



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #496

Internet Crimes Against Children Taskforce (Justice)

Base Agency

[LFB 2007-09 Budget Summary: Page 369, #3]

CURRENT LAW

The Wisconsin Internet Crimes Against Children (ICAC) 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, forensic and prosecutorial assistance to police agencies and prosecutors, encourages statewide and regional collaboration, and provides training for law enforcement, prosecutors, parents, teachers, and other community members. The task force also coordinates with the Wisconsin Clearinghouse for Missing and Exploited Children, to provide support services to children and families that have experienced victimization.

The Wisconsin ICAC Task Force is led by the Department of Justice (DOJ). The ICAC task force unit in DOJ is authorized 10.0 full-time equivalent (FTE) positions in 2006-07, including 5.5 GPR-funded positions, 3.5 PR-funded positions, and 1.0 FED-funded position.

GOVERNOR

Provide \$350,000 GPR and 3.0 GPR special agents annually to provide additional staffing and supplies and services resources to the ICAC task force unit in DOJ. Funding would be provided for the special agents as well as to recruit retired law enforcement officers to assist the task force.

DISCUSSION POINTS

1. Through the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice, the federal government created the Internet Crimes Against Children Task Force Program. Wisconsin was one of the first states to create such a task force.

2. Initially, DOJ did not have full-time special agents assigned to address its ICAC caseload. Instead, the ICAC caseload was addressed by special agents who worked overtime. The Department first retained dedicated full-time staff to work ICAC investigations in 2000. The Department utilized federal funding to hire a full-time special agent. In addition, DOJ: (a) reallocated a program and planning analyst position to the ICAC unit; and (b) trained a special agent in its technical services unit to conduct computer forensic examinations.

3. Department staff attributes additional resource reallocations to the ICAC unit to budget initiatives in 2002 and 2003, including the merger of the Division of Narcotics Enforcement (now the Bureau of Narcotics Enforcement) with the Division of Criminal Investigation. The ICAC unit currently has the following staffing: (a) 0.5 criminal investigation director; (b) 2.0 office associates; (c) 3.0 computer forensic analysts; and (d) 4.5 special agents. These positions and associated supplies and services costs are supported through a combination of state and federal funds.

4. Internet crimes against children cases generally fall into four broad categories: (a) “peer-to-peer” investigations; (b) investigations of cybertips received from individuals and Internet service providers through the National Center for Missing and Exploited Children; (c) online child enticement investigations; and (d) cases involving other law enforcement agencies.

5. First, “peer-to-peer” investigations identify the illegal file sharing of child pornography images over the Internet. Second, Congress has mandated that all Internet service providers register and report any child pornography on their servers to the Cyber Tips Program at the National Center for Missing and Exploited Children. The investigation of cybertips involves following up on such tips that may come from Internet service providers or from individuals. Third, online child enticement investigations involve investigations of chat rooms and other web-based communication sites to identify adults who want to meet children for the purpose of engaging in sexual activity, or adults who are willing to make their children available for adult sexual contact. Finally, cases involving other law enforcement agencies include: (a) child exploitation initiatives with other law enforcement agencies, such as following up on customer information from web-based companies identified as illegally trafficking images of child pornography; (b) assisting local law enforcement agencies with investigations of Internet-based or other child exploitation cases; and (c) assisting other ICAC task forces around the country.

6. In addition to DOJ, the Wisconsin ICAC Task Force includes 27 affiliate Wisconsin law enforcement agencies. Twenty-two of these agencies have a capacity to conduct “reactive” ICAC investigations, responding to tips or information that an Internet crime against a child may have occurred. [The remaining five affiliate law enforcement agencies have only recently joined the

task force and, as a result, are in the process of receiving necessary ICAC training.] In addition, seven of these affiliate law enforcement agencies are trained to conduct “proactive” investigations, such as peer-to-peer investigations and online child enticement investigations.

7. Computer forensic analysis is an important element to the successful prosecution of ICAC cases. Computer forensic analysts are responsible for conducting on-site forensic previews of evidence, and subsequently developing the evidence more thoroughly in the laboratory. The analysis involves: (a) the creation of a duplicate image of relevant evidence; (b) an examination of all relevant computer files; and (c) restoring information pertinent to the investigation. Department staff indicates that this work can be laborious, often due to the large volume of data involved in ICAC investigations. Computer forensic analysts in the ICAC unit provide this analysis for both DOJ special agents as well as for local law enforcement agencies.

8. Department staff indicates that the current median wait time for a completed computer forensic examination is five months, although DOJ staff indicates that child exploitation cases are prioritized and typically have a shorter wait time. Department staff has expressed the concern that unless matching computer forensic analysts are provided the wait time for computer forensic examinations will increase.

9. Despite the expansion of resources within DOJ dedicated to ICAC investigations, as well as the increasing number of local law enforcement agencies joining the Wisconsin ICAC Task Force, the Attorney General has expressed the concern that the Department has insufficient resources to respond to Internet crimes against children. As an indication of the scope of the problem, DOJ indicates that since March of 2006, its special agents have identified 15,445 unique Wisconsin Internet protocol (IP) addresses that have offered to share known images of child pornography on 55,686 different occasions. It may be worth noting that in some instances a single individual may utilize multiple IP addresses. However, the exchange of child pornography is also not the only type of Internet crime against children that DOJ is addressing. The Department indicates that each additional special agent would permit the ICAC unit to initiate/investigate an additional three cases per month.

10. In responding to this need, but considering it in relation to other needs addressed across state government, under SB 40, as introduced, the Governor recommended providing an additional \$350,000 GPR and 3.0 additional special agents annually to DOJ's ICAC unit. Of the amounts provided, salary and fringe benefits funding totals \$153,900 GPR in 2007-08, and \$205,000 GPR in 2008-09, with supplies and services funding totaling \$196,100 GPR in 2007-08, and \$145,000 GPR in 2008-09. The original recommendation under SB 40 envisioned that supplies and services funding would be utilized not only to support the additional 3.0 special agents, but also to permit DOJ to recruit retired law enforcement officers to assist the task force.

11. In his remarks to the Joint Committee on Finance, however, the Attorney General expressed concern that the Department's federal ICAC funding is predicated on the Department's agreement that it will only utilize sworn law enforcement officers to investigate ICAC crimes. The Attorney General also indicated that ICAC investigations, "require an understanding of digital

technology and Internet-based investigative methodology. The skill set needed to be successful in this area is different than traditional police investigative skills and the learning curve is steep." The Attorney General expressed reservations as to whether this expertise could be acquired by retired law enforcement officers working part-time on ICAC investigations.

12. The Legislature generally funds new positions at the minimum salary. If the Committee concludes that the ICAC unit should be provided additional resources to address Internet crimes against children within the funding levels recommended under SB 40, the Committee could consider providing the ICAC unit 2.0 additional special agents and 2.0 additional computer forensic analysts during both years of the upcoming biennium, but assume a three-month delay to fill the positions in the first year of the biennium. Under this alternative, the Committee could provide \$294,700 GPR in 2007-08, and \$295,500 GPR in 2008-09, to fund the positions at the minimum starting salary level but fully fund supplies and services needs as identified by DOJ. In keeping with the methodology and concerns expressed by DOJ, this alternative provides an equal number of special agents and computer forensic analysts to ensure that there are sufficient computer forensic analysis resources to address the ICAC caseload of DOJ special agents and local law enforcement agencies.

13. If it is assumed that the new special agents would be hired effective October 1, 2007, and subsequently receive six months of training, the new special agents would be available to provide 15 months of caseload during 2007-09. Based on agency expectations that an ICAC special agent will initiate approximately three new investigations per month, under this alternative it is estimated that the ICAC unit could initiate an additional 90 ICAC investigations during the biennium.

14. If the Committee concludes that the ICAC unit should be provided additional resources within the funding levels recommended under SB 40, but at a higher staffing level than identified above, the Committee could also consider providing the ICAC unit 2.0 additional special agents and 3.0 additional computer forensic analysts during 2007-09. Under this alternative, the Committee could provide \$352,100 GPR in 2007-08, and \$347,400 GPR in 2008-09, to again fund the positions at the minimum salary level but fully fund supplies and services needs as identified by DOJ. There is currently an average median wait time of five months for a completed computer forensic examination (although child sexual exploitation cases are prioritized and more often have less wait time). In addition, five new affiliate local law enforcement agencies have recently joined the Wisconsin ICAC Task Force. The additional forensic analyst could assist DOJ to shorten the median wait time for a completed computer forensic examination and provide additional analysis resources to address cases investigated by local law enforcement.

15. In a May 3, 2007, report on Internet crimes against children, however, the Attorney General identified a preferred response to the issue of Internet crimes against children involving the creation of 14.0 additional positions including: (a) 1.0 special agent in charge; (b) 6.0 special agents; (c) 6.0 computer forensic analysts; and (d) 1.0 program and planning analyst. The Department indicates that this alternative would permit the placement of special agents in Wausau, Appleton, and Eau Claire to better serve the central and northern part of the state. Department staff further

indicates that this alternative would provide for the expansion of resources in the Milwaukee and Madison areas as well. The report indicates that the additional resources would permit DOJ to complete the ICAC cases currently awaiting assignment, enable agents to promptly respond to ICAC complaints, and expand the number of active peer-to-peer investigations. There are currently nine peer-to-peer cases and 48 cybertips pending assignment. In addition, there are four assigned cases for which preliminary work has been done, but additional investigation is required. The Department indicates, however, "Even with an additional six agents, there will be a tremendous number of cases that cannot be investigated."

16. If the Committee were to adopt the Department's suggested modification, total funding of \$1,100,500 GPR in 2007-08, and \$1,137,400 GPR in 2008-09, would be required. As the provisions of SB 40 provided \$350,000 GPR annually for this initiative, additional funding of \$750,500 GPR in 2007-08, and \$787,400 GPR in 2008-09, would be required to implement this initiative. It may be worth noting that under the Department's modification, new positions would not be filled at the minimum salary level for the position classification.

17. If the Committee were to provide an additional 6.0 special agents under this latter alternative, and assuming that all six agents would be available to assume 15 months of caseload during the biennium, it is estimated that the addition of these six agents would permit the Department to initiate an additional 270 ICAC cases during 2007-09, versus the 90 additional ICAC cases during 2007-09, under the alternatives providing two additional special agents. Both sets of alternatives would permit the Department to eliminate the ICAC cases currently awaiting assignment, but providing six additional special agents in 2007-09, would permit the Department to initiate three times more ICAC cases during the biennium.

18. Given the scope of the problem that Internet crimes against children poses to the response capability of federal, state, and local units of government, the Committee could consider providing 14.0 additional positions to the ICAC unit at DOJ during 2007-09. Alternatively, as this problem likely exceeds the capability of the state to respond to alone, the Committee could consider providing an incremental increase in ICAC resources consistent with the recommendation included under SB 40, with the expectation that the federal government and local law enforcement agencies must also increase their response to this critical problem.

19. The Committee could also conclude that it is important to respond to these crimes, but that the initiative should be supported from base resources. Department staff indicates, however, that the agency has little ability to reallocate base resources to enhance its response to these crimes.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to provide \$350,000 GPR and 3.0 GPR special agents annually to provide additional staffing and supplies and services resources to the Internet Crimes Against Children (ICAC) Task Force unit at the Department of Justice (DOJ).

ALT 1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	\$700,000	3.00

2. Delete the provision and instead provide \$294,700 GPR in 2007-08, and \$295,500 GPR in 2008-09, and 2.0 GPR special agents, and 2.0 GPR computer forensic analysts annually, to provide additional resources to the ICAC unit at DOJ. Funding would be provided at the minimum starting salary.

ALT 2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$109,800	1.00	\$590,200	4.00

3. Delete the provision and instead provide \$352,100 GPR in 2007-08, and \$347,400 GPR in 2008-09, and 2.0 GPR special agents, and 3.0 GPR computer forensic analysts annually, to provide additional resources to the ICAC unit at DOJ. Funding would be provided at the minimum starting salary.

ALT 3	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$500	2.00	\$699,500	5.00

4. Delete the provision and instead provide \$1,100,500 GPR in 2007-08, and \$1,137,400 GPR in 2008-09, and 14.0 additional GPR positions annually (1.0 special agent in charge, 6.0 special agents, 6.0 computer forensic analysts, and 1.0 program and planning analyst), to provide additional resources to the ICAC unit at DOJ.

ALT 4	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$1,537,900	11.00	\$2,237,900	14.00

5. Maintain current law.

ALT 5	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$700,000	- 3.00	\$0	0.00

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