



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 31, 2011

Joint Committee on Finance

Paper #422

Internet Crimes Against Children Task Force (Justice)

[LFB 2011-13 Budget Summary: Page 271, #5]

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 law enforcement 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 currently authorized 22.0 full-time equivalent (FTE) positions, including 14.0 GPR-funded positions, 5.0 PR-funded positions, and 3.0 FED-funded positions.

GOVERNOR

Provide \$497,300 GPR and 8.0 GPR positions in 2011-12, and \$543,900 GPR and 11.0 GPR positions in 2012-13, to provide additional resources to the ICAC Task Force at DOJ. In 2011-12, create 4.0 criminal analysts, 3.0 special agents, and 1.0 operations program associate. Effective April 1, 2013 (for 2012-13), create an additional 1.0 criminal analyst and 2.0 operations program associates. Funding would be provided as follows: (a) \$343,200 in 2011-12, and \$491,100 in 2012-13, for salary and fringe benefits costs; and (b) \$154,100 in 2011-12, and \$52,800 in 2012-13 for supplies and services costs.

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 with the Division of Criminal Investigation. As of 2006-07, the ICAC unit had 10.0 FTE positions (5.5 GPR positions, 3.5 PR positions, and 1.0 FED position) including: (a) 0.5 criminal investigation director; (b) 2.0 operations program associates; (c) 3.0 criminal analysts; and (d) 4.5 special agents.

4. Under 2007 Act 20, the Legislature created an additional 5.0 GPR-funded FTE positions for the unit. In 2008-09, the unit had 15.0 FTE positions (10.0 GPR positions, 4.0 PR positions, and 1.0 FED position) including: (a) 0.5 criminal investigation director; (b) 1.0 computer evidence recovery specialist; (c) 2.0 operations program associates; (d) 5.0 criminal analysts; and (e) 6.5 special agents.

5. Under 2009 Act 28, the Legislature created an additional 5.0 GPR-funded FTE positions for the unit. In addition, under the 2009 federal American Recovery and Reinvestment Act (ARRA), DOJ received an ICAC award of \$735,600 FED. The Department utilized this ARRA award to create 3.0 federally-funded project positions (1.0 criminal analyst and 2.0 operations program associates).

6. As of March 31, 2011, however, a 1.0 operations program associate funded under ARRA expired. As a result, the unit currently has 22.0 FTE positions (14.0 GPR positions, 5.0 PR positions, and 3.0 FED positions) including: (a) 0.5 deputy administrator; (b) 2.0 operations program associates; (c) 9.5 special agents; and (d) 10.0 criminal analysts.

7. Under each of the last two biennial budget acts, the Legislature has created an additional 5.0 GPR-funded FTE positions for the unit. As a result, since 2006-07, the Legislature has more than doubled the number of state-funded ICAC positions, from 9.0 FTE to 19.0 FTE. Under the bill, DOJ would be provided an additional 8.0 GPR-funded ICAC positions in 2011-12 (4.0 criminal analysts, 3.0 special agents, and 1.0 operations program associate), and an additional 3.0 GPR-funded ICAC positions in 2012-13 (1.0 criminal analyst and 2.0 operations program associates). By 2012-13, this would increase the number of state-funded ICAC positions by an additional 58% versus current base resources.

8. In addition, utilizing the 2009 federal ARRA award, the Department also created an

additional 3.0 project positions for ICAC (1.0 criminal analyst and 2.0 operations program associates). The Department indicates, however, that the ARRA grant award expires in March, 2013, and additional federal supplemental grant funding is unlikely. As a result, it is unclear whether additional federal funds could be forthcoming to support the 1.0 criminal analyst and the 2.0 operations program associates that are currently funded under ARRA. However, the bill would provide funding effective April 1, 2013, for 1.0 GPR-funded criminal analyst and 2.0 GPR-funded operations program associates.

9. 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.

10. First, "peer-to-peer" investigations identify the illegal file sharing of child pornography images over the Internet. The number of peer-to-peer investigations conducted by Department special agents has been increasing. In calendar year 2008, Department agents initiated 71 peer-to-peer investigations. By calendar year 2010, this had increased to 187 peer-to-peer investigations.

11. 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. The number of cybertips received by the task force has also been increasing. In calendar year 2008, the task force received 199 tips. By calendar year 2010, this had increased to 262 tips received by the task force. Of the tips received by the task force in 2010, 32 were referred to affiliate local law enforcement agencies for action, and the remaining 230 tips were investigated by Department staff. [The workload associated with these tips may vary. Some tips may be closed rather expeditiously upon a finding of no merit. Other tips may become substantial investigations.]

12. 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. In calendar year 2010, DOJ ICAC agents initiated 27 child enticement investigations. Through early May, 2011, Department agents have initiated 16 child enticement investigations. [Data regarding child enticement investigations for prior years would only be available based on a lengthy manual case review of Department ICAC cases.]

13. 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.

14. In May of 2007, there were 27 affiliate Wisconsin law enforcement agencies of the Wisconsin ICAC Task Force (not including DOJ). As of April 11, 2011, the Wisconsin ICAC Task

Force includes 156 affiliate Wisconsin law enforcement agencies (not including DOJ). All 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. In addition, most of these agencies can also conduct "proactive" investigations, such as peer-to-peer investigations and online child enticement investigations. Department staff indicates, however, that these local law enforcement agencies "are severely hampered by resources to the extent that few could commit the significant resource of a dedicated ICAC detective that proactive work demands."

15. Computer forensic analysis is an important element to the successful prosecution of ICAC cases. Criminal 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. In 2008-09, criminal analysts completed 76 computer forensic ICAC examinations. Through April 30, 2011, criminal analysts at DOJ have completed 155 computer forensic ICAC examinations in the current fiscal year. Criminal analysts in the ICAC unit provide this analysis for both DOJ special agents as well as for local law enforcement agencies.

16. 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. In testimony before the Committee, the Attorney General indicated that:

"While we've increased our efforts with more resources and more law enforcement partners, the reality is that this criminal activity persists beyond law enforcement resources. While we are able to catch offenders like the former Racine mayor who used the Internet in an attempt to lure children for sexual purposes, countless others are not identified. Moreover, law enforcement is aware that there are tens of thousands of downloads of known images of child pornography in Wisconsin... So long as it persists beyond law enforcement's ability to hold offenders accountable, I will ask that we step up our fight."

17. In order to provide additional resources for ICAC investigations the Committee could approve the Governor's recommendation to provide \$497,300 GPR and 8.0 GPR positions in 2011-12, and \$543,900 GPR and 11.0 GPR positions in 2012-13. [Alternative 1]

18. The Committee could also conclude that, in balancing the competing interests for state funding, and considering the fact that federal, state, and local units of government have a shared responsibility to prosecute ICAC crimes, a more modest incremental increase to DOJ for ICAC resources could be provided. The Department indicates that its federal ICAC ARRA award will expire in March, 2013, and additional federal supplemental grant funding is unlikely. Utilizing ARRA funding, the Department created a 1.0 FED criminal analyst and 2.0 FED operations program associates. In order to provide an incremental increase to DOJ for ICAC resources and to replace these positions that were provided with federal ARRA funding, the Committee could provide 1.0 GPR criminal analyst and 2.0 GPR operations program associates beginning April 1, 2013, and provide \$33,500 GPR for salary and fringe benefits, and \$3,600 for supplies and services

costs. [This is the same timing and level of funding provided for these positions under the Governor's recommendation.] This alternative would reduce GPR expenditures for the initiative by \$497,300 GPR in 2011-12, and \$506,800 GPR in 2012-13, but still provide replacement position and expenditure authority for the ARRA-funded ICAC positions. [Alternative 2]

19. If in balancing the competing interests the Committee felt that additional resources should be provided above maintaining positions originally created with federal ARRA funding, as under 2009 Act 28, the Committee could also consider providing 2.0 additional special agents and 3.0 additional criminal analysts annually to DOJ and associated funding of \$316,600 GPR in 2011-12, and \$319,100 GPR in 2012-13. If in addition to maintaining the federal ARRA positions, these additional resources were provided, this alternative would reduce GPR expenditures for the initiative by \$180,700 GPR in 2011-12, and \$224,800 GPR in 2012-13. [Alternative 3]

20. The Committee could also conclude that it is important to respond to these crimes, but that the initiative should be supported from base resources. [Alternative 4] It may be worth noting, however, that under the bill, as introduced, DOJ is also subject to 10% reductions to supplies and other non-personnel costs in addition to being required to delete 19.0 long-term vacant positions. As a result its ability to reallocate additional resources for the ICAC initiative may be more limited.

21. Finally, regardless of whether or not the Committee provides additional resources for the ICAC Task Force under the bill, the Committee could consider requiring that funding and position authority provided to the Department for the ICAC initiative be separately tracked for budgetary purposes (as is the case under current law for narcotics enforcement). In recent years, the Legislature has provided a substantial amount of resources to DOJ for the ICAC initiative. Since 2006-07, the Legislature has more than doubled the number of state provided ICAC positions, from 9.0 FTE to 19.0 FTE. Under the bill, DOJ would be provided an additional 8.0 GPR-funded ICAC positions in 2011-12, and an additional 3.0 GPR-funded ICAC positions in 2012-13. By 2012-13, this would increase the number of state-funded ICAC positions by an additional 58% versus current base resources to 30.0 FTE. Of the 78.0 state funded positions authorized to the Division of Criminal Investigation under the bill (not including positions attributable to narcotics enforcement), 38% of these positions would be ICAC positions.

22. Requiring the separate tracking of resources provided to the ICAC Task Force for budgetary purposes would permit the Legislature to maintain more oversight over the ICAC initiative. [Alternative 5] On the other hand, in order to permit DOJ more flexibility in how it utilizes funding and positions provided to the Division of Criminal Investigation, the Committee could maintain current law and not provide for separate budgetary tracking of ICAC resources.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$497,300 GPR and 8.0 GPR positions in 2011-12, and \$543,900 GPR and 11.0 GPR positions in 2012-13, to provide additional resources to the Internet Crimes Against Children (ICAC) Task Force at the Department of Justice (DOJ). In 2011-12, create 4.0 criminal analysts, 3.0 special agents, and 1.0 operations program

associate. Effective April 1, 2013 (for 2012-13), create an additional 1.0 criminal analyst and 2.0 operations program associates. Funding would be provided as follows: (a) \$343,200 in 2011-12, and \$491,100 in 2012-13, for salary and fringe benefits costs; and (b) \$154,100 in 2011-12, and \$52,800 in 2012-13 for supplies and services costs.

2. Modify the Governor's recommendation to instead provide \$37,100 GPR and 3.0 GPR positions in 2012-13, to support the ICAC Task Force at DOJ. Under this alternative, an additional 1.0 criminal analyst and 2.0 operations program associates would be provided to DOJ effective April 1, 2013. *[This alternative would provide three months of compensation and supplies and services funding for the created positions in 2012-13. This alternative would provide DOJ with GPR funding and position authority for 1.0 criminal analyst and 2.0 operations program associate positions that were initially created with federal funding under the 2009 American Recovery and Relief Act.]*

ALT 2	Change to Bill	
	Funding	Positions
GPR	- \$1,004,100	- 8.00

3. Modify the Governor's recommendation to provide \$316,600 GPR and 5.0 GPR positions in 2011-12, and \$356,200 GPR and 8.0 positions in 2012-13, to support the ICAC Task Force at DOJ. Under this alternative 2.0 special agents and 3.0 criminal analysts would be provided in 2011-12, and an additional 1.0 criminal analyst and 2.0 operations program associates would be provided to DOJ in 2012-13.

ALT 3	Change to Bill	
	Funding	Positions
GPR	- \$368,400	- 3.00

4. Delete provision.

ALT 4	Change to Bill	
	Funding	Positions
GPR	- \$1,041,200	- 11.00

5. Require that the funding and position authority provided to DOJ for ICAC be separately tracked for budgetary purposes.

Prepared by: Paul Onsager