

State of Wisconsin

SENATE CHAIR
Alberta Darling

317 East, State Capitol
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ASSEMBLY CHAIR
John Nygren

308 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
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Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: June 30, 2020

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

Attached is a copy of a request from the Department of Administration, received June 30, 2020, 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, July 17, 2020**, 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: June 30, 2020

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 *JTB*

JUN 30 2020
St. Finance

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>
DAs 20.475(1)(h)	Gifts and grants	\$0	0.0	\$0	2.0*

*Positions ending 9/30/2021.

As provided in s. 16.515, the request(s) will be approved on July 21, 2020, 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



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

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

Date: June 5, 2020

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 2.0 FTE Program Revenue Assistant District Attorney Project Positions.

Request:

The Department of Administration, on behalf of the Milwaukee County District Attorney's Office, requests the creation 2.0 FTE program revenue assistant district attorney project positions for a term extending from July 1, 2020, through September 30, 2022.

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 Project Safe Neighborhoods program 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 April 13, 2020, the Wisconsin Department of Justice awarded Milwaukee County \$175,078 to support the creation of two Project Safe Neighborhoods prosecutor positions. Project Safe Neighborhoods is a nationwide program that works to reduce gun and gang crime throughout the country by networking existing local programs that target gang and gun crime and providing these programs with additional tools to help increase success.

Milwaukee County applied for a Project Safe Neighborhoods grant in February 2020 to reduce the level of firearm-related violence through the creation of two dedicated prosecutor positions. The city of Milwaukee has consistently reported a violent crime rate that is higher than the national average. Progress was made in 2017 and 2018 as the violent crime rate fell in both years. In addition, the number of reported homicides and nonfatal shootings in the city of Milwaukee dropped in 2019. However, for 2020, the homicide and nonfatal shooting numbers are on pace to significantly increase over the

Joel Brennan, Secretary
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June 5, 2020

previous year. These prosecutors would help to ensure that the violent crime rate does not begin to rise, and instead continues the downward trend. The grant period extends from April 1, 2020, through September 30, 2022.

Analysis:

The city of Milwaukee has consistently had a reported violent crime rate that exceeds the national average. This is coupled with 2020 homicide and non-fatal shootings occurring at a pace that indicates a significant increase over the past several years. The new Project Safe Neighborhoods prosecutor positions would work to reduce the violent crime rate, homicide rate and nonfatal shooting rate in a new and collaborative way. These individuals would be cross designated as Special Assistant United States' Attorneys in the Eastern District of Wisconsin. The cross designation would allow the prosecutors to fully utilize both state and federal resources, improve communication and information sharing, and increase support for law enforcement. These prosecutors would concentrate on illegal firearm-related activity and offenders, but would also dedicate approximately 30 percent of their time to gang/crew identification and enforcement.

The overall goal of the Project Safe Neighborhoods prosecutor program is the reduction of firearm and gang/crew violence in the city of Milwaukee. The three primary objectives would be:

- Increase support of law enforcement investigations into firearm-related violence and offenders and into gang/crew activity;
- Increase the capacity of prosecution of firearm-related violence and firearm offenders through expanded resources; and
- Improve coordination of referrals for prosecution and between state and federal prosecutors' offices.

Ideally, meeting these objectives would lead to more successful prosecutions, fewer incidences of firearm-related violence, and ultimately, greater community safety.

Milwaukee County was awarded a total of \$175,078 to support the two positions. This would include approximately \$114,400 for salary and \$50,600 for fringe benefits. It is projected that this would be sufficient to carry two prosecutors through September 30, 2021. Position authority has been requested through September 30, 2022. Milwaukee County intends to request additional funds from the Department of Justice to fund the second year of requested position authority. Based on prior experience, the State Prosecutor's Office believes the second year of funding will very likely be awarded.

Because the funds that have been awarded are only sufficient to carry the 2.0 FTE prosecutor positions through September 30, 2021, it would be reasonable to grant authority only through that date. If the county then receives additional grant funds to carry the positions through September 30, 2022, the Milwaukee County District Attorney's Office could request an extension of the project positions at that time. In

Joel Brennan, Secretary
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In addition, the funds for these positions would be monitored closely and should a shortfall occur, the positions would be vacated.

These positions are in furtherance of the state's policy to reduce firearm-related violence. The grant encourages collaboration between the District Attorney's Office, the United States Attorney's Office, as well as federal, state and local law enforcement to reduce firearm violence in Milwaukee County.

Recommendation:

Modify the request to provide position authority through September 30, 2021.

Date: June 5, 2020
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				2.0*

*Positions ending 9/30/2021.

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				2.0*

*Positions ending 9/30/2022.

BP APPROVAL BP (FORWARD TO GAIL TAPPEN)



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

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

DATE: May 5, 2020

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 two (2.0) FTE program revenue permanent positions in Department 475, District Attorneys.

Thank you for your attention to this matter.

Attachment

May 5, 2020
Project Safe Neighborhood – 2 Positions
s.16.505 Request

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 2.0 FTE program revenue (PR) assistant district attorney (ADA) project positions from July 1, 2020 through September 30, 2022. The positions are in the Milwaukee County District Attorney's (DA's) Office. If approved, these positions will be funded via appropriation s. 20.475(1)(h).

II. BACKGROUND

On April 13, 2020 the Wisconsin Department of Justice awarded Milwaukee County the sum of \$175,078 in support of the creation of two Project Safe Neighborhood (PSN) Prosecutor positions. Milwaukee County accepted the award on April 26, 2020. The grant may be used From April 1, 2020 to September 30, 2022. The award allocates \$114,400 for salary and \$50,600 for fringe benefits and other payroll expenses. It is projected that this amount will be sufficient to carry two prosecutors through at least September 30, 2021. Additional funding will be requested from DOJ for the second year of the program and based on previous experience is likely to be awarded.

The City of Milwaukee has consistently experienced a reported violent crime rate in excess of the national average. That rate fell in both 2017 and 2018, and the number of reported homicides and non-fatal shootings in the City of Milwaukee dropped in 2019; however, the homicide and non-fatal shootings numbers for 2020 are on pace for a significant increase this year.

The Milwaukee County District Attorney intends these PSN positions to address needs in a new and collaborative way. The prosecutors who are assigned to the positions will be cross-designated as Special Assistant United States' Attorneys (SAUSAs) in the Eastern District of Wisconsin, and will concentrate on illegal firearm-related activity and offenders; in addition 30% of the prosecutors' time will be dedicated to gang/crew identification and enforcement.

III. ANALYSIS

This position is in furtherance of the State's policy to reduce activity related to firearm-related violence. The grant encourages collaboration between the District Attorney's Office, the US Attorney's office as well as federal, state and local law enforcement to reduce firearm violence in Milwaukee County.

IV. FISCAL ANALYSIS

The \$175,078 allocated to prosecutor salary, fringe, payroll and associated expenses is provided via federal grant and disbursed by the Wisconsin Department of Justice. The funding currently

May 5, 2020
Project Safe Neighborhood – 2 Positions
s.16.505 Request

authorized through September 2022, is highly likely to be extended for one year upon request. Available funding and authorizations will be closely monitored, and the position will be vacated if a funding shortfall occurs or if the grant is not renewed for the second year of the program.

V. REVENUE SOURCE FOR APPROPRIATION

The source of the grant funds is the Wisconsin Department of Justice through the federal Project Safe Neighborhoods Program (2019), administered by the U.S. Department of Justice (USDOJ) - Office of Justice Programs - Bureau of Justice Assistance. Project Safe Neighborhoods is a nationwide initiative that brings together federal, state, local and tribal law enforcement officials, prosecutors, and community leaders to identify the most pressing violent crime problems in a community and develop comprehensive solutions to address them.

Milwaukee County will utilize the grant funding to 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 Project Safe Neighborhoods (2019), is intended to combat firearm violence and prosecute gang activity in Milwaukee County.

May 5, 2020
 Project Safe Neighborhood – 2 Positions
 s.16.505 Request

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%
Marinette	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%

May 5, 2020
 Project Safe Neighborhood – 2 Positions
 s.16.505 Request

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

April 30, 2020

Mr. Kasey Deiss, Director
State Prosecutors Office
Post Office Box 7869
Madison, WI 53707-7869

Re: Project Safe Neighborhoods (2019); Request to Create Two Project PR Positions

Dear Mr. Deiss:

We request that you seek legislative approval to create 2.0 FTE project positions for assistant district attorneys in the Milwaukee County District Attorney Office. These positions will be filled by two Project Safe Neighborhood (2019) grant-funded prosecutors. For the reasons stated below, we request the term of these positions be authorized from July 1, 2020 to September 30, 2022.

Last February, the Wisconsin Department of Justice (WiDOJ) announced a grant opportunity in the total amount of \$175,078. These funds were secured for administration by WiDOJ through the federal 2019 Project Safe Neighborhoods (PSN) program. Project Safe Neighborhoods (PSN) is a nationwide commitment to reduce gun and gang crime in America by networking existing local programs that target gang and gun crime and providing these programs with additional tools necessary to be successful. This particular grant announcement was geared toward reducing gang and violent crime in the Eastern District of Wisconsin. Consequently, WiDOJ solicited applications for projects geared toward reducing gang and violent crime in the Eastern District of Wisconsin, which would be approved for funding by the United States Department of Justice, Bureau of Justice Assistance.

On February 29, 2020, Milwaukee County applied for a PSN (2019) grant award in the amount \$175,078 to reduce the level of firearm-related violence in Milwaukee through the creation of two PSN assistant district attorney positions. The City of Milwaukee has consistently experienced a reported violent crime rate in excess of the national average and moreover, the 2020 homicide and non-fatal shootings are on pace for a significant increase over the past several years. Our grant application proposed to address this problem in a new and collaborative way. The grant prosecutors who will be assigned to the positions will be cross-designated as Special Assistant United States' Attorneys (SAUSAs) in the Eastern District of Wisconsin. The application proposed that they will concentrate on illegal firearm-related activity and offenders; in addition, 30% of the prosecutors' time will be dedicated to gang/crew identification and enforcement.

On April 13, 2020 the Wisconsin Department of Justice awarded Milwaukee County the sum of \$175,078 based upon the application described above. On behalf of Milwaukee County, County

Executive Chris Abele accepted the award on April 26, 2020. By its terms, the grant period runs from April 1, 2020 until September 30, 2022.

As reflected in the attached supporting documentation, \$114,400 of the award is allocated to personnel expenses for the prosecutors. The sum of \$50,600 is allocated for employee benefits. The total award for the two prosecutor positions is \$165,000.

These two proposed cross-designated ADA / SAUSA positions will leverage the tools and resources of both the federal and state criminal justice systems. Although there is a robust history of cooperation between state, local, and federal law enforcement partners, longer term, focused investigations into violent offenders, gangs, and street crews in Milwaukee are typically led by either a local law enforcement agency or by a federal agency or federal task force. Although state and federal investigation share many tools – such as search warrants – in common, certain investigative tools – such as grand juries or John Doe proceedings – generally are used in only one. By creating positions of cross-designated prosecutors able to access both state and federal resources, this grant program seeks to break down barriers in intelligence and information sharing, improve the coordination of resources between state and federal prosecutors and partners, increase support for law enforcement investigations into firearm-related offenses and gang/crew activity by expanding the tools available to state prosecutors, and promote public safety by expanding prosecutorial capacity and better coordinating the selection of the appropriate venue for firearm prosecutions.

Stated above, the goal of the PSN prosecutor program is the reduction of firearm and gang/crew related violence in the City of Milwaukee. The primary objectives will be three-fold:

- Objective 1:** Increase support of law enforcement investigations into firearm related violence and offenders and into gang/crew related activity;
- Objective 2:** Increase the capacity of prosecution of firearms related violence and firearm offenders through expanded resources;
- Objective 3:** Improve coordination of referrals for prosecution and between state and federal prosecutors' offices.

The potential benefits include more successful prosecutions; fewer incidences of firearm-related violence, and ultimately, greater community safety.

For all these reasons, we request that the legislature approve two project positions to be utilized for the PSN prosecutors with a term of July 1, 2020 to September 30, 2022. In further support of this request, I provide the following materials:

1. A copy of the fully executed award letter;
2. The approved grant budget;
3. The “Problem Description” section of the grant application; and
4. The “Project Narrative” section of the grant application.

Mr. Kasey Deiss
April 30, 2020
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The Milwaukee County District Attorney's Office appreciates the consideration that will be given to this request. In the event you have questions or if you require additional information, please feel free to contact me at 414-278-2178 or at Bruce.Landgraf@da.wi.gov.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. Landgraf", written over the typed name.

Bruce J. Landgraf
Deputy District Attorney

BJL/bl

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

**PROJECT SAFE NEIGHBORHOODS GRANT AWARD
Project Safe Neighborhoods Eastern District (2019)
2019-PE-01-15810**

The Wisconsin Department of Justice (DOJ), on behalf of the United States Attorney for the Eastern District of Wisconsin, hereby awards to **Milwaukee County**, (hereinafter referred to as the **Grantee**), the amount of **\$175,078** for programs or projects that initiate, support, and/or enhance law enforcement efforts to reduce gun-related crime and violence.

This grant may be used until **9/30/2022** 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

4/13/20
Date

The (Grantee), **Milwaukee County**, 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
831C9742336E428
NAME: **Chris Abele**
TITLE: **County Executive**

4/26/2020
Date

Completion of this signed grant award within 30 days of the date of the award is required to release federal funds.

WISCONSIN DEPARTMENT OF JUSTICE
ATTACHMENT A

Grantee: Milwaukee County

Project Title: Project Safe Neighborhoods Eastern District (2019) CFDA# 16.609

Grant Period: From 4/1/2020 To 9/30/2022

Grant Number: 2019-PE-01-15810 Program Area: 1

APPROVED BUDGET

Personnel	\$114,400
Employee Benefits	\$50,600
Travel (Including Training)	\$3,428
Supplies & Operating Expenses	\$6,650
Consultants	
Other	
TOTAL APPROVED BUDGET	\$175,078

Award Conditions:

1. **All changes to the submitted budget require prior DOJ approval**
2. Award funds will be used to supplement, not supplant, planned or allocated funds.
3. To be allowable under a grant program, all funds (federal and cash match) must be obligated (purchase order issued) or paid for services provided during the grant period. If obligated by the end of the grant period, payment must be made within 60 days of the grant period ending date.
4. Subgrantees acknowledge that failure to submit an acceptable Equal Employment Opportunity Plan (if required to submit one pursuant to 28 CFR 42.302) that is approved by the Federal Office of Civil Rights, is a violation of its Certified Assurances and may result in the suspension of the grant.
5. Grant funds will be paid to the grantee on a reimbursement basis.
6. Any changes in personnel involved with the grant including the project director, financial officer and/or signatory needs to be reported in a modification to DOJ via Egrants.
7. Fees for independent consultants may not exceed the federal rate of \$650 per eight-hour day, unless prior approval is received from DOJ.
8. The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.
9. Reimbursement for travel (i.e. mileage, meals, and lodging) is limited to state rates.
10. Recipient fully understands that DOJ has the right to suspend or terminate grant funds to any recipient that fails to conform to the requirements (special/general conditions and general operating policies) or that fails to comply with the terms and conditions of its grant award.
11. If the grant award budget contains wages, the grantee's records must be maintained in a form that, at any time, an auditor or DOJ representative would be able to identify the use of the Federal and Matching funds. These records should include information such as employee name, rate of pay, hours worked and amount of time dedicated to the grant project.
12. To be allowable under a grant program, costs must be obligated (purchase order issued) or paid for services provided during the grant period. If obligated by the end of the grant period, payment must be made within 30 days of the grant period ending date.

DS


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:

Firearms Violence in Milwaukee

Milwaukee is a city with chronically high levels of firearms-related violence.[1]

Uniform Crime Reporting (UCR) data compiled by the FBI, as set forth in Table I, demonstrates that the City of Milwaukee consistently has had a significantly higher violent crime rate than the national average. Each year from 2014 to 2017, Milwaukee's violent crime rate was approximately four times the national average. (See, Table I, attached) In 2015, the combined number firearm-related homicide and non-fatal shooting victims reached the highest level since 2006, representing a 61% increase over 2010; and the shooting victimization rate hit 106.1 per 100,000.[2]

Although the UCR data reflects that the number of violent crimes in Milwaukee fell in 2017 and 2018, Milwaukee Police Department (MPD) data demonstrates that firearm violence continues to have a significant impact on the community. In 2016, there were 141 homicides and 499 non-fatal shooting incidents in the

City of Milwaukee.[3] 116 of the homicides (83.5%) were committed with a firearm; almost all of those and most non-fatal shooting events, involved the use of a handgun.[4] In 2017, Milwaukee saw 118 homicides and 478 non-fatal shooting events; in 2018, 104 homicides and 425 non-fatal shootings; in 2019, 101 homicides and 364 non-fatal shootings.[5] (See, Table II, attached) In 2018, the rate of non-fatal shooting events exceeded 70 per 100,000 residents.[6]

Understandably, Milwaukee has been ranked one of the ten most dangerous cities in the United States for several years. [7]

MCDAO prosecution data is maintained in Protect, the record management system furnished and required by Wisconsin DA-IT. Because “non-fatal shooting” is not a legal term, but rather a descriptive phrase used to designate an incident in which a person is injured by gunfire, but not killed, non-fatal shooting events, as such, are not tracked in the Protect system. However, in late 2016, the Milwaukee County Chief Judge restructured felony court calendars to provide that all felony level cases involving the discharge of a firearm (unless related to a homicide, sexual assault, or an act of domestic violence) would be prosecuted in the felony Gun Court. A review of Protect data related to the prosecution team assigned to that court (the “Gun Unit”), therefore, gives insight into firearm-related violence, including both non-fatal shootings and cases where victims are targeted, but not struck.[8]

Protect data from 2017 through 2019 reflects that firearm-related violence has remained a significant threat in the community. In 2017, the Gun Unit received 440 separate referrals for prosecution; in 2018, 443 referrals; and in 2019, 398 referrals.[9] Protect data further demonstrates that the number of non-fatal shootings and homicide represents only a portion of the illegal gun activity in Milwaukee. An analysis of Protect data relating to referrals in which suspect was alleged to have been a prohibited person in possession of a firearm (FIPOF), in violation of Wis. Stat. § 941.29, demonstrates that such conduct is a significant on-going threat in the community. (See Table III, attached)

During the same times period, however, federal indictments based on cases which had been screened through the District Attorney’s Office fell. MPD assigns several officers and detectives to serve as liaisons in the MCDAO. These officers help process cases through the charging process and assist in obtaining discovery material. The current protocol established between MPD and the United States’ Attorney’s Office for the Eastern District of Wisconsin (USAO) calls for the liaison officers who are assigned the MCDAO to send to the USAO copies of issued complaints in firearms cases. ADAs and law enforcement case agents also can refer charged cases for review by the USAO. The liaisons track their federal referrals through a spreadsheet they maintain; referrals from case-agents and ADAs are tracked in Protect. Those records reflect that in 2017, MPD liaisons made 244 referrals to the USAO for review for potential criminal charges; 47 federal indictments resulted. In 2018, MPD liaisons made 262 federal referrals; 21 indictments resulted. In 2019, MPD Liaisons made 293 referrals for federal review; as of February 20, 2020, 17 indictments have been issued as a result. Protect data reflects that an additional 27 state cases were dismissed in favor of federal indictments in cases which were referred to the USAO by an ADA or a case agent during that period.

Gang Violence in Milwaukee

Although there is not universal definition, a gang is generally recognized to be an association of 3 or more (or 5 or more) persons with a common identifying sign, symbol, or name, the members of which—individually or collectively—engage in criminal activity, or which has as one of its primary purposes the commission of criminal activity.[10] Formal gangs tend to be organized and hierarchical and may operate across state lines. [11] A less formal gang, a “crew,” is a more loosely-knit group, often based on a neighborhood; crew members frequently have family or neighborhood ties to one another. Like more hierarchical gangs, crews frequently self-identify with names or symbols and are associated with a variety of street crimes, including drug, firearm offenses, and homicides.[12]

Every week, MPD commanders, special agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Federal Bureau of Investigation (FBI); officers from the North Central High Intensity Drug Trafficking Area (HIDTA); investigators, victim witness specialists and ADAs from the MCDAO, and the director of the Milwaukee Homicide Review Commission participate in a review of all homicides and non-fatal shootings which occurred in Milwaukee over the previous 7 days. Participants review the circumstances of each event, share intelligence about the suspects, victims, and location, and discuss investigative steps and potential intervention points. Through that process, it has become apparent

that—although traditional organized and hierarchical gangs still operate in Milwaukee—much of the firearm violence is conducted by less formal street crews.

It is difficult, if not impossible, to quantify the number of crews operating at any point: by definition, a crew is a loose association, not an organization. Anecdotally, however, the information gathered at MPD's weekly Shoot Reviews has revealed that a significant number of the homicides and non-fatal shootings in Milwaukee are committed by crew members; and that these shootings have a particularly high potential for retaliation and escalation of violence, and therefore, a particularly high impact on public safety.

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 County District Attorney's Office (MCDAO) seeks funding to reduce the level of firearm-related violence in Milwaukee through the creation of two PSN assistant district attorney positions (PSN ADAs).

The City of Milwaukee has consistently experienced a reported violent crime rate in excess of the national average. That rate fell in both 2017 and 2018, and the number of reported homicides and non-fatal shootings in the City of Milwaukee dropped in 2019; however, the homicide and non-fatal shootings numbers for 2020 are on pace for a significant increase this year.

The MCDAO seeks to address those needs in a new and collaborative way, through the creation of two PSN ADA positions. The prosecutors who are assigned to the positions will be cross-designated as Special Assistant United States' Attorneys (SAUSAs) in the Eastern District of Wisconsin, and will concentrate on illegal firearm-related activity and offenders; in addition, 30% of the prosecutors' time will be dedicated to gang/crew identification and enforcement.

Both the State of Wisconsin and United States have enacted criminal laws which prohibit activity associated with firearms-related violence. State and federal criminal jurisdiction are not coterminous: the Wisconsin Statutes prohibit some conduct that the United States Code (U.S.C.) does not; concomitantly, the U.S.C. contains some provisions that do not appear in state statutes.[1] However, much illegal firearm-related activity is proscribed under both Wisconsin state statutes and the U.S.C. Where conduct could fall under both jurisdictions, it is generally necessary to select either the state or federal venue. Notwithstanding that both are distinct sovereigns, such that prohibitions against double jeopardy would not prevent simultaneous or sequential prosecution in both venues,[2] statutory and policy bars exist to dual prosecutions.[3] The determination of which venue is most appropriate can turn on multiple factors, including the strength of each jurisdiction's interest, prosecutorial and judicial resources, and both the potential and the likely sentence the offender will face if convicted.[4] Penalty enhancers which are available in only one venue can greatly impact the potential minimum and maximum sentences a firearm offender may face.[5]

In addition, although there is a robust history of cooperation between state, local, and federal law enforcement partners, longer term, focused investigations into violent offenders, gangs, and street crews in Milwaukee are typically led by either a local law enforcement agency or by a federal agency or federal task force. Although state and federal investigation share many tools—such as search warrants—in common, certain investigative tools—such as grand juries or John Doe proceedings—generally are used in only one.

By creating positions of cross-designated prosecutors who can access both state and federal resources, this proposal seeks to break down barriers in intelligence and information sharing, improve the coordination of resources between state and federal prosecutors and partners, increase support for law enforcement investigations into firearm-related offenses and gang/crew activity by expanding the tools available to state prosecutors, and promote public safety by expanding prosecutorial capacity and better coordinating the selection of the appropriate venue for firearm prosecutions.

The goal of the PSN ADA grant positions is the reduction of firearm and gang/crew related violence in the City of Milwaukee. The primary objectives are three-fold:

Objective 1: Increase support of law enforcement investigations into firearm related violence and offenders and into gang/crew related activity;

Objective 2: Increase the capacity of prosecution of firearms related violence and firearm offenders through expanded resources;

Objective 3: Improve coordination of referrals for prosecution and between state and federal prosecutors' offices.

The potential benefits include more successful prosecutions; fewer incidences of firearm-related violence, and ultimately, greater community safety.

[1] For example, 18 U.S.C. 922(g)(9) prohibits a person who has been convicted of a misdemeanor crime of domestic violence from possession any firearm or ammunition; Wis. Stat. § 941.29, the equivalent state statute, contains no such prohibition.

[2] See, e.g., *Heath v. Alabama*, 474 U. S. 82, 92 (1985) *Gamble v. United States*, 587 U.S. ___, 139 S. Ct. 1960; 204 L. Ed. 2d 322 (2019).

[3] See, e.g., United States Department of Justice Manual [JM] 9-2.031 – Dual and Successive Prosecutions (“Petite Policy”); See also, Wis. Stats § 961.45, Bar to Prosecution.

[4] United States Department of Justice Manual [JM] 9-27.240

[5] For example, under state law, a person who is prohibited from possessing a firearm by virtue of a prior conviction for a felony conviction must be sentenced to a minimum term of 3 years initial confinement if the possession occurs within 5 years of the completion of the sentence for that prior violent felony. Under Wis. Stat. § 939.6195, person convicted of a violation of § 941.29 or certain other offenses as a habitual criminal generally must be sentenced to a minimum term of 4 years initial confinement. Federal law provides for mandatory minimum sentences under two firearm statutes: the Armed Career Criminal Act imposes mandatory penalties on recidivists; 18 U.S.C. 924(c) requires the imposition of one of a series of mandatory minimum terms of imprisonment upon conviction for crimes involving the use of a firearm during a crime of violence or a drug trafficking offense.