

State of Wisconsin

SENATE CHAIR
Alberta Darling

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ASSEMBLY CHAIR
John Nygren

308 East, State Capitol
P.O. Box 8593
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Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: September 3, 2019

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received September 3, 2019, pursuant to s. 16.515/16.505(2), Stats., on behalf of the Milwaukee County District Attorney's office.

Please review the material and notify **Senator Darling** or **Representative Nygren** no later than **Friday, September 20, 2019**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:JN;jm



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary

Date: September 3, 2019

SEP 03 2019

J. Finance

To: The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance

The Honorable John Nygren, Co-Chair
Joint Committee on Finance

From: Joel T. Brennan, Secretary
Department of Administration

Joel Brennan

Subject: s. 16.515/16.505(2) Request(s)

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DA 20.475(1)(h)	Gifts and grants		1.0*		1.0*

* Project position ending 9/30/2020.

As provided in s. 16.515, the request(s) will be approved on September 24, 2019, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments

Date: August 30, 2019
To: Brian Pahnke
From: Maggie Hamer
Subject: Section 16.505(2) Request

Attached is a s. 16.505(2) request analysis for your approval and processing. Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DAs 20.475(1)(h)	Gifts and grants		1.0		1.0*

* Position ending 9/30/2020.

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DAs 20.475(1)(h)	Gifts and grants		1.0		1.0*

* Position ending 9/30/2021.

BP APPROVAL  (FORWARD TO GAIL TAPPEN)



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
Brian Pahnke, Administrator

Date: August 30, 2019

To: Joel Brennan, Secretary
Department of Administration

From: Maggie Hamer
Executive Policy and Budget Analyst

Subject: Request Under s. 16.505(2) from the Milwaukee County District Attorney for the Creation of a 1.0 FTE Program Revenue Assistant District Attorney Project Position.

Request:

The Department of Administration, on behalf of the Milwaukee County District Attorney's Office, requests the creation of a 1.0 FTE program revenue assistant district attorney project position for a term extending from October 1, 2019, through September 30, 2021.

Revenue Sources for Appropriation(s):

The revenue source for the position in the gifts and grants appropriation under s. 20.475(1)(h) is a grant to Milwaukee County from the Wisconsin Department of Justice via the federal Innovative Prosecution Solutions Program Smart Prosecution Initiative administered by the U.S. Department of Justice. The county, in turn, provides the grant money to the Milwaukee County District Attorney's Office. As the grant is funded from a program revenue, continuing, all moneys received appropriation, there is no accompanying request for an increase in expenditure authority. The Milwaukee County District Attorney's Office would reimburse the salary and fringe benefit costs for the assistant district attorney prosecutor position from the grant award.

Background:

On July 9, 2019, the Wisconsin Department of Justice awarded \$210,592 to Milwaukee County to support the creation of an Innovative Prosecution Solutions – opioid community prosecutor. The funds were secured by the Wisconsin Department of Justice through the 2018 federal Innovative Prosecution Solutions Program's Smart Prosecution Initiative. This program is administered by the Bureau of Justice Assistance within the U.S. Department of Justice. The Innovative Prosecution Solutions initiative has a project period of July 1, 2019, through September 30, 2020.

The opioid community prosecutor would work with law enforcement, community justice partners and community partners to increase the number of viable overdose death prosecutions; to improve intelligence related to overdose victims and opioid traffickers; to increase and leverage intervention opportunities for those at risk of overdose; and to identify system gaps and missed potential intervention points through overdose reviews.

Analysis:

Nationwide, there has been a demonstrated need for additional focus on opioid-related crimes. This need is reflected across Wisconsin as a whole. In the United States, between 2016 and 2017, drug overdoses increased by approximately 10 percent. Wisconsin saw a 9.6 percent increase over the same time period while Milwaukee County saw a 17 percent increase in overdose deaths. The percentage of these overdose deaths that involve opioids has been steadily increasing. Milwaukee saw a 94 percent increase in fentanyl-related overdose deaths between 2016 and 2017. In addition to overdose-related deaths, Milwaukee County also has a high prevalence of nonfatal overdoses. According to data from the Centers for Disease Control, for every fatal overdose, there are 32 nonfatal admissions to the emergency room.

The opioid community prosecutor would work out of the Violent Crimes Unit that is located within the Milwaukee County District Attorney's Office. This individual would work in association with prosecutors assigned to the Felony Drug Unit, Felony Gun Unit and High Intensity Drug Trafficking Area. The duties of the opioid community prosecutor would include:

1. Work with law enforcement to help identify criminal activity, including human trafficking and firearm violence related to opioid trafficking;
2. Assist law enforcement in fatal and nonfatal overdose investigations and in firearm investigations related to opioid trafficking. Specifically, the prosecutor would work with law enforcement to ensure that the overdose deaths are thoroughly investigated as homicides and would provide investigative assistance;
3. Work with criminal justice, public health and community partners to identify and address system gaps which put individuals at risk for abuse and overdose;
4. In association with Medical College of Wisconsin staff, law enforcement and law enforcement crime analysts, identify commonalities between overdose victims, drug abusers and drug traffickers, through analyses of social networks, social media and digital evidence to help identify traffickers, sources of supply and co-users who are at risk of overdose;
5. Work with law enforcement, first responders and emergency medical services to identify nonfatal overdose victims who are not referred for prosecution;
6. Increase outreach to individuals who are identified as at risk to overdose, to provide education and resources for treatment, intervention and support;
7. Collaborate with the Department of Corrections to leverage victims and associates, who are on supervision, into treatment and alternatives to revocations, while focusing stricter supervision and revocation resources on traffickers; and
8. Use law enforcement and community data to identify potential harm reduction measures.

Joel Brennan, Secretary

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These duties of the opioid community prosecutor would help the county accomplish three goals that have been identified for this project. Those goals are to: (a) improve overdose investigations and increase the number of viable overdose death prosecutions; (b) improve law enforcement intelligence related to overdose victims and dealers to increase intervention of opioid traffickers and those at risk of overdose; and (c) reduce overdose-related deaths in Milwaukee.

Milwaukee County was awarded a total grant of \$210,592 for the Innovative Prosecution Solutions program, which includes the opioid community prosecutor. The county was allocated \$188,117 for a prosecutor's salary and fringe benefit costs. The Milwaukee County District Attorney's Office has determined that this would be sufficient to cover salary and fringe benefit costs through September 30, 2021, and has therefore requested position authority through that date. The federal Innovative Prosecution Solutions program was authorized in 2018 to run for a two-year period ending September 31, 2020. The funds associated with this program are currently authorized to be used up until the 2020 program end. Due to the federal government distributing funds to the state at a later than expected time, the Wisconsin Department of Justice anticipates the program being extended for another year, or until September 30, 2021.

Because the funds are currently only authorized to be used through September 30, 2020, it would be reasonable to grant position authority through that date. If the program does get extended by another year, the Milwaukee County District Attorney's Office could request an extension of the project position at that time. Additionally, the funds for this position would be monitored closely and should a shortfall occur, the position would be vacated.

This position is in furtherance of the state's policy to reduce opioid abuse, to prosecute drug traffickers and disrupt the opioid overdose epidemic. The grant encourages collaboration between the District Attorney's Office, local law enforcement, nonprofit community organizations, local businesses and residents to reduce the opioid epidemic in Milwaukee County.

Recommendation:

Modify the request to provide position authority through September 30, 2020.



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
James M. Langdon, Administrator

DATE: August 5, 2019

TO: Brian Pahnke, Administrator
Division of Executive Budget and Finance

FROM: Kasey Deiss, Director
State Prosecutors Office

SUBJECT: REQUEST UNDER S. 16.505 FOR DEPARTMENT 475: MILWAUKEE
COUNTY DISTRICT ATTORNEY'S OFFICE

On behalf of the Milwaukee County District Attorney's Office, I am submitting the attached request for authorization to create a 1.0 FTE program revenue project position in Department 475, District Attorneys.

Thank you for your attention to this matter.

Attachment

**DEPARTMENT OF ADMINISTRATION REQUEST UNDER S. 16.505 FOR
POSITION AUTHORIZATION**

I. REQUEST

The Department of Administration (DOA) requests, under s.16.505, the creation of as 1.0 FTE program revenue (PR) assistant district attorney (ADA) project position from October 1, 2019 through September 30, 2021. The position is in the Milwaukee County District Attorney's (DA's) Office. If approved, this position will continue to be funded via appropriation s. 20.475(1)(h).

II. BACKGROUND

On July 9, 2019 the Wisconsin Department of Justice awarded Milwaukee County the sum of \$210,592 in support of the creation of an "IPS – Opioid Community Prosecutor." Milwaukee County accepted the award on July 30, 2019. The grant may be used until September 30, 2020 but a one-time extension of this grant is anticipated due to implementation delays of the underlying federal program. The IPS grant allocates \$188,117.00 for a prosecutor's salary and benefits. It is projected that this amount will be sufficient to carry a prosecutor through September 30, 2021.

The Opioid Community Prosecutor will work with law enforcement, community justice partners, and community partners to increase the numbers of viable overdose death prosecutions; to improve intelligence related to overdose victims and opioid traffickers; to increase and leverage intervention opportunities for those at risk of overdose; and to identify system gaps and missed potential intervention points through overdose reviews.

The Opioid Community Prosecutor position was funded to combat the rampant opioid epidemic. In Milwaukee County in 2017, there were 400 overdose deaths, and in 2018, there were over 375. Through July, Milwaukee County is on pace to set a record for overdose deaths in 2019.

III. ANALYSIS

This position is in furtherance of the State's policy to reduce opioid abuse, to prosecute drug traffickers and disrupt the opioid overdose epidemic. The grant encourages collaboration between the District Attorney's Office, local law enforcement, nonprofit community organizations, local businesses and residents to reduce the opioid epidemic in Milwaukee County.

IV. FISCAL ANALYSIS

The \$188,117.00 allocated to prosecutor salary, fringe and payroll expenses is provided via federal grant and disbursed by the Wisconsin Department of Justice. The funding currently authorized through September 2020, is highly likely to be extended for one year upon request.

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Available funding and authorizations will be closely monitored, and the position will be vacated if a funding shortfall occurs.

V. REVENUE SOURCE FOR APPROPRIATION

The source of the grant funds is the Wisconsin Department of Justice through the federal Innovative Prosecution Solutions Program Smart Prosecution Initiative (2018), a program administered by the U.S. Department of Justice (USDOJ) – Office of Justice Programs – Bureau of Justice Assistance. These funds are part of USDOJ's program known as "Innovative Prosecution Solutions for Combating Violent Crime and Illegal Opioids." "Innovative Prosecution Solutions" (IPS) is part of the Project Safe Neighborhoods Suite of federal programs.

Milwaukee County will reimburse the salary and fringe benefit costs, as well as the prosecutor's state standard laptop computer and software, for the State-paid ADA position in the Department of District Attorneys.

VI. SPECIAL INFORMATION

The co-chairs of the Joint Committee on Finance, in a letter to Department of Administration Secretary dated June 12, 1996, set forth four additional items of information that should be included in a s.16.505 request for additional positions in the District Attorney program.

- 1) *An explanation of the effect of the positions on weighted caseload for the requesting counties (the LAB methodology is suggested).*

Table 1 indicates the LAB methodology's results using the modifications recommended by the Wisconsin District Attorneys Association and highlights the impact on the Milwaukee DA Office. The table uses the most current court data available and the positions authorized as of August 9, 2018. It is important to note that the position need shown in the LAB methodology is a general need responding to all duties of a DA office and is not specific to a particular type of criminal activity or caseload.

- 2) *An assessment of similar caseload problems in counties not addressed by the request.*

Data with which to make this assessment are not available.

- 3) *An explanation of why the request has greater priority than similar needs existing in other counties.*

The Wisconsin Department of Justice awarded this grant to the Milwaukee County DA's office.

- 4) *If the request is intended to address a specific type of caseload, an explanation of why this type of caseload has a greater priority than other types.*

This grant, funded through the federal Innovative Prosecution Solutions Program Smart Prosecution Initiative (2018), is intended to develop effective strategies to reduce opioid trafficking and to better investigate and prosecute opioid deaths in Milwaukee County.

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FINAL 2015-2017 DISTRICT ATTORNEY OFFICE WORKLOAD ANALYSIS

DA Office	8/9/18 GPR- Funded FTE Positions*	8/9/18 Program Revenue- Funded FTE Positions*	8/9/18 Total FTE Positions*	Additional FTE Needed	Estimated Total FTE Needed	Additional FTE Needed as a % of 8/9/18 GPR- Funded FTE	Additional FTE Needed as a % of 8/9/18 Total FTE	GPR- Funded FTE as a % of Estimated Total FTE Needed	Total FTE as a % of Estimated Total FTE Needed
Adams	1.20		1.20	2.27	3.47	189%	189%	35%	35%
Ashland	2.00		2.00	1.29	3.29	65%	65%	61%	61%
Barron	3.00		3.00	2.90	5.90	97%	97%	51%	51%
Bayfield	1.00		1.00	0.89	1.89	89%	89%	53%	53%
Brown	12.00	1.00	13.00	12.76	25.76	106%	98%	47%	50%
Buffalo	1.00		1.00	0.85	1.85	85%	85%	54%	54%
Burnett	1.25		1.25	2.19	3.44	175%	175%	36%	36%
Calumet	2.00		2.00	1.28	3.28	64%	64%	61%	61%
Chippewa	5.00		5.00	2.41	7.41	48%	48%	67%	67%
Clark	2.00		2.00	0.21	2.21	11%	11%	90%	90%
Columbia	4.75		4.75	3.77	8.52	79%	79%	56%	56%
Crawford	1.00		1.00	0.02	1.02	2%	2%	98%	98%
Dane	26.85	2.00	28.85	4.93	33.78	18%	17%	79%	85%
Dodge	4.00		4.00	2.16	6.16	54%	54%	65%	65%
Door	2.00		2.00	0.16	2.16	8%	8%	93%	93%
Douglas	3.50		3.50	3.73	7.23	107%	107%	48%	48%
Dunn	3.00		3.00	3.14	6.14	105%	105%	49%	49%
Eau Claire	8.00	1.00	9.00	7.18	16.18	90%	80%	49%	56%
Florence	0.50		0.50	-0.11	0.39	-22%	-22%	128%	128%
Fond du Lac	5.00	2.00	7.00	4.56	11.56	91%	65%	43%	61%
Forest	1.00		1.00	1.07	2.07	107%	107%	48%	48%
Grant	2.00		2.00	1.29	3.29	65%	65%	61%	61%
Green	2.00		2.00	0.83	2.83	42%	42%	71%	71%
Green Lake	1.50		1.50	1.08	2.58	72%	72%	58%	58%
Iowa	1.75		1.75	1.59	3.34	91%	91%	52%	52%
Iron	1.00		1.00	-0.26	0.74	-26%	-26%	135%	135%
Jackson	2.00		2.00	1.58	3.58	79%	79%	56%	56%
Jefferson	5.30		5.30	2.41	7.71	45%	45%	69%	69%
Juneau	2.50		2.50	0.82	3.32	33%	33%	75%	75%
Kenosha	15.00	1.00	16.00	6.75	22.75	45%	42%	66%	70%
Kewaunee	1.50		1.50	-0.25	1.25	-17%	-17%	120%	120%
La Crosse	8.00		8.00	5.78	13.78	72%	72%	58%	58%
Lafayette	1.00		1.00	0.37	1.37	37%	37%	73%	73%
Langlade	1.50		1.50	2.16	3.66	144%	144%	41%	41%
Lincoln	2.00		2.00	1.61	3.61	81%	81%	55%	55%
Manitowoc	5.00		5.00	4.71	9.71	94%	94%	51%	51%
Marathon	8.50	2.50	11.00	6.73	17.73	79%	61%	48%	62%
Marquette	3.00		3.00	0.00	3.00	0%	0%	100%	100%
Marquette	1.00		1.00	0.46	1.46	46%	46%	68%	68%
Milwaukee	87.00	27.50	114.50	-15.24	99.26	-18%	-13%	88%	115%
Monroe	3.00		3.00	4.25	7.25	142%	142%	41%	41%
Oconto	2.00		2.00	0.59	2.59	30%	30%	77%	77%
Oneida	2.50		2.50	1.93	4.43	77%	77%	56%	56%
Outagamie	9.00		9.00	8.10	17.10	90%	90%	53%	53%

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 Community Prosecutor – Opioids
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Ozaukee	3.00		3.00	2.90	5.90	97%	97%	51%	51%
Pepin	0.80		0.80	-0.17	0.63	-21%	-21%	127%	127%
Pierce	2.50		2.50	1.80	4.30	72%	72%	58%	58%
Polk	3.00		3.00	2.07	5.07	69%	69%	59%	59%
Portage	4.00		4.00	2.80	6.80	70%	70%	59%	59%
Price	1.00		1.00	0.13	1.13	13%	13%	88%	88%
Racine	18.00		18.00	13.49	31.49	75%	75%	57%	57%
Richland	1.80		1.80	0.05	1.85	3%	3%	97%	97%
Rock	14.00		14.00	2.30	16.30	16%	16%	86%	86%
Rusk	1.50		1.50	0.82	2.32	55%	55%	65%	65%
Saint Croix	6.00		6.00	2.59	8.59	43%	43%	70%	70%
Sauk	5.00	1.00	6.00	0.96	6.96	19%	16%	72%	86%
Sawyer	2.00		2.00	2.34	4.34	117%	117%	46%	46%
Shaw/Men	3.00		3.00	1.83	4.83	61%	61%	62%	62%
Sheboygan	7.50		7.50	4.51	12.01	60%	60%	62%	62%
Taylor	1.00		1.00	0.55	1.55	55%	55%	65%	65%
Trempealeau	2.00		2.00	0.31	2.31	16%	16%	87%	87%
Vernon	2.00		2.00	0.09	2.09	5%	5%	96%	96%
Vilas	2.00		2.00	0.85	2.85	43%	43%	70%	70%
Walworth	5.00		5.00	2.84	7.84	57%	57%	64%	64%
Washburn	1.25		1.25	1.07	2.32	86%	86%	54%	54%
Washington	5.00		5.00	3.81	8.81	76%	76%	57%	57%
Waukesha	14.50	2.00	16.50	8.76	25.26	60%	53%	57%	65%
Waupaca	3.50		3.50	1.98	5.48	57%	57%	64%	64%
Waushara	2.00		2.00	1.28	3.28	64%	64%	61%	61%
Winnebago	10.00		10.00	5.71	15.71	57%	57%	64%	64%
Wood	4.00		4.00	5.41	9.41	135%	135%	43%	43%
TOTALS	383.45	40.00	423.45	166.03	589.48				

*Modifications:

- 1) The 0.5 GPR FTE in Washburn (0.25 FTE) that also serves Burnett (0.25 FTE) is divided by the FTE shown in parentheses.
- 2) In Milwaukee, the total FTE used is 114.5 rather than higher due to the following factors:
 - a) the 1.0 FTE DNA position serves the entire state; so, showing it as a Milwaukee position distorts the data.
 - b) Various PR Positions have no federal funding and are vacant, thus not included in the analysis
- 3) In Brown the total FTE used is 13.00 rather than 14.00 due to the following factor:
 - a) the 1.0 ADA FTE sex predator position in Brown is excluded because it also serves approximately 20 other DA offices.
- 6) The weighted time estimate for CHIPS cases was changed from 2.61 hours to 6.0 hours effective in the 2004-06 study, based on a 7/04 WDAA Executive Board recommendation.
- 7) CHIPS extensions include permanency plan review petitions filed under s. 48.365 beginning with data for 2006.
- 8) Immunization cases filed by DA Offices under s. 48.13(13) are included with CHIPS cases beginning with data for 2006.
- 9) WDAA Executive Board authorized the following changes to the weighted time estimates beginning with the 2007-09 caseload study:
 - a) Increase the "reviewing case referrals that are not prosecuted" from 35 to 100 hours per year, thereby reducing hours available per prosecutor to handle individual cases to 1162 per year.
 - b) Weighted time estimate for Class A and First Degree Reckless homicides changed from 100 hours each to 160 hours each.
 - c) Weighted time estimate for "All other Homicides" changed from 50 to 80 hours each.
 - d) The weighted time estimate for misdemeanors changed from 2.17 hours each to 2.91 hours each.
 - e) The weighted time estimate for criminal traffic changed from 1.68 hours each to 2.91 hours each.
 - f) Weighted time estimate for juvenile delinquency changed from 3.32 hours each to 3.44 hours each.



OFFICE OF THE DISTRICT ATTORNEY

Milwaukee County

JOHN T. CHISHOLM • District Attorney

Chief Deputy Kent L. Lovern, Deputies Lovell Johnson, Jr., Jeffrey J. Altenburg, Karen A. Loebel,
Elisabeth Mueller, Matthew J. Torbenson, Bruce J. Landgraf

July 31, 2019

Mr. Kasey Deiss, Director
State Prosecutor's Office
Post Office Box 7869
Madison, WI 53707-7869

Re: Creation of Project Position – Opioid Community Prosecutor

Dear Mr. Deiss:

The Milwaukee County District Attorney's Office requests that you take the steps necessary to seek legislative approval for the creation of a new full-time project position of assistant district attorney in the Milwaukee County District Attorney's Office. This position will be filled by a grant-funded Opioid Community Prosecutor. For the reasons stated below, we request the term of this position be authorized from October 1, 2019 to September 30, 2021.

Last Spring, the Wisconsin Department of Justice (WiDOJ) announced a grant opportunity in the total amount of \$324,000. These funds were secured by WiDOJ through the federal Innovative Prosecution Solutions Program Smart Prosecution Initiative (2018), a program administered by the U.S. Department of Justice (USDOJ) - Office of Justice Programs - Bureau of Justice Assistance. These funds are part of USDOJ's program known as "Innovative Prosecution Solutions for Combating Violent Crime and Illegal Opioids." "Innovative Prosecution Solutions" (IPS) is part of the Project Safe Neighborhoods Suite of federal programs. The WiDOJ grant announcement indicated that \$210,592 was awardable to the Milwaukee County District Attorney's Office. Milwaukee County applied for an award in that amount on June 20, 2019.

On July 9, 2019 the Wisconsin Department of Justice awarded Milwaukee County the sum of \$210,592 in support of the creation of an "IPS – Opioid Community Prosecutor." On behalf of Milwaukee County, County Executive Chris Abele accepted the award on July 30, 2019. By its terms, the grant may be used until September 30, 2020 but a one-time extension of this grant is anticipated due to a delay in the announcement and award of this 2018 federal grant program.

The IPS grant allocates \$188,117.00 for a prosecutor's salary and benefits. I estimate that this amount will fund a Milwaukee County prosecutor through September 30, 2021. The project period for the IPS initiative is July 1, 2019 to September 30, 2020. However, an October 1, 2019 position creation date – rather than a July 1, 2019 creation date – is a more realistic start date given the time it will take the legislature to approve this position. Likewise, at the time the WiDOJ received the award from federal authorities, a two year project period was planned. Therefore, we are seeking legislative authority for the position until September 30, 2021 because: (1) that is consistent with the original project term; (2) a one-time extension past September 30, 2020 is anticipated; (3) probable vacancy and turnover in the position; and (4) the uncertainty of determining exactly when the position will be created by the legislature. As always, we will closely monitor grant expenses and vacate the PR position at no GPR cost to the state if grant funding ends before September 30, 2021.

The Opioid Community Prosecutor will work with law enforcement, community justice partners, and community partners in order to increase the numbers of viable overdose death prosecutions; to improve intelligence related to overdose victims and opioid traffickers; to increase and leverage intervention opportunities for those at risk of overdose; and to identify system gaps and missed potential intervention points through overdose reviews.

The Opioid Community Prosecutor position was funded in an effort to combat the rampant opioid epidemic in Milwaukee. In Milwaukee County in 2017, there were 400 overdose deaths, and in 2018, there were over 375. This past Monday, the Milwaukee Journal Sentinel reported, "Fourteen probable overdose deaths occurred over the last four days in Milwaukee County, putting the county on pace to set its highest-ever number of fatal overdoses in a year, according to the medical examiner's office." See Milwaukee Journal Sentinel, "*After 14 probable overdose deaths since Friday morning, Milwaukee County is on pace for most-ever number of fatal overdoses,*" <https://www.jsonline.com/story/news/local/milwaukee/2019/07/29/overdose-deaths-climb-14-since-friday/1859965001/> (last viewed July 30, 2019). These facts and figures do not take into account all of the non-fatal overdoses that occurred where prosecution was not sought. The Opioid Community Prosecutor position aims to target overdose investigations in an effort to enhance community safety and quality of life by micro-targeting local issues. The Opioid Community Prosecutor will:

- Work directly with officers and detectives in overdose investigations. This will help improve officers' identification of witnesses, help officers obtain and preserve evidence, particularly digital evidence, and help guide certain aspects of overdose investigations which are extremely time sensitive. Originally, the position was intended to work with the Milwaukee Police Department Overdose Death Task Force, a multi-jurisdictional taskforce working out of the North Central High Intensity Drug Traffic Area (HIDTA) office. That task force has since been transferred out of HIDTA and disbanded, with the duties transferred to officers and detectives in the Milwaukee Criminal Investigation Bureau. As a result, the position will work with those detectives and HIDTA personnel who continue to undertake opioid investigations;
- Help train officers and detectives in the investigation of fatal and non-fatal overdoses;
- Identify opiate traffickers by finding commonality in OD victims' social network, social media, and social contacts;
- Coordinate information sharing about OD victims and trafficking suspects with the Department of Corrections Division of Community Corrections.

In support of this request, I am enclosing copies of:

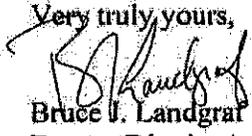
1. The grant award and acceptance letter;
2. Segments of the grant application for the Opioid Community Prosecutor as follows:
 - a. The problem description; and
 - b. The program narrative.

We appreciate the consideration that will be given to this request for what this office considers to be a position with great potential to address and abate the opioid problem in this community.

Mr. Kasey Deiss
July 31, 2019
Page 3

If you need additional information, please contact me at 414-278-5369 or at Bruce.Landgraf@da.wi.gov.

Very truly yours,



Bruce J. Landgraf

Deputy District Attorney

BJL/kj

Enclosures



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

**Josh Kaul
Attorney General**

Room 114, East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857
(608) 266-1221
TTY 1-800-947-3529

**INNOVATIVE PROSECUTION SOLUTIONS GRANT AWARD
IPS - Opioid Community Prosecutor
2018-PS-01-15394**

The Wisconsin Department of Justice (DOJ), hereby awards to the Milwaukee County, (hereinafter referred to as the Grantee), the amount of \$210,592 for programs to develop effective strategies and to address violent crime and prosecute individuals responsible for homicides caused by illegal opioids.

This grant may be used until **September 30, 2020** for the programs consistent with the budget and general conditions in Attachment A, subject to any limitations or conditions set forth in Attachments B and/or C, if included.

The Grantee shall administer the programs or projects for which this grant is awarded in accordance with the applicable rules, regulations, and conditions of the Wisconsin Department of Justice. The submitted application is hereby incorporated as reference into this award.

This grant shall become effective, and funds may be obligated (unless otherwise specified in Attachments A and/or B) when the Grantee signs and returns one copy of this grant award to the Wisconsin Department of Justice.

BY: Joshua L. Kaul
JOSHUA L. KAUL
Attorney General
Wisconsin Department of Justice

07/09/19
Date

The (Grantee), «**SigningOfficial_AgencyName**», hereby signifies its acceptance of the above-described grant on the terms and conditions set forth above or incorporated by reference therein.

GRANTEE: **Milwaukee County**

DocuSigned by:
BY: Chris Abele
NAME: **Chris Abele**
TITLE: **County Executive**

7/30/2019
Date

C PROBLEM DESCRIPTION

Clearly identify and define the gun and gang violence problems that will be addressed through the project. State the need for the project and include supporting data.

RESPONSE:

Over 70,000 people in the United States died from drug overdoses in 2017, an increase of approximately 10 percent over the previous year.[1] Wisconsin, as a whole, reflected this pattern, with a 9.6 percent increase in OD deaths from 2016 to 2017.[2] The problem was even more severe in Milwaukee County, which saw 17 percent rise in fatal overdoses in 2017 over 2016.[3] The longer term trend in Milwaukee County is even more disturbing: Medical Examiner data reflects a 56 percent increase in fatal overdoses in the past 6 years. [4]

Nationally, heroin and other opiates, particularly fentanyl and its analogs, are playing an increasing role in overdose deaths, with the number of overdose deaths involving fentanyl approximately doubling each year from 2013 through 2016.[5] Milwaukee has seen a similar trend, with a 94% increase in fentanyl related OD deaths between 2016 and 2017.[6] In 2018, the ME reported 301 deaths related to narcotic overdoses, 62 percent of which involved some form of fentanyl.[7]

Research reflects that there are multiple non-fatal overdoses for every overdose which results in death: in 2008, the Centers for Disease Control and Prevention reported that for every fatal prescription drug overdose, there were 32 non-fatal admissions to emergency rooms.[8] EMS data bears out this trend in Milwaukee County: in 2017 Milwaukee County EMS responded to over 1900 overdose-related calls for service. First responders are aware that they are called in only a proportion of overdose cases; one health department estimated that less than 40 percent of people who requested a naloxone refill kit reported calling 911 for the overdose.[9] The problem of opioid abuse and overdose is therefore likely much greater than is currently being tracked.

Leaving aside fatal and non-fatal overdoses, opiate abuse and addiction take a substantial and undeniable toll on the community and have a significant impact on the criminal justice system. In 2017, over 600 individuals were referred to the District Attorney's Office for prosecution for simple possession of narcotic drugs; in 2018, the number was over 550.[10] Justice point, which contracts with the Milwaukee County courts to provide pre-trial monitoring, also performs intake screening of arrestees at jail admission. Anecdotally, a significant number of individuals screened report substance abuse issues and test positive for opioids or other drugs during the pendency of their cases. Clearly, a correlation exists between opioid abuse and addiction and the criminal justice population.

Milwaukee County has several levels of treatment intervention for individuals who interface with the criminal justice system, and who have drug treatment needs and are of low to moderate criminogenic risk. Pre-trial, those programs, as a group, are denominated Early Intervention programs. Resource and access issues limit the population which can make use of those programs: for example, in 2017, only about 37 percent of defendants who were referred to the MCDA for charges of possession of the narcotic drug were reviewed for EI eligibility.[11] That percentage rose in 2018, but even then, the resources were extended only to individuals arrested and referred for criminal prosecution. A large and vulnerable population—people who overdose without first responders' intervention; people who self-admit to the ER following overdose; people who receive EMS care where police are not involved, and the at-risk population of associates of those OD victims—were not reached. At-risk associates are a particularly under-identified population.

Milwaukee's Project Safe Neighborhoods (PSN) Task Force members participate in weekly Shooting Incident Reviews, in which they delve into the causes and circumstances surrounding homicides and non-fatal shootings, many of which have connections to opiate trafficking. Through those reviews and through overdose fatality reviews which have been piloted in Milwaukee, criminal justice and community partners have learned,

- that more rigorous investigation into overdoses is required;
- that overdose and opioid trafficking investigations would benefit from a closer partnership between the prosecutor and investigators;
- that factors underlying overdose—including neighborhood issues, mobile drug dealing and trafficking hotspots, and overdose history—are poorly understood;
- that overdose victims are connected to one another and intervention points may be identified by analyzing victims' social networks; and
- that clear links exist between opiate use, firearm violence, and sex trafficking, but there is insufficient coordination of outreach and treatment efforts between and among the criminal justice partners and community agencies.

The MIPS project will create an opioid community prosecutor (OCP), who will work out of the Milwaukee County District Attorney's Office Violent Crimes Unit, working in association with prosecutors assigned to the Felony Drug Unit, Felony Gun Unit, and High Intensity Drug Trafficking Area. The OCP will,

1. Work with law enforcement to help identify criminal activity, including human trafficking and firearm violence related to opioid trafficking;
2. Assist law enforcement in fatal and non-fatal overdose investigations and in firearm investigations related to opioid trafficking. Specifically, the OCP will work with law enforcement to provide that the overdose deaths are thoroughly investigated as homicide and will provide investigative assistance;
3. Work with criminal justice, public health and community partners to identify and address system gaps which put individuals at risk for abuse and overdose;
4. In association with Medical College staff, law enforcement and law enforcement crime analysts, identify commonality between overdose victims, drug abusers, and drug traffickers, through analyses of social networks, social media, and digital evidence; this will help identify both traffickers and sources of supply and those co-users who are at risk of overdose
5. Work with law enforcement, first responders and emergency medical services to identify non-fatal overdose victims who are not referred for prosecution; assist in outreach and referrals for treatment and services;
6. Increase outreach to individuals who are identified as at risk for overdose, to provide education and

- resources for treatment, intervention, and support;
- 7. Collaborate with the Wisconsin Department of Corrections to leverage victims and associates who are on supervision into treatment and alternatives to revocation, while focusing stricter supervision and revocation resources on traffickers;
- 8. Use law enforcement and community data to identify potential harm reduction measures.

The MIPS will also fund the purchase of a GrayKey device and license. Cellular device analysis is a primary tool to identify an OD victim's network of associates, in order to identify sources of supply and co-users who are at risk of overdose. Increasingly, however, individuals are using devices with security features which can prevent the device from being accessed without a passcode. The GrayKey is a device, which paired with software, permits investigators to acquire Apple device passcodes. It makes an image of the device and, if the device is passcode protected, undertakes an analysis to recover the password. Neither the North Central HIDTA nor MPD Fusion has this device; purchase of it and the license will permit forensic investigators at the District Attorney's Office to access phones which were previously unbreachable, to permit Medical College staff, law enforcement, and law enforcement crime analysts to undertake analysis of victims' and traffickers' networks. The GrayKey device will only be used with proper legal authority and/or legal process.

[1] National Institute on Drug Abuse. <https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates>; Centers for Disease Control and Prevention (CDC), <https://www.cdc.gov/nchs/products/databriefs/db329.htm>; Holly Hedegaard, M.D., Arialdi M. Miniño, M.P.H., and Margaret Warner, Ph.D. NCHS Data Brief No. 329, November 2018, Drug Overdose Deaths in the United States, 1999–2017

[2] Centers for Disease Control and Prevention, <https://www.cdc.gov/drugoverdose/data/statedeaths.html>

[3] Milwaukee County Medical Examiner. 2016: 343 overdose deaths reported; 2017: 401.

[4] Milwaukee County Medical Examiner. 2014: 249; 2018: 378.

[5] M. R. Spencer, et al., "Drug Overdose Deaths Involving Fentanyl, 2011–2016," in *National Vital Statistics Reports*, Volume 68, Number 3, March 21, 2019; H. Hedegaard, et al., "Drugs Most Frequently Involved in Overdose Deaths: United States, 2011 – 2016, in *National Vital Statistics Reports*, Volume 67, Number 9, December 12, 2018.

[6] Milwaukee County Medical Examiner. 2016: 97 fentanyl related overdose deaths; 2017: 188.

[7] *Id.*

[8] Centers for Disease Control and Prevention; Policy Impact – Prescription Pain Killer Overdoses, November, 2011. <https://www.cdc.gov/drugoverdose/pdf/policyimpact-prescriptionpainkillerod-a.pdf>

[9] Aloe, Jess. "Few call 911 for an overdose law," AP News, June 18, 2018, <https://www.apnews.com/e0d14b6eccc64ae185a9da954682ea68>

[10] Milwaukee County District Attorney's Office Protect data

[11] *Id.*

PROBLEM DESCRIPTION - RELATED ATTACHMENTS:

<u>File Name</u>	<u>File Description</u>
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B PROJECT NARRATIVE

Describe your program or project in detail, including what objectives would be accomplished. Include appropriate statistics, if applicable. Relate any potential benefits including cost savings, decrease in crime activity, or other relevant details.

RESPONSE:

The Milwaukee Innovative Prosecution Solutions (MIPS) seeks funding for the creation of an Assistant District Attorney position in the Milwaukee County District Attorney's Office who will underpin a strategy to address opioid overdoses and opioid trafficking, by combining three evidence-based practices: community prosecution and community out-reach; network analysis, and incident reviews. The project has three primary

goals:

Goal 1: Improve overdose investigations and increase the number of viable overdose death prosecutions

There were over 400 overdose deaths in Milwaukee County in 2017; the Milwaukee County Medical Examiner reports that 84% (337) of those deaths involved one or more opiates.[1] Similarly, in 2018, Milwaukee County saw over 375 fatal overdoses, approximately 80% of which were opioid related.[2] The number of non-fatal overdoses and the underlying drug are not currently tracked; anecdotally, the number of non-fatal overdoses is believed to be significantly higher, with heroin, fentanyl, and other opiates the driving substances. Notwithstanding the number of overdose deaths, only 25 overdose cases were referred for prosecution for overdose-related homicide charges in 2017; only 10, in 2018. Each year, less than half of those referrals resulted in homicide charges being filed.[3]

Objective 1: Enhance Opioid Community Prosecution, in partnership with the Milwaukee Police Department (MPD), the North-Central HIDTA, and the Department of Corrections Division of Community Corrections, through coordinated investigation and prosecution.

MIPS seeks to improve overdose investigations and increase the number of viable overdose death prosecutions by creating an opioid community prosecutor (OCP).

Milwaukee has a robust history with community prosecution, a strategy which emphasizes a prosecutor's close working relationships with law enforcement and community partners, in order to enhance community safety and quality of life by micro-targeting local issues. Community Prosecution recognizes the role of community engagement, partnerships, and problem solving. In that tradition, the OCP will,

- Work directly with officers and detectives in overdose investigations. This will help improve officers' identification of witnesses, help officers obtain and preserve evidence, particularly digital evidence, and help guide certain aspects of OD investigations which are extremely time sensitive. Originally, the position was intended to work with the MPD Overdose Death Task Force, a multi-jurisdictional taskforce working out of the North Central HIDTA. That task force has since been transferred out of HIDTA and disbanded, with the duties transferred to officers and detectives in the Milwaukee Criminal Investigation Bureau. As a result, the position will work with those detectives and HIDTA personnel who continue to undertake opioid investigations;
- Help train officers and detectives in the investigation of fatal and non-fatal overdoses;
- Identify opiate traffickers by finding commonality in OD victims' social network, social media, and social contacts;
- Coordinate information sharing about OD victims and trafficking suspects with the Department of Corrections Division of Community Corrections.

Goal 2: Improve law enforcement intelligence related to overdose victims and dealers to increase intervention of opioid traffickers and those at risk of overdose;

Objective 2: Conduct social network analysis of opioid traffickers and overdose victims, in order to focus coordinated criminal justice suppression resources (local, state, federal) on dealer networks, while focusing intervention resources on overdose victim networks through local treatment providers.

Through social network analysis conducted by staff at the Medical College of Wisconsin, MIPS seeks to identify commonality of OD victims' contacts, which will help identify their traffickers and sources of supply, as well co-users who are members of the victims' social networks. This will promote a bifurcated response to overdoses: vigorous investigation and prosecution of traffickers; and outreach with treatment resources and support networks for users.

Goal 3: Reduce overdose-related deaths in Milwaukee

Objective 3: Apply a person-based review process focused on a defined population of individuals involved in opiate overdoses and their associates.

MIPS seeks to reduce overdose deaths in Milwaukee through a multi-pronged approach:

- Supply reduction: Through enhanced support of law enforcement investigations and increased prosecution capacity, reduce the available supply of narcotic drugs;
- Demand reduction: Through social network analysis, EMS data, law enforcement data, and prosecution referrals, identify a population of at risk individuals who can be offered treatment and support resources;
- Risk analysis: Through participation in Overdose Fatality Reviews, identify system gaps which put OD victims at risk, to close those gaps and reduce the risk for others;

MIPS will also provide for the purchase of, and software for, a GrayKey box, a forensic device which successfully unlocks iPhones without the passcode. Neither the North Central HIDTA nor MPD Fusion has this device, which will facilitate the social network analysis essential to the success of the project and will support each of the goals and objectives of the project.

Potential benefits of the program include fewer fatal and non-fatal overdoses, demand reduction and supply reduction as they relate to opiates; expanded referrals to treatment, with concomitant benefits to, and cost savings in, the community and the criminal justice system.

[1] Source: Milwaukee County Medical Examiner

[2] *Id.*

[3] Source: Milwaukee County District Attorney Protect data.

PROJECT NARRATIVE - RELATED ATTACHMENTS:

File Name

File Description