



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

**Testimony Before the
Assembly Committee on Government Accountability & Oversight
on
Assembly Bill 231
December 20, 2017**

Chairman Hutton and members of the committee, thank you for having a hearing on Assembly Bill 231 today. This bill will aid prosecutors across the state, the legislators, Governor, and judicial branch.

In 1990 district attorneys (DAs) and all other prosecutors were transferred to state employment from county employment.¹ At that time the State Prosecutors Office (SPO) was created within the Department of Administration (DOA) as a result of the prosecutors' employment status shift.² While the SPO administers the employment side of prosecutorial matters, there is no official forum for prosecutors to confer with one another, debate policies that affect prosecutors, recommend best practices or serve as a resource for the legislature, Governor, or judicial branch to consult for their expertise.

AB 231 creates an 11-member prosecutor board consisting of district attorneys and prosecutors from across the state and the Attorney General (or his designee). The bill also creates an executive director and a legislative liaison within the SPO. One of these positions is effectively a transferred position from the current staff at DOA. Oversight of the SPO would be given to the prosecutor board. This structure is modeled after the Public Defender Board and State Public Defender's Office.

The prosecutor board and SPO would be responsible for the current budgetary and fiscal matters that DOA performs and would also serve as a haven of expertise to review legislation that affects prosecutors. Additionally, the prosecutor board and SPO will represent the prosecutors before the governor, legislature, courts and bar associations and identify methods and practices for district attorneys that promote professional competence, ethical practices and evidence-based practices. Every department and public defenders, the most comparable group to prosecutors, have structures and legislative liaisons in place to handle the duties assigned to the prosecutor board and SPO in this bill. Why should prosecutors, critical members of the criminal justice system, be left unrepresented and disorganized in Madison?

¹ See 1989 Act 31.

² *Id.*

There are currently 71 DAs and 71 different opinions that are provided when the legislature, Governor and courts look to them for their expertise. The prosecutor board and transfer of the SPO from DOA to the oversight of the prosecutor board will provide a forum to discuss policy amongst themselves and give prosecutors a unified voice on important issues of criminal justice. This bill offers a place in the Capitol to some of our most important and least appreciated state employees.

The SPO or prosecutor board is prohibited from interfering with prosecutorial decisions in any case or the autonomy of a DA to manage his or her office.

Thank you for your time and attention. I am open to any questions you may have.



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

BRAD D. SCHIMEL
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PREPARED TESTIMONY OF ATTORNEY GENERAL BRAD D. SCHIMEL
Assembly Committee on Government Accountability and Oversight
Wednesday, December 20, 2017

Good morning, Chairman Hutton and members of the Assembly Committee on Government Accountability and Oversight. I appreciate the opportunity to testify on Assembly Bill 231 (AB 231), which establishes a prosecutor board in the state. I would like to extend a special thank you to both Representative Tusler and Senator Wanggaard for sponsoring this important legislation, because it will have an immediate and positive impact on public safety in Wisconsin.

In 1989, as a third year law student, I began an internship in the Waukesha County District Attorney's Office, where I fell in love with public service. I would stay there for the next 25 years of my career. As legislators, you are public servants and know how public service is different from the private sector. As you would expect, a district attorney's office is very different from "one of the big firms." There aren't high rise offices, lunches with clients, year-end bonuses and the potential for paychecks with lots of zeroes at the end. But in the DA's office, there are opportunities every day to change lives. To help find justice for the community, healing for crime victims and rehabilitation for offenders. If you care about the people you serve, and are willing to work hard, criminal prosecution can be very rewarding in many ways.

Life in DA's offices has changed an awful lot since I started in 1989. My teenagers can't imagine it, but we did not have the internet yet. I remember criminal complaints being prepared on typewriters. I remember when we got our first fax machine in the 1990s. One day we got a computer, but it wasn't interconnected to anything. It was just a word processor.

But it is not the technology in the office that was significant. With the internet, we experienced many changes in the behavior of criminals. In 1990, the words "identity" and "theft" did not appear next to each other in the criminal code. Criminals stole check and forged them, but they had not yet invented the idea that you could more effectively steal from people if you just stole their identity.

In 1990, we almost never saw child pornography cases. To have it, one had to possess

a magazine of stack of photos and the mailman delivered it in a plain brown wrapper. With the onset of the World Wide Web, child sex offenders found a way to anonymously produce and distribute images of children being sexually assaulted and exploited. And the pedophiles who are aroused by these sick images are now offered an array of child pornography that is absolutely shocking. Thank you for passing Alicia's Law last session that is helping police and prosecutors rescue kids from sexual abuse and trafficking more quickly.

If you talked in the 1990s about "internet travelers", people would have looked at you like you were some kind of Star Trek fanatic lost in a science fiction dream world. We used to teach kids about "stranger danger" and warned them to never get in a car with a stranger. Now, child sex offenders don't go to the local park to find victims. They go to the internet, and they do it with such frequency that whenever we run an undercover online investigation, the offenders come out of the woodwork to travel to have sex with a 12 year old. Many of them have seen the TV shows like "To Catch a Predator" and know that police are online trying to catch them, but they still come.

In 1990, DNA existed only as something you learned about in science class. It was not a tool for law enforcement to solve crimes. I remember prosecuting cases in which we utilized blood type evidence, which was useful only to eliminate suspects. Over the years since 1990, DNA science has become increasingly more precise and has become accessible to state crime labs and local law enforcement. Now we are solving crimes we never could have dreamed of solving in 1990. In fact, the science was growing at such a fast pace that in 2007, the Wisconsin legislature approved the hiring of 31 brand new DNA analysts at our Crime Lab in fell swoop.

We have recently seen what I hope is the beginning of a revolution in American society where victims of sexual abuse and harassment will find a more supportive justice system and public when they come forward. We saw a revolution in our approach to child sexual assault right around 1990, and we began to understand the complex reasons why victims suffered in silence and did not come forward for many years. The change in our thinking was so profound that we changed our state statutes of limitations to expand the time limit for prosecuting a child sex offender from just 6 years from the date of the crime to decades and in some cases, we eliminated the statute of limitations altogether.

We did not have dash cameras, much less body cameras in 1990. Stores did not routinely have video surveillance, and the cameras that existed produced such grainy images that you would not have recognized your own mother in the video.

I could go on and on about how the world has changed since 1990. Why do I choose that year? That is the year that prosecutors in DA's offices became State employees. The primary goal in making this change was to create a core of career professional prosecutors who could more effectively address the challenges brought by a rapidly

changing world, and as I described moments ago, in 1990 we really had no inkling of the changes that were to come.

The merit-based pay progression you built into the statutes several sessions ago and funded in the current budget will go a long way to help retain the brightest and hardest-working public servants in the 71 DA's offices. Thank you.

All of that said, though, every study of the staffing levels in the DA's offices has found that virtually every office in the state is grossly understaffed. Most of the offices are functioning at or below 1990 staffing levels. The changes in technology have helped the support staff type criminal complaints and motions more quickly, but they have not significantly aided the prosecutors. In fact, the police reports have gotten longer. There is now a large amount of audio-visual material the prosecutor must watch in order to be prepared to charge or try the case. It takes a tremendous amount of expertise now to prosecute crimes committed using the internet, or to prosecute the child sexual assault that never would have been reported a couple of decades ago or the murder solved by DNA or enhanced video surveillance equipment.

Any law enforcement officer will tell you that prosecutors play a critical role in promoting public safety. They will also tell you that, even though they might be a huge fan of their local DA's office, the choke point in the criminal justice system is the DA's office, because they are so dramatically understaffed that they just cannot keep up with the work. Little problems by necessity get ignored or delayed, and when they do, they often become much bigger problems. There is great validity to the broken windows theory of public safety. Anyone who works within the justice system will agree that the prosecutor shortage will result in dire consequences to public safety if not addressed soon.

The public defenders and criminal defense bar have traditionally supported the efforts to increase the volume of prosecutors, because an overworked prosecutor is less likely to consider options like Treatment, Alternative and Diversion programs, like drug courts and youthful offender programs. Overwhelmed prosecutors are more likely to make mistakes, and that can lead to guilty people going free, or worse, innocent people being convicted.

For several sessions, legislators from both parties have acknowledged that the prosecutor program is vastly understaffed and the problem needs to be addressed. Staffing levels have been neglected for 20 years. It is at the point that estimates are that prosecutor offices statewide are understaffed by over 120 FTEs. It is not realistic to expect that the problem will be completely solved in one budget. It is not even possible to hire that many prosecutors at one time. Instead, the solution needs to be a gradual growing of the ranks, which means that not every office is going to get any additional prosecutor help right away, and none of the offices will get as much help as they can justify.

Herein lies the rub. Someone needs to determine how many need to be authorized immediately and where they should go. Each of the 71 elected DAs needs to take care of public safety in their county. Therefore, they will advocate for what they need. When legislators dedicated to public safety have tried to help, they have become frustrated because the prosecutors never offer a coherent plan. Rather, there are multiple plans that conflict, and those legislators who genuinely want to help have no roadmap to follow.

For these reasons, I strongly support AB 231 because it creates an independent state prosecutor office with an eleven member board most of which is elected by the DAs and assistant DAs, an executive director, and a small staff. The board would take over duties currently housed at the Department of Administration. The executive director would manage the office; prepare focused fiscal estimates and annual reports; and represent the prosecutor board before the legislature, bar associations, courts, and other state agencies. The state prosecutor office would be tasked with preparing a budget for all prosecutorial units and review rules that affect prosecutors. The most important thing it will do is provide legislators the roadmap they so desperately need to determine where new prosecutors are more seriously needed to preserve public safety. That roadmap will be created by a democratically elected board of peers who will speak with authority for all of the DAs offices.

Prosecutors statewide from both political parties support this measure. It will create a system with some similarities to what the State Public Defender has now. All 71 prosecutors are constitutional officers and elected officials. It is critical that these officers have an independent board that can represent them before the legislature to ensure they can continue to carry out their public safety mission.

There have been numerous legislative proposals, specifically related to criminal justice, that have come before me for my opinion. In these cases I do my best to share these proposals with our DA's for legislative input. However, there is currently no uniform process or system through which all DA's can be heard and represented with a focused effort on legislative proposals.

There has been an increased focus on law enforcement in our state this legislative session and I applaud the work that has been done in that regard. It imperative that we ensure criminals are appropriately charged and prosecuted. This bill provides another critical component to increasing public safety: having experienced prosecutors with necessary resources. For this reason it is vital that prosecutors are represented and organized by a capable independent state prosecutor office that will be able to effectively advocate and support all of the DA offices in our great state.

Thank you again for hearing AB 231 and I look forward to your support. I am happy to take any questions.

W D A A

Wisconsin District Attorneys Association

December 17, 2017

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President-Elect

Louis Molepske (2016-18)

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Roy Korte

Committee on Government Accountability and Oversight

Representative Hutton (Chair)

Representative Brandtjen (Vice-Chair)

Re: Public Hearing on AB 231

Dear Committee Members,

The Wisconsin District Attorney Association, a statewide organization made up of elected and non-elected state prosecutors, would like to express its full support of AB 231. This bill creates an independent Prosecutor Board that oversees and sets policies and procedures for a State Prosecutors Office, also created in this bill.

Under this bill, the Executive Director of the State Prosecutors Office manages the office; prepares personnel policies, fiscal estimates, and an annual report; and represents the board before the Governor, the Legislature, Bar Associations, and Courts. The Executive Director may also identify methods and practices for District Attorneys that promote professional competence and ethical practices. Under this bill, the State Prosecutors Office assumes duties relating to District Attorneys that current law assigns to the Department of Administration, such as preparing a budget for all of the prosecutorial units, approving appointments of special prosecutors when needed, and making requests for Assistant District Attorneys in certain prosecutorial units. The bill requires any rule that directly affects the State Prosecutors Office to be reviewed by the office and for the office to submit a report on the proposed rule that includes information about the effect of the proposed rule on the State Prosecutors Office. Finally, this bill requires DOA to provide the State Prosecutors Office with general access to a case management system currently used to manage case-related information and to share the information among prosecutors.

The bill would be trailer legislation to the 1990 law that made prosecutors state employees.

Prosecutors Board

1. The 71 DA's and the Attorney General are all independently elected, constitutional positions, it is necessary to have an independent body in Madison to address the needs of the 71 elected DA's, their offices and the work they each do. The Prosecutors' Board will advocate for the public safety needs of Wisconsin

residents through coordinating the response from the 71 elected DA's to budget, staffing, education, legislative and agency requests.

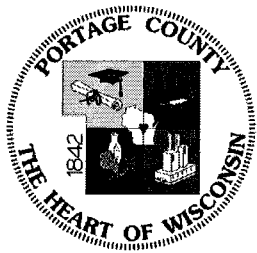
2. Due to the current demands on DOA, DA's offices have not received adequate representation in Madison, which has had a significant impact on pay progression, staffing, turnover and other important community safety issues.
3. The Prosecutors' Board will provide the focused advocacy for the DA program tailored to its specific and unique needs and independent of outside competing interests.
4. The Prosecutors' Board will provide a standing and ready resource to the Legislature, Governor and other state agencies to access for consultation on criminal justice-related legislation and proposals.
5. The Prosecutor Board will provide focused and detailed fiscal reports for new criminal laws affecting prosecutors, the courts and the bar.
6. The Prosecutor Board will lead to a more professional criminal justice bar by employing evidence-based practices that can be discussed and disseminated from one central location.
7. The board will be made up of elected and non-elected criminal prosecutors from each appellate district in the state. The board will also have a representative from DOJ.

Sincerely,



Jacalyn LaBre

President of the Wisconsin District Attorneys Association



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December 20, 2017

To: Assembly Committee on Government Accountability
And Oversight

Re: Assembly Bill 231 Creation of State Prosecutor Board and Office of State
Prosecutor

Chairman Hutton and members of the Assembly Committee on Government
Accountability and Oversight:

On behalf of the 72,000 people I represent in Portage County, and the
three Assistant District Attorneys who work with me on over 2,300 cases
annually, I thank you and commend this committee for holding a public hearing
on Assembly bill 231. Representative Ron Tusler and Senator Wanggaard
authored this bi-partisan proposal that was co-sponsored by 19 Representatives
and five Senators. Rep. Mark Born provided specific drafting assistance to
comply with Joint Finance policy and procedure and steered the proposal
through Joint Finance to make it part of the last budget bill. Attorney General
Brad Schimel and his office provided initial LRB drafting authority for the bill, and
the AG has since continued his support of a prosecutors' board and State
Prosecutors' Office tasked with managing over 350 criminal prosecutors state-
wide.

AB 231 is a bill that is 27 years in the making. This bill continues the
transition of criminal prosecutors from county employees that original took place

on January 1, 1990. This bill is essentially "trailer" legislation. The bill before you provides the government accountability and oversight that is currently lacking in the District Attorney Program which affects 71 independent elected district attorneys overseeing 72 counties and 350 criminal prosecutors across Wisconsin. The District Attorney Program is a critical part of Wisconsin's government but it has yet to be fully implemented into State government and 27 years is long enough to wait when prosecutors directly affect the state's budget, provide safety to Wisconsin's residents and affect the constitutional liberties of citizens in the pursuit of justice.

AB231 was drafted to address a District Attorney Program that lacks appropriate structure and lacks needed contact between 71 elected District Attorneys and the legislature and governor. This bill does not propose a new idea but instead adopts the management style of State Prosecutor Offices nationwide, where most state prosecutors have a state board that works hand in hand with legislators, governors, attorney generals, law enforcement and local and state bars. AB 231 proposes an elected board made up of prosecutors from all the appellate districts that set policy and procedure for the entire program that the executive director implements. This board will be open and accountable to our citizens and to the legislature and governor.

The bill before you, like the public defenders, that have the State Public Defender Board, adopts board management for a mid-sized state agency that currently is lacking cohesiveness and proper representation before the legislature and governor. Prosecutors state-wide are in agreement that the District Attorney Program needs a proper management structure managed by people who

understand what prosecutors do and need to keep Wisconsinites safe in the pursuit of justice.

The board can help the legislature, governor and all prosecutors address the needs of the DA program including ADA staffing ratios, pay progression, prison reform and overcrowding, corrections costs and evidenced-based practices like those implemented by the Legislature to divert low-risk, low need offenders and to address the opiate epidemic in our citizens.

The bill requires the board to set, adopt and manage the fiscal reports on proposed criminal bills. Currently, the process your bill's as legislators get fiscal effects is nothing more than an email going out statewide to District Attorneys asking how a bill may affect their prosecutorial unit. Most prosecutors do not have the time to respond and those that do try to provide data but unfortunately most of it is anecdotal and too general to truly show the legislature the effects of new criminal laws on the current District Attorney program and ultimately state budget.

The bill was drafted to require the board and executive director to assist in preparing the budgets of all 71 prosecutorial units – a task that is needed to be streamlined and representative. The bill also requires the executive director of the State Prosecutors' Office to appear before Joint Finance and Committees like this to discuss the State budget and legislative proposals. Currently, the Office of the State Public Defender is a regular in your offices as it employs two legislative liaisons. No one advocates for criminal prosecutors unless prosecutors take a day off of work and drive to Madison to discuss a proposal. Most District Attorneys and especially Assistant District Attorneys do not have time to come to

Madison due to workloads that exceed the number of prosecutors in each office where currently most prosecutors are handling the caseloads of two prosecutors. This bill provides agency structure and the needed professionals that will come to your offices to work on legislation or explain prosecutors' action or concerns.

The Bill also encourages a vibrant professional culture across all Wisconsin DA offices to respond to evidenced based practices that address the commonly called "revolving door" of criminality by defendants. The bill's intention is to provide a clearinghouse where best practices can be adopted and developed so all defendants and citizens experience similar outcomes no matter where the crime occurs or where the citizen resides.

This bill has more functions but I will simply say, thank you for your help in making a rudderless ship run more smoothly for all of you and the women and men who have answered the call to pursue justice in Wisconsin's courtrooms as prosecutors.

I am happy to answer any questions you might have Mr. Chairman and members.

Sincerely,

Louis J. Molepske, Jr.

Louis J. Molepske, Jr.
District Attorney
Portage County

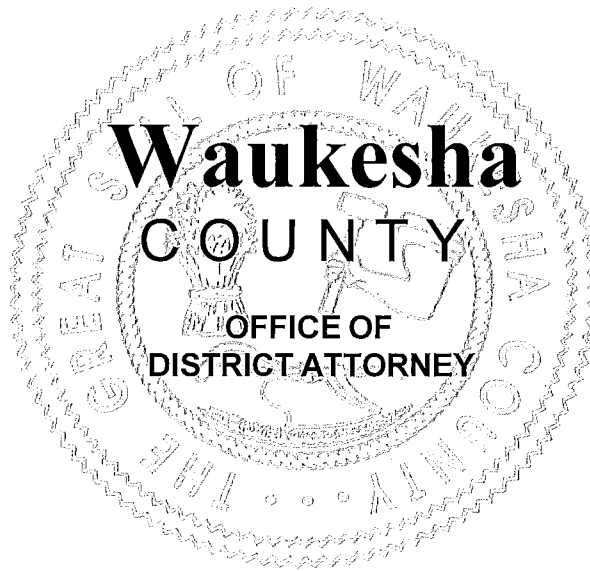
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Jack A. Pitzo

December 19, 2017

Committee of Government Accountability and Oversight

Representative Hutton (Chair)
Representative Brandtjen (Vice-Chair)

RE: Public Hearing on AB 231

Dear Committee Members:

I am writing to express my support for Assembly Bill 231, which would create a Prosecutor Board and a statutory Office of State Prosecutors.

This legislation would create a central, independent agency, the Office of State Prosecutors, with an 11-member board and an executive director and staff. The executive director of the Prosecutors Office would manage the office, prepare personnel policies, fiscal estimates, and annual reports and represent the Prosecutor Board before the governor, the legislature, bar associations, and courts. Several of these duties are currently assigned to the Department of Administration (DOA), and the new office would mostly be paid for by transferring dollars housed in DOA.

The Prosecutors Office could also weigh in on proposed rules directly affecting prosecutors, and would give the Prosecutors Office access to the case management system that the Wisconsin Department of Justice uses to manage cases and share information.

This board would be similar to the creation of State Public Defenders Office, which has operated more efficiently with a centralized organizational structure. Having a state board in place would give prosecutors a chance to generate ideas to improve our system and structure to advocate for shared positions.

This past budget cycle, we were successful in advocating for pay progression for Assistant District Attorney's (ADAs). This was greatly needed to keep our experienced, well-trained prosecutors in place. We need to make sure pay progression is funded in the future and start the process of adding more prosecutors which has been a long-term problem plaguing district attorney's offices throughout the state.

In 1991, Waukesha County had 18.5 ADA positions and today we have 16.5 positions (one position is grant funded). In that time period, Waukesha County's population increased 27%. Our caseloads have increased in number and complexity. The heroin and opiate crisis has led to more Len Bias Reckless Homicide cases which require additional time and skill to prosecute. Having an Office of State Prosecutor's will help get these important issues some attention and accomplished prosecutors to work the cases.

In May, the Joint Finance Committee unanimously approved a motion that mimics Assembly Bill 231, however the language was vetoed from the final budget. I hope the legislature supports this important legislation once again.

Thank you for your time and consideration.

Very truly yours,

Susan L. Opper
District Attorney
Waukesha County

jad



**LINCOLN COUNTY
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December 19, 2017

Committee on Government Accountability and Oversight

Re: 2017 Assembly Bill 231

Dear Committee Members,

As the elected District Attorney for Lincoln County, and as a member of the Wisconsin District Attorney's Association, I write to express my full support for 2017 Assembly Bill 231 and its companion Senate Bill, 2017 Senate Bill 155.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "G. Bayne-Allison", with a long horizontal flourish extending to the right.

Galen Bayne-Allison
Lincoln County District Attorney



ASSOCIATION OF STATE PROSECUTORS

Representative Rob Hutton
Chairman – Government, Accountability and Oversight Committee
Assembly District 13
Room 220 North, State Capitol
PO Box 8952
Madison, WI 53708

Dear Chairman Hutton,

Thank you and your Committee for taking the time to consider this recent proposal to create a State Prosecutor's Council. We are grateful for our Legislature's recent support – most recently regarding pay progression – and are cognizant of the tight budgets within which we operate. But our Association submits this letter – on behalf of the 340 statewide Assistant District Attorneys - to support the creation of this Council.

We are honored to serve our local communities. But we are regularly consumed by the constant challenges we face – the opioid crisis, chronic OWI offenders, and sexual predators, to name a few. It is a great irony, perhaps, that the harder and longer we work on behalf of others, the harder it becomes for us to sustain each other.

We have historically done a bad job in communicating how we could be more effective, how we could be stronger, how we could be serving our communities more powerfully. Staffing shortages and historically low salaries have led to the loss of irreplaceable, seasoned prosecutors, for example.¹ A Prosecutor's Council would remedy many of these issues.

Wisconsin is behind many other states in forming such a Council. In fact, the Public Defenders have had a permanent, taxpayer funded presence in Madison for years. Practically speaking, the Council could provide time sensitive advice to Assistant DA's across the State. In other states, similarly designed councils provide statewide trainings, and employ specialized prosecutors who handle complicated matters for smaller counties.

In short, we are deeply grateful that your Committee is considering this proposal. We again reiterate our support for the creation of a Prosecutor's Council. Thank you.

Sincerely,

Michael Thurston
Waukesha County ADA
ASP President

¹ Much of this was document in an October 2011 research article published by the Robert La Follette School of Public Policy, titled "Public Safety and Assistant District Attorney Staffing in Wisconsin."

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December 19, 2017

Committee on Government Accountability and Oversight
Chairperson Representative Hutton
Vice-Chairperson Brandtjen
State Capitol
Madison, Wisconsin 53708

RE: Public Hearing on Assembly Bill 231

Dear Committee Members

I am in support of Assembly Bill 231, which creates an independent Prosecutor Board to oversee and set policies and procedures for a State Prosecutor's Office. I believe that the creation of such board is long overdue, as District Attorney's, such as myself, are facing increased challenges in the administration of our offices and this bill helps each District Attorney throughout the State by creating a forum for streamlining processes and procedures for the public safety the residents of our great State.

Currently, administrative assistance is provided to District Attorneys, Deputy District Attorneys, and Assistant District Attorneys through the State Prosecutor's Office in the Department of Administration. Unfortunately, the current arrangement does not create the efficiencies which District Attorney's, such as myself, believe that the Prosecutor Board would provide. As District Attorneys, presently, we are tasked with providing the fiscal impact for bills proposed by the legislature, without having an appropriate forum for the discussion of such bills and their fiscal impact. I could only imagine the responses, or the lack thereof, that State Prosecutor's Office Director Amanda Mott receives at this time, with regard to each bill.

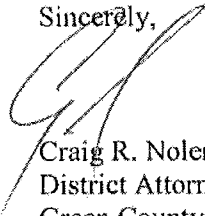
I strongly believe that the Prosecutor's Board is an important resource that the legislature currently lacks when it is proposing bills. The Prosecutor's Board will be comprised of 11 members and will include a legislative liaison to report to the legislature regarding the findings of the Prosecutor's Board. At present, I personally know that I have significant contact with Representatives and Senators, not even those representing Green County, about issues of Statewide concern, as such legislators are seeking the expertise of prosecutor's such as myself on these issues. The creation of the Prosecutor's Board and accompanying legislative liaison, will help streamline processes for the legislature concerning criminal justice matters.

I believe that the creation of such board will allow many of the processes that 71 elected District Attorneys are currently tasked with to be addressed in a much more streamlined and efficient manner. Further, the creation of such a board will allow for the advancement of Evidence Based Practices throughout the State, as only a fraction of the 71 District Attorneys have adopted such procedures pre-charging and pre-sentencing.

The creation of the Prosecutor Board further creates a more unified voice for the 71 elected District Attorneys, as we presently have 71 different District Attorney's approaching members of the legislature about our individualized office concerns. The Prosecutor Board can help cut through much of the clutter that individual legislators are being asked to address and equalizes the playing field for District Attorney's throughout the State, rather than focusing solely concerning the most politically connected District Attorneys.

This bill will be immensely helpful to District Attorneys from smaller counties, such as myself. In sum, I believe that the Prosecutor Board is sorely needed and strongly encourage all members of this committee to vote in favor of this Bill. Thank you for your attention to this matter.

Sincerely,



Craig R. Nolen
District Attorney
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Representative Pronschinske and Senator Vinehout
State Capitol
Madison, WI 53708

December 19, 2017

Re: Assembly Bill 231 and Senate Bill 155

Dear Rep. Pronschinske and Senator Vinehout,

I hope this finds you both well. I am writing in support of Assembly Bill 231 and Senate Bill 155 which provides for the formation of a State Prosecutors Board.

I believe that a State Prosecutors Board is an important step in improving public safety and efficiency within the Criminal Justice system. We currently have no forum to share best practices with each other which leads to a wide variety of approaches to the prosecution of cases. This is not in the public interest.

Many of our offices are dealing with severe staffing shortages and having a coordinated voice at the State Capitol will improve our ability to interact with law-makers and State Government in general. I remember well my first visit to your office Representative Pronschinske, as I walked in you were talking to two representatives from the State Public Defenders Office. State Prosecutors simply do not have a voice in Madison and it is very much in the interests of Public Safety for us to have one.

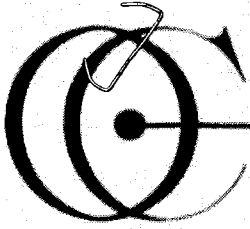
Wisconsin has 71 elected District Attorneys and we are never in the same room at the same time. Myself and others are working on this issue and we are organizing a DA summit sometime this Spring. For the State to have consistency and better outcomes from the criminal justice system I believe we need this Board. Thank you for your attention to this matter.

Please feel free to call with any questions or concerns.

Very Truly Yours,



Taavi McMahon
Trempealeau County District Attorney



OUTAGAMIE COUNTY

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December 20, 2017

Committee on Government Accountability and Oversight

Representative Hutton (Chair)

Representative Brandtjen (Vice-Chair)

RE: Public Hearing on AB 231/SB 155

Dear Committee Members,

While I would love to attend the hearing today in support of AB231/SB155, which would create the Prosecutor's Council, I have commitments in my county and am not able to make the trip to Madison. This morning, I will be meeting with a family who lost their 13 year old son as a result of Homicide by Negligent Operation of a Vehicle and covering the plea hearing of the defendant who caused his death. This is a perfect example of the challenges prosecutors face around the State in attending important hearings in Madison, where our voices need to be heard, but not being able to afford the time to travel and attend meetings and hearings because of the important commitments to our county. However, this is an extremely important issue to District Attorney's across the State of Wisconsin. The work you do in Madison impacts the day to day operations of a District Attorney's Office, the victims we serve, the offenders we prosecute and justice in our communities. Yet, in an office that is almost 9 prosecutors short, it is hard for me to take 2 hours to travel to Madison, spend the time at a meeting or hearing and then travel 2 hours back. Often trips end up taking most, if not all, of my day. With the need to cover court, charge out in custodies and handle the day to day operations of a very busy office, it makes coming to Madison difficult to impossible to do. As a result, legislators and state leaders rarely hear the voice of state prosecutors because we are too busy handling our caseloads

and do not have a mechanism, such as the Prosecutor's Council, to collect our comments and insight and speak on our behalf.

The Prosecutor's Council is designed to:

- Provide a collective voice of the 71 District Attorney's Offices
- Ensure critical information is disseminated to state leaders to reduce state spending, while providing better services to residents and on the ground information on the implications of proposed legislation
- Educate state leaders on staffing and retention of prosecutors, which directly impacts the safety of each county in Wisconsin

Because there are 71 District Attorneys who are all independently elected and hold constitutional positions, it is necessary to have an independent body, such as the Prosecutor's Council, in Madison to address the needs of the 71 elected DA's, our offices and the work we do. Each DA is independent of each other and serves their community. District Attorney's (DA's) offices are unique in that they are a hybrid of county and state functions. While a DA's Office's daily operating budget and support staff is funded by the county, the Assistant District Attorneys (ADA) and Deputy District Attorneys (DDA) are employees of the State. Currently, the DA's function and budget, which consists almost entirely of salary and fringe benefits for ADAs and DDAs, are housed within the Department of Administration (DOA). Unfortunately, due to the vast size and nature of DOA, this does not provide for effective representation of issues surrounding the DA Program, including budget, staffing, and legislative education regarding the DA Program and prosecutorial issues. The Prosecutors' Council will advocate for the public safety needs of Wisconsin residents through coordinating the response from the 71 elected DA's on budget, staffing, education, legislative and agency requests. This is similar to the State Public Defender's Office, which is located in Madison and allows for easy attendance at meetings and hearings related to issues impacting their offices.

Without the Prosecutor's Council, legislators and state leaders are missing out on critical information that could reduce state spending, while providing better services to residents. State prosecutors have a unique perspective as they handle the large majority of criminal caseloads. Prosecutors are actively involved in their local criminal justice system on a daily basis and many of them have areas of specialty and expertise that would be beneficial to state leaders. District Attorneys are able to provide better insight to local issues, challenges, and successes experienced within their communities. Prosecutors are on the front line of evidence based decision making and are finding innovative ways to reduce jail populations by the use of treatment courts, pre-trial services and other unique programs while also ensuring community safety. By having a Prosecutor's Council, this information could be collected and disseminated to state legislators and leaders to assist them in making important budget and legislative decisions. For example, many counties create innovative programs, which reduce costs to state corrections and could be implemented statewide. Essentially, Outagamie County has already returned 17 year olds to the juvenile justice system through its Young Adult Offender Program. It is reducing both the number of cases in the court system and the Department of Corrections caseload, while providing better services in a more cost-effective way to 17-

19 year olds. Without the Prosecutor Council, this information is not easily disseminated to state leaders.

In order for Prosecutors to prosecute large quantities of cases in a timely, evidence based, victim-sensitive, offender focused, best practice way, it is imperative the Legislature be well educated on the necessary staffing and attorney retention needs of each office and how to best fund that in the state budget. This has been a struggle for almost two decades. Without a Prosecutor's Council, it has proven impossible to effectively gather and communicate the needs of 71 District Attorneys to the legislature, because the DA's are too busy handling the day to day demands of their offices. Without adequate staffing, prosecutors do not have the time to participate in the myriad of treatment courts and alternative programs that will ultimately reduce costs to the Criminal Justice System and Corrections. Each prosecutor in our office handles between 175-250 pending cases at any given time with countless cases waiting to be charged. This is completely unacceptable and does a disservice to the community and justice as a whole. Research tells us immediate consequences and treatment provide for better community outcomes. Instead, victims are required to wait months and sometimes years for justice, while defendants remain untreated and able to reoffend. Furthermore, we need to retain experienced prosecutors through pay progression to handle the complex litigation of serious cases, such as homicides, internet crimes against children, human trafficking, sexual assault, domestic violence and the opioid epidemic. New prosecutors have not developed the judgment and skills necessary to handle the complex pre-trial motion practice and trials these cases require. It is the District Attorney's responsibility to ensure community safety in cases like this, but that cannot be done with an office full of inexperienced prosecutors.

The Prosecutors' Council will provide a standing and ready resource to the Legislature, Governor and other state agencies for consultation on criminal justice-related legislation and proposals. It is imperative the Legislature have good "on the ground" information when addressing criminal justice issues and potential legislation. This may include possible legal issues of proposed legislation, how new legislation will impact holding offenders accountable, it's impact on victims of crime, the costs to the court system and DA's office staffing and workload. For example, it is not uncommon for bills to be passed which result in significant errors in law impacting serious prosecutions, such as errors in legislation relating to child sexual assault laws in 2005 or OWI Causing Injury.

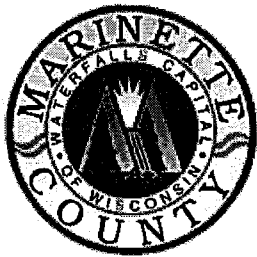
I urge you to support the Prosecutor's Council and AB231/SB155. Creating the Prosecutor's Council will provide a collective voice of the 71 District Attorney's Offices; ensure critical information is disseminated to state leaders to reduce state spending, while providing better services to residents and educate state leaders on the ground information on the implications of proposed legislation; and also educate state leaders on the staffing and retention of prosecutors, which directly impacts the safety of each community in Wisconsin. Ultimately, it meets the criminal justice system goals of providing better community safety through evidence based practices to improve outcomes in a cost-effective way and give a voice to the victims who have been impacted.

Sincerely,

Melinda

Melinda Tempelis
District Attorney

cc: Rep. Ron Tusler



**OFFICE OF THE
DISTRICT ATTORNEY**

DeShea D. Morrow
District Attorney

Cody J. Marschall
Assistant District Attorney

December 19, 2017

Mr. Phillip Pratt
Clerk of Committee for Government Accountability and Oversight
Wisconsin State Assembly
VIA EMAIL @ Phillip.Pratt@legis.wisconsin.gov

Re: Registering Support for AB 231—State Prosecutor's Board

Dear Mr. Pratt:

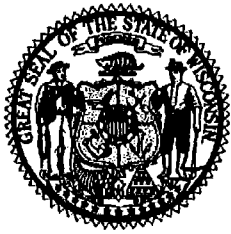
My name is DeShea Morrow, and I am District Attorney in Marinette County, Wisconsin. I support AB 231 and the formation of a State Prosecutor's Board. I firmly believe that the Prosecutor's Board would be a more effective mechanism for helping to support District Attorney's offices across Wisconsin because the Prosecutor's Board would be guided by experienced, practicing prosecutors who will best know the needs of prosecutors across the state. Further, the Prosecutor's Board will be able to provide more effective feedback on legislation affecting criminal justice.

Law enforcement and prosecutors across the state are being faced with more and more serious and complex crimes. By providing effective support to prosecutors across Wisconsin, the Prosecutor's Board will in turn benefit the citizens of Wisconsin.

Sincerely,

DeShea Morrow
District Attorney
Marinette County





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December 19, 2017

Committee on Government Accountability and Oversight

Representative Hutton (Chair)
Representative Brandtjen (Vice-Chair)

Re: Public Hearing on AB 231

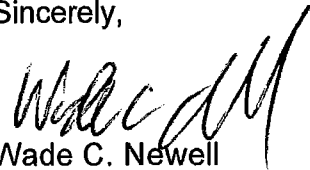
Dear Committee Members,

As Chippewa District Attorney, I would like to express my support of AB 231. This bill creates an independent Prosecutor Board that oversees and sets policies and procedures for a State Prosecutors Office, also created in this bill.

I believe it is necessary to have an independent body in Madison to address the needs of the 71 elected DA's, their offices and the work they each do. The Prosecutors' Board will advocate for the public safety needs of Wisconsin residents through coordinating the response from the 71 elected DA's to budget, staffing, education, legislative and agency requests.

The Prosecutors' Board will provide a standing and ready resource to the Legislature, Governor and other state agencies to access for consultation on criminal justice-related legislation and proposals. The Prosecutor Board will provide focused and detailed fiscal reports for new criminal laws affecting prosecutors, the courts and the bar. The Prosecutor Board will lead to a more professional criminal justice bar by employing evidence-based practices that can be discussed and disseminated from one central location.

Sincerely,


Wade C. Newell
Chippewa County
District Attorney



STATE BAR OF WISCONSIN

Leaders in the Law. Advocates for Justice.®

To: Members, Assembly Government Accountability and Oversight Committee
From: State Bar of Wisconsin
Date: Dec. 20, 2017
Re: AB 231 – prosecutor board creation

The State Bar of Wisconsin encourages your support on AB 231, which creates a statewide prosecutor board, as well as a prosecutor's office. The State Bar applauds the efforts of Sen. Ron Tusler to create this independent board that will oversee and set policies for the state prosecutor's office, thus, protecting the interests and funding for elected district attorneys and assistant district attorneys in Wisconsin.

Currently, district attorneys, assistant district attorneys, and deputy district attorneys do not have a centralized organization to represent their interests at the Statehouse or set policies that would enhance the operations of district attorneys statewide. Nor do DA's, ADA's, and DDA's have a legislative liaison to advocate on their behalf at the State Capitol. With the passage of AB 231 and the implementation of a state prosecutor's office, they would have an independent advocate at the Capitol and professional staff who could focus solely on the needs of state prosecutors and their offices, without conflict.

The State Bar of Wisconsin looks forward to a partnership with this board as we have with the State Public Defender Board. This legislation is an opportunity to even the playing field between the state's defense attorneys and state prosecutors, while creating an independent board to create uniform policies and set standards throughout the state for district attorneys and their offices. For these reasons, the **State Bar of Wisconsin respectfully requests the Government Accountability and Oversight committee members' support AB 231.**

For more information, please do not hesitate to contact our Government Relations Coordinators, Lynne Davis, ldavis@wisbar.org, 608.852.3603 or Cale Battles, cbattles@wisbar.org, 608.695.5686.