronically.

The Department must also accept for the database any fingerprints and other identifying data that have been taken at the discretion of law enforcement agencies relating to persons arrested or taken into custody for offenses other than those previously identified. In addition, the Department must obtain and file fingerprints and other available identifying data on unidentified human corpses found in the state.

Pursuant to s. 165.83(2)(h) of the statutes, DOJ must collect and maintain all of this submitted data and establish a state system of criminal identification. As a part of this criminal history database, the Department is required to collect information on the legal action taken in connection with offenses committed in Wisconsin from the inception of the complaint to the final discharge of the defendant, as well as any other useful information in the study of crime and the administration of justice. The database receives information on prosecution, court findings and sentences through an interface with the state court system's consolidated court automation program.

Section 165.83(2)(j) of the statutes further requires the Department to utilize this database to "compare the fingerprints and descriptions that are received from law enforcement agencies and tribal

law enforcement agencies with the fingerprints and descriptions already on file and, if the person arrested or taken into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement and tribal law enforcement agencies concerned and supply copies of the criminal record to these agencies." The Department is required to operate on a 24-hour-a-day basis, seven days a week in order to comply with this requirement.

Computerized Criminal History Database and Automated Fingerprint Identification System (AFIS). The computerized criminal history database contains detailed information of arrests, arrest charges, prosecution, court findings and sentences, and state correctional system admissions and releases that are required to be submitted to the Department. All information in the database is linked to specific fingerprint records submitted by arresting law enforcement agencies and stored in the automated fingerprint identification system (AFIS), which is operated and maintained by the Madison Crime Laboratory.

This system is intended to track the history of all arrests in Wisconsin. Beginning in 1971, law enforcement agencies were first required to submit arrest fingerprint cards to DOJ. Arrests without supporting fingerprints are not included in the criminal history database.

The AFIS system was first installed in 1993 and was upgraded during the 2001-03 biennium. The AFIS system stores electronically the fingerprints that are required to be submitted to DOJ. The AFIS system enables law enforcement agencies to run a check either on a fingerprint collected at a crime scene or on a fingerprint collected from an arrested individual against the entire AFIS fingerprint database. Where a matching fingerprint is found in the AFIS database, the system can positively identify the individual whose fingerprint was run. The AFIS system also allows DOJ to electronically store fingerprints collected at crime scenes that cannot be matched to an individual ("latent"

fingerprints). If at a later time, the individual's fingerprint is collected by law enforcement because the individual is arrested, the electronic storing of previously unmatched crime scene fingerprints permits DOJ to link the individual to another crime the person may have committed.

Wisconsin law enforcement agencies currently take fingerprint impressions of all ten fingers (called tenprints) when an individual is arrested. As of December 6, 2004, 1,054,115 tenprints and 10,000 latent fingerprints were stored on AFIS. Approximately 4,000 additional tenprints and 290 latent fingerprints are added to the system monthly. Currently, the system has a storage capacity of 1,500,000 tenprint records and 50,000 latent fingerprint records.

The upgraded AFIS system now permits the Department to electronically store palm prints. Palm prints provide an additional law enforcement tool to positively identify an individual. As of December 6, 2004, 14,384 sets of palm prints and 9,084 latent palm prints were stored on AFIS. Approximately 1,308 additional palm sets and 386 latent palm prints are being added to the system monthly, which has a total capacity of 150,000 sets of palm prints and 30,000 latent palm prints.

The palm print database is being built in cooperation with the Department of Corrections. The Department of Corrections takes palm prints when new prisoners are admitted to the state correctional system through the Dodge Correctional Institution.

In addition to Department personnel, access to AFIS has been granted by the agency to 17 law enforcement agencies across the state through fully functional AFIS workstations. These law enforcement agencies include five county sheriff's departments or joint services agencies (Brown, Kenosha, Milwaukee, Racine and Waukesha Counties) and 12 municipal police departments (Burlington, Delafield, Green Bay, Hartland, Kenosha, Madison, Milwaukee, Mount Pleasant,

Racine, St. Francis, Waukesha, and Wauwatosa).

This access enables these local agencies to independently solve crimes using the AFIS tenprint, latent fingerprint, and palm print databases and positively identify arrested individuals. This linkage also allows these local users to update the state AFIS and linked criminal history databases.

From January 1, 2004, through December 6, 2004, Department and local law enforcement personnel completed: (1) 9,675 tenprint to tenprint searches; (2) 11,092 tenprint to unsolved latent fingerprint searches; (3) 1,009 palm print to unsolved latent palm print searches; (4) 355 latent fingerprint to tenprint searches; and (5) 35 unsolved latent palm print to palm print searches.

In order to expand accessibility and usability of AFIS, the Department has provided 65 Fast ID devices to law enforcement agencies across the state. In addition, individual agencies have separately acquired 39 Fast ID devices. These two-finger identification systems are capable of transmitting electronic fingerprint images to AFIS. This capability enables local law enforcement agencies to positively identify individuals. Fast ID devices submitted over 52,000 searches of AFIS in 2003.

The criminal history database is typically searched by name or by fingerprint. Law enforcement agencies may access the database or may have it searched by Department personnel, at no cost if the search is completed for criminal justice purposes.

Because Wisconsin is an "open records" state, governmental agencies, non-profit organizations and any other requester may also have the Department search the criminal history database for non-criminal justice purposes. Each year, the crime information bureau receives more than 600,000 non-criminal justice search requests of the criminal history database. These types of requests

are generally made in connection with an employment or professional licensing application.

Table 5 identifies the fees that are currently authorized for non-criminal justice searches of the criminal history database. In addition to the fees identified in Table 5, a \$5 surcharge is assessed if the requestor must have a paper copy of the results of the search. In 2003-04, the Department received criminal history search fees revenues of \$3,969,800. The budget for the criminal history database in 2004-05 is \$758,800 GPR and \$3,456,900 PR and 18.0 GPR and 25.0 PR positions.

Table 5: Criminal History Search Fees

Type of Requestor	Name Check	Fingerprint Check
Nonprofit organization	\$2	\$15
Governmental agency	5	15
Any other requestor	13	13

Transaction Information for the Management of Enforcement (TIME) System

Statutory Authorization. The Transaction Information for the Management of Enforcement (TIME) System provides law enforcement agencies across the state access to a variety of law enforcement-related databases. Under s. 165.83(2) of the statutes, DOJ must: (1) obtain and file information relating to identifiable stolen or lost property; and (2) generally obtain and file a copy or detailed description of each arrest warrant issued in this state but not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. In making criminal history information, stolen property, wanted persons and other relevant information available to law enforcement agencies, the statutes further require DOJ to create and administer the TIME System.

The TIME System provides Wisconsin law enforcement agencies electronic access to the

following databases:

- State and national wanted, missing and unidentified persons;
- Stolen motor vehicles;
- Identifiable stolen property;
- Driver and vehicle registration files;
- State and national criminal history information;
- The sex offender registry maintained by the Department of Corrections;
- Persons subject to protection orders; and
- Other databases of interest to law enforcement for officer safety.

The relevant data is provided by the TIME System through its access to: (1) DOJ's criminal history, stolen property and wanted persons databases; (2) the Department of Corrections' sex offender registry and probation and parole files; (3) selected Department of Natural Resources files; (4) the federal National Crime Information Center database; and (5) the National Law Enforcement Telecommunication System, which provides access to out-of-state and Canadian data on criminal history, vehicle registration and driver files.

System Administration. The TIME System consists of over 7,600 terminals located in 775 local, state and federal law enforcement agencies in Wisconsin. Approximately 4,000 of these terminals are mobile units that provide information directly to the patrol officer. On an average day, the TIME system processes approximately 263,000 transactions.

The Department is authorized to assess fees to law enforcement agencies for the costs of terminal rental and usage, and related services to support

the operation of the TIME System. In 2003-04, the Department collected TIME System user fees of \$2,576,500. The TIME System's 2004-05 budget is \$992,900 GPR and \$2,643,100 PR and 3.0 GPR and 6.0 PR positions.

Handgun Purchaser Record Check Program

Statutory Authorization. Under current federal law, states may individually determine whether they will process background checks on purchasers prior to the transfer of handguns and long guns. States processing these background checks must ensure that the guns are not transferred in violation of federal or state law. If a state does not process background checks, either in whole or in part, the FBI processes those background checks not undertaken by the state.

In Wisconsin, staff in DOJ's Crime Information Bureau processes background checks on purchasers of handguns. The FBI continues to be responsible for background checks on purchasers of long guns in Wisconsin. States which process background checks are also authorized to extend their background checks beyond the requirements under federal law. Currently, Wisconsin handgun background checks include a review of such matters as adjudications of mental illness, certain juvenile convictions and certain domestic abuse restraining orders that are not reviewed as part of a federal background check.

Under s. 175.35 of the statutes, when a firearms dealer sells a handgun in Wisconsin, the dealer may not transfer possession of that handgun until all of the following events occur: (1) the dealer has inspected photographic identification from the purchaser; (2) the purchaser has completed a notification form with the purchaser's name, date of birth, gender, race and social security number so that DOJ may perform an accurate record search; (3) the dealer has submitted the information to DOJ and has requested a firearms restrictions record search; and (4) 48 hours have lapsed (subject to certain extensions) and DOJ has not notified the

dealer that the transfer would be a violation of state or federal law.

An \$8 fee is assessed on the dealer (who may pass the charge on to the purchaser) for each background check. These fee revenues are remitted to DOJ and are intended to fund the cost of operating the record check program.

Program Administration. The Bureau's handgun purchaser record check program operates a handgun hotline between the hours of 9:00 a.m. and 9:00 p.m. on weekdays, and between the hours of 9:00 a.m. and 5:00 p.m. on weekends, so as to be available to receive telephone calls during regular retail hours. The handgun hotline receives telephone inquiries from handgun dealers. The information provided by the dealers during the course of these calls enables Bureau staff to begin the required background checks on handgun purchases.

As a part of the background check approval process, handgun dealers must submit a written notification form to the Bureau. If the information on the written notification forms confirms the information that was provided to the Bureau during the initial telephone call, the background check can normally be completed, based on information that was provided in the initial telephone contact to the Bureau. If the data on the written notification forms contains new information, additional limited or more involved follow-up review may be required before the purchase can be approved. Where an initial telephone inquiry or a subsequent follow-up review discloses a disqualification that would bar handgun ownership, the purchase request is denied.

The handgun hotline received 33,316 calls from dealers in 2003-04. Table 6 indicates the disposition of these background checks.

Table 6: Handgun Hotline Background Checks (2003-04)

	Calls
Instant Approvals	13,348
Limited Follow-up Approvals	17,421
Involved Follow-up Approvals	2,003
Denials	<u>544</u>
Total	33,316

The handgun purchaser record check program's 2004-05 budget is \$396,200 PR and 8.0 PR positions, supported by the \$8 handgun purchaser record check fee. Since its creation under 1991 Wisconsin Act 11, the program has ended each state fiscal year in deficit. During 2003-04, the program received \$270,500 in record check fees but expended \$391,600. At the end of the 2003-04 fiscal year, the program's cumulative deficit stood at \$917,900 and was projected to end 2004-05 with a deficit of \$1,054,900. As a part of DOJ's 2005-07 biennial budget request, the agency has proposed a variety of fee increase, program expansion, or program reduction alternatives to the Governor to address this deficit.

State Crime Laboratories

Under s. 165.75(2) of the statutes, DOJ is required to locate a state crime laboratory in Madison, Milwaukee, and Wausau. Each crime laboratory is considered a bureau within the Division of Law Enforcement Services. The Madison Crime Laboratory was created by the Legislature in 1947; the Milwaukee Crime Laboratory was opened in 1975; and the Wausau Crime Laboratory began operations in 1991.

The state crime laboratories are responsible for providing scientific and technical assistance to state and local law enforcement agencies, upon their

request. The budget in 2004-05 for the state crime laboratories totals \$10,904,600 and 108.33 positions. The state crime laboratories' funding is comprised of \$4,358,900 GPR, \$6,505,300 PR, and \$40,400 FED and 52.83 GPR, 53.50 PR, and 2.0 FED positions.

The state crime laboratories' program revenue-supported budget is funded from a variety of sources: (1) a \$7 crime laboratory and drug law enforcement assessment and a \$250 DNA surcharge (\$5,353,800 and 45.5 positions); (2) criminal history search fees (\$603,800 and 7.0 positions); (3) penalty surcharge revenues (\$536,600 and 1.0 position); and (4) inter- and intra-agency assistance funding (\$11,000).

A \$7 crime laboratory and drug law enforcement assessment is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for most violations of state law or municipal or county ordinance. In addition, a court imposes the \$250 DNA surcharge either when it imposes a sentence or places a person on probation for committing certain sex offenses or when it elects to do so under any circumstance in which the court has imposed a sentence or placed a person on probation for a felony conviction.

The criminal history search fees, described earlier in this section, are imposed whenever DOJ receives a request for a non-criminal justice search of the criminal history database.

The penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge equals 24% of the total fine or forfeiture.

Inter- and intra-agency assistance funding represent receipts from DOJ billings of other agencies or units for the Department's services.

Statutory Authorization. Under s. 165.75(3)(a) of the statutes, the purpose of the state crime laboratories is to "provide technical assistance to

local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. ...[T]he laboratories shall maintain services and employ the necessary specialists, technical and scientific employees for the recognition and proper preservation, marking and scientific analysis of evidence material in the investigation and prosecution of crimes in such fields as firearms identification, the comparison and identification of toolmarks, chemistry, identification of questioned documents, metallurgy, comparative microscopy, instrumental detection of deception, the identification of fingerprints, toxicology, serology and forensic photography."

Employees of the state crime laboratories may undertake investigation of criminal conduct only upon the request of a sheriff, coroner, medical examiner, district attorney, chief of police, warden or superintendent of any state prison, state agency head, the Attorney General or the Governor. Following such a request, the laboratories must collaborate fully in the complete investigation of criminal conduct and bring to bear the full range of their forensic skills. These efforts may involve field investigations at the scene of the crime. Both the Wausau and Madison crime laboratories have a mobile unit available for such field investigations 24 hours a day, seven days a week.

DOJ is authorized to decline the provision of laboratory services in any case that does not involve a potential felony charge. With the exception of some drug possession cases, the state crime laboratories generally do not accept misdemeanor cases.

State Crime Laboratory Operations. Both the Milwaukee and Madison crime laboratories provide all of the following analytical services to Wisconsin law enforcement agencies:

1. *Drug Identification.* A combination of different tests may be performed on an unknown material until the analyst can identify or eliminate the presence of any controlled substance, narcotic,

pharmaceutical, or other ingredient. Controlled substances are those compounds prohibited under Chapter 961 of the statutes.

2. *Toxicology.* An analysis of bodily specimens may be undertaken for the presence of chemicals that are harmful or for which ingestion is in some way defined as a criminal offense. The laboratory identifies and quantifies the amount of drugs, alcohol, and poisons in biological samples such as blood, urine, or tissue.

3. *Trace Chemistry.* A comparison and identification of trace evidence may be undertaken. This includes such substances as paints, soil, plastics, glass, insulation, arson accelerants, fireworks, explosives and synthetic fiber.

4. *DNA/Serology.* This type of analysis involves the identification and characterization of biological materials, including blood, semen and other body fluids.

5. *DNA Databank.* These activities involve the development, identification and cataloging of DNA profiles from biological samples collected from convicted offenders.

6. *Firearms/Toolmarks.* This activity involves the examination of firearms and ammunition, toolmarks and suspect tools, serial number restoration, and distance determination tests. To determine whether a firearm recovered in the case was the firearm that fired the bullets and cartridge cases that have been recovered, the laboratory compares the recovered bullets and cartridge cases with laboratory fired bullets and cartridge cases from the suspected firearm. A subsequent microscopic examination permits a final determination to be made.

7. *Identification.* This activity involves an analysis to determine the presence of fingerprints, palm prints, footprints, or tire treads and the comparison of such prints or treads to establish identity.

8. *Document Examination.* This type of analysis permits the comparison of handwriting, typewriting, and printing, and the analysis of inks, paper, and related materials. These services also include the deciphering of charred, obliterated, or indented documents.

9. *Forensic Imaging.* These services provide all laboratory sections with specialized forensic photography support using black and white, color, ultraviolet, digital, infrared and infrared luminescence techniques.

The Wausau Crime Laboratory provides services generally limited to controlled substances identification, document examination, fingerprint and footwear identification, and photography. The Wausau Crime Laboratory region is served by the Madison Crime Laboratory for the forensic service areas not otherwise provided at the Wausau Crime Laboratory. Appendix III identifies the geographic areas of the state served by each crime laboratory.

The three state crime laboratories are currently authorized the following types of specialists: (1) DNA analysts (25.0); (2) fingerprint and footwear examiners (14.0); (3) controlled substance analysts (12.0); (4) forensic program technicians (10.0); (5) forensic imaging specialists (6.0); (6) toxicologists (5.0); (7) firearms and toolmark examiners (5.0); (8) trace evidence examiners (4.0); (9) examiners of questioned documents (3.0); (10) a computer evidence recovery specialist (1.0); and (11) a forensic science training coordinator (1.0). In addition to these 86.0 specialists positions, an additional 22.33 supervisory and support positions include program assistants (7.0), forensic scientist supervisors (6.0), and crime laboratory directors (3.0).

Table 7 identifies the caseload of the state crime laboratory analysts during 2003-04.

DNA Testing. The analysis of deoxyribonucleic acid (DNA) evidence at crime scenes has become an increasingly important forensic tool for law

Table 7: Analyst Caseloads in 2003-04

Case Type	Opened	Completed
Bloodstain pattern	10	7
Computer evidence	47	40
Documents	135	168
DNA	1,413	996
DNA databank	344	285
Drugs	5,116	4,894
Firearms	1,362	912
Field photo	41	33
Field response	60	62
Forensic imaging	2,772	2,771
Identification	2,874	2,791
Toolmarks	55	49
Trace Chemistry	269	252
Toxicology	<u>644</u>	<u>535</u>
Total	15,142	13,795

enforcement agencies in recent years. Under s. 165.77 of the statutes, the state crime laboratories are required to provide DNA analysis and maintain a DNA databank. The laboratories are required to analyze the DNA in a human biological specimen, if requested: (1) by a law enforcement agency regarding an investigation; (2) pursuant to a court order; and (3) by an individual regarding his or her own specimen, subject to rules established by the Department. The laboratories may compare the data obtained from this specimen with data obtained from other specimens, but may not include the data from these specimens in the state DNA databank.

However, under other provisions of current law, the following persons are required to submit a DNA specimen for inclusion in the state's DNA database:

1. Those found guilty or delinquent of first or second degree sexual assault or of engaging in repeated sexual assaults of the same child (this category includes those found not guilty of such crimes by reason of mental disease or defect);
2. Those committed as sexually violent persons;

3. Those in prison for a felony committed in Wisconsin;

4. Those sentenced to prison or placed on probation for a felony conviction;

5. Those convicted of certain serious crimes ordered by a judge to submit a DNA sample; or

6. Those on parole, extended supervision or on probation in another state (but supervised in Wisconsin) for a violation in the other state that the Department of Corrections determines would be subject to 1 or 4 above, if committed in Wisconsin.

As of August 31, 2004, there were 74,022 DNA profiles in the state's convicted offender database. Approximately 1,400 additional DNA profiles monthly are added to this database. According to DOJ, Wisconsin's convicted offender DNA database is the seventh largest database of this type in the country.

"Latent" DNA profiles are developed from biological specimens from crime scenes that are not tied to a specific individual. As DNA profiles are added to the convicted offender DNA database, DOJ is increasingly able to match "latent" DNA profiles with profiles in the convicted offender DNA database. As of August 31, 2004, there were 1,923 latent DNA profiles in the state DNA database.

The convicted offender DNA database and the latent DNA profiles have become increasingly effective crime-solving tools. In calendar year 2002, there were 129 matches or "hits." These matches involved 112 offender profiles and 17 latent profiles, for an average of about 11 hits per month. In calendar year 2003, there were 168 hits, involving 144 offender profiles and 24 latent profiles, for an average of about 14 hits per month. For the first eight months of 2004, there were 165 hits, involving 145 offender profiles and 20 latent profiles, for an average of about 21 hits per month.

LAW ENFORCEMENT ACTIVITIES OF THE DEPARTMENT OF JUSTICE

Introduction

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 selected statutory provisions regulating or prohibiting the following: (1) prostitution; (2) illegal gambling; and (3) smoking.

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: (1) prostitution; (2) illegal gambling; (3) controlled substances; (4) battery or intimidation of jurors and witnesses; (5) machine guns; (6) extortion; (7) usurious loans; (8) loan sharking; (9) obstruction of justice; (10) arson; and (11) use of a computer to facilitate a child sex crime. With respect to these latter provisions, 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."

**Law Enforcement Activities of the
Division of Criminal Investigation**

The Department of Justice's Division of Criminal Investigation is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the Department enumerated above. 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 the Division of Criminal Investigation. Finally, on occasion, the Division of Criminal Investigation will also provide investigative assistance to local law enforcement, when requested, to help solve serious crimes.

The budget for the Division in 2004-05 is \$12,351,600 and 129.0 positions. The Division is organized into six bureaus and one separate unit. These are the: (1) Narcotics Bureau; (2) Gaming Enforcement Bureau; (3) Arson Bureau; (4) Investigative Services Bureau; (5) Special Assignments Bureau; (6) Public Integrity Bureau; and (7) a separate financial crimes unit.

Narcotics Bureau

The budget for the Narcotics Bureau in 2004-05 totals \$7,813,700 and 66.0 positions. The Bureau's total funding is comprised of \$2,704,600 GPR, \$3,379,000 PR, and \$1,730,100 FED and 21.0 GPR,

31.0 PR and 14.0 FED positions. The Bureau's staff consist of special agents (43.0), special agents in charge (9.0), program assistants (8.0), and supervisory and support personnel (6.0).

The Bureau's program revenue-funded budget is supported from the \$7 crime laboratory and drug law enforcement assessment and the \$250 DNA surcharge (\$1,799,000 and 19.0 positions) and by the penalty surcharge (\$1,580,000 and 12.0 positions). The \$7 crime laboratory and drug law enforcement assessment is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for most violations of state law or municipal or county ordinance. In addition, a court imposes the \$250 DNA surcharge either when it: imposes a sentence or places a person on probation for committing certain sex offenses; or when it elects to do so under any circumstance in which the court has imposed a sentence or placed a person on probation for a felony conviction.

The penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge equals 24% of the total fine or forfeiture.

Statutory Authorization. Under s. 165.70 of the statutes, the Department is charged with enforcing the Uniform Controlled Substance Act (Chapter 961) for violations that are statewide in nature, importance or influence. Further, s. 165.72 of the statutes provides that DOJ must maintain a single toll-free telephone number during normal retail business hours where persons may provide anonymous tips regarding suspected controlled substances violations and where pharmacists may report suspected controlled substances violations. DOJ is required to cooperate with the Department of Public Instruction in publicizing the use of this toll-free telephone number in the public schools.

Program Administration. The Bureau administers a statewide drug enforcement program to stem the flow of drugs into and within the state.

The Bureau: participates in cooperative anti-drug efforts with local, state, and federal law enforcement agencies; provides investigative assistance to local law enforcement; and initiates independent drug investigations.

Organized Crime Drug Enforcement Task Force. The Bureau participates in the federal Organized Crime Drug Enforcement Task Force. This task force is a program administered by the United States Attorneys' Offices in both the Eastern District and the Western District of Wisconsin. The task force targets organized, high-level drug trafficking groups. State and local agencies investigating high-level drug traffickers apply to the United States Attorney for task force funding. Task force funding ordinarily pays for overtime, travel and other expenses related to drug investigations.

High Intensity Drug Trafficking Area Task Force. The Narcotics Bureau is also involved in the Milwaukee High Intensity Drug Trafficking Area Task Force (HIDTA). The goal of this multi-jurisdictional task force is to apply enhanced intelligence processes, a high level of enforcement, coordination, and prosecution to reduce organized drug distribution, drug-related violent crime, and money laundering.

The enforcement component of the HIDTA task force consists of three investigative initiatives: (1) the Common Threat Task Force; (2) the Heroin Initiative; and (3) the Joint Drug Gangs Task Force. The Common Threat Task Force identifies individuals and organizations involved in the importation and distribution of cocaine. The task force is an FBI-supervised, multi-agency initiative that focuses on long-term investigative efforts. The Heroin Initiative is a Narcotics Bureau-supervised initiative that investigates organizations and individuals involved in high-level heroin trafficking in the Milwaukee HIDTA region. Finally, the Joint Drug Gangs Task Force is a multi-agency initiative supervised by the Milwaukee Police Department. The task force focuses on the

identification, infiltration, disruption, and dismantling of violent street gangs involved in drug trafficking in the Milwaukee area.

Agents of the Narcotics Bureau are involved as task force members in all three enforcement initiatives. In addition, a special agent in charge from the Narcotics Bureau serves as the coordinator for all three investigative initiatives and reports directly to the HIDTA Board of Directors. The Bureau also provides clerical and analytical support to the HIDTA Task Force, and provides assistance during wiretap operations.

Clandestine Laboratory Enforcement and Response Team. The Narcotics Bureau has identified as a significant challenge the current proliferation of methamphetamine laboratories, particularly in northwestern Wisconsin. The number of such laboratories identified and decommissioned by the narcotics bureau has increased steadily from eight in 1999, to 111 in 2003. The narcotics bureau anticipates processing approximately 120 methamphetamine laboratories in 2004. The number of criminal cases related to methamphetamine in Wisconsin has increased from 16 in 1991 to a projected 584 in 2004.

To combat the spread of methamphetamine, the Bureau has developed the Clandestine Laboratory Enforcement and Response Team (CLEAR). This multi-jurisdictional team of approximately 100 members represents 59 law enforcement agencies across the state, including special agents from the Narcotics Bureau.

Members of the CLEAR team are trained to dismantle methamphetamine laboratories, collect evidence, and prepare these laboratory sites for outside contractors to dispose of hazardous chemicals. The CLEAR team is also involved in community education and prevention efforts.

Drug Tipline and Pharmacy Hotline. Section 165.72 of the statutes requires the Bureau to operate both the drug tipline and the pharmacy hotline from the same toll-free telephone number. All calls made to this telephone number are received by the Dane County Dispatch Center, which operates the tipline and hotline under contract with DOJ. This toll-free telephone number received 1,085 calls in 2002-03 and 987 calls in 2003-04.

Training. The Narcotics Bureau provides drug enforcement training to law enforcement recruits at nearly all of Wisconsin's police recruit academies. This six-hour block of instruction provides basic knowledge of controlled substance abuse and recognition. In addition, specialized training is provided to certified local law enforcement officers in the form of basic and advanced drug enforcement schools. Topics include specific training in search and seizure law, execution of search warrants, undercover activity, surveillance, consent searches, and the latest drug trends throughout the state.

The Bureau also coordinates training for the Drug Abuse Resistance Education (DARE) program, which certifies local law enforcement officers to teach the DARE curriculum in schools. The DARE curriculum teaches children from kindergarten through 12th grade how to resist peer pressure and live productive drug and violence free lives. Prior to entering the DARE program, officers undergo 80 hours of special training in child development, classroom management, teaching techniques, and communication skills. Forty hours of additional training are provided to experienced DARE instructors to equip them to teach a curriculum targeted to high school audiences.

Bureau Caseload. In 2003-04, the Bureau was involved in 1,714 narcotics cases.

Gaming Enforcement Bureau

The budget for the Gaming Enforcement Bureau in 2004-05 is \$570,600 and 5.0 positions. The Bureau's total funding is comprised of \$254,200 PR and \$316,400 SEG and 2.25 PR and 2.75 SEG positions. The Bureau's staff consists of a director and 4.0 special agents.

The Bureau's program revenue-funded budget is supported by pari-mutuel racing revenue (\$137,000 and 1.0 position) and by tribal gaming revenues (\$117,200 and 1.25 positions). The bureau's SEG-supported operations (\$316,400 and 2.75 positions) are funded from lottery fund revenues.

Statutory Authorization. Prior to the enactment of 1991 Wisconsin Act 269, DOJ had enforcement responsibilities relating to bingo control, crane games, racing and pari-mutuel wagering, the lottery, gambling on Indian lands and general gambling prohibitions.

Act 269 specified that DOJ establish a bureau to oversee the Department's gambling-related responsibilities, and provided additional funding and staffing for these enforcement activities. The primary consideration for providing the additional resources appears to have been the increased workload associated with the new tribal gaming compacts.

The legalization of gaming on Indian lands initially raised a number of jurisdictional questions with respect to which federal, state or local entity had primary enforcement authority. On August 26, 1992, the United States Attorneys for the Eastern District and the Western District of Wisconsin, the FBI, and DOJ agreed that the Division of Criminal Investigation, through its gaming enforcement bureau, would be the primary contact for reporting and investigating all alleged criminal activity affecting the operation and administration of Class

III (casino) Indian gaming in Wisconsin. This agreement does not preclude criminal investigation by local or tribal law enforcement agencies; however, the Division is to be apprised by local or tribal law enforcement agencies (or others) of criminal allegations and investigations affecting the integrity of Indian gaming in Wisconsin. This notification requirement is intended to ensure the coordination of investigations of common interest and to encourage the prompt dissemination of information that may be of concern to other gaming operations or enforcement agencies.

Under ss. 165.60 and 165.70 of the statutes, the Department, through its gaming enforcement bureau, is granted criminal law enforcement responsibilities relating to pari-mutuel racing, the Wisconsin Lottery, Indian gaming, charitable gaming, bingo and illegal gambling. The Department of Revenue's Division of Lottery and DOA's Division of Gaming are required by statute to report all suspected criminal activity to DOJ.

The Gaming Enforcement Bureau also conducts background investigations related to major procurement contracts for the Wisconsin Lottery, and assists DOA's Division of Gaming in conducting background investigations of contractors and individuals seeking certification or licensure relating to Indian gaming or pari-mutuel racing. In addition, the Bureau assists local law enforcement in meeting its responsibility to enforce the state's gambling laws.

Program Administration. In 1996, Wisconsin had 16 casinos with 10,000 gaming machines. By 2004, this number had grown to 23 casinos with 16,000 gaming machines.

This growth in casino gambling activity has impacted the level of law enforcement activities by Gaming Enforcement Bureau staff. The Bureau's staff was involved in 91 cases in 2003-04.

In addition to its statutory law enforcement responsibilities, the Gaming Enforcement Bureau

also provides training for local, state and federal law enforcement officers on matters relating to gaming.

Remaining DCI Operations

The budget in 2004-05 for the remaining Division of Criminal Investigation bureaus and units (the Arson Bureau, the Investigative Services Bureau, the Public Integrity Bureau, the Special Assignments Bureau, and the separate financial crimes unit) is \$3,967,300 and 58.0 positions. This funding is comprised of \$3,071,000 GPR, \$183,200 FED, and \$713,100 PR and 47.5 GPR, 3.0 FED and 7.5 PR positions. The staff authorized for these operations consists of special agents (33.0), program assistants (10.0), program and planning analysts (3.0), attorneys (3.0), and supervisory and support personnel (9.0).

The program revenue-funded portion of these budgets is supported by the \$7 crime laboratory and drug law enforcement assessment and the \$250 DNA surcharge described previously (\$525,000 and 5.0 positions) and by inter- and intra-agency assistance funding (\$188,100 and 2.5 positions).

Arson Bureau

Statutory Authorization. Under s. 165.55(1) of the statutes, the fire chief or chief executive of every Wisconsin municipality must investigate all fires in the jurisdiction causing more than \$500 in damage, and report those of suspicious origin to the state fire marshal in the arson bureau.

Program Administration. The Arson Bureau responds to fatal fires, fires with statewide importance, large commercial structure fires, fires suspected to be arson by local authorities, explosions, and fires involving injury or death to first responders. The Bureau does not respond to requests from insurance companies or private

citizens. According to DOJ, most local jurisdictions depend on the Bureau to conduct these investigations because the local authorities typically lack the resources to develop a high level of expertise in arson cases.

The Bureau was involved in 284 cases in calendar year 2003. In addition to this arson caseload, Bureau staff provide fire and arson investigation training to local fire and law enforcement officials.

Investigative Services Bureau

The Investigative Services Bureau provides specialized investigative support services for the Division of Criminal Investigation and to law enforcement agencies statewide. The Bureau is divided into six functional areas.

Computer Crimes Unit. This section investigates crimes committed using the computer and analyzes information contained in electronic formats. The personnel in this section are trained to conduct forensic analysis of computer evidence. The computer crimes unit conducted nine forensic computer exams in 2002-03 and 85 forensic exams in 2003-04.

Covert Surveillance Section. This section provides covert surveillance investigative support for all types of criminal investigations. Special agents from this section install and operate the equipment necessary to gather information on criminal activity. Assistance is available to all law enforcement agencies for nearly all forms of felony criminal investigations. The Division of Criminal Investigation may limit its investigative involvement in a given case to the provision of technical surveillance services. The Department indicates that through partnerships with federal programs and initiatives, the Division has been able to secure state-of-the-art covert surveillance equipment. The covert surveillance section assisted with 102 investigations in 2003-04.

Intelligence Analysis Section. This section provides analysis and specialized investigative support to the Division of Criminal Investigation and to other law enforcement agencies in the state. The section offers both experienced criminal intelligence analysts and specialized analytical software. Analytical services are normally free of charge to Wisconsin law enforcement agencies and prosecutors for investigations of all types of crime. In calendar year 2004, the section received 54 new requests and continued support on 140 ongoing investigations.

Investigative Records Section. This section provides information gathering, program support and background searches, and manages the Division's investigative records. The section serves as the Wisconsin liaison to the FBI's Violent Criminal Apprehension Program (ViCAP). ViCAP is a national data center organized to collect, collate and analyze specific investigative data. The purposes of the system are to enable local and state law enforcement agencies to link potentially related cases and to establish state and local crime trends.

Internet Crimes Against Children Task Force. This task force was created in 1998 with federal funding to counter the emerging threat of offenders using online technology to sexually exploit children. The task force conducts investigations, provides investigative 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 another unit in the investigative services bureau, the Wisconsin Clearinghouse for Missing and Exploited Children, to provide support services to children and families that have experienced victimization.

In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the Cyber Tips

Program. Over 375 tips under this program have been investigated by the Internet Crimes Against Children Task Force or have been referred to local law enforcement agencies for action.

In 2003-04, the task force was involved in 389 investigations. Since its inception, the task force has arrested 139 individuals, most of whom were arrested for using a computer to facilitate a child sex crime.

Wisconsin Clearinghouse for Missing and Exploited Children. The clearinghouse serves as a resource for both law enforcement and affected families in investigating cases involving missing and abducted children. The state works in conjunction with the National Center for Missing and Exploited Children, and forms part of a nationwide network that works to reunite missing and abducted children with their families.

In 2000, the clearinghouse received two dozen calls for service. By 2003, this had increased to 349 calls for service. Based on these calls, the clearinghouse initiated 123 cases in 2003.

In April, 2003, Congress passed the Protect Act of 2003. This act created the national Amber Alert System. Under Amber Alert, the public is quickly informed through television and radio public service announcements of a child's abduction. This immediate and widespread dissemination of information alerts the public, some of whom may be able to provide relevant and timely information to law enforcement that could end an abduction and result in the apprehension of the perpetrator.

The clearinghouse has been responsible for establishing and monitoring the state Amber Alert System. The Division of Criminal Investigation has entered into a contract with the Dane County Dispatch Center to provide the technical services associated with a statewide Amber Alert. [This same contract provides for the Drug Tipline and Pharmacy Hotline operated by the Division's Narcotics Bureau.] Since its inception on April 30,

2003, the clearinghouse has evaluated 21 requests for Amber Alert activation and has activated the system on four occasions. Each activation resulted in the safe recovery of the child.

Special Assignments Bureau

The Special Assignments Bureau is responsible for conducting a broad range of criminal investigations involving crimes of statewide importance or influence. The Bureau may be requested to lead or provide assistance to local law enforcement agencies in major criminal cases. The Bureau's involvement is usually requested when local law enforcement agencies conclude either that the matter under investigation may exceed the capability of local resources or that the seriousness of the offense warrants state intervention.

The Special Assignments Bureau is responsible for maintaining intelligence on subjects involved in organized criminal activity, including those posing a threat to domestic security. The Bureau may also be called on to carry out complex and sensitive criminal investigations requested by the Attorney General, the Governor, or the Legislature.

The Special Assignments Bureau collaborates with the federal Bureau of Alcohol, Tobacco and Firearms (ATF) under the federal CEASEFIRE program. The purpose of the program is to reduce gun violence through the aggressive prosecution of crimes involving guns. The Bureau's involvement with this program also brings it into collaboration with the U.S. Attorney's Office, the Milwaukee County District Attorney's Office, the Milwaukee Police Department, Milwaukee suburban police departments, and the Firearms Injury Center. The bureau also serves as the Wisconsin liaison to INTERPOL, which promotes mutual assistance among international law enforcement authorities.

The Special Assignments Bureau staff provides training to other state agencies, law enforcement agencies at all levels, and new law enforcement recruits. The subjects of training include death

investigations, organized crime, interviewing of suspects, and report writing skills.

Public Integrity Bureau

Statutory Authorization. Under s. 165.50 of the statutes, the Division of Criminal Investigation is authorized to investigate crime that is statewide in nature, importance, or influence. While the Division is not specifically authorized to investigate crimes arising under the Code of Ethics for Public Officials (Chapter 19), bribery and official misconduct provisions (Chapter 946), or violations of state election or campaign laws under the state election code (Chapters 5 through 12), district attorneys may refer cases arising under these statutory provisions to the Department for prosecution. Under such circumstances, the Public Integrity Bureau is authorized to assist DOJ attorneys in the prosecution of the case.

The Department also has primary enforcement responsibility regarding the state's open records and open meetings laws.

Program Administration. The Public Integrity Bureau consists of 5.0 special agents funded under the law enforcement services' general program operations appropriation. The Attorney General established the Bureau in August, 2003, through the reallocation of existing staff.

The Bureau generally works in cooperation with other agencies such as the Elections Board, the Ethics Board, local law enforcement agencies, and district attorneys in evaluating and investigating civil and criminal complaints involving state election and ethics laws, campaign finance, and misconduct in public office violations. The Bureau has independent authority to investigate violations of the state's open meetings and open records laws.

Referrals to the Public Integrity Bureau come from a number of sources. These include: (1) internal requests from assistant attorneys general to investigate complaints received from citizens or

other sources; (2) requests from local law enforcement agencies or district attorneys for investigative assistance; and (3) requests from other state agencies for investigative assistance with complaints involving matters within their regulatory jurisdiction.

The Bureau was involved in 79 investigations in 2003-04. To date, the Bureau has responded to over 190 citizen enquiries involving state agencies, state officials, or local governments in 52 of Wisconsin's 72 counties.

Financial Crimes Unit

The financial crimes unit conducts criminal investigations of complaints relating to: (1) economic or "white collar" crimes (such as embezzlement, theft, bank fraud, security fraud, health care fraud, insurance fraud and identity theft); (2) antitrust violations (such as bid rigging, territory allocation and restraint of trade); and (3) petroleum environmental cleanup (PECFA) violations. The unit 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.

The non-PECFA operations of the financial crimes unit are funded from the law enforcement services' general program operations appropriation. The non-PECFA staff was involved in 80 cases in 2003-04.

The PECFA-funded component of the unit was funded at \$137,500 PR in 2004-05, which supported 1.0 PR special agent position. This special agent investigates PECFA fraud by owners, consultants and service providers. These activities are funded through the s. 20.455(2)(k) inter-and intra-agency assistance appropriation with petroleum fund monies transferred from the Department of Commerce.

By late 2004, the financial crimes unit had nine open PECFA investigations involving 19 businesses and 27 individuals. Six of the cases were active during the 2002-03 fiscal year; and the remaining three cases were initiated during the 2003-04 fiscal year. These investigations involve alleged criminal violations, including multiple counts of conspiracy to commit theft by fraud and through antitrust violations.

PROSECUTORIAL RESPONSIBILITIES OF DISTRICT ATTORNEYS

There are 71 district attorneys in Wisconsin. Under Article VI, Section 4 of the Wisconsin Constitution, a district attorney (DA) is elected to a two-year term at the general election held in each even-numbered year. Each county in the state is termed a "prosecutorial unit" except that Shawano and Menominee counties form a two-county prosecutorial unit and jointly elect a single district attorney. Under current law, district attorneys are part-time positions in Buffalo (0.5), Florence (0.5), Pepin (0.8), Trempealeau (0.6) and Vernon (0.9) Counties, and are full-time in all other prosecutorial units.

**Duties and Responsibilities
of District Attorneys**

District attorneys are required to perform the following duties within their respective prosecutorial units:

1. Prosecute all criminal actions in state courts.
2. Except as otherwise provided by law, prosecute all state forfeiture actions, county traffic actions and actions concerning violations of county ordinances which are in conformity with state criminal laws.
3. Participate in John Doe proceedings (proceedings to determine whether a crime has been committed and by whom).

4. When requested, appear before grand juries to examine witnesses and provide advice and legal services to the grand jury.

5. Assist the Department of Workforce Development in conducting welfare fraud investigations.

6. At the request and under the supervision of the Attorney General, brief and argue felony and other significant criminal cases, brought by appeal or writ of error or certified from a county within the DA's prosecutorial unit, to the Court of Appeals or Supreme Court.

7. Commence or appear in certain civil actions.

8. Perform duties in connection with certain court proceedings under the Juvenile Justice Code (Chapter 938), including juvenile delinquency actions.

9. Enforce certain provisions relating to the sale, transportation and storage of explosives.

In addition to these duties, a county has the option of designating the district attorney as its representative in certain proceedings involving children or juveniles. These proceedings include matters relating to: (1) children or juveniles alleged to have violated civil laws or ordinances; (2) children alleged to be in need of protection or services; (3) the termination of parental rights to a minor; (4) the appointment and removal of a guardian; and (5) the adoption of children.

District Attorney Funding and Staffing

While some counties have a single district attorney to perform these duties, most DAs have one or more assistant DAs who are also authorized to perform the duties specified above. If a county has a population of 100,000 or more, the DA may appoint between one and five deputy DAs, depending on the county's total population. Deputy DAs perform supervisory and administrative responsibilities in addition to prosecuting cases.

Prior to January 1, 1990, district attorneys, deputy DAs, and assistant DAs were county employees. Under 1989 Wisconsin Act 31, prosecutors became state employees on January 1, 1990, and the state now pays for prosecutors' salaries and fringe benefits.

A court may appoint a special prosecutor on its own motion to perform the same duties as a state-employed prosecutor. In addition, a district attorney may request that the court appoint a special prosecutor to assist the district attorney in a prosecution, grand jury or John Doe proceeding or investigation. The state pays for the compensation of special prosecutors, while other expenses reimbursed to special prosecutors are paid by counties. A special prosecutor may typically be appointed when: (1) there is no district attorney; (2) the district attorney is absent; (3) the district attorney or a member of his or her staff have a conflict of interest; (4) the district attorney is unable to attend to his or her duties; (5) the district attorney is serving in the armed forces; (6) the district attorney is charged with a crime; or (7) the district attorney cannot perform his or her duties due to a medical situation. In 2003-04, the state incurred \$165,200 GPR in special prosecutor expenses.

Other than for the state-funded costs of prosecutors' salaries and fringe benefits, the

remaining staff costs of DA offices are generally the responsibility of counties. The only exception is that 6.5 clerk positions in the Milwaukee County District Attorney's office are supported through a special prosecution clerks fee. This \$3.50 fee is assessed only in Milwaukee County whenever a person pays: (1) a fee for any civil, small claims, forfeiture (except for safety belt use violations), wage earner or garnishment action; or (2) files an appeal from municipal court, a third party complaint in a civil action, or a counterclaim or cross complaint in a small claims action. The fee supports staff serving prosecutors who handle violent crime and felony drug violations in Milwaukee County's speedy drug and violent crime courts (4.5 clerks) and violations relating to the unlawful possession or use of firearms (2.0 clerks). In 2004-05, \$276,400 PR is budgeted to fund the salary and fringe benefit cost of these clerk positions.

In order to administer the state's responsibility as employer of DAs, deputy DAs and assistant DAs, Act 31 created the State Prosecutors Office in the Department of Administration (DOA). The State Prosecutors Office is responsible for coordinating DOA administrative duties relating to district attorney offices. Major responsibilities of the Office include: (1) payroll; (2) fringe benefits; (3) budgets; (4) billing counties for program revenue positions; (5) collective bargaining; (6) advising elected DAs on their rights and responsibilities under the assistant DA collective bargaining agreement; (7) producing fiscal notes and bill analyses for legislative proposals affecting DAs; and (8) serving as a central point of contact for all prosecutors. The State Prosecutors Office is budgeted \$118,900 GPR in 2004-05.

Through DOA, the state also provides funding and staff for computer automation in district attorney offices statewide, including the development of a DA case management system, and the development of integrated justice information systems shared by DAs, the courts, law enforcement and other justice agencies. These

systems are being implemented on a county-by-county basis. Funding for the DOA program in 2004-05 is \$3,406,400 PR supported from \$2 of the justice information fee (\$1,653,400) and federal Byrne anti-drug grant program and associated state match monies provided through the Office of Justice Assistance (\$1,753,000). Through September, 2004, the state has installed: (1) local area networks and related hardware and software in 69 DA offices statewide; (2) the DA case management system in 60 DA offices; and (3) a connection to the state court system's database (CCAP) in 43 DA offices. Counties continue to have financial responsibility for all other costs related to the operation of a district attorney's office.

On the date of transition to state service, 332.05 prosecution positions became state employees. As of December 1, 2004, 430.0 prosecutor positions were authorized, including 375.4 funded from general purpose revenue and 54.6 funded from program revenue. Funding for DAs in 2004-05 is \$36,284,500 GPR and \$1,783,100 PR.

In addition to the general prosecutor positions authorized for county DA offices, there are currently two types of specialized state-funded prosecutor positions. First, 1.0 GPR-funded sexually violent person commitment prosecutor position has been assigned by statute to Brown County and to Milwaukee County, respectively. By statute, these two positions may only engage in proceedings related to the civil commitment of sexually violent persons. While these positions are primarily responsible for such proceedings in Brown and Milwaukee Counties, these prosecutors may also be assigned to similar types of cases in other counties in the state. In calendar year 2003, the Brown County sexually violent person commitment prosecutor handled six cases while the Milwaukee County sexually violent person commitment prosecutor handled eight cases. Second, 1.0 PR-supported statewide DNA evidence prosecutor position has been assigned to Milwaukee County. This position is funded from a portion of the \$7 crime laboratory and drug law

enforcement assessment and from the \$250 DNA surcharge, which are imposed in certain criminal and forfeiture actions. This PR-funded DNA evidence prosecutor position is primarily responsible for: (1) prosecuting criminal cases where DNA evidence plays a critical role; (2) developing and presenting appropriate training sessions statewide relating to the use of DNA evidence; and (3) providing expert advice on DNA evidence to a variety of criminal justice agencies in the state.

The three most significant sources of support for program revenue-funded prosecutor positions are the Edward Byrne grant program established under the federal Anti-Drug Abuse Act of 1988, the Violence Against Women Act (VAWA) grant program originally created under the federal Violent Crime Control and Law Enforcement Act of 1994, and federal Title IV-E funding under the Social Security Act. These three revenue sources provide support for approximately two-thirds of the PR funded prosecutorial positions.

Federal Byrne grant funds, which are administered by DOA's Office of Justice Assistance (OJA), may be used to address drug control, violent and serious crimes. The funding of positions to prosecute these types of crimes is an authorized use of Byrne grant monies. These federal Byrne funds require a 25% match, which is provided from penalty assessment funds from OJA. Whenever a court imposes a fine or forfeiture for a violation of state law or municipal or county ordinance (except for violations involving smoking in restricted areas, failing to properly designate smoking or nonsmoking areas, nonmoving traffic violations or violations of safety belt use), the court also imposes a penalty assessment of 24% of the total fine or forfeiture. As of December 1, 2004, 15.0 PR prosecutor positions were supported with Byrne and matching penalty assessment funds.

There are a number of grant programs authorized under the Violence Against Women Act, including both the STOP Violence Against

Women Formula Grants and the Judicial Oversight Demonstration Project. The purpose of these grant programs is to develop and strengthen the criminal justice system's response to violence against women and to support and enhance services for victims. As of December 1, 2004, 11.0 prosecutor positions were supported with funds from these VAWA grant programs.

Title IV-E funds under the federal Social Security Act are available to support prosecutorial positions providing legal services for child welfare actions under the Children's Code (Chapter 48 of the statutes), primarily involving children in need of protection and services and termination of parental rights actions. As of December 1, 2004, 9.4 prosecutor positions were supported with Title IV-E funding.

Under current law, the salaries of district attorneys are established under the biennial state compensation plan. The compensation plan must establish separate salary rates for DAs depending on the population size of each prosecutorial unit. For DA terms beginning January 3, 2005, the rates have been established as shown in Table 8.

Table 8: District Attorney Salaries

Prosecutorial Unit Population	Salary
More than 500,000	\$115,496
250,000 to 500,000	104,052
100,000 to 250,000	98,581
75,000 to 100,000	98,581
50,000 to 75,000	93,649
35,000 to 50,000	93,649
20,000 to 35,000	83,243
Not more than 20,000	83,243

Assistant district attorney compensation is established under a collective bargaining agreement with the state. The minimum annual assistant DA salary is \$41,562 and the maximum is \$106,628. The salary range for deputy DAs is

established under the biennial state compensation plan and is identical to the assistant DA salary range. However, deputies may qualify for an additional \$2.75 per hour supervisory differential (\$5,742 annually), based on such factors as the organizational structure of the prosecutorial unit, internal and external relationships, size of staff, and other reasonable criteria deemed appropriate.

Table 9 shows the number of prosecutor positions authorized for each county as of December 1, 2004.

Prosecutorial Workload

Every two years during budget deliberations, the Governor and Legislature assess the need for additional prosecutors in the 71 separate DA offices across the state. The caseload of these DA offices, both individually and collectively, has been viewed by the Legislature as an important factor in determining the allocation of additional prosecution staff to these DA offices.

In 1995, a number of legislators and district attorneys raised questions about the caseload measurement of prosecutorial workload that was in place at the time. In response to those concerns, the Joint Legislative Audit Committee directed the Legislative Audit Bureau (LAB) to review options for measuring prosecutorial workload and improving the system for assessing the need for prosecutorial resources.

The results of the LAB findings were released in December, 1995, and identified a number of problems with the caseload weighting system then in use. After reviewing Wisconsin's and other states' methods of measuring prosecutorial caseload, the LAB made a number of recommendations, including improving the caseload measurement to: (1) use currently available data to express caseload in hours (for

Table 9: State Prosecutor Positions – 2004-05

County	Positions	County	Positions
Adams	1.20	Marathon	10.00
Ashland	1.75	Marinette	2.50
Barron	3.00	Marquette	1.00
Bayfield	1.00	Milwaukee	123.50
Brown	14.00	Monroe	3.00
Buffalo	1.00	Oconto	1.50
Burnett	1.00	Oneida	2.50
Calumet	2.00	Outagamie	13.60
Chippewa	4.75	Ozaukee	3.00
Clark	2.00	Pepin	0.80
Columbia	4.50	Pierce	2.50
Crawford	1.00	Polk	2.00
Dane	31.35	Portage	4.00
Dodge	4.00	Price	1.00
Door	2.00	Racine	18.00
Douglas	3.50	Richland	1.80
Dunn	3.00	Rock	14.50
Eau Claire	8.00	Rusk	1.50
Florence	0.50	Saint Croix	5.70
Fond du Lac	5.00	Sauk	4.50
Forest	1.00	Sawyer	2.00
Grant	2.00	Shawano/Menominee	3.00
Green	2.00	Sheboygan	7.50
Green Lake	1.50	Taylor	1.00
Iowa	1.75	Trempealeau	1.60
Iron	1.00	Vernon	1.90
Jackson	2.00	Vilas	2.00
Jefferson	5.30	Walworth	5.00
Juneau	2.50	Washburn	1.50
Kenosha	15.00	Washington	5.00
Kewaunee	1.50	Waukesha	15.50
LaCrosse	8.00	Waupaca	3.50
Lafayette	1.00	Waushara	1.50
Langlade	1.50	Winnebago	10.50
Lincoln	2.00	Wood	<u>4.00</u>
Manitowoc	5.00	Total	430.00

example, assign a Class A Homicide a weight of 100 hours to complete); (2) recognize that certain types of cases within a broader category may take more time than other cases within that category (for example, homicides require more time than other felonies); and (3) use a three-year average for case filing data.

The LAB also recommended that once a more accurate case measurement system was developed, a productivity standard be created for DAs to determine the time that a prosecutor has available to prosecute cases (similar to the method used to

determine judicial resources). The LAB conducted the first step of the calculation by estimating the average number of state holiday hours, personal hours, sick leave, and vacation time per prosecutor. This total, estimated at 300 hours per year, was then subtracted from 2,088 hours (the total number of hours per prosecutor position per year) to derive a 1,788 working hours per year standard. The LAB recommended that either a Legislative Council special committee be established or a committee be organized by the State Prosecutors Office with appropriate prosecutor representation to estimate the average time spent on other duties such as administrative and investigative work, training, reviewing cases that are never charged and community service. The average time spent on these other duties could then be subtracted from the available working hours estimate to calculate the average number of hours actually available to prosecute cases.

In response to the LAB's recommendations, the State Prosecutors Office, in conjunction with the Wisconsin District Attorneys Association (WDAA), reviewed available data and surveyed district attorneys to estimate this "time-available" standard for prosecutors. The WDAA is an association of state district attorneys that meets to discuss various issues that affect DAs. Since DAs do not have any type of official state governing board, the WDAA has decided to act as the official voice for state prosecutors. In this regard they appointed a committee to rework the measurement of district attorney position allocation, taking into account some of the LAB recommendations.

The committee estimated the amount of time spent by district attorneys on various non-prosecutorial activities such as administrative work, community service, search warrants, appeals, contested ordinance and civil traffic cases, training and other such duties. The estimate was then reviewed by all district attorney offices. The

resulting estimate indicated that, on average, DAs spend approximately 561 hours per year on duties other than prosecuting cases. Subtracting this estimate from the LAB's baseline estimate of 1,788 working hours available per prosecutor, 1,227 hours per prosecutor were projected as being available for prosecution per year.

The committee also estimated average prosecutorial hours required for different types of cases. This estimate was based on: (1) information resulting from a time study conducted by DAs in 1993-94 for which DAs recorded hours spent on various cases; and (2) various modifications to the time study as recommended by committee members.

Once these estimates were complete, the State Prosecutors Office received caseload filing data for each county from the Director of State Courts. The Office averaged the data over a three-year period,

as recommended by the LAB, to limit the effect of differences in charging practices and annual fluctuations in caseload. The total hours required to handle the cases filed in each county was then calculated. The resulting figure was compared to the total number of prosecutor hours available in that county (1,227 available working hours times the number of prosecutors) to determine the ability of the county DA office to handle its likely annual workload with existing staffing resources. The Legislature and the Governor continue to employ this methodology to measure prosecutorial workload in the DA offices across the state.

Nonetheless, the WDAA has disagreed with the LAB's recommendation that a three-year average of caseload filings be used for the workload analysis. The Association has indicated that, with generally rising caseloads, the three-year average tends to understate the current need for additional prosecutor resources.

PROSECUTORIAL AND RELATED RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE

While district attorneys are primarily responsible for prosecuting criminal and juvenile delinquency offenses at the trial or hearing level, the Department of Justice's Division of Legal Services represents the state in felony and other significant criminal and juvenile delinquency cases on appeal. In addition, the Division: (1) represents the state in prisoner and sex predator conditions of confinement suits; (2) assists DAs, when requested, in certain criminal prosecutions; and (3) 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: (1) criminal appeals; (2) civil litigation and employment; and (3) criminal litigation, antitrust, consumer protection, and public integrity. This chapter discusses the prosecutorial and related workload of each of these units.

The criminal justice workload of the Division is GPR funded, supported by the Division's general program operations appropriation.

Criminal Appeals Unit

Statutory Authorization. Under s. 165.25(1) of the statutes, DOJ is required to represent the state in all appeals of felony convictions to the state Court of Appeals or Supreme Court. Under s. 165.25(1) of the statutes, DOJ also represents the state in appeals of significant criminal and juvenile

delinquency cases. However, at the request of and under supervision of the Attorney General, a district attorney may brief and argue before the state Court of Appeals or Supreme Court a felony or other significant criminal or juvenile delinquency case on appeal from his or her jurisdiction.

Under s. 752.31 of the statutes, misdemeanor, juvenile delinquency, and traffic appeals are normally decided by a single Court of Appeals judge. However, any party to the appeal may request that the case be decided by a three-judge panel.

A district attorney who filed a misdemeanor, juvenile delinquency, or traffic case that is on appeal to a single Court of Appeals judge, must represent the state. However, if a request for a three-judge panel is granted in such an appeals case, the district attorney must transfer all relevant files and papers relating to the case to the Attorney General.

Because of these responsibilities, the criminal appeals unit has a significant criminal justice workload.

Program Administration. While most initial felony prosecutions are handled by the district attorney of jurisdiction, the criminal appeals unit is charged with preparing briefs and presenting arguments before state appellate or any federal court hearing a challenge to a felony conviction.

The unit also represents the state in these courts on appeals arising from sexual predator commitments, and on appeals of selected

misdemeanor, traffic, and juvenile delinquency cases.

While district attorneys are authorized to accept felony and other significant criminal and juvenile delinquency cases on appeal, at the request and under the supervision of the Attorney General, this delegation to district attorneys is only rarely done.

The criminal appeals unit also defends state criminal convictions in federal habeas corpus proceedings. In a petition for federal habeas corpus relief, a convicted criminal defendant argues in federal district court that his or her conviction and/or sentence should be overturned because it was obtained in violation of the defendant's federal constitutional rights. Attorneys from the criminal appeals unit also represent the state when these habeas corpus cases are appealed to the United States Court of Appeals and to the United States Supreme Court.

The criminal appeals unit prepares and distributes training materials, briefing memoranda, and other publications to assist local prosecutors. Staff of the unit also review and draft legislation affecting the criminal justice system and advise the Governor on extradition matters.

Due to the unit's efforts to address a backlog, in 2002-03, the criminal appeals unit opened 3,586 cases and closed 3,601 cases. In 2003-04, the unit opened 2,122 cases and closed 1,980 cases.

Civil Litigation and Employment Unit

Statutory Authorization. The civil litigation and employment unit is responsible for representing the state in prisoner and sex predator conditions of confinement suits. Under ss. 801.02(7) and 893.82(3) of the statutes, a prisoner condition of confinement suit generally may not be brought against an officer, employee or agent of the state

for an act committed by such an individual in the performance of his or her duties unless the claimant in the matter serves written notice of the claim on the Attorney General within 120 days of the event. Section 893.82(3m) further stipulates that where the claimant is a prisoner, an action may not be commenced until the earlier of the Attorney General's denial of the claim or 120 days after the notice has been served on the Attorney General.

Under s. 165.25(6) of the statutes, the head of any department of state government may request the Attorney General to defend any state department, officer, employee, or agent in a civil action or other matter in a court or administrative agency relating to any act committed by the state department, officer, employee, or agent in the lawful course of their duties.

Program Administration. The nature of the prisoner and sex predator conditions of confinement lawsuits and the focus of the unit's work are substantially the same for both types of cases.

Typically, these types of lawsuits involve one or more allegations of the following acts committed by state officers, employees, or agents: (1) allegations of religious discrimination; (2) failure to provide adequate medical care; (3) excessive force by staff; (4) denial of access to court; (5) interference with privacy of mail communications; (6) failure to allow mailings of certain kinds of literature; (7) denial of access to a notary public; (8) failure to follow due process and administrative rule requirements in imposing discipline; (9) erroneous application of administrative code or prison policy when imposing discipline; (10) erroneously calculating prison release date; (11) illegal revocation of probation or parole; (12) liability for wet floors causing a slip and fall; (13) unconstitutional strip search; (14) harassment and retaliation for suing staff; (15) cruel and unusual punishment; (16) unlawful denial of visitors; (17) invalid transfer from one facility to a more restrictive facility; (18) erroneous security

classification; (19) denial of the right to speak in a foreign language in the presence of officers; (20) denial of access to rehabilitation programs necessary to enhance parole eligibility; (21) errors in denying discretionary parole; and (22) invalid confiscation of contraband.

The civil litigation and employment unit normally seeks dismissal of these suits before they reach the trial stage, either through motions to dismiss for failure to state a claim or failure to exhaust administrative remedies, or by a motion for summary judgment. If such motions are denied, the case proceeds to trial. Cases are tried in both state and federal courts. Any appeals from such cases are also handled by the unit's attorneys.

In 2003-04, the unit opened 298 new prisoner conditions cases and 11 new sex predator conditions cases.

Criminal Litigation, Antitrust, Consumer Protection, and Public Integrity Unit

Statutory Authorization. Attorneys in the criminal litigation, antitrust, consumer protection, and public integrity 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, or in investigations.

Further, before a court makes a special prosecutor appointment that exceeds 6 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, antitrust, consumer protection, and public integrity unit.

Typically, a special prosecutor may be appointed when: (1) there is no district attorney; (2) the district attorney is absent; (3) the district attorney or a member of his or her staff has a conflict of interest; (4) the district attorney is unable to attend to his or her duties; (5) the district attorney is serving in the armed forces; (6) the district attorney is charged with a crime; or (7) the district attorney cannot perform his or her duties due to a medical situation.

Section 165.255 of the statutes provides that DOJ may represent the state in commitment proceedings for sexually violent persons under Chapter 980. This representation is provided by the unit at the request of a secured correctional facility, residential care center, or a secured group home.

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, antitrust, consumer protection, and public integrity unit.

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."

Of the 40 criminal referrals made to the unit in 2002-03, 36 were "special prosecutions" for a variety of offenses. The remaining four referrals were for security fraud and tax cases where the Department had original jurisdiction to initiate the criminal case. Of these 40 referrals, 26 individuals were charged with crimes, nine were not charged, and the investigation and charging decision is still

pending on the remaining five.

In 2003-04, 27 criminal referrals were made to the unit. Some 22 of the referrals were "special prosecutions" for a variety of offenses. The remaining five referrals were for security fraud, gambling and elder abuse where the Department had original jurisdiction to initiate the criminal case. Of these 27 referrals, 14 individuals were charged with crimes, seven were not charged, and the investigation and charging decision is still pending on the remaining six.

Unit attorneys also handle sexual predator commitments and currently process a significant portion of all such commitments in the state. In 2002-03, the unit assumed responsibility for 15 of the 31 sexually violent person referrals it received. In 2003-04, the unit assumed responsibility for 15 of

the 41 sexually violent person referrals it received and handled two such appeals. The remaining sexually violent person commitments are being handled by district attorneys.

The criminal litigation, antitrust, consumer protection, and public integrity unit meets the Department's statutory responsibility to consult and advise 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. For example, the unit sponsors training for newly elected district attorneys prior to their assuming office. 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.

Representation of the Indigent

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 prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence." In *Gideon v. Wainwright* (1963), the United States Supreme Court held that the constitutional right to counsel guaranteed by the Sixth Amendment requires the government to provide counsel to indigent criminal defendants.

Article I, Section 7 of the Wisconsin Constitution provides, in part, that, "In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel,..." As early as 1859, the Wisconsin Supreme Court determined that an indigent defendant was entitled to counsel at county expense for his or her defense (*Carpenter v. Dane County*).

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. Nevertheless, both courts have concluded that due process requires an individualized determination of the necessity for appointment of counsel under the circumstances presented by a particular case. Finally, in the case of *Malmstadt v. Wisconsin* (1996), the Wisconsin Supreme Court ruled that under the separation of powers doctrine the Legislature may not prohibit

the courts from appointing counsel for certain classes of individuals.

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 provides legal representation for indigent persons: (1) facing a possible sentence that includes incarceration; (2) involved in certain proceedings under the Children's and Juvenile Justice Codes (Chapters 48 and 938); (3) facing involuntary commitment; and (4) involved in certain post-conviction or post-judgment appeals.

The SPD determines indigency based on an analysis of the applicant's income, assets, family size and essential expenses. If a person's assets, less reasonable and necessary living expenses (both factors as determined by Wisconsin statutes and administrative rules), are not sufficient to cover the anticipated cost of effective representation when the likely length and complexity of the proceedings are taken into account, the person is determined to be indigent. If an individual does not meet the statutory indigency standard, but is nonetheless determined by a circuit court to have a constitutional right to counsel, the court may appoint an attorney at county, rather than state, expense.

The SPD is required to determine whether a person has the ability to pay the costs of representation. The Public Defender Board is required to establish, by rule, fixed payments for the cost of SPD representation in various types of cases. Known as the prepayment option, an indigent defendant may elect to prepay the amount

(or amounts, if several different types of proceedings are involved) if a determination has been made that the person has some ability to pay for his or her representation. If an indigent person elects to pay this fixed amount, the individual cannot be held liable for any additional payment for counsel. However, the indigent client must pay this fixed amount within 60 days of appointment of counsel by the SPD. Table 10 identifies the current optional prepayment amounts for the different types of SPD representation, as established by rule by the Public Defender Board.

Table 10: Prepayment Options for SPD Representation

Case Type	Amount
First Degree Intentional Homicide	\$500
Other Class A or B Felony	100
Sexual Predator under s. 980.02	100
Trial Appeal	100
Other Felony	50
Misdemeanor	50
Plea Appeal	50
Chapter 55 Proceeding	50
Parole/Probation Revocation	50
Termination of Parental Rights	50
Paternity	50
Commitment	25
Special Proceeding	25

Persons determined to be indigent who receive SPD representation and do not exercise the prepayment option are required to pay for the cost of SPD representation, subject to their ability to pay. Table 11 summarizes the fee schedule established by rule by the Public Defender Board. These fee amounts are based on the average costs for representation for the type of case, as determined by the Board.

The SPD has established a statewide pilot program to increase its recovery of the costs of representation of clients determined to be indigent. Table 12 identifies the optional prepayment amounts under the pilot program, while Table 13 summarizes the fee schedule for the cost of SPD representation if the pre-payment option is not utilized. The Office has submitted proposed rule

Table 11: Schedule for Repayment of SPD Costs by Clients Determined to Have an Ability to Pay

Case Type	Amount
First Degree Intentional Homicide	\$7,500
Other Class A or B Felony	1,000
Sexual Predator under s. 980.02	1,000
Trial Appeal	1,000
Other Felony	400
Plea Appeal	400
Chapter 55 Proceeding	400
Termination of Parental Rights	400
Juvenile Felonies	400
Misdemeanor	200
Parole/Probation Revocation	200
Other Juveniles	200
Paternity	200
Commitment	100
Special Proceeding	100

Table 12: Prepayment Options for SPD Representation Under Pilot Program

Case Type	Amount
First Degree Intentional Homicide	\$600
Other Class A, B or C Felony	120
Sexual Predator under s. 980.02	120
Trial Appeal	120
Other Felony	60
Misdemeanor	60
Plea Appeal	60
Chapter 55 Proceeding	60
Parole/Probation Revocation	60
Termination of Parental Rights	60
Paternity	60
Commitment	30
Special Proceeding	30

changes to the Legislature to permanently adopt the prepayment and cost repayment schedules developed under the current pilot program. If approved by the Legislature, these new payment schedules would supersede those described in Tables 10 and 11.

In 2003-04, the SPD received \$1,985,700 PR in payments from its indigent clients, including receipts from court-ordered recoupments. These amounts are used primarily to offset the cost of retaining private bar attorneys to represent individuals qualifying for SPD representation.

Table 13: Schedule for Repayment of SPD Costs Under Pilot Program

Case Type	Amount
First Degree Intentional Homicide	\$7,500
Other Class A, B or C Felony	1,200
Sexual Predator under s. 980.02	1,200
Trial Appeal	1,200
Other Felony	480
Plea Appeal	480
Chapter 55 Proceeding	480
Termination of Parental Rights	480
Juvenile Felonies	480
Misdemeanor	240
Parole/Probation Revocation	240
Other Juveniles	240
Paternity	240
Commitment	120
Special Proceeding	120

Based on data collected by the Director of State Courts, circuit courts increasingly appear to be appointing private counsel at county expense for individuals who do not meet the statutory indigency standard for SPD representation or who are ineligible for SPD representation because of the type of case involved. The Director of State Courts conducts an informal annual survey that asks county clerks of court to report the costs of court-appointed counsel charged to the county. In general, counties appear to be retaining such counsel at the rate of \$70 per hour, consistent with the reimbursement standards established under Supreme Court Rule 81.02(1).

The reported costs are categorized into four types of cases: (1) adult criminal; (2) mental commitment or emergency detention; (3) representation of parents whose children are alleged to be in need of protection or services ("CHIPS parents"); and (4) other cases (typically guardianship and family law matters). For the first two types of cases, SPD representation would not have been provided because the individual did not meet the statutory indigency standard for such representation. For the latter two types of cases, SPD representation would not have been provided

because of the type of case involved.

Appendix IV summarizes by county for 2000, 2001 and 2003: (1) adult criminal and mental commitment or emergency detention court-appointed counsel costs; (2) CHIPS parents and other court-appointed counsel costs; and (3) total court-appointed counsel costs. Data for 2002 is not included, as only 49 counties reported information.

For calendar year 2003, 60 counties reported incurring \$3,912,500 to provide representation to persons in adult criminal cases and mental commitment proceedings who did not meet the statutory indigency standard for SPD representation. That same year, a total of 46 counties reported incurring \$2,073,200 to provide representation to persons in CHIPS parents and other types of cases where SPD representation was not available because of the type of case involved. Because of the self-reporting nature of the data collected by the Director of State Courts, it is unlikely that all of these county-incurred costs have actually been reported. In addition, some counties reported aggregate costs only and did not categorize the type of case for which payment was made. An additional \$485,900 was reported in this manner by counties for calendar year 2003.

Creation of the State Public Defender Function

Chapter 479, Laws of 1965 first created the State Public Defender position under the Wisconsin Supreme Court. The duties of the early SPD were limited to post-conviction appeals for indigent persons. Counties retained the sole responsibility for providing constitutionally required counsel to indigent persons at the trial level. Counties generally met this responsibility through court-appointed private counsel.

Under Chapter 29, Laws of 1977, the SPD was

transferred from the judicial branch to the executive branch and became an independent agency under the Public Defender Board. Chapter 29 also provided funding for a phase-in of the state's public defender program at the trial level. The SPD was directed to phase-in its services at the trial level over the biennium to the extent that funding and position authority permitted. The SPD provided representation at the trial level both through the use of staff attorneys as well as through the retention of private counsel.

Chapter 418, Laws of 1977, directed that the state assume responsibility for indigent trial defense in all counties, effective July 1, 1979. Chapter 34, Laws of 1979, subsequently provided funding for the 1979-80 fiscal year to implement the statewide public defender system. However, appropriations for the SPD for the 1980-81 fiscal year were vetoed with the exception of funding for the retention of private counsel. Nonetheless, by the 1979-80 fiscal year, the SPD had established 31 district offices providing indigent trial defense services in all 72 Wisconsin counties.

Chapter 356, Laws of 1979, restored funding for the SPD for program administration and for both trial and appellate representation by SPD staff for the 1980-81 fiscal year. Chapter 356 also mandated that 100% of the indigency cases at the trial level in 25 counties be assigned to private counsel. The remaining 47 counties were assigned to three statutory groups with not less than 15%, 25%, or 50% respectively, of these cases assigned to private counsel, with the remaining balance of cases assigned to SPD staff. Further, Chapter 356 requested the Legislative Council to study the state public defender program and to report its findings and recommendations to the Legislature no later than January 1, 1985. Finally, Chapter 356 sunsetted the SPD on November 15, 1985.

Under 1985 Wisconsin Act 29, all requirements mandating that a certain percentage of cases in each county be assigned to private counsel were repealed, again permitting public defender staff

attorneys to represent the indigent in all 72 counties. Act 29 also created annual caseload standards for SPD trial attorneys and repealed the sunset provision for the SPD.

Provisions of 1995 Wisconsin Act 27 significantly revised the operation of the state public defender program and imposed a series of cost-cutting measures described as follows:

1. SPD Representation. Act 27 eliminated SPD representation in the following cases where there is no clear constitutional right to representation:

- all conditions of confinement cases;
- situations where adults and juvenile persons, suspected of criminal or delinquent acts, have not yet been formally charged with a crime (subsequently restored in 2001 Wisconsin Act 16);
- sentence modification actions which are filed outside of the statutory time limit for such actions;
- probation and parole modification and revocation cases unless the modification or revocation is contested and jail or prison time is sought;
- appeals cases which are filed after the statutory time limit, unless the Court of Appeals extends the time limit;
- contempt of court for failure to pay child or family support, if the matter was not brought by the state, and the judge or family court commissioner certifies that the person would not be incarcerated if found in contempt;
- paternity actions, except actions to determine paternity where an initial blood test indicates a greater than 0%, but less than 99% probability of fatherhood; and
- representation for parents whose children

are alleged to be in need of protection or services (CHIPS), except for parents who are themselves minors.

2. **Client Reimbursement.** Act 27 newly required the SPD to determine each client's ability to pay for representation and to collect for the cost of that representation. Under these client reimbursement provisions, a represented person must be permitted to meet his or her reimbursement obligations to the SPD either by: (a) paying a non-refundable, reasonable fixed fee within the first 60 days of representation, set by the Public Defender Board by rule; or (b) being charged a fee based on the average cost of representation for the client's case type, but considering the client's ability to pay.

3. **Workload.** Act 27 also reinstated higher workload standards for trial staff attorneys that had been modified under 1991 Act 39. The caseloads for the following types of cases were adjusted as follows: (a) felony caseloads increased from 166.8 cases per year to 184.5 cases per year; (b) misdemeanor caseloads increased from 410.9 cases per year to 492.0 cases per year; and (c) juvenile caseloads increased from 228.4 cases per year to 246.0 cases per year.

4. **Private Bar Compensation.** Act 27 reduced, in part, the compensation paid to private bar attorneys retained by the SPD. Prior to Act 27, private attorneys were paid \$50 per hour for in-court time, \$40 per hour for out-of-court time and \$25 per hour for certain travel. Under Act 27, the in-court rate was reduced to \$40 per hour.

5. **Fixed-Fee Contracts with Private Attorneys.** Finally, Act 27 required the State Public Defender Board to enter into annual fixed-fee contracts with private attorneys and law firms for some cases. The maximum number of cases assigned in this manner cannot exceed one-third of the total number of cases at the trial level. The SPD entered into fixed-fee contracts for up to 10,594 misdemeanor cases in 2004-05.

Current Public Defender Operations

A nine-member Public Defender Board oversees the operation of the Office of the State Public Defender. Members of the Board are appointed by the Governor to staggered three-year terms, with the advice and consent of the Senate. At least five of the nine Board members must be members of the State Bar of Wisconsin.

The principal duties of the Board are the following: (a) appointment of a State Public Defender; (b) promulgation of administrative rules for determining financial eligibility; (c) promulgation of administrative rules establishing procedures to assure that the representation of indigent clients by the private bar is at the same level as the representation provided by SPD staff; and (d) supervision of the administration of the Office.

In 2003-04, state SPD expenditures totaled \$79,926,900 to provide legal representation for eligible indigent persons in Wisconsin. Of that amount, \$30,434,700 (38.1%) was paid to private attorneys for their time and certain legal expenses (investigators and expert witnesses). The remaining \$49,492,200 (61.9%) funded staff attorneys, their legal expenses and program overhead. The SPD has been budgeted \$71,235,900 GPR and \$1,293,000 PR in 2004-05 and is currently authorized 523.5 GPR and 4.0 PR positions.

The Office is organized into four divisions: trial, appellate, assigned counsel and administrative. The current organizational chart for the agency is included as Appendix II.

The trial division consists of 451.3 positions, including 280.0 attorneys and attorney supervisors. The trial division is housed in 35 district offices across the state. (See Appendix V for the location of these trial division offices.). Each trial division attorney (and generally each attorney supervisor)

must meet one of the following annual statutory caseload requirements: (a) 184.5 felony cases; (b) 15.0 homicide or sexual predator cases; (c) 492.0 misdemeanors cases; (d) 246.0 other cases; or (e) some combination of these categories. The SPD has interpreted these caseload standards as representing the workload averages that must be achieved by all the trial attorneys in the agency collectively, as opposed to a standard that is applied to each individual attorney. In practice, most staff attorneys work on a variety of case types during the year, with some (such as new attorneys) taking fewer cases than the statutory requirement and others taking more in order to meet the overall requirement for the agency. In 1999 Wisconsin Act 9, 10 attorney supervisor positions were exempted from the statutory caseload requirement. This caseload exemption is spread among 60.05 supervising attorneys. In practice, most supervisors are relieved of some portion of their caseload responsibilities.

The appellate division consists of 44.0 positions, including 27.5 attorneys and attorney supervisors who provide assistance to eligible indigents

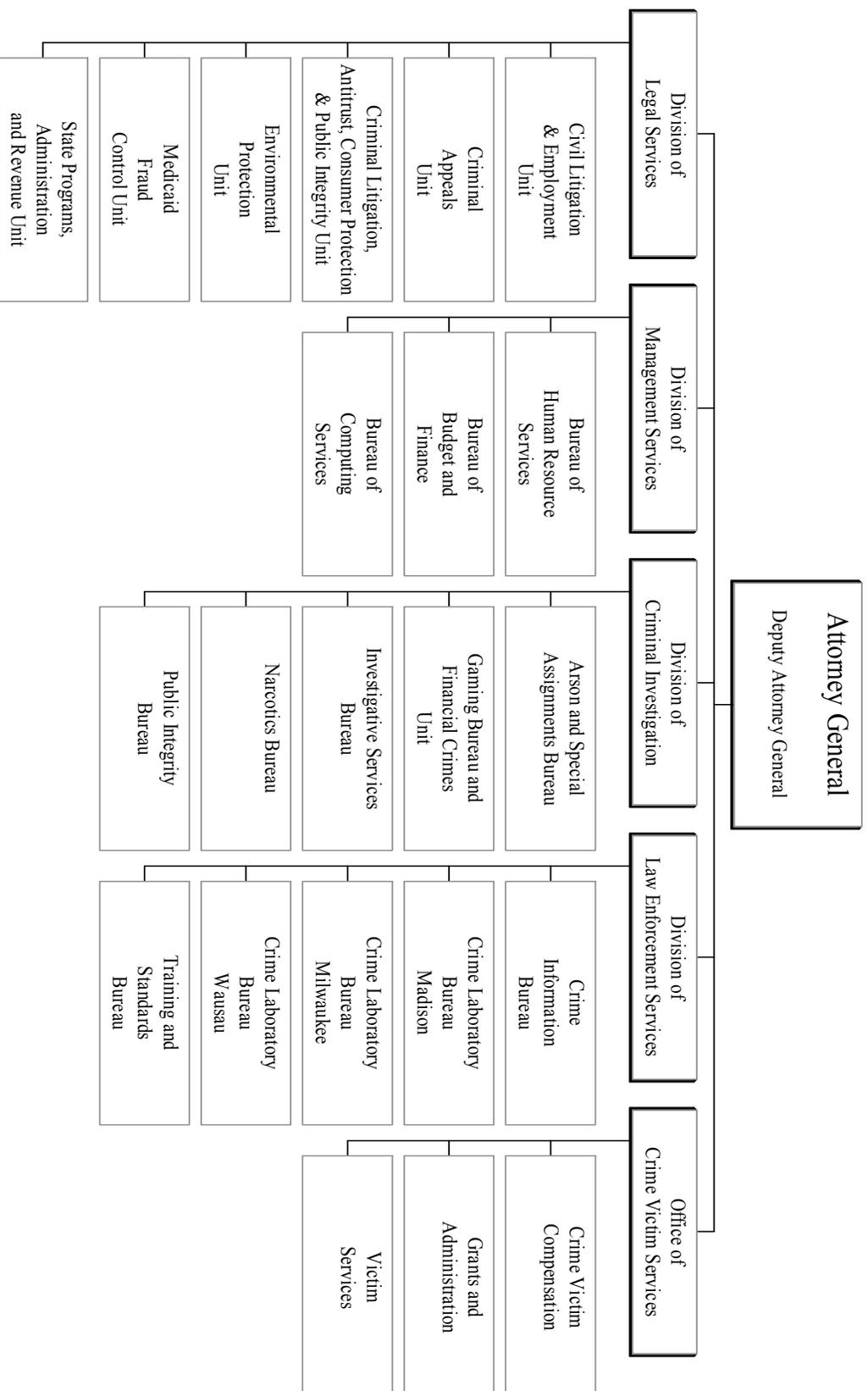
involved in appeals, including postconviction and postcommitment proceedings. The SPD sets the caseload standard for each appellate attorney between 54 and 60 cases per year, depending on the complexity of the attorney's case mix and the attorney's level of experience. Staff attorneys have been represented by a collective bargaining unit since the 1997-99 biennium.

The assigned counsel division consists of 6.2 positions that oversee certification, appointment, and payment of the private attorneys who represent eligible indigent clients. Private attorneys are paid in two ways: (1) an hourly rate (generally \$40 per hour); or (2) for some misdemeanor cases, a flat, per case contracted amount. In 2003-04, 1,132 private attorneys were certified by the SPD to represent indigent clients. In 2003-04, 1,020 private attorneys accepted 65,526 new cases.

The administrative division consists of 26.0 positions that oversee the general administration of the Office. In particular, this staff provides support services in the areas of budget preparation, fiscal analysis, purchasing, payroll and personnel.

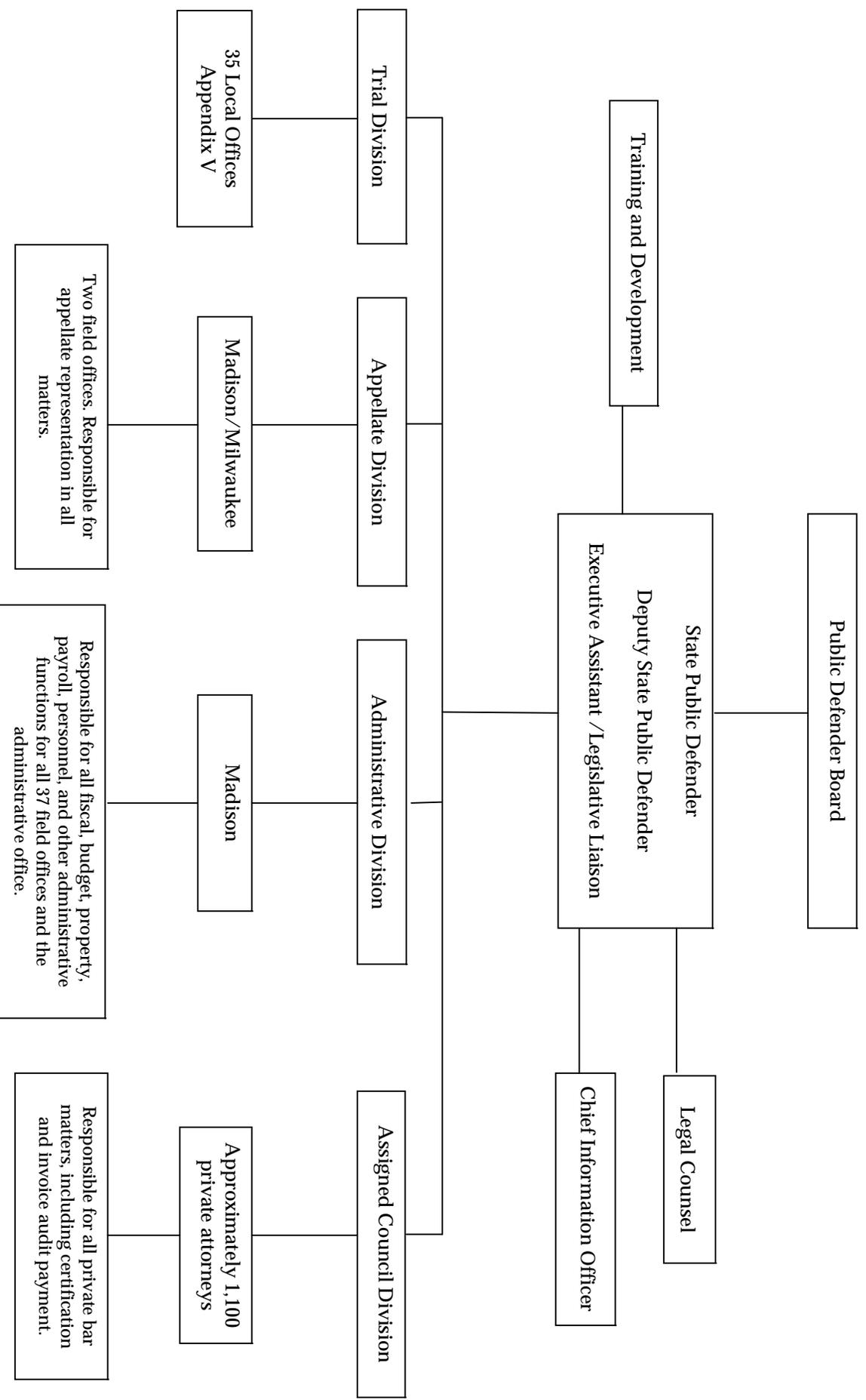
APPENDIX I

Department of Justice Organizational Chart



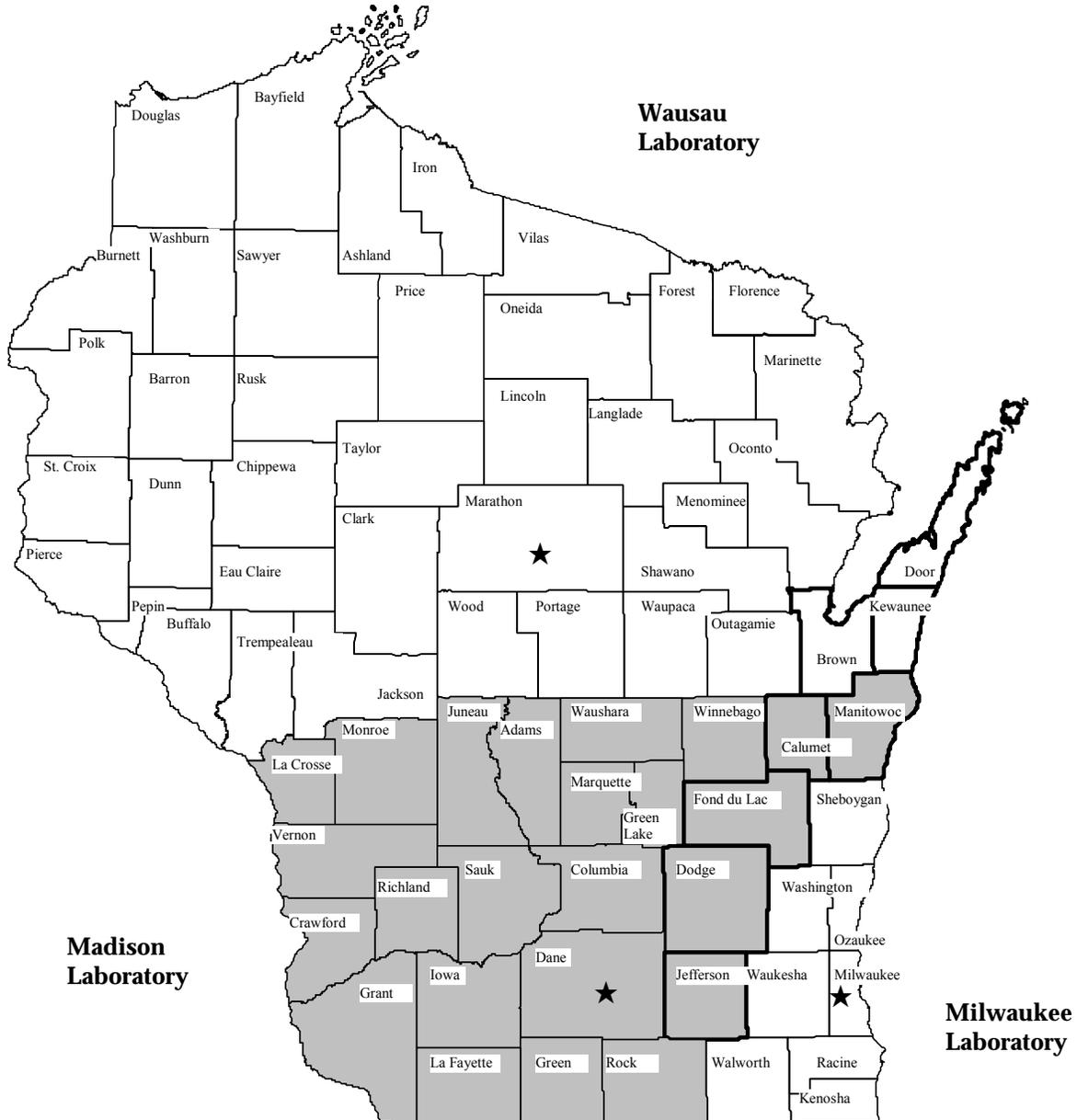
APPENDIX II

Organizational Chart of the Office of the State Public Defender



APPENDIX III

State Crime Laboratory Service Areas



The state is served by three crime laboratories located in Madison, Milwaukee, and Wausau. This appendix shows the service area for each lab. The Milwaukee lab serves the southeast corner of the state, generally taking cases from an eight county area. The only exception is Milwaukee's Questioned Document unit, which serves an additional eight counties marked off in bold above.

APPENDIX IV

2000, 2001 and 2003 Court-Appointed Counsel at County Expense*

County	Adult Criminal and Commitment			CHIPS Parents and Others			Total		
	2000	2001	2003	2000	2001	2003	2000	2001	2003
	Adams	\$0	\$11,036	\$11,105	\$0	\$0	\$0	\$0	\$11,036
Ashland	0	0	24,387	0	0	20,237	17,934	28,446	44,624
Barron	0	19,032	64,221	0	0	2,271	20,746	19,032	66,492
Bayfield	4,196	1,785	16,154	0	4,152	2,742	4,196	5,937	18,896
Brown	0	0	240,724	0	0	0	171,453	181,033	240,724
Buffalo	4,833	12,014	8,978	0	0	0	4,833	12,014	8,978
Burnett	0	532	22,153	0	0	1,087	2,128	532	23,240
Calumet	18,338	22,466	37,816	7,103	2,627	9,701	25,441	25,093	47,517
Chippewa	18,066	22,446	30,991	1,491	1,596	2,436	19,557	24,042	33,427
Clark	0	14,021	13,331	0	4,468	6,631	9,067	18,489	19,962
Columbia	0	31,843	21,736	0	1,000	0	15,454	32,843	21,736
Crawford	9,858	13,792	10,584	372	0	0	10,230	13,792	10,584
Dane	187,960	245,639	428,475	136,945	153,357	240,808	324,905	398,996	669,283
Dodge	100,774	0	0	7,430	0	0	108,204	101,178	74,788
Door	14,120	21,423	40,046	2,464	2,921	4,187	16,584	24,344	44,233
Douglas	0	0	18,241	0	0	10,280	27,753	39,543	28,521
Dunn	0	0	38,298	0	0	36,358	16,904	21,847	74,656
Eau Claire	154,516	138,918	133,766	74,026	19,419	97,483	228,542	158,337	231,249
Florence	0	3,425	3,731	0	0	1,539	0	3,425	5,270
Fond du Lac	78,045	105,429	140,477	24,130	42,299	42,732	102,175	147,728	183,209
Forest	0	0	0	0	0	0	0	1,755	0
Grant	0	0	27,967	0	0	0	62,157	71,004	27,967
Green	0	20,758	38,051	0	6,980	1,113	43,261	27,738	39,164
Green Lake	7,737	7,049	12,734	0	685	23,544	7,737	7,734	36,278
Iowa	0	42,154	38,442	0	11,020	0	33,690	53,174	38,442
Iron	2,238	0	0	0	0	0	2,238	5,856	11,304
Jackson	4,737	7,003	25,922	547	0	0	5,284	7,003	25,922
Jefferson	46,543	62,292	95,097	2,414	25,027	693	48,957	87,319	95,790
Juneau	11,863	35,730	58,273	0	0	35,929	11,863	35,730	94,202
Kenosha	57,206	65,138	82,003	54,922	32,028	22,909	112,128	97,166	104,912

APPENDIX IV (continued)

County	Adult Criminal and Commitment			CHIPS Parents and Others			Total		
	2000	2001	2003	2000	2001	2003	2000	2001	2003
Kewaunee	\$32,525	\$18,686	\$17,511	\$2,163	\$0	\$2,105	\$34,688	\$18,686	\$19,616
LaCrosse	0	0	0	0	0	0	78,200	148,769	222,605
Lafayette	0	0	42,194	0	0	50,168	12,977	17,263	92,362
Langlade	0	1,601	2,122	0	1,354	0	5,772	2,955	2,122
Lincoln	29,665	26,942	28,254	1,932	357	7,915	31,597	27,299	36,169
Manitowoc	0	3,412	9,418	0	3,331	1,652	8,614	6,743	11,070
Marathon	126,485	199,052	151,433	15,212	17,924	15,879	141,697	216,976	167,312
Marquette	33,136	0	35,210	0	0	13,124	33,136	17,200	48,334
Marquette	0	55,868	0	0	0	0	0	55,868	47,203
Menomonee	0	0	0	0	0	0	0	0	0
Milwaukee	305,681	377,807	406,486	1,164,156	1,468,097	1,103,866	1,469,837	1,845,904	1,510,352
Monroe	14,990	33,316	73,734	21,101	14,701	0	36,091	48,017	73,734
Oconto	34,326	55,072	55,509	0	2,072	4,711	34,326	57,144	60,220
Oneida	0	4,939	14,750	0	4,312	3,614	21,823	9,251	18,364
Outagamie	0	135,737	154,725	0	0	0	106,600	135,737	154,725
Ozaukee	0	0	0	0	0	0	23,527	40,325	24,609
Pepin	8,093	8,355	10,620	84	1,071	252	8,177	9,426	10,872
Pierce	12,534	12,534	21,086	0	0	3,360	12,534	12,534	24,446
Polk	0	0	0	11,836	0	0	11,836	14,732	25,608
Portage	0	0	63,577	0	0	18,244	41,535	32,203	81,821
Price	812	0	9,254	0	0	1,372	812	0	10,626
Racine	39,892	50,417	85,742	698	4,285	9,308	40,590	54,702	95,050
Richland	12,508	16,580	11,364	1,307	3,625	1,582	13,815	20,205	12,946
Rock	0	127,317	72,317	0	0	68,275	106,600	127,317	140,592
Rusk	0	7,659	0	0	0	0	0	7,659	3,601
Sauk	0	62,042	77,850	0	579	7,875	48,867	62,621	85,725
Sawyer	6,622	575	31,218	1,188	84	0	7,810	659	31,218
Shawano	4,116	3,284	0	294	3,021	0	4,410	6,305	6,722
Sheboygan	41,224	39,020	70,818	768	14,377	4,964	41,992	53,397	75,782
St. Croix	20,464	19,796	62,956	3,096	633	0	23,560	20,429	62,956

APPENDIX IV (continued)

County	Adult Criminal and Commitment			CHIPS Parents and Others			Total		
	2000	2001	2003	2000	2001	2003	2000	2001	2003
Taylor	\$16,708	\$0	\$19,723	\$500	\$0	\$2,731	\$17,208	\$16,813	\$22,454
Trempealeau	25,324	31,274	48,947	1,514	2,979	6,472	26,838	34,253	55,419
Vernon	0	0	0	0	0	0	6,317	16,974	25,678
Vilas	0	0	22,915	0	0	10,950	4,829	7,400	33,865
Walworth	113,377	185,843	98,311	3,989	8,537	1,422	117,366	194,380	99,733
Washburn	18,100	30,286	0	0	0	0	18,100	30,286	43,749
Washington	0	96,651	164,408	0	13,086	11,540	71,255	109,737	175,948
Waukesha	107,279	123,148	165,126	55,090	56,711	88,953	162,369	179,859	254,079
Waupaca	0	63,277	55,975	0	4,599	8,687	44,620	67,876	64,662
Waushara	18,518	21,171	28,672	0	0	0	18,518	21,171	28,672
Winnebago	32,015	62,834	89,838	28,629	12,034	59,720	60,644	74,868	149,558
Wood	0	16,792	26,732	0	41,900	1,794	28,321	58,692	28,526
Total	\$1,775,400	\$2,795,200	\$3,912,500	\$1,625,400	\$1,987,200	\$2,073,200	\$4,431,200	\$5,544,800	\$6,471,600
Counties Reporting	39	53	60	29	37	46	66	70	70

* The 2002 data was not included as only 49 counties reported total costs incurred for court-appointed counsel costs in adult criminal, mental commitment or emergency detention, CHIPS parents, and other cases.

