



# Wisconsin Court System

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Prepared by

Christina D. Carmichael and Paul Onsager

Wisconsin Legislative Fiscal Bureau  
One East Main, Suite 301  
Madison, WI 53703



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# Wisconsin Court System

This paper is divided into seven parts: (1) the history of the Wisconsin court system; (2) Supreme Court organization and current funding levels; (3) Court of Appeals organization and current funding levels; (4) circuit court organization and current funding levels; (5) other participants in the legal process and associated funding; (6) an outline of the legal process in Wisconsin; and (7) post-conviction incarceration and supervision.

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## History of the Wisconsin Court System

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The Wisconsin court system was established when Wisconsin became a state in 1848 by Article VII of the Wisconsin Constitution. The state was divided into five judicial districts, with five judges who were required to meet in Madison at least once a year as a Supreme Court. In 1853, a separate Supreme Court was created with three members (one elected as chief justice). Two more members were added in 1877. An amendment in 1889 required that all justices be elected with the longest serving member presiding as Chief Justice. In 1903, the Supreme Court was expanded to its current seven members.

At that time, the Wisconsin Constitution also required separate "probate courts" and allowed for the Legislature to establish inferior courts. As a result, county courts were created with various types of jurisdiction and overlapping authority. In addition, municipalities established police justice courts for enforcement of local ordinances.

In 1962, the court system was reorganized into a two-tiered trial system, with circuit courts and county courts. The state was divided into 26 judi-

cial circuits, of one or more counties and one or more judges. In addition, county courts were created with at least one judge in each county. County courts had exclusive jurisdiction in probate, mental health, small claims and juvenile proceedings.

Funding for the court system was a combination of state and county appropriations. Supreme Court operations were fully funded by the state. The state paid for salaries and fringe benefits of circuit court judges and court reporters and travel expenses for judges on temporary assignment, while counties paid all other salaries and expenses. In addition, the state paid for the salary and fringe benefits of county judges; however, counties were required to reimburse the state for 50% of these costs. The state also paid annual supplements to counties for family court commissioners. State law authorized counties to pay county supplements to the statutory salaries of circuit and county judges and their court reporters. If supplements were authorized, they were the responsibility of the counties. Municipal courts were funded solely by local units of government.

In 1977, the Constitution was amended to eliminate the requirement of one probate court in each county, and the Legislature passed the "Court Reorganization Act" effective August 1, 1978, merging circuit and county courts into one trial court system. An intermediate level Court of Appeals was also created. The operations of the Court of Appeals were fully funded by the state. Authorization for municipal courts was retained for municipalities to adjudicate local ordinance violations, such as parking enforcement. Municipalities were responsible for any costs relating to those courts.

As a result of court reorganization, the 26 circuit courts were expanded to the current 69, and

existing circuit and county judges became judges in the circuit in which their chambers were located (respective court reporters remained with the judge). A circuit court was established in each county except for three circuits which each contain two counties. All matters pending in county courts were transferred to the circuit court. The Act also phased out four existing judgeships and phased in 13 additional judgeships for a total of 190 circuit court judges in 1980. Fifty-one judgeships have subsequently been created, bringing the total number of circuit court judges to 241. 1999 Act 9 authorized the 241<sup>st</sup> judgeship, in Waupaca County, effective August 1, 2000.

Since August 1, 1978, the state has assumed the total cost of salaries and fringe benefits for circuit court judges and court reporters, and per diem payments and travel expenses for reserve judges and court reporters. Counties are responsible for other circuit court operational costs including salaries of clerks of court, court commissioners, courtroom security, clerical staff, office supplies, law libraries, jury costs and other operating costs, however, the state provides grants to counties that may be used to offset some of these costs. State funding of circuit court operations is discussed in more detail in the Circuit Courts section below. Operational costs of the Supreme Court and Court of Appeals remain with the state while the full cost of municipal courts has continued to remain with the municipalities that choose to operate a municipal court.

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### Supreme Court

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The Supreme Court is the highest court in the state. The Court has discretion over which cases to hear. Four or more justices must approve a petition for original jurisdiction in a case, and three or more justices are required to grant appellate jurisdiction to review a decision of a lower court.

The Supreme Court consists of seven justices

elected, on a nonpartisan basis, to ten-year terms. Any mid-term vacancies are filled with gubernatorial appointees until a regularly-scheduled election. The justice with the greatest seniority serves as Chief Justice, unless he or she chooses otherwise. In 2004-05, the Supreme Court Justices receive an annual salary of \$123,876, and the Chief Justice is paid \$131,876.

In 2004-05, the Supreme Court's budget totals approximately \$25.2 million as shown in Table 1. Expenditures in 2003-04 totaled approximately \$24.4 million. The Supreme Court's direct operations are funded through a sum sufficient, general purpose revenue (GPR) appropriation that includes salaries and fringe benefits for justices and Court staff and Court operational costs. General fund expenditures are partially offset by filing fees, which generated revenue of \$77,500 in 2003-04.

**Table 1: 2004-05 Supreme Court Funding**

	Funding	Positions
General Operations	\$4,341,900	38.50
Director of State Courts	15,554,400	124.25
Board of Bar Examiners	658,200	8.00
Office of Lawyer Regulation	2,026,000	26.50
Law Library	<u>2,615,800</u>	<u>16.50</u>
<b>Total</b>	<b>\$25,196,300</b>	<b>213.75</b>

In addition to the general operations of the Supreme Court, the Court is charged with various other responsibilities including providing administrative services to the entire state court system, regulating the practice of law in Wisconsin and maintaining a state law library. These functions are also funded under the Supreme Court's budget. The Director of State Courts, who is appointed by the Supreme Court, is responsible for the overall management of the judicial system. Such responsibilities include personnel, budget development, judicial education, the circuit court information program, interdistrict court assignments and court planning and research. In 2004-05, the Director of State Courts Office has authorized 124.25 positions and a budget of \$15.6 million, of which \$8.2 million



is program revenue (PR) for the circuit court automation programs.

Also included under the Supreme Court's budget is the Office of Lawyer Regulation and the Board of Bar Examiners. These entities are funded from: (a) annual assessments to Wisconsin State Bar members; (b) fees for the State Bar examination; (c) State Bar admittance, reinstatements and screening fees; and (d) assessments related to disciplinary actions. The Office and Board are responsible for supervising the practice of law in Wisconsin, protecting the public from professional misconduct by members of the bar, and implementing and enforcing rules for mandatory continuing legal education and the state bar examination. Combined expenditures totaled approximately \$3,078,700 PR in 2003-04.

The state law library, located in Madison, is also funded under the Supreme Court. The majority of funding for the library is GPR. However, the library also receives program revenue from various copying fees and other services it provides. State law library expenditures in 2003-04 totaled \$2,254,600, of which \$1,853,800 was GPR and \$99,400 was program revenue. Additionally, in February, 1996, the Director of State Courts signed a contract with Milwaukee County for the state law library to establish and operate a legal resource center in Milwaukee. The amount of the contract was \$179,200 for calendar year 2004. A second contract with Milwaukee County was signed in June, 1997, to provide each of the Milwaukee County circuit court judges with basic library resource materials; the contract amount for this service is \$35,000 in calendar year 2004. The state law library also provides books for the Milwaukee circuit court judges' chamber collection, whose costs are reimbursed by Milwaukee County. Finally, in January, 1999, the Director of State Courts signed a contract with Dane County to operate the Dane County Law Library. The amount of the contract is \$74,600 for calendar year 2004. Expenditures under these contracts in fiscal year 2003-04 totaled \$301,400.

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## Court of Appeals

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The Court of Appeals was mandated by a constitutional amendment on April 5, 1977. The Court of Appeals has supervisory authority over all actions and proceedings in all state courts, except the Supreme Court. Any final judgment or order made in the circuit courts may be appealed in the Court of Appeals as a matter of right.

The Court of Appeals had 12 judges when it was created in 1977. Today, there are four appellate districts in the state (as shown in Appendix I) with 16 judges. Appellate judges are elected, on a non-partisan basis, for six-year terms beginning on August 1st following the spring election. In 2004-05, the appellate judges receive an annual salary of \$116,864.

The Supreme Court appoints a chief judge who serves a three-year term as the administrative head of the four appellate districts, and who selects a presiding judge in each of the districts. Judicial vacancies within the Court of Appeals are filled by gubernatorial appointment until a successor is elected. Table 2 shows the location of the chambers of each district and the number of judges assigned to that district.

**Table 2: Court of Appeals**

	Number of Judges
District I (Milwaukee)	4
District II (Waukesha)	4
District III (Wausau)	3
District IV (Madison)	5

The state pays all costs of the Court of Appeals. By statute, a Court of Appeals judge may hire a secretary and a law clerk. In total there are 75.5 positions funded under the Court of Appeals. As with the Supreme Court, the Court of Appeals' operations are funded through a sum sufficient GPR appropriation. In 2003-04, expenditures totaled

\$8,133,100, which were partially offset by \$257,500 from filing fees for appeals cases. In 2004-05, the Court of Appeals has a budget of \$8,380,200.

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### **Circuit Courts**

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The circuit court is the trial court of general jurisdiction in Wisconsin, having original jurisdiction in civil and criminal cases, unless that jurisdiction is assigned to a higher court. The Wisconsin Constitution specifies that there will be judicial circuits with judges elected within those circuits. There are a total of 69 circuits and 241 branches and judges. In general, each county is its own circuit, except for three, two-county circuits including Buffalo and Pepin, Menominee and Shawano, and Florence and Forest (as shown in Appendix II). The 241 branches are divided into 10 judicial districts with a chief judge for each district appointed by the Supreme Court.

The number of court branches (judges) is statutorily determined. The Office of the Director of State Courts periodically requests the creation of additional court branches primarily based on: (a) a weighted caseload study; (b) district judicial need (the ability for neighboring circuits to cover additional workloads); (c) discussions with chief judges regarding problems handling current caseloads; and (d) the passage of a county board resolution in support of the creation of a new court branch. Appendix III shows the most recent weighted caseload study (2003) by rank, beginning with the county with the highest workload per court branch (the greatest number and complexity of cases per judge).

Judges are elected on a nonpartisan basis to six-year terms at the spring election and take office the following August 1<sup>st</sup>. Any vacancies that occur mid-term are filled by the Governor until a successor is elected. In 2004-05, circuit court judges receive an annual salary of \$110,249.

In addition to the circuit judge, there are other staff that support court operations, a number of which are described below.

### **Circuit Court Staff**

#### **Reserve Judge**

Wisconsin Statutes section 753.075 allows the Chief Justice of the Supreme Court to appoint a judge who has served a total of six or more years as a Supreme Court justice, Court of Appeals judge or a circuit court judge to serve as a reserve judge. Also currently eligible to serve as a reserve judge is any person who was eligible to serve as a reserve judge before May 1, 1992, (anyone who, as of May 1, 1992, had served four or more years as a judge or justice and who had not been defeated in his or her last reelection.) A reserve judge may perform the same duties as other judges, or as specified by the Chief Justice. Reserve judges typically fill in for sitting judges who are absent, or for temporary vacancies. As of October 1, 2004, there were 65 former judges who were certified as reserve judges. Reserve judges are state funded, and currently receive \$296.09 per day (reserve judge compensation is increased at the same percentage that the salaries of circuit court judges increase). GPR expenditures for 2003-04 were \$520,700 in per diem payments and travel reimbursements.

#### **Court Reporter**

Section 751.02, of the statutes, authorizes each judge to appoint a court reporter to record and transcribe testimony in court proceedings. In addition, over the years some additional court reporter positions have been approved to handle increased workload. Currently, the state pays the salaries and fringe benefits of 270 court reporters. Salaries for court reporters in 2004-05 range from \$36,300 to \$56,600 annually. In addition, the state pays daily fees to private court reporters who fill in for absent reporters on a temporary basis (\$158 per day for uncertified reporters and \$174 per day for certified reporters).

### **District Court Administrators**

Supreme Court Rule 70.16(4) defines a district court administrator as a state employee who is qualified to: (a) provide administrative and technical assistance; and (b) to assist the chief judge in carrying out his or her duties and responsibilities. The chief judge appoints a district court administrator from a list of candidates supplied by the director of state courts. The chief judge may reject a list and request one additional list of candidates. Each district (identified in Appendix II) has a district court administrator. District I, Milwaukee County, also has an assistant district court administrator.

### **Clerk of Court**

The Wisconsin Constitution provides that each county organized for judicial purposes shall have a clerk of the court who shall be an elected official and shall hold office for a two-year term. This is the only trial court officer required by the Constitution. The duties of a clerk of court may include keeping court papers, books and records; collecting and sending payments to the county treasurer for the state and the county's portion of fines, forfeitures, fees and surcharges; collecting and disbursing maintenance and support payments; performing duties with respect to jurors; and caring for the county law library, in addition to other duties required under law or in order to assist with court needs. Under state statute, counties with more than one circuit court branch may appoint one or more deputies for each branch. In counties with a population of more than 500,000, the clerk of court must appoint an assistant chief deputy clerk to assist in criminal and ordinance matters. The county pays for the full cost of clerk of court positions.

### **Circuit Court Commissioner**

Court commissioners are authorized to assist with certain judicial duties and are appointed by the chief judge of the district. The county board establishes the salaries and number of commissioners, with some exceptions depending on the population of the county. The positions are funded

by the county.

All counties are required to appoint at least one full-time circuit court commissioner to supervise the office of family court commissioner. Counties may appoint one or more court commissioners on a part-time or full-time basis to assist in juvenile matters. Any county having a population of 500,000 or more is required to appoint at least one full-time court commissioner for the office of probate court commissioner to assist in probate matters and one full-time court commissioner to assist in small claims procedures. Counties with a population of at least 100,000 but not more than 500,000 may establish a court commissioner position to supervise the office of probate court commissioner. Counties with a population of less than 500,000 may appoint a court commissioner to assist in small claims procedures.

Each circuit court commissioner must be licensed to practice law in Wisconsin and must take an official oath in the office of the clerk of court. The court commissioner has authority delegated by a judge with the approval of the chief judge which may include the following: (1) issue summons, arrest warrants or search warrants; (2) conduct initial appearances and set bail; (3) conduct preliminary examinations and arraignments and accept guilty pleas; (4) receive noncontested forfeiture pleas, order revocation or suspension of operating privileges, impose monetary penalties and refer cases to court for enforcement of nonpayment; (5) conduct initial return appearances and conciliation conferences; (6) conduct noncontested probate proceedings; (7) conduct detention and shelter care hearings for children; (8) review guardianships and protective placements; (9) officiate wedding ceremonies; (10) conduct paternity proceedings; and (11) other judicial duties depending on the needs of the court.

### **Register in Probate/Probate Registrar**

Wisconsin statute 851.71 requires the judges of each county to appoint a register in probate, subject to the approval of the chief judge. Registers

in probate file and keep probate records (such as wills, trusts, and probate court records), certify court records and perform other duties as prescribed by the judge. In addition, registers in probate have the same powers as clerks of court to certify copies of papers and judicial proceedings, have the power to administer any oath required by law, may have the powers of deputy clerks when appointed for this purpose, and may make orders for hearings when the judge is absent or when given authority. The salary of the register in probate is set and paid by the county.

Wisconsin statute 865.065 requires the court to designate, by a written order, an official to act as probate registrar. The probate registrar is usually the register in probate, but may be the clerk, deputy clerk, deputy register in probate or a court legal assistant designated by the court. Duties of the probate registrar include verification of applications for informal administration of properties; determination of whether an individual died with or without a will and whether the original will is in possession of the court; determination of whether the person nominated as personal representative is not disqualified or unsuitable; and determination that no demand for formal administration has been made and a will has not been probated elsewhere.

#### **Court Security Officer (Bailiff)**

Wisconsin statute 59.27 requires the sheriff of each county to provide a list of deputies for attendance on the court when such list is requested by the court. The court may authorize additional bailiffs for security during criminal matters. The county board sets the rate of compensation and the level of service to be provided by the bailiffs in circuit court. In addition, the sheriff or a deputy is required to attend the Court of Appeals when it is in session. Compensation for bailiffs attending the Court of Appeals is funded by the state, through the Court of Appeals' general operations appropriation, in the amount of the actual salary paid to the sheriff or deputy.

#### **Other Support Staff**

In addition to the positions listed above, there are a number of support staff who assist in circuit court operations. Judges may have a law clerk or judicial assistant. In general, law clerks perform legal research and draft memoranda and decisions for the judge. Judicial assistants assist with case and calendar management, schedule court hearings, trials, conferences and legal appointments; send notices to parties and attorneys; act as receptionists; and perform general clerical tasks. In some counties, such help is provided part-time, in others these duties may be accomplished by the existing court reporter, clerk of court staff or the judge. Under 1997 Act 27, cities of the first class (currently, only the City of Milwaukee) were allowed to create offices of municipal court commissioners. Municipal court commissioners are authorized to preside over certain criminal proceedings, including conducting certain initial appearances; receiving non-contested forfeiture pleas; ordering revocation or suspension of driving privileges; imposing forfeitures, community service or restitution; and issuing warrants for nonappearance.

Expenditures for court support staff are primarily the responsibility of the county; however, the state pays the salary and fringe benefits of court reporters and provides payments to counties that may be used to offset costs of judicial assistants and other county court costs.

Further, there are appointments made by: (1) the court; (2) the attorneys for the plaintiff or defendant; or (3) required by statute on a case-by-case basis. These include witnesses and expert witnesses, guardians ad litem, jurors and interpreters. Appointees are paid on a daily, hourly or contractual basis. In some instances, the plaintiff or defendant is required to pay these costs, in other cases the county directly pays for these appointments. State funding is available to defray some of these costs, including the cost of interpreters, guardian ad litem services, and the circuit court support payment program.

## Law Library

Under Wisconsin statute 757.40, a circuit judge may direct the purchase of law books and subscribe to periodical reports up to \$1,500 annually (unless an additional expenditure is authorized by the county board). Counties with populations of 250,000 or more may acquire (by gift or purchase) a law library to be housed in the courthouse or other suitable areas. All county law library costs are funded from the county treasury. Milwaukee and Dane Counties contract with the state law library for operation of their county law libraries.

## Funding of Circuit Court Operations

### State Expenditures and Revenues

The state directly pays for a portion of circuit court operating costs and counties are responsible for the remainder. Table 3 gives a breakdown of current circuit court funding provided by the state. In 2003-04, total state expenditures for the circuit court system were approximately \$91.7 million. Of this, \$54,417,200 GPR was expended from the circuit court general operations sum sufficient appropriation for judges, court reporters, reserve judges, per diem court reporters and their expenses. In addition, under the Supreme Court's appropriations, the Director of State Courts Office performs certain administrative functions for circuit courts, including the Office of Court Operations and district court administrators. Expenditures for these administrative functions on behalf of the circuit courts totaled \$3,110,100 GPR in 2003-04. The Supreme Court also provides judicial education to circuit court judges, at a cost of \$397,300 GPR in 2003-04.

Some of the programs under which additional state funding has been provided are described below.

*Circuit Court Automation Programs (CCAP).* In 1987 Wisconsin Act 27, initial funding for the circuit court automation program was provided to network personal computers and create uniform

**Table 3: State Expenditures on Circuit Courts**

	Actual 2003-04	Budgeted 2004-05*
Judges and Court Reporters	\$54,417,200	\$54,413,800
Director's Office (Prorated)	756,200	774,300
Office of Court Operations	612,600	641,600
District Court Administrators	1,741,400	1,893,900
Judicial Education	397,300	397,800
Circuit Court Automation Program	8,503,300	8,222,300
Court Support Payments	18,739,600	18,739,600
Guardian Ad Litem Payments	4,738,500	4,738,500
Interpreter Reimbursement	639,900	688,200
Transcripts (Public Defender)	<u>1,187,100</u>	<u>1,187,100</u>
Total	\$91,733,100	\$91,697,100

\*Funding does not include estimated increases for salary and fringe benefit adjustments for 2004-05.

software applications to circuit courts. Further, the state trains circuit court employees on the uses of the computer system, including case management, jury management, financial management, and court calendaring. Counties have the option of using the state CCAP system and receiving hardware, software, technical support, and training from the state or having their own system and receiving reimbursement from the state.

As of October, 2004, the case and financial management systems have been installed in all of the state's 72 counties. However, Portage County only uses CCAP for its office of the register in probate. The county uses its own operating system for other court operations.

Operations for CCAP are supported through PR funding received from a variety of court-related fees. Fifteen dollars of the \$75 filing fee charged to commence a civil action or other special proceeding is designated to support CCAP. Fifteen dollars of the filing fee charged in various civil actions to change venue is also designated to support CCAP. If a defendant files one or more third-party complaints in a civil action, the defendant is charged a one-time fee of \$45. Of this amount, \$5 goes to support CCAP. Five dollars of the fee charged to appeal or review a municipal court or administrative decision is earmarked for CCAP. Five dollars of the fee charged to commence a garnishment ac-

tion is designated to support CCAP.

Of the \$22 fee assessed to commence a small claims action, file a third party complaint in a small claims action, or change venue in a small claims action, \$11.80 is earmarked for CCAP. If a counterclaim or cross complaint is filed in a small claims action that requires removal to civil court, \$10 of the \$53 fee is designated to support CCAP.

In a forfeiture action, the clerk of court collects a \$25 fee from the defendant when judgment is entered against the defendant. Of this amount, \$5 is earmarked for CCAP.

The justice information system fee also provides PR to support CCAP. Anyone required to pay any of the above referenced fees (except for actions for a safety belt use violation under s. 347.48(2m) and for change of venue actions) must also pay a \$9 justice information system fee. Six-ninths of the money received under the justice information system fee goes to support CCAP. In 2003-04, CCAP expended \$8,503,300 PR and has a base budget of \$8,222,300 PR in 2004-05 to install and maintain system hardware and software applications, replace obsolete hardware and software, train county staff, and provide ongoing technical assistance for all components of the system.

*Circuit Court Support Payments.* Under 1993 Wisconsin Act 16, the circuit court support grant program was created. The program was originally created to partially offset county costs of juror and witness fees and judicial assistants and was based on the number of circuit court branches (judges). In 1993 Act 206, the program was changed from a grant program to a payment program and specified that, except for the annual report of costs, no action is required of and no condition be imposed on a county to receive a payment. Under 1995 Wisconsin Act 27, the eligible uses under the program were expanded to include any county court costs excluding security, rent, utilities, maintenance, rehabilitation, or construction of court facilities.

Funding for circuit court support payments to counties is \$18,739,600 GPR annually. Current law awards payment amounts as follows: (a) each county receives a base payment of \$42,275 per branch/judge (or a proportional amount of \$42,275 based on caseload if two counties share a branch); (b) each county with one or fewer circuit court branches receives an additional \$10,000; and (c) counties with more than one circuit court branch receive an additional payment equal to the county's proportion of the state population times the amount remaining after funding for base payments and payments to counties with one or fewer branches have been allocated. If a county in a particular year receives payments under the circuit court support payment program that are in excess of actual costs that were incurred under the program, then the county's next payment is adjusted downward by the Director of State Courts by the amount of the overpayment.

*Guardian Ad Litem Payments.* Since 1993 Wisconsin Act 16, counties have also been provided funding to offset the costs of guardian ad litem services. A guardian ad litem (GAL) is an attorney appointed by the court for persons (usually minor children) in certain proceedings, who is an advocate for the best interests of the person. Under 1995 Act 27, the program was modified from a reimbursement program to a payment program with payment amounts distributed based on each county's proportion of: (a) court branches; (b) revenue generated by the court support services fee (explained below); and (c) cases that would likely involve GAL services as determined by the Director of State Courts. No county may receive a GAL payment in an amount exceeding the total cost of GAL compensation that the county incurred under family, children and juvenile proceedings in the previous calendar year. Funding for GAL payments is \$4,738,500 GPR annually.

*Court Interpreter Fees.* The state provides reimbursement assistance to counties to offset the circuit court costs associated with interpreters for indigent persons with limited English proficiency.

"Limited English proficiency" is defined as the inability to adequately hear, understand or communicate effectively in English due to either: (a) use of a language other than English; or (b) a speech impairment, hearing loss, deafness, deaf-blindness, or other disability. Under 2001 Act 16, a person has a right to a qualified interpreter and, if the person cannot afford one, an interpreter will be provided at public expense in the following proceedings:

- a. a criminal proceeding;
- b. a delinquency proceeding;
- c. a protective service proceeding;
- d. a proceeding under Chapter 48 (Children's Code); and
- e. a proceeding under Chapter 51 (Mental Health).

If a person with a hearing impairment is part of a jury panel, the court must appoint a qualified interpreter for that person. In addition, 2001 Act 16 authorized the use of interpreters in the following circumstances:

- a. if the person with limited English proficiency requests assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may provide the assistance of a qualified interpreter to respond to the person's inquiry;
- b. with approval of the court, interpreter services outside the courtroom that are related to the court proceedings, including court-ordered psychiatric or medical exams or mediation; and
- c. in other actions or proceedings authorized by the court.

Counties are required to pay the expenses of qualified interpreters, except for costs for interpreters assisting the State Public Defender in preparing for court proceedings (the Public Defender pays these costs). County expenditures may be reim-

bursed by the state up to \$40 for the first hour and \$20 for each additional 0.5 hour if they are qualified interpreters certified under the requirements and procedures approved by the Supreme Court. Counties are reimbursed for qualified interpreters without certification up to \$30 for the first hour and \$15 for each additional 0.5 hour. As of October, 2004, there are 22 court interpreters certified by the Supreme Court (16 in Spanish and 6 in American Sign Language). More interpreters will take the certification exam in January, 2005. The court interpreter fees reimbursement program expended \$639,900 GPR in 2003-04 and is appropriated \$688,200 GPR in 2004-05.

*Court Transcripts.* Under 1993 Act 16, the state began to fund the costs of transcripts for eligible indigent defendants that were often funded by counties. These transcripts are now funded under the Public Defender's appropriation. The Public Defender's Office expended \$1,187,100 GPR in 2003-04 to cover transcript costs for eligible indigent defendants, and \$1,187,100 GPR is appropriated for such costs in 2004-05.

*Court Support Services Fee Revenue.* While funding for circuit court support payments, GAL services payments, court interpreters reimbursements, and certain transcripts is provided from the general fund, a court support services fee was created in 1993 to offset the cost of these programs to the state. Revenue generated from the fee is deposited to the state's general fund and not directly appropriated to the courts. The fee was originally a \$20 fee on all forfeiture judgments and most civil court filings. Under 1995 Act 27, the fee was increased and modified according to the type of claim filed. The fee was increased 30% under 2001 Act 109. Under 2003 Act 33, the fee was further increased by 30% as follows: (a) the court support services fee for various small claims filings was increased to \$51; (b) the court support services fee for various large claims filings was increased to \$169; and (c) the court support services fee was increased to \$68 for forfeiture action judgments, appeals from municipal courts or administrative decisions, and cer-

tain court filings not covered under (a) or (b) above. In 2003-04, the court support services fee generated \$43,608,800 in revenue.

### **County Expenditures**

Data on county expenditures for circuit courts are limited. Each year counties report judicial expenditures to the Department of Revenue (DOR), which are described as expenditures involving the "circuit court, clerk of courts, probate court, family court commissioner, law library, public defenders for indigent defendants, coroner, etc." In calendar year 2003, counties reported expenditures totaling \$143.8 million. However, because there is an array of items that counties could list as judicial costs, the consistency of reports among counties is uneven. For instance, some counties report facility costs such as renovation and construction while others do not. Some counties may include the total operational cost of the courthouse, including other entities located on the premises (such as the district attorney's office and other local offices), while other counties only report the portion allocated for court operations. In addition, some costs that counties report, such as coroners, may be viewed as unrelated to court costs.

Because of the lack of available data on county court expenditures, 1995 Act 27 included a provision that requires counties to report annual court expenditures on all court functions except costs related to courtroom security, rent, utilities, maintenance, remodeling and construction. Counties reported spending \$145.8 million in calendar year 2003 on all court operations, of which \$130.8 million were allowable under the circuit court support payment program. However, it should be noted that the Director of State Courts Office, which receives and compiles the data, has identified a number of inconsistencies in reporting among counties and does not feel that this number is an accurate reflection of county expenditures.

### **Circuit Court Revenues**

Revenues collected by the circuit courts include

fees, fines and forfeitures imposed by the court, and surcharges on fines and forfeitures.

Court fees are typically assessed at the initiation of an action. Revenues from court fees are retained by the county, sent to the state or split between the county and the state, depending on the court fee involved. Court fees (identified in Appendix IV) include fees for the following:

- a. to commence legal actions
- b. to commence appeals
- c. to file and docket judgments
- d. to request a jury
- e. to utilize mediation in family actions
- f. to file motions
- g. to file petitions for probating estates
- h. circuit court support services fee (on court filings and on forfeitures)
- i. justice information fee (on court filings and on forfeitures)
- j. special prosecution clerks fee (on forfeitures--Milwaukee County only).

Fines are levied in criminal actions while forfeitures are imposed in civil enforcement actions (such as most traffic violations). Fine and forfeiture amounts vary depending on the specific violation. Article X, Section 2, of the Wisconsin Constitution, requires that the clear proceeds from fines and forfeitures collected by counties be deposited to the state's common school fund, for the support and maintenance of Wisconsin public schools and the "purchase of suitable libraries." Under s. 59.25(3)(j) and (m), the Legislature has authorized counties to retain, as an administrative fee, 10% of state fines and forfeitures, except for the following: (a) 50% of motor vehicle forfeitures and fines (excluding state motor vehicle size, weight and load forfeitures and fines, for which counties retain 10%); and (b) 50% of occupational driver's license fees.



Partially because of the limitation on the use of fine and forfeiture revenue, the Legislature has created surcharges on certain statutory fines and forfeitures to generate additional revenue for state programs. The amounts of most surcharges are based on either percentages of the fine or forfeiture or a flat amount, depending on the surcharge. The first surcharge, created in 1977, was the penalty assessment, created primarily to provide funding for training the state's law enforcement officers. Since then the number of surcharges, and other court-ordered payments has steadily grown. Appendix V lists surcharges, fines, forfeitures, and restitution payments that are either retained by the state or are shared between the state and counties. Appendix VI lists court fees that are wholly retained by the county. Both Appendices V and VI indicate how the collected fees are dispersed.

Similar to county expenditures, there are inconsistencies with reporting of counties' share of circuit court revenue. Counties report separately to the Department of Revenue (DOR) and to the State Treasurer the amount of revenue collected from the operation of the court system. For calendar year 2003, counties reported to the State Treasurer that their share of circuit court revenue was \$41,028,500. For that same period, counties reported to the Department of Revenue that their share of circuit court revenue was \$52,220,900. Much of the difference in reported revenues results from fees wholly retained by counties (such as copy and jury fees) which are not reported to the State Treasurer, but may be included in the report to DOR. In addition, counties report to the State Treasurer on a monthly basis, whereas DOR expenditures are reported annually. Therefore, revenue that counties receive in one month may be attributed to actions completed in a prior month, and may not be consistently captured in the monthly reports to the State Treasurer. Further, data reported to the State Treasurer is detailed by statutory cite; for example the penalty surcharge and the weapons surcharge separately. Data are reported to DOR in three broader categories: (a) law and ordinance violations; (b) court fees and costs; and (c) probate fees. In addition, data reported to the Treasurer do

not include the restitution fee, the restitution administrative surcharge or the crime prevention organization contribution. Therefore, the information reported to DOR appears more inclusive than the information reported to the State Treasurer.

### **Comparison of Circuit Court Revenues and Expenditures**

Based on the information reported to DOR, in calendar year 2003, counties spent \$143.8 million on circuit court operations and received \$52.2 million in court collected revenues. The difference of \$91.6 million is primarily funded through local taxes and unrestricted state aid payments, such as shared revenue and county mandate relief. Counties received \$173.1 million in 2003 from state shared revenue and mandate relief payments.

State expenditures are reported based on a fiscal year, beginning on July 1<sup>st</sup> of one year and ending on the following June 30, so that a direct comparison cannot be made between county calendar year and state fiscal year expenditures and revenues. The state spent \$91.7 million in 2003-04 for the circuit courts and, as reported by the Director of State Courts from information reported to the State Treasurer, received \$96.3 million in revenue from filing fees and surcharges. Much of the revenue received by the state, while still offsetting total state costs, is earmarked for specific programs, such as schools, law enforcement training, victim/witness assistance, drug abuse treatment and domestic abuse.

While direct comparisons may be of limited value given the inconsistencies in reported data and the differences between the calendar year and state fiscal year, Table 4 indicates that total circuit court operating expenditures exceeded revenue collected by circuit courts by approximately \$87 million. These expenditures are largely financed at the state level by revenue collected from general state taxes; and at the county level by local property taxes, state shared revenues and state-funded mandate relief, and state-funded circuit

**Table 4: Circuit Court Expenditures and Revenues at the State and County Levels (in Millions)**

	Fiscal Year 2003-04 STATE	Calendar 2003 COUNTY
Revenues	\$96.3	\$52.2
Expenditures	<u>91.7</u>	<u>143.8</u>
Expenditures Over Revenues	\$4.6	- \$91.6

court support and GAL payments, and interpreter reimbursement programs.

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### Other Participants in the Justice System

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#### District Attorneys

There are 71 district attorneys in Wisconsin. Under Article VI, Section 4 of the Wisconsin Constitution, a district attorney (DA) is elected to a two-year term at the general election held in each even-numbered year. Each county in the state is termed a "prosecutorial unit" except that Shawano and Menominee counties form a two-county prosecutorial unit and jointly elect a single district attorney. Under current law, district attorneys are part-time positions in Buffalo (0.5 FTE), Florence (0.5 FTE), Pepin (0.8 FTE), Trempealeau (0.6 FTE) and Vernon (0.9 FTE) counties, and are full-time in all other prosecutorial units.

District attorneys are required to perform the following duties within their respective prosecutorial units:

- a. Prosecute all criminal actions in state courts.
- b. Except as otherwise provided by law, prosecute all state forfeiture actions, county traffic actions and actions concerning violations of county ordinances which are in conformity with state criminal laws.

- c. Participate in John Doe proceedings (proceedings to determine whether a crime has been committed and by whom).

- d. When requested, appear before grand juries to examine witnesses and provide advice and legal services to the grand jury.

- e. Assist the Department of Workforce Development in conducting welfare fraud investigations.

- f. At the request and under the supervision of the Attorney General, brief and argue felony and other significant criminal cases, brought by appeal or writ of error or certified from a county within the DA's prosecutorial unit, to the Court of Appeals or Supreme Court.

- g. Commence or appear in certain civil actions.

- h. Perform duties in connection with certain court proceedings under the Juvenile Justice Code (Chapter 938), including juvenile delinquency actions.

- i. Enforce certain provisions relating to the sale, transportation and storage of explosives.

In addition to these duties, a county has the option of designating the district attorney as its representative in certain proceedings involving children or juveniles. These proceedings include matters relating to: (a) children or juveniles alleged to have violated civil laws or ordinances; (b) children alleged to be in need of protection or services; (c) the termination of parental rights to a minor; (d) the appointment and removal of a guardian; and (e) the adoption of children.

While some counties have a single district attorney to perform these duties, most DAs have one or more assistant DAs who are also authorized to perform the duties specified above. If a county has a population of 100,000 or more, the DA may appoint between one and five deputy DAs, depend-

ing on the county's total population. Deputy DAs perform supervisory and administrative responsibilities in addition to prosecuting cases.

Prior to January 1, 1990, district attorneys, deputy DAs and assistant DAs were county employees. Under 1989 Wisconsin Act 31, prosecutors became state employees on January 1, 1990, and the state now pays for prosecutors' salaries and fringe benefits.

A court may appoint a special prosecutor on its own motion to perform the same duties as a state-employed prosecutor. In addition, a district attorney may request that the court appoint a special prosecutor to assist the district attorney in a prosecution, grand jury or John Doe proceeding or investigation. The state pays for the compensation of special prosecutors, while other expenses reimbursed to special prosecutors are paid by counties. A special prosecutor may typically be appointed when: (a) there is no district attorney; (b) the district attorney is absent; (c) the district attorney or a member of his or her staff have a conflict of interest; (d) the district attorney is unable to attend to his or her duties; (e) the district attorney is serving in the armed forces; (f) the district attorney is charged with a crime; or (g) the district attorney cannot perform his or her duties due to a medical situation. In 2003-04, the state incurred \$165,200 GPR in special prosecutor expenses.

Other than for the state-funded costs of prosecutors' salaries and fringe benefits, the remaining staff costs of DA offices are generally the responsibility of counties. The only exception is that 6.5 clerk positions in the Milwaukee County District Attorney's office are supported through a special prosecution clerks fee. This \$3.50 fee is assessed only in Milwaukee County whenever a person pays: (a) a fee for any civil, small claims, forfeiture (except for safety belt use violations), wage earner or garnishment action; or (b) files an appeal from municipal court, a third party complaint in a civil action, or a counterclaim or cross complaint in a small claims action. The fee supports staff serving

prosecutors who handle violent crime and felony drug violations in Milwaukee County's speedy drug and violent crime courts (4.5 clerks) and violations relating to the unlawful possession or use of firearms (2.0 clerks). In 2004-05, \$276,400 PR is budgeted to fund the salary and fringe benefit cost of these clerk positions.

In order to administer the state's responsibility as employer of DAs, deputy DAs and assistant DAs, Act 31 created the State Prosecutors Office in the Department of Administration (DOA). The State Prosecutors Office is responsible for coordinating DOA administrative duties relating to district attorney offices. Major responsibilities of the Office include: (a) payroll; (b) fringe benefits; (c) budgets; (d) billing counties for program revenue positions; (e) collective bargaining; (f) advising elected DAs on their rights and responsibilities under the assistant DA collective bargaining agreement; (g) producing fiscal notes and bill analyses for legislative proposals affecting DAs; and (h) serving as a central point of contact for all prosecutors. The State Prosecutors Office is budgeted \$118,900 GPR in 2004-05.

Through DOA, the state also provides funding and staff for computer automation in district attorney offices statewide, including the development of a DA case management system, and the development of integrated justice information systems shared by DAs, the courts, law enforcement and other justice agencies. These systems are being implemented on a county-by-county basis. Funding for the DOA program in 2004-05 is \$3,406,400 PR supported from \$2 of the justice information fee (\$1,653,400) and federal Byrne anti-drug grant program and associated state match monies provided through the Office of Justice Assistance (\$1,753,000). Through September, 2004, the state has installed: (a) local area networks and related hardware and software in 69 DA offices statewide; (b) the DA case management system in 60 DA offices; and (c) a CCAP connection in 43 DA offices. Counties continue to have financial responsibility for all other costs related to the operation of a dis-

trict attorney's office.

On the date of transition to state service, 332.05 prosecution positions became state employees. As of December 1, 2004, 430.0 prosecutor positions were authorized, including 375.4 funded from general purpose revenue and 54.6 funded from program revenue. Funding for DAs in 2004-05 is \$36,284,500 GPR and \$1,783,100 PR.

In addition to the general prosecutor positions authorized for county DA offices, there are currently two types of specialized state-funded prosecutor positions. First, 1.0 GPR-funded sexually violent person commitment prosecutor position has been assigned by statute to Brown County and to Milwaukee County, respectively. By statute, these two positions may only engage in proceedings related to the civil commitment of sexually violent persons. While these positions are primarily responsible for such proceedings in Brown and Milwaukee Counties, these prosecutors may also be assigned to similar types of cases in other counties in the state. In calendar year 2003, the Brown County sexually violent person commitment prosecutor handled six cases while the Milwaukee County sexually violent person commitment prosecutor handled eight cases. Second, 1.0 PR-supported statewide DNA evidence prosecutor position has been assigned to Milwaukee County. This position is funded from a portion of the \$7 crime laboratory and drug law enforcement assessment and from the \$250 DNA surcharge, which are imposed in certain criminal and forfeiture actions. This PR-funded DNA evidence prosecutor position is primarily responsible for: (a) prosecuting criminal cases where DNA evidence plays a critical role; (b) developing and presenting appropriate training sessions statewide relating to the use of DNA evidence; and (c) providing expert advice on DNA evidence to a variety of criminal justice agencies in the state.

The three most significant sources of support for program revenue-funded prosecutor positions are the Edward Byrne grant program established

under the federal Anti-Drug Abuse Act of 1988, the Violence Against Women Act (VAWA) grant program originally created under the federal Violent Crime Control and Law Enforcement Act of 1994, and federal Title IV-E funding under the Social Security Act. These three revenue sources provide support for approximately two-thirds of the PR funded prosecutorial positions.

Federal Byrne grant funds, which are administered by DOA's Office of Justice Assistance (OJA), may be used to address drug control, violent and serious crimes. The funding of positions to prosecute these types of crimes is an authorized use of Byrne grant monies. These federal Byrne funds require a 25% match, which is provided from penalty assessment funds from OJA. Whenever a court imposes a fine or forfeiture for a violation of state law or municipal or county ordinance (except for violations involving smoking in restricted areas, failing to properly designate smoking or nonsmoking areas, nonmoving traffic violations or violations of safety belt use), the court also imposes a penalty assessment of 24% of the total fine or forfeiture. As of December 1, 2004, 15.0 PR prosecutor positions were supported with Byrne and matching penalty assessment funds.

There are a number of grant programs authorized under the Violence Against Women Act, including both the STOP Violence Against Women Formula Grants and the Judicial Oversight Demonstration Project. The purpose of these grant programs is to develop and strengthen the criminal justice system's response to violence against women and to support and enhance services for victims. As of December 1, 2004, 11.0 PR prosecutor positions were supported with funds from these VAWA grant programs.

Title IV-E funds under the federal Social Security Act are available to support prosecutorial positions providing legal services for child welfare actions under the Children's Code (Chapter 48 of the statutes), primarily involving children in need of protection and services and termination of parental rights actions. As of December 1, 2004, 9.4 PR

prosecutor positions were supported with Title IV-E funding.

Under current law, the salaries of district attorneys are established under the biennial state compensation plan. The compensation plan must establish separate salary rates for DAs depending on the population size of each prosecutorial unit. For DA terms beginning January 3, 2005, the rates have been established as shown in Table 5.

**Table 5: District Attorney Salaries**

Prosecutorial Unit Population	Salary
More than 500,000	\$115,496
250,000 to 500,000	104,052
100,000 to 250,000	98,581
75,000 to 100,000	98,581
50,000 to 75,000	93,649
35,000 to 50,000	93,649
20,000 to 35,000	83,243
Not more than 20,000	83,243

Assistant district attorney compensation is established under a collective bargaining agreement with the state. The minimum annual assistant DA salary is \$41,562 and the maximum is \$106,628. The salary range for deputy DAs is established under the biennial state compensation plan and is identical to the assistant DA salary range. However, deputies may qualify for an additional \$2.75 per hour supervisory differential (\$5,742 annually), based on such factors as the organizational structure of the prosecutorial unit, internal and external relationships, size of staff, and other reasonable criteria deemed appropriate.

Table 6 shows the number of prosecutor positions authorized for each county as of December 1, 2004.

Every two years during budget deliberations, the Governor and Legislature assess the need for additional prosecutors in the 71 separate DA offices across the state. The caseload of these DA offices, both individually and collectively, has been

viewed by the Legislature as an important factor in determining the allocation of additional prosecution staff to these DA offices.

In 1995, a number of legislators and district attorneys raised questions about the caseload measurement of prosecutorial workload that was in place at the time. In response to those concerns, the Joint Legislative Audit Committee directed the Legislative Audit Bureau (LAB) to review options for measuring prosecutorial workload and improving the system for assessing the need for prosecutorial resources.

The results of the LAB findings were released in December, 1995, and identified a number of problems with the caseload weighting system then in use. After reviewing Wisconsin's and other states' methods of measuring prosecutorial caseload, the LAB made a number of recommendations, including improving the caseload measurement to: (1) use currently available data to express caseload in hours (for example, assign a Class A Homicide a weight of 100 hours to complete); (2) recognize that certain types of cases within a broader category may take more time than other cases within that category (for example, homicides require more time than other felonies); and (3) use a three-year average for case filing data.

The LAB also recommended that once a more accurate case measurement system was developed, a productivity standard be created for DAs to determine the time that a prosecutor has available to prosecute cases (similar to the method used to determine judicial resources). The LAB conducted the first step of the calculation by estimating the average number of state holiday hours, personal hours, sick leave, and vacation time per prosecutor. This total, estimated at 300 hours per year, was then subtracted from 2,088 hours (the total number of hours per prosecutor position per year) to derive a 1,788 working hours per year standard. The LAB recommended that either a Legislative Council special committee be established or a committee be organized by the State Prosecutors Office with ap-

**Table 6: State Prosecutor Positions – 2004-05**

County	Positions	County	Positions
Adams	1.20	Marathon	10.00
Ashland	1.75	Marinette	2.50
Barron	3.00	Marquette	1.00
Bayfield	1.00	Milwaukee	123.50
Brown	14.00	Monroe	3.00
Buffalo	1.00	Oconto	1.50
Burnett	1.00	Oneida	2.50
Calumet	2.00	Outagamie	13.60
Chippewa	4.75	Ozaukee	3.00
Clark	2.00	Pepin	0.80
Columbia	4.50	Pierce	2.50
Crawford	1.00	Polk	2.00
Dane	31.35	Portage	4.00
Dodge	4.00	Price	1.00
Door	2.00	Racine	18.00
Douglas	3.50	Richland	1.80
Dunn	3.00	Rock	14.50
Eau Claire	8.00	Rusk	1.50
Florence	0.50	Saint Croix	5.70
Fond du Lac	5.00	Sauk	4.50
Forest	1.00	Sawyer	2.00
Grant	2.00	Shawano/Menominee	3.00
Green	2.00	Sheboygan	7.50
Green Lake	1.50	Taylor	1.00
Iowa	1.75	Trempealeau	1.60
Iron	1.00	Vernon	1.90
Jackson	2.00	Vilas	2.00
Jefferson	5.30	Walworth	5.00
Juneau	2.50	Washburn	1.50
Kenosha	15.00	Washington	5.00
Kewaunee	1.50	Waukesha	15.50
LaCrosse	8.00	Waupaca	3.50
Lafayette	1.00	Waushara	1.50
Langlade	1.50	Winnebago	10.50
Lincoln	2.00	Wood	<u>4.00</u>
Manitowoc	5.00	Total	430.00

appropriate prosecutor representation to estimate the average time spent on other duties such as administrative and investigative work, training, reviewing cases that are never charged and community service. The average time spent on these other duties could then be subtracted from the available working hours estimate to calculate the average number of hours actually available to prosecute cases.

In response to the LAB's recommendations, the State Prosecutors Office, in conjunction with the Wisconsin District Attorneys Association (WDAA),

reviewed available data and surveyed district attorneys to estimate this "time-available" standard for prosecutors. The WDAA is an association of state district attorneys that meets to discuss various issues that affect DAs. Since DAs do not have any type of official state governing board, the WDAA has decided to act as the official voice for state prosecutors. In this regard they appointed a committee to rework the measurement of district attorney position allocation, taking into account some of the LAB recommendations.

The committee estimated the amount of time spent by district attorneys on various non-prosecutorial activities such as administrative work, community service, search warrants, appeals, contested ordinance and civil traffic cases, training and other such duties. The estimate was then reviewed by all district attorney offices. The resulting estimate indicated that, on average, DAs spend approximately 561 hours per year on duties other than prosecuting cases. Subtracting this estimate from the LAB's baseline estimate of 1,788 working hours available per prosecutor, 1,227 hours per prosecutor were projected as being available for prosecution per year.

The committee also estimated average prosecutorial hours required for different types of cases. This estimate was based on: (1) information resulting from a time study conducted by DAs in 1993-94 for which DAs recorded hours spent on various cases; and (2) various modifications to the time study as recommended by committee members.

Once these estimates were complete, the State Prosecutors Office received caseload filing data for each county from the Director of State Courts. The Office averaged the data over a three-year period, as recommended by the LAB, to limit the effect of differences in charging practices and annual fluctuation.

tuations in caseload. The total hours required to handle the cases filed in each county was then calculated. The resulting figure was compared to the total number of prosecutor hours available in that county (1,227 available working hours times the number of prosecutors) to determine the ability of the county DA office to handle its likely annual workload with existing staffing resources. The Legislature and the Governor continue to employ this methodology to measure prosecutorial workload in the DA offices across the state.

Nonetheless, the WDAA has disagreed with the LAB's recommendation that a three-year average of caseload filings be used for the workload analysis. The Association has indicated that, with generally rising caseloads, the three-year average tends to understate the current need for additional prosecutor resources.

### **Office of the State Public Defender**

*Representation of the Indigent.* Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The Sixth Amendment to the United States Constitution provides, in part, that, "In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence." In *Gideon v. Wainwright* (1963), the United States Supreme Court held that the constitutional right to counsel guaranteed by the Sixth Amendment requires the government to provide counsel to indigent criminal defendants.

Article I, Section 7 of the Wisconsin Constitution provides, in part, that, "In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel,..." As early as 1859, the Wisconsin Supreme Court determined that an indigent defendant was entitled to counsel at county expense for his or her defense (*Carpenter v. Dane County*).

However, under subsequent United States and Wisconsin Supreme Court decisions there is no ab-

solute right to the appointment of counsel in non-criminal cases carrying no threat of loss of physical freedom. Nevertheless, both courts have concluded that due process requires an individualized determination of the necessity for appointment of counsel under the circumstances presented by a particular case. Finally, in the case of *Malmstadt v. Wisconsin* (1996), the Wisconsin Supreme Court ruled that under the separation of powers doctrine the Legislature may not prohibit the courts from appointing counsel for certain classes of individuals.

The cost of providing required counsel to the indigent in Wisconsin is generally the responsibility of the state through the Office of the State Public Defender (SPD). The SPD provides legal representation for indigent persons: (a) facing a possible sentence that includes incarceration; (b) involved in certain proceedings under the Children's and Juvenile Justice Codes (Chapters 48 and 938); (c) facing involuntary commitment; and (d) involved in certain post-conviction or post-judgment appeals.

The SPD determines indigency based on an analysis of the applicant's income, assets, family size and essential expenses. If a person's assets, less reasonable and necessary living expenses (both factors as determined by Wisconsin statutes and administrative rules), are not sufficient to cover the anticipated cost of effective representation when the likely length and complexity of the proceedings are taken into account, the person is determined to be indigent. If an individual does not meet the statutory indigency standard, but is nonetheless determined by a circuit court to have a constitutional right to counsel, the court may appoint an attorney at county, rather than state, expense.

The SPD is required to determine whether a person has the ability to pay the costs of representation. The Public Defender Board is required to establish, by rule, fixed payments for the cost of SPD representation in various types of cases. Known as the prepayment option, an indigent defendant may elect to prepay the amount (or

amounts, if several different types of proceedings are involved) if a determination has been made that the person has some ability to pay for his or her representation. If an indigent person elects to pay this fixed amount, the individual cannot be held liable for any additional payment for counsel. However, the indigent client must pay this fixed amount within 60 days of appointment of counsel by the SPD. Table 7 identifies the current optional prepayment amounts for the different types of SPD representation, as established by rule by the Public Defender Board.

Persons determined to be indigent who receive SPD representation and do not exercise the prepayment option are required to pay for the cost of SPD representation, subject to their ability to pay. Table 8 summarizes the fee schedule established by rule by the Public Defender Board. These fee amounts are based on the average costs for representation for the type of case, as determined by the Board.

The SPD has established a statewide pilot program to increase its recovery of the costs of representation of clients determined to be indigent. Table 9 identifies the optional prepayment amounts under the pilot program, while Table 10 summarizes the fee schedule for the cost of SPD representation if the pre-payment option is not utilized. The Office has submitted proposed rule changes to the Legislature to permanently adopt the prepayment and cost repayment schedules developed under the current pilot program. If approved by the Legislature, these new payment schedules would supersede those described in Tables 9 and 10.

In 2003-04, the SPD received \$1,985,700 PR in payments from its indigent clients, including receipts from court-ordered recoupments. These amounts are used primarily to offset the cost of retaining private bar attorneys to represent individuals qualifying for SPD representation.

Based on data collected by the Director of State Courts, circuit courts increasingly appear to be

**Table 7: Prepayment Options for SPD Representation**

Case Type	Amount
First Degree Intentional Homicide	\$500
Other Class A or B Felony	100
Sexual Predator under s. 980.02	100
Trial Appeal	100
Other Felony	50
Misdemeanor	50
Plea Appeal	50
Chapter 55 Proceeding	50
Parole/Probation Revocation	50
Termination of Parental Rights	50
Paternity	50
Commitment	25
Special Proceeding	25

**Table 8: Schedule for Repayment of SPD Costs by Clients Determined to Have an Ability to Pay**

Case Type	Amount
First Degree Intentional Homicide	\$7,500
Other Class A or B Felony	1,000
Sexual Predator under s. 980.02	1,000
Trial Appeal	1,000
Other Felony	400
Plea Appeal	400
Chapter 55 Proceeding	400
Termination of Parental Rights	400
Juvenile Felonies	400
Misdemeanor	200
Parole/Probation Revocation	200
Other Juveniles	200
Paternity	200
Commitment	100
Special Proceeding	100

**Table 9: Prepayment Options for SPD Representation Under Pilot Program**

Case Type	Amount
First Degree Intentional Homicide	\$600
Other Class A, B or C Felony	120
Sexual Predator under s. 980.02	120
Trial Appeal	120
Other Felony	60
Misdemeanor	60
Plea Appeal	60
Chapter 55 Proceeding	60
Parole/Probation Revocation	60
Termination of Parental Rights	60
Paternity	60
Commitment	30
Special Proceeding	30



**Table 10: Schedule for Repayment of SPD Costs Under Pilot Program**

Case Type	Amount
First Degree Intentional Homicide	\$7,500
Other Class A, B or C Felony	1,200
Sexual Predator under s. 980.02	1,200
Trial Appeal	1,200
Other Felony	480
Plea Appeal	480
Chapter 55 Proceeding	480
Termination of Parental Rights	480
Juvenile Felonies	480
Misdemeanor	240
Parole/Probation Revocation	240
Other Juveniles	240
Paternity	240
Commitment	120
Special Proceeding	120

appointing private counsel at county expense for individuals who do not meet the statutory indigency standard for SPD representation or who are ineligible for SPD representation because of the type of case involved. The Director of State Courts conducts an informal annual survey that asks county clerks of court to report the costs of court-appointed counsel charged to the county. In general, counties appear to be retaining such counsel at the rate of \$70 per hour, consistent with the reimbursement standards established under Supreme Court Rule 81.02(1).

The reported costs are categorized into four types of cases: (a) adult criminal; (b) mental commitment or emergency detention; (c) representation of parents whose children are alleged to be in need of protection or services ("CHIPS parents"); and (d) other cases (typically guardianship and family law matters). For the first two types of cases, SPD representation would not have been provided because the individual did not meet the statutory indigency standard for such representation. For the latter two types of cases, SPD representation would not have been provided because of the type of case involved.

Appendix VII summarizes by county for 2000, 2001 and 2003: (a) adult criminal and mental commitment or emergency detention court-appointed

counsel costs; (b) CHIPS parents and other court-appointed counsel costs; and (c) total court-appointed counsel costs. Data for 2002 is not included, as only 49 counties reported information.

For calendar year 2003, 60 counties reported incurring \$3,912,500 to provide representation to persons in adult criminal cases and mental commitment proceedings who did not meet the statutory indigency standard for SPD representation. That same year, a total of 46 counties reported incurring \$2,073,200 to provide representation to persons in CHIPS parents and other types of cases where SPD representation was not available because of the type of case involved. Because of the self-reporting nature of the data collected by the Director of State Courts, it is unlikely that all of these county-incurred costs have actually been reported. In addition, some counties reported aggregate costs only and did not categorize the type of case for which payment was made. An additional \$485,900 was reported in this manner by counties for calendar year 2003.

*Creation of the State Public Defender Function.* Chapter 479, Laws of 1965 first created the State Public Defender position under the Wisconsin Supreme Court. The duties of the early SPD were limited to post-conviction appeals for indigent persons. Counties retained the sole responsibility for providing constitutionally required counsel to indigent persons at the trial level. Counties generally met this responsibility through court-appointed private counsel.

Under Chapter 29, Laws of 1977, the SPD was transferred from the judicial branch to the executive branch and became an independent agency under the Public Defender Board. Chapter 29 also provided funding for a phase-in of the state's public defender program at the trial level. The SPD was directed to phase-in its services at the trial level over the biennium to the extent that funding and position authority permitted. The SPD provided representation at the trial level both through the use of staff attorneys as well as through the retention of private counsel.

Chapter 418, Laws of 1977, directed that the state assume responsibility for indigent trial defense in all counties, effective July 1, 1979. Chapter 34, Laws of 1979, subsequently provided funding for the 1979-80 fiscal year to implement the state-wide public defender system. However, appropriations for the SPD for the 1980-81 fiscal year were vetoed with the exception of funding for the retention of private counsel. Nonetheless, by the 1979-80 fiscal year, the SPD had established 31 district offices providing indigent trial defense services in all 72 Wisconsin counties.

Chapter 356, Laws of 1979, restored funding for the SPD for program administration and for both trial and appellate representation by SPD staff for the 1980-81 fiscal year. Chapter 356 also mandated that 100% of the indigency cases at the trial level in 25 counties be assigned to private counsel. The remaining 47 counties were assigned to three statutory groups with not less than 15%, 25%, or 50% respectively, of these cases assigned to private counsel, with the remaining balance of cases assigned to SPD staff. Further, Chapter 356 requested the Legislative Council to study the state public defender program and to report its findings and recommendations to the Legislature no later than January 1, 1985. Finally, Chapter 356 sunsetted the SPD on November 15, 1985.

Under 1985 Wisconsin Act 29, all requirements mandating that a certain percentage of cases in each county be assigned to private counsel were repealed, again permitting public defender staff attorneys to represent the indigent in all 72 counties. Act 29 also created annual caseload standards for SPD trial attorneys and repealed the sunset provision for the SPD.

Provisions of 1995 Wisconsin Act 27 significantly revised the operation of the state public defender program and imposed a series of cost-cutting measures described as follows:

a. SPD Representation. Act 27 eliminated SPD representation in the following cases where

there is no clear constitutional right to representation:

- all conditions of confinement cases;
- situations where adults and juvenile persons, suspected of criminal or delinquent acts, have not yet been formally charged with a crime (subsequently restored in 2001 Wisconsin Act 16);
- sentence modification actions which are filed outside of the statutory time limit for such actions;
- probation and parole modification and revocation cases unless the modification or revocation is contested and jail or prison time is sought;
- appeals cases which are filed after the statutory time limit, unless the Court of Appeals extends the time limit;
- contempt of court for failure to pay child or family support, if the matter was not brought by the state, and the judge or family court commissioner certifies that the person would not be incarcerated if found in contempt;
- paternity actions, except actions to determine paternity where an initial blood test indicates a greater than 0%, but less than 99% probability of fatherhood; and
- representation for parents whose children are alleged to be in need of protection or services (CHIPS), except for parents who are themselves minors.

b. Client Reimbursement. Act 27 newly required the SPD to determine each client's ability to pay for representation and to collect for the cost of that representation. Under these client reimbursement provisions, a represented person must be permitted to meet his or her reimbursement obligations to the SPD either by: (a) paying a non-refundable, reasonable fixed fee within the first 60

days of representation, set by the Public Defender Board by rule; or (b) being charged a fee based on the average cost of representation for the client's case type, but considering the client's ability to pay.

c. **Workload.** Act 27 also reinstated higher workload standards for trial staff attorneys that had been modified under 1991 Act 39. The caseloads for the following types of cases were adjusted as follows: (a) felony caseloads increased from 166.8 cases per year to 184.5 cases per year; (b) misdemeanor caseloads increased from 410.9 cases per year to 492.0 cases per year; and (c) juvenile caseloads increased from 228.4 cases per year to 246.0 cases per year.

d. **Private Bar Compensation.** Act 27 reduced, in part, the compensation paid to private bar attorneys retained by the SPD. Prior to Act 27, private attorneys were paid \$50 per hour for in-court time, \$40 per hour for out-of-court time and \$25 per hour for certain travel. Under Act 27, the in-court rate was reduced to \$40 per hour.

e. **Fixed-Fee Contracts with Private Attorneys.** Finally, Act 27 required the State Public Defender Board to enter into annual fixed-fee contracts with private attorneys and law firms for some cases. The maximum number of cases assigned in this manner cannot exceed one-third of the total number of cases at the trial level. The SPD entered into fixed-fee contracts for up to 10,594 misdemeanor cases in 2004-05.

*Current Operations.* A nine-member Public Defender Board oversees the operation of the Office of the State Public Defender. Members of the Board are appointed by the Governor to staggered three-year terms, with the advice and consent of the Senate. At least five of the nine Board members must be members of the State Bar of Wisconsin.

The principal duties of the Board are the following: (a) appointment of a State Public Defender; (b) promulgation of administrative rules for determining financial eligibility; (c) promulgation of admin-

istrative rules establishing procedures to assure that the representation of indigent clients by the private bar is at the same level as the representation provided by SPD staff; and (d) supervision of the administration of the Office.

In 2003-04, state SPD expenditures totaled \$79,926,900 (all funds) to provide legal representation for eligible indigent persons in Wisconsin. Of that amount, \$30,434,700 (38.1%) was paid to private attorneys for their time and certain legal expenses (investigators and expert witnesses). The remaining \$49,492,200 (61.9%) funded staff attorneys, their legal expenses and program overhead. The SPD has been budgeted \$71,235,900 GPR and \$1,293,000 PR in 2004-05 and is currently authorized 523.5 GPR and 4.0 PR positions.

The Office is organized into four divisions: trial, appellate, assigned counsel and administrative. The current organizational chart for the agency is included as Appendix VIII.

The trial division consists of 451.3 positions, including 280.0 attorneys and attorney supervisors. The trial division is housed in 35 district offices across the state. (See Appendix IX for the location of these trial division offices.). Each trial division attorney (and generally each attorney supervisor) must meet one of the following annual statutory caseload requirements: (a) 184.5 felony cases; (b) 15.0 homicide or sexual predator cases; (c) 492.0 misdemeanors cases; (d) 246.0 other cases; or (e) some combination of these categories. The SPD has interpreted these caseload standards as representing the workload averages that must be achieved by all the trial attorneys in the agency collectively, as opposed to a standard that is applied to each individual attorney. In practice, most staff attorneys work on a variety of case types during the year, with some (such as new attorneys) taking fewer cases than the statutory requirement and others taking more in order to meet the overall requirement for the agency. In 1999 Act 9, 10 attorney supervisor positions were exempted from the statutory caseload requirement. This caseload ex-

emption is spread among 60.05 supervising attorneys. In practice, most supervisors are relieved of some portion of their caseload responsibilities.

The appellate division consists of 44.0 positions, including 27.5 attorneys and attorney supervisors who provide assistance to eligible indigents involved in appeals, including postconviction and postcommitment proceedings. The SPD sets the caseload standard for each appellate attorney between 54 and 60 cases per year, depending on the complexity of the attorney's case mix and the attorney's level of experience. Staff attorneys have been represented by a collective bargaining unit since the 1997-99 biennium, with annual salaries currently ranging from \$41,148 to \$105,571.

The assigned counsel division consists of 6.2 positions that oversee certification, appointment, and payment of the private attorneys who represent eligible indigent clients. Private attorneys are paid in two ways: (a) an hourly rate (generally \$40 per hour); or (b) for some misdemeanor cases, a flat, per case contracted amount. In 2003-04, 1,132 private attorneys were certified by the SPD to represent indigent clients. In 2003-04, 1,020 private attorneys accepted 65,526 new cases.

The administrative division consists of 26.0 positions that oversee the general administration of the Office. In particular, this staff provides support services in the areas of budget preparation, fiscal analysis, purchasing, payroll and personnel.

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### **The Wisconsin Legal Process**

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Both state and federal courts potentially have jurisdiction over Wisconsin citizens. State courts generally handle only cases involving state laws; however, the federal government may give state courts jurisdiction over certain federal questions. Following is an outline of the civil and criminal court processes. It should be noted that this is a

general overview and does not address the detailed specifics of each case (for example, certain civil procedures may vary for small claims or family matters), or the processes for juvenile court. It should also be noted that certain juveniles may fall under original adult court jurisdiction or may be waived into adult court. Further information on court proceedings in juvenile matters can be found in the Legislative Fiscal Bureau's informational paper entitled, "Juvenile Justice and Youth Aids Program."

### **Civil Cases**

Civil cases involve individual claims in which a person seeks a remedy for some alleged wrong done by another. In general, the complaining party (plaintiff), may sue the offending party (defendant), for payment of injuries suffered by the complaining party, if the complaining party suffered a wrong for which the law provides a remedy. The process is outlined below:

1. Plaintiff files a summons and complaint with the circuit court.
2. Defendant is served with copies and a summons directs the defendant to respond (answer) to the plaintiff's attorney.
3. Various pretrial proceedings occur including motions, pretrial conferences, discovery and formal or informal negotiations between the parties.
4. In most cases, a settlement is reached at this point and court proceedings end. However, for the remainder of cases trial preparations continue, although a settlement may still occur either before trial or during trial.
5. Under state and federal law, trial by jury is guaranteed but, if both parties consent, a trial may be conducted without a jury. For civil cases in Wisconsin state court, the jury consists of six persons, unless a greater number (not to exceed 12) is re-

quested.

6. Final judgment -- if a jury is present, five-sixths of the jurors must agree on the verdict. The court (judge) makes a judgment for the plaintiff or the defendant based on the verdict. The plaintiff must typically prove his or her case by a preponderance of the evidence (that is, jurors must be convinced that the plaintiff's evidence is more persuasive, otherwise the verdict should be for the defendant).

7. Final judgment -- if a jury trial has been waived, the court (judge) makes a judgment for the plaintiff or the defendant based on trial testimony and evidence. Either party may file for reconsideration of the circuit court's decision based on new information.

8. Court of Appeals -- a final judgment may be appealed to the State Court of Appeals. The court must accept the appeal. The appellate court may uphold or reverse, in whole or in part, the decision of the circuit court.

9. Supreme Court -- either party may petition for review by the Supreme Court of a lower court's opinion. However, the Supreme Court has the authority to accept or refuse to hear the appeal. The Supreme Court is the court of final authority in Wisconsin, except for cases involving federal issues appealable to the U.S. Supreme Court.

### **Criminal Cases**

A criminal case involves an act prohibited by state law and punishable by fine or imprisonment, or both. Civil enforcement actions, such as most traffic violations, are distinguished from criminal actions in that a forfeiture (payment) may be imposed (much like a criminal fine), but imprisonment cannot be imposed (except under the court's contempt powers for failure to comply with a court order). There are two types of criminal cases: felonies and misdemeanors. A felony is punishable by imprisonment in the state prison. Misdemeanors include all criminal cases that are not felonies. In

general, misdemeanors have maximum sentences of less than one year in a county jail, unless the statutes state otherwise. The criminal process is outlined below.

1. The state brings action against the defendant. Typically, the prosecutor, a district attorney, files a criminal complaint in the circuit court stating the essential facts of the offense.

2. In the case of a felony, if the defendant has not been arrested at the time of the filing of the criminal complaint, the judge or court commissioner issues a warrant for arrest. Law enforcement officers must execute a warrant and make an arrest. A summons to appear is issued for a misdemeanor. A summons may be delivered through the mail.

3. The defendant is taken into custody and brought before a judge or court commissioner, and informed of the charges and the right to be represented by a lawyer. If the defendant is found to be an eligible indigent, an attorney will be appointed by the State Public Defender. Bail may be set at this time (either a cash amount or a signature bond) to assure the defendant's appearance at future proceedings. If bail cannot be produced, the defendant is held in the county jail.

4. For a misdemeanor, the accused is asked to enter a plea and a trial date, if necessary, is set. [Go to #7.]

5. For a felony, the defendant has the right to a preliminary examination, which is a hearing in the circuit court to determine whether the state has probable cause to charge the individual. If probable cause is found or if the preliminary examination is waived, an arraignment is held.

6. At the arraignment, the defendant enters a plea of guilty, not guilty, no contest or not guilty by reason of mental disease or defect.

7. Most criminal cases are decided before trial (typically by a plea of guilty or no contest, but

sometimes through a dismissal or other action). However, if a trial occurs, the case is heard in the circuit court in front of a judge and a jury of 12, unless both parties waive the right to a jury trial or there is an agreement between the parties for fewer jurors.

8. Jury trial -- the jury considers the evidence presented at the trial, determines the facts and renders a verdict of guilty or not guilty. Jurors must be convinced of the defendant's guilt beyond a reasonable doubt. The verdict must be unanimous. If the jury cannot make an unanimous decision, it is referred to as a "hung" jury. The defendant may be retried by a new jury at the discretion of the district attorney.

9. No jury trial -- the judge makes the ruling of guilty beyond a reasonable doubt or not guilty.

10. A not guilty judgment -- the defendant is cleared of alleged fault or guilt (acquitted) and cannot be tried again for the same offense ("double jeopardy").

11. If guilt is determined (either through a guilty plea or trial verdict), the court (judge) enters a judgment of conviction and determines the penalty (sentencing) for the crime within the statutory range. A defendant may also plead no contest which results in the same criminal consequences as a plea of guilty, but the plea cannot be used in civil litigation against the defendant.

For crimes committed prior to December 31, 1999, the penalties for felony offenses are as follows: (a) Class A, life imprisonment; (b) Class B, imprisonment not to exceed 40 years; (c) Class BC, fine not to exceed \$10,000 or imprisonment not to exceed 20 years, or both; (d) Class C, fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both; (e) Class D, fine not to exceed \$10,000 or imprisonment not to exceed 5 years, or both; and (f) Class E, fine not to exceed \$10,000 or imprisonment not to exceed 2 years, or both.

The maximum sentence lengths for felonies committed on or after December 31, 1999, and before February 1, 2003, are as follows: (a) Class B felony, 60 years; (b) Class BC felony, 30 years; (c) Class C felony, 15 years, (d) Class D felony, 10 years; and (e) Class E felony, 5 years. Class A felonies continue to have a life imprisonment penalty.

Under 2001 Act 109, criminal offenses were reclassified and expanded from six classes of felonies to nine. For felonies committed on or after February 1, 2003, the new felony classifications and the maximum sentence lengths are as follows: (a) Class B felony, 60 years; (b) Class C felony, 40 years; (c) Class D felony, 25 years, (d) Class E felony, 15 years; (e) Class F felony, 12.5 years; (f) Class G felony, 10 years; (g) Class H felony, 6 years; and (h) Class I felony, 3.5 years. Class A felonies continue to have a life imprisonment penalty. [See the Legislative Fiscal Bureau's informational paper entitled, "Felony Sentencing and Probation."]

The judge may order a presentence investigation before sentencing is announced. Investigations are performed by staff from the Department of Corrections. The report contains information on the offender's personal background, prior criminal activities, details on the current offense and information on the economic, physical and psychological effect of the crime on the victim. The report is released to the defendant's attorney and the district attorney. Subsequent to sentencing, the report is considered confidential and cannot be made available without the authorization of the Court. Presentence reports may, however, be used by the Department of Corrections for programming, parole considerations, care and treatment of an offender, or research purposes.

12. Court of Appeals -- a final judgment may be appealed to the State Court of Appeals. The Court must accept the appeal. The appellate court may uphold or reverse the decision of the circuit court.

13. Supreme Court -- either party may petition

for review of a lower court's opinion by the Supreme Court. However, the Supreme Court has the discretion to decide which cases it will hear. The Supreme Court is the court of final authority in Wisconsin, except for cases involving federal issues appealable to the U.S. Supreme Court.

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## **Post-Conviction Incarceration and Supervision**

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In Wisconsin, conviction of a felony is punishable by imprisonment in the state prisons. Convictions of a misdemeanor offense is punishable by imprisonment in a county jail. Any person age 17 years and older who commits a felony or misdemeanor is considered an adult and may be sentenced to confinement, placed on probation and/or fined. In addition, under some circumstances, a person under the age of 17 may be considered an adult (however, generally, juveniles under the age of 16 may not be placed in adult facilities). Offenders sentenced to one or more years are imprisoned in state correctional facilities. Those offenders sentenced to less than one year are confined in county jails. All offenders placed on probation are supervised by the Department of Corrections (DOC).

For all felony offenses committed on or after December 31, 1999, sentencing follows a bifurcated process, under which a sentencing judge specifies an amount of time a convicted felon will serve in prison and in the community on extended supervision. Under the bifurcated process, judges may also fine a felon, require that the felon be placed in the intensive sanctions program as a part of extended supervision, or place a felon on probation. This bifurcated system is commonly known as "truth-in-sentencing." [See the Legislative Fiscal Bureau's informational paper entitled, "Felony Sentencing and Probation."]

### **Department of Corrections**

In fiscal year 2003-04, DOC was responsible for an average daily population of 90,479 individuals,

including 22,331 incarcerated adults and 68,148 individuals on probation, parole or in the community under intensive sanctions. The 2004-05 budget for adult offenders totals \$810.3 million with 9,515.32 authorized positions. Funding is divided as follows: \$632.8 million for adult correctional institutions; \$136.1 million for community corrections (probation, parole, and extended supervision, and the monitoring center); and \$41.4 million for other departmental services, the Parole Commission and the departmental administration. [See the Legislative Fiscal Bureau's informational paper entitled, "Adult Corrections Program."]

The Division of Juvenile Corrections (DJC) in the Department of Corrections administers the state's juvenile correctional programming. The 2004-05 budget for DJC totals \$184.2 million (all funds) with 899.76 authorized positions. Of this total, \$85.8 million is provided to counties as youth aids to partially defray the costs of caring for adjudicated delinquents. Of the remaining \$98.4 million, \$46.6 million is allocated to the operation of the state's secured juvenile correctional facilities. These secured facilities cared for an average daily population of 693 juveniles in 2003-04. The balance of the DJC budget supports a variety of additional juvenile correctional programming. [See Legislative Fiscal Bureau's informational paper entitled, "Juvenile Justice and Youth Aids Program."]

### **Local Corrections and Detention**

The Office of Justice Assistance (OJA) publishes an annual report entitled Adult Jail Population in Wisconsin. According to the 2003 report admissions to county jails have increased by approximately four percent between 2001 and 2003. Admissions include individuals: (a) sentenced to jail; (b) sentenced to jail as a condition of probation; (c) state prisoners in contracted county jail beds; (d) state prisoners in temporary lockup from the correctional centers; (e) held for probation, parole or extended supervision violations; (f) awaiting hearings or trial; and (g) arrested pending charges. In addition to county jails, some municipalities also administer lockup facilities that are designed to

temporarily hold individuals prior to an initial court appearance. According to the OJA report, approximately half of admissions involved individuals awaiting hearing or trial.

In 2003, total expenditures for local corrections and detention operations statewide were \$355,085,790, according to information submitted by counties to the Department of Revenue. Appendix X identifies reported expenditures by county. Costs include expenditures for the operation and maintenance of jails, personnel, prisoner meals, maintenance, state penal charges, offender rehabilitation programs, parole officers, pre-release facilities, juvenile detention facilities and payments to other governmental units for housing prisoners.

The Department of Corrections utilizes available Wisconsin county jail space to house state in

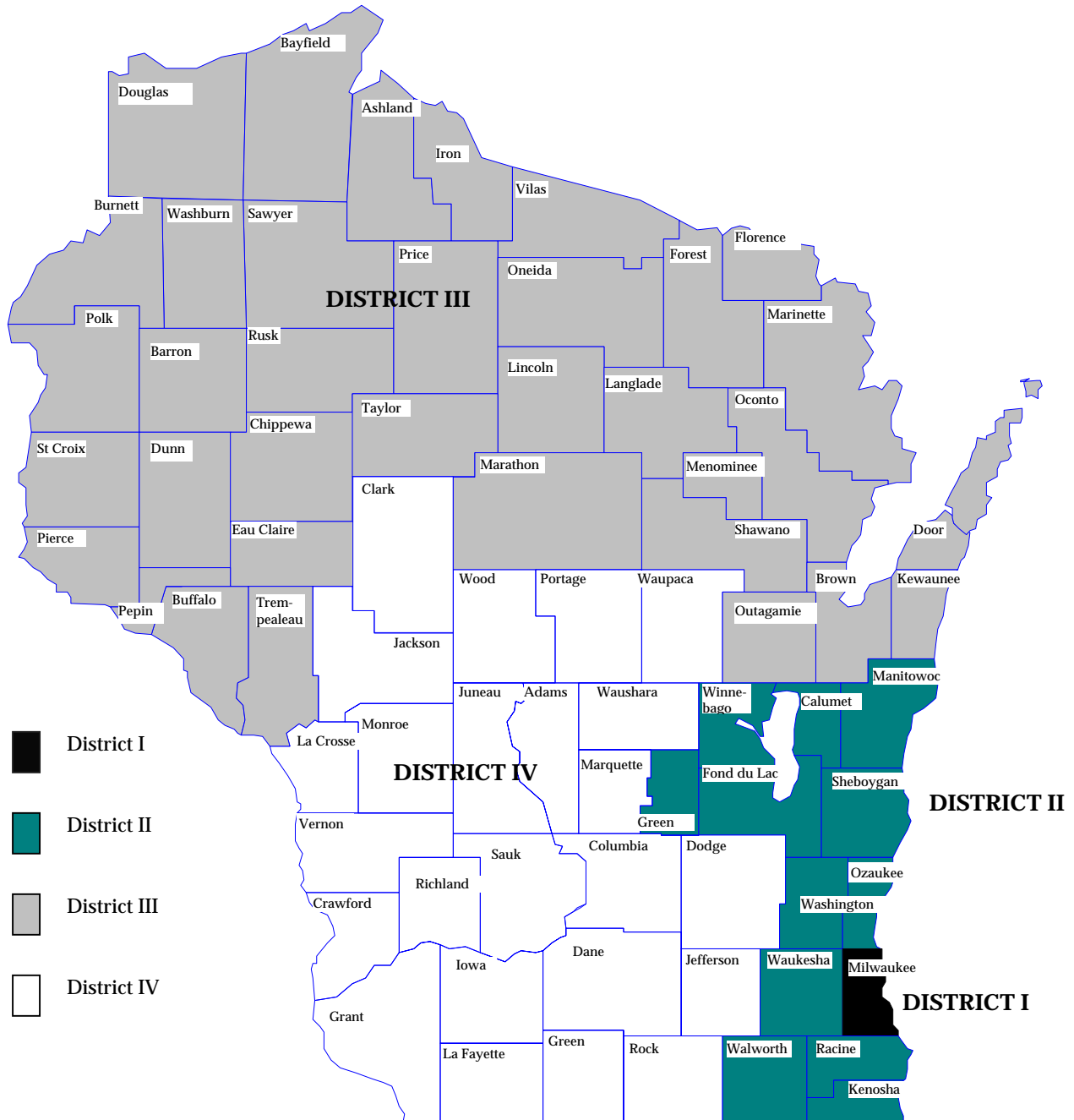
mates and as temporary lockup. In 2003-04, DOC expended \$5,910,400 GPR for jail contracts; in 2004-05, \$10,653,300 GPR is budgeted for approximately 575 inmates in Wisconsin jails, including an average of 25 in temporary lockups.

In addition to contracts for additional space, DOC also reimburses counties up to \$40 per day for felons being held in county jails pending the revocation of their probation, parole or extended supervision for non-criminal rules violations. Payments are prorated if the number of reimbursable days exceeds the appropriated amount. In 2004-05, \$4,750,480 of the \$4,935,100 GPR appropriated to reimburse counties for holds in 2003-04 was expended. Counties were reimbursed at a rate of \$40 per day in 2004-05. Appendix XI indicates probation and parole hold reimbursements in 2004-05.



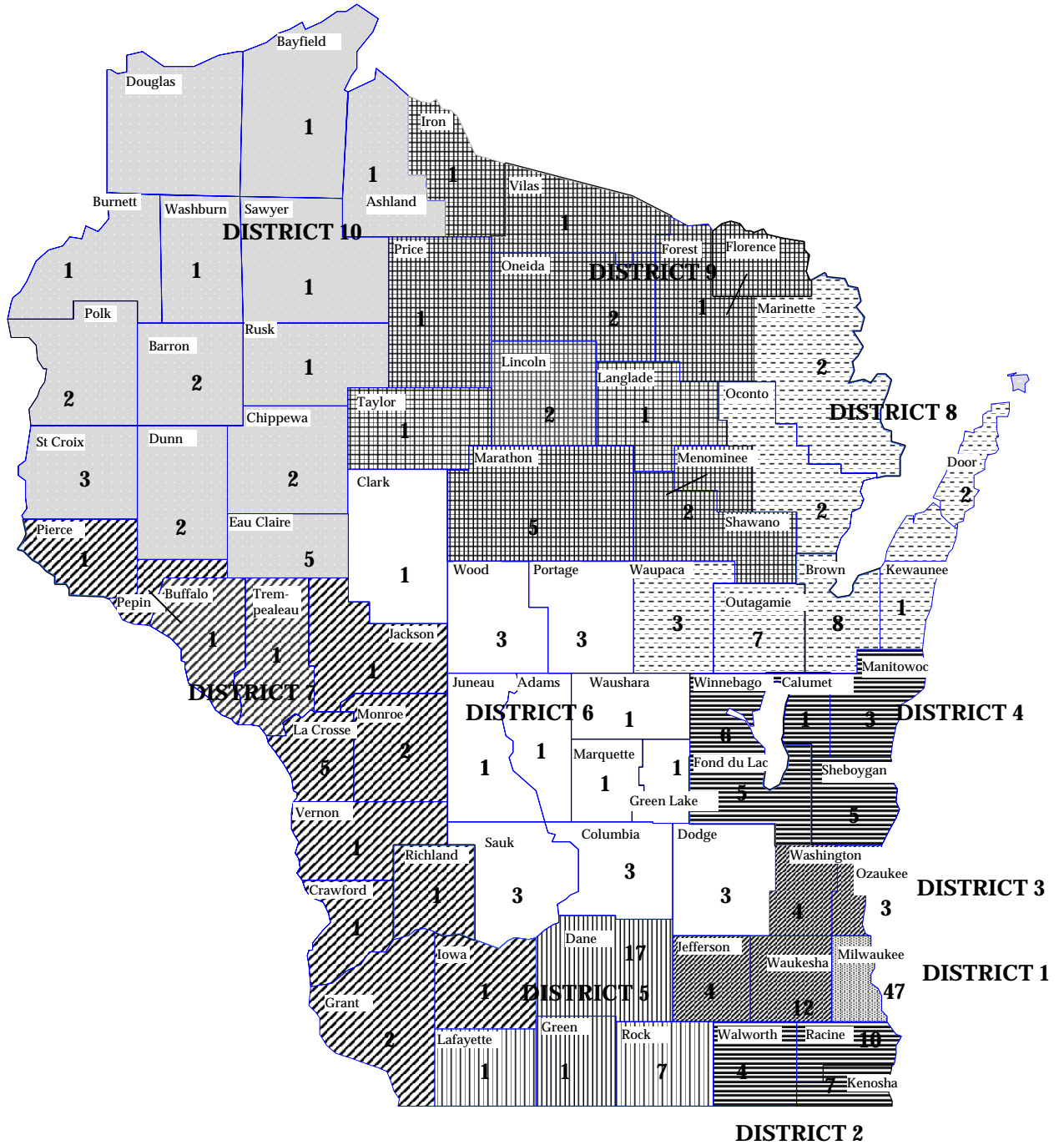
# APPENDIX I

## Court of Appeals Districts



## APPENDIX II

### Circuit Court Branches and Judicial Administrative Districts



10 Judicial Administrative Districts for Circuit Court Branches

241 Total Circuit Court Branches

**APPENDIX III**

**2003 Circuit Court Caseload Study - Ranked By Workload**

County	Current Branches	2003* Study	Workload** Per Court	County	Current Branches	2003* Study	Workload** Per Court
Juneau	1	1.97	2.0	Shawano/Menominee	2	2.37	1.2
Green	1	1.72	1.7	Columbia	3	3.52	1.2
Chippewa	2	3.28	1.6	Milwaukee	47	54.99	1.2
Sawyer	1	1.56	1.6	Barron	2	2.31	1.2
Clark	1	1.51	1.5	Vernon	1	1.15	1.2
Rock	7	10.57	1.5	Waukesha	12	13.81	1.2
Calumet	1	1.50	1.5	Polk	2	2.30	1.1
Burnett	1	1.45	1.5	Outagamie	7	7.97	1.1
Waushara	1	1.44	1.4	Fond du Lac	5	5.60	1.1
Kenosha	7	9.91	1.4	Washington	4	4.48	1.1
Dodge	3	4.18	1.4	Washburn	1	1.11	1.1
Trempealeau	1	1.39	1.4	Walworth	4	4.38	1.1
Douglas	2	2.78	1.4	Oneida	2	2.16	1.1
Monroe	2	2.75	1.4	Ozaukee	3	3.22	1.1
Winnebago	6	8.23	1.4	Richland	1	1.05	1.0
Adams	1	1.37	1.4	Marquette	1	0.99	1.0
Sheboygan	5	6.85	1.4	Ashland	1	0.96	1.0
Eau Claire	5	6.82	1.4	Marinette	2	1.93	1.0
Green Lake	1	1.36	1.4	Jefferson	4	3.84	1.0
Sauk	3	4.08	1.4	Grant	2	1.89	0.9
Manitowoc	3	4.07	1.4	Buffalo/Pepin	1	0.94	0.9
Iowa	1	1.35	1.3	Waupaca	3	2.76	0.9
Jackson	1	1.34	1.3	Rusk	1	0.91	0.9
Brown	8	10.74	1.3	Bayfield	1	0.89	0.9
St. Croix	3	3.99	1.3	Taylor	1	0.85	0.8
Marathon	5	6.65	1.3	Lincoln	2	1.66	0.8
Dunn	2	2.64	1.3	Kewaunee	1	0.82	0.8
Wood	3	3.92	1.3	Price	1	0.79	0.8
Pierce	1	1.29	1.3	Oconto	2	1.51	0.8
Dane	17	21.59	1.3	Door	2	1.38	0.7
Racine	10	12.58	1.3	Lafayette	1	0.68	0.7
Vilas	1	1.21	1.2	Crawford	1	0.63	0.6
Langlade	1	1.20	1.2	Iron	1	0.36	0.4
Florence/Forest	1	1.19	1.2	Portage***			
La Crosse	5	5.94	1.2				
				STATE TOTAL***	238	288.63	1.2

\* Number of branches required based solely on the 2003 weighted caseload study.

\*\* Current workload for each court branch (for example "1.5" means that, according to the weighted caseload study, one judge is doing the workload of 1.5 judges).

\*\*\* Data for Portage County was unavailable.

## APPENDIX IV

### Court Fees

**(Either Retained by the State or Split Between State and Counties)**

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Commencement of civil action fee (nonfamily) (s. 814.61(1)(a))	To be paid by the filer at the commencement of all civil actions and special proceedings in circuit court except garnishment, wage earner, small claims and forfeiture actions.	\$75	\$30 to the general fund and \$15 to Consolidated Court Automation Programs (CCAP)	\$30
Change of venue fee in civil action (s. 814.61(1)(a) and (2))	To be paid by the party that necessitated the change of venue.	\$75, except that no fee may be charged if the court orders a discretionary change of venue under s. 801.52	\$30 to the general fund and \$15 to CCAP	\$30
Commencement of family action fee (s. 814.61(1)(a), (b) & (c))	To be paid at the commencement of all family actions except for paternity determination, interstate family support, termination of parental rights and adoption actions. In addition to the civil action filing fee, a \$20 family court counseling fee is assessed.	\$95	\$30 to the general fund and \$15 to CCAP	\$50, \$20 of which is earmarked for family court counseling services
Commencement of family action fee, with request for support or maintenance (s. 814.61(1)(a), (b), and (13))	In addition to the \$95 commencement of family action fee, when a person not receiving benefits under W-2 or medical assistance files a petition requesting child support, maintenance or family support payments, an additional \$10 is charged.	\$105	\$30 to the general fund and \$15 to CCAP	\$60, \$20 of which is earmarked for family court counseling services and \$10 of which is earmarked for the cost of court services relating to child support, maintenance or family support payments
Change of venue fee in family action (s. 814.61(1)(a), (1)(b) and (2))	To be paid by the party that necessitated the change of venue.	\$95, except that no fee may be charged if the court orders a discretionary change of venue under s. 801.52	\$30 to the general fund and \$15 to CCAP	\$50, \$20 of which is earmarked for family court counseling services

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Change of venue fee in family action, with request for support or maintenance (s. 814.61(1)(b), (2), and (13))	In addition to the \$95 change of venue in a family action fee, if a person not receiving benefits under W-2, medicare or medical assistance files a petition requesting child support, maintenance or family support payments, an additional \$10 is charged.	\$105, except that no fee may be charged if the court orders a discretionary change of venue under s. 801.52	\$30 to the general fund and \$15 to CCAP	\$60, \$20 of which is earmarked for family court counseling services and \$10 of which is earmarked for the cost of court services relating to child support, maintenance or family support payments
Revision of judgment or order in action affecting the family (s. 814.61(7)(a))	To be paid upon the filing of any petition or any motion, by either party, for the revision of a judgment or order in an action affecting the family (unless both parties have agreed to the revision), except for paternity actions.	\$30	\$15 to the general fund	\$15
Revision of legal custody and physical placement order/ moving the child's residence within or outside the state (s. 814.61(7)(b))	To be paid upon the filing of any petition, motion or order to show cause by either party under legal custody or physical placement, or moving the child's residence within or outside the state.	\$50	\$12.50 to the general fund	\$12.50 for general county purposes and \$25 for family court counseling services
Fee for commenting a garnishment action (s. 814.62(1))	To be paid when a person commences a garnishment action.	\$20	\$7.50 to the general fund and \$5 to CCAP	\$7.50
Fee for commenting a small claims action (s. 814.62(3)(a) and (d)2.)	To be paid by the plaintiff at the time of issuance of a summons or other process in a proceeding not commenced by a summons.	\$22	\$11.80 to CCAP	\$10.20
Change of venue fee in small claims actions (s. 814.61(2) and 814.62(3)(a) and (d)2.)	To be paid by the party that necessitated the change of venue.	\$22, except that no fee may be charged if the court orders a discretionary change of venue under s. 801.52	\$11.80 to CCAP	\$10.20

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
<p>Fee for filing a counterclaim or cross complaint in a small claims action (s. 814.62(3)(b) and (d)3.)</p>	<p>To be paid by the person filing the counterclaim or cross complaint.</p>	<p>\$53</p>	<p>\$17.20 to the general fund and \$10 to CCAP</p>	<p>\$25.80</p>
<p>Third party complaint in a large claim or no money judgment requested (s. 814.61(3))</p>	<p>To be paid by defendant when defendant files a third party complaint. The defendant shall pay only one such fee in an action.</p>	<p>\$45</p>	<p>\$20 to the general fund and \$5 to CCAP</p>	<p>\$20</p>
<p>Fee in forfeiture actions (s. 814.63(1)(b) and (5))</p>	<p>To be paid by the defendant when judgment is entered against the defendant, except for smoking or safety belt violations.</p>	<p>\$25</p>	<p>\$12.50 to the general fund and \$5 to CCAP</p>	<p>\$7.50</p>
<p>Fee for criminal actions (s. 814.60(1))</p>	<p>To be paid by the defendant when a judgment is entered against the defendant.</p>	<p>\$20</p>	<p>\$10 to the general fund</p>	<p>\$10</p>
<p>Municipal court fee (s. 814.65(1))</p>	<p>Except for certain safety belt violations, to be paid by the defendant on each separate matter, including default of appearance, guilty or no contest pleas, issuance of warrants or summonses, or if the action is tried as a contested matter.</p>	<p>\$15-23, as determined by the municipal court</p>	<p>\$5 of the \$15 to \$23 fee to the general fund</p>	<p>None; municipality retains all but \$5</p>
<p>Appeal from municipal court or administrative decision, and appeal or review is by certiorari or on the record (s. 814.61(8)(am)1. and 814.61(8)(c))</p>	<p>To be paid when a person wishes to appeal a decision from municipal court or on review of any administrative decision, and the appeal or review is by certiorari or on the record.</p>	<p>\$40</p>	<p>\$17.50 to the general fund and \$5 to CCAP</p>	<p>\$17.50</p>

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Appeal from municipal court or administrative decision, and a new trial is authorized and requested (s. 81.4.61(8)(am)2. and 81.4.61(8)(d))	To be paid by a person who wishes to appeal a decision from municipal court or on review of any administrative decision, and a new trial is authorized and requested.	\$55	\$25 to the general fund and \$5 to CCAP	\$25

## APPENDIX V

### Court Surcharges, Fines, Forfeitures, and Restitution Payments (in addition to any court fees)

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Court support services surcharge (s. 814.85(1))	Except for safety belt use violations, all persons filing civil actions, third party complaints, appeals from municipal court, small claims actions, small claim counterclaim or cross complaints, forfeiture actions, garnishment actions, or wage earner actions must pay a court support services surcharge.	\$169 for civil actions in which the amount claimed is greater than \$5,000, \$51 for civil actions in which the amount claimed is equal to or less than \$5,000, and \$68 for civil actions in which there is no money judgment requested	100% to the general fund	None
Justice information system surcharge (s. 814.86(1))	Except for an action for a safety belt use violation, a person paying a fee for civil, small claims, forfeiture, wage earner, or garnishment actions, or for an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action, must also pay a justice information surcharge.	\$9	\$2 to the Department of Administration for justice information systems, \$6 to CCAP, and \$1 to the general fund	None
Penalty surcharge (s. 757.05(1) and (2), 814.75(18), 814.76(14), 814.77(11), 814.78(10), 814.79(7), 814.80(9) and 814.81 (9))	Surcharge on fines or forfeitures imposed by courts for violations of state laws or municipal or county ordinances (except for violations involving smoking in restricted areas, failing to properly designate smoking or nonsmoking areas, nonmoving traffic violations or safety belt use, or first time violations for operating a motor vehicle, all-terrain vehicle, motorboat, or snowmobile if the operator had a blood alcohol concentration of 0.08 or more but less than 0.1).	24% of the fine or forfeiture	100% to various state agencies (45.83% to the Department of Justice for the Law Enforcement Training Fund and the remainder to fund justice-related automation systems, victim-witness services, correctional officer and public defender training, AODA programs within the Department of Public Instruction, and provide match money for federal anti-drug enforcement programs)	None



Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
<p>State fines and forfeitures for violations of any traffic, motor vehicle or driver's license regulations (s. 59.25(3)(j), chs. 341-347, 349 and 351)</p>	<p>Fines and forfeitures imposed by courts for violations of state laws regarding registration of vehicles, vehicle title and anti-theft law, operator's licenses, vehicles - financial responsibility, vehicles - civil and criminal liability, rules of the road, equipment of vehicles, vehicles - powers of state and local authorities, and habitual traffic offenders are deposited into the common school fund and the county.</p>	<p>As determined by the court and/or statutes</p>	<p>50% of the fine or forfeiture to the common school fund</p>	<p>50% of the fine or forfeiture retained by the county treasurer as fees for receiving and paying money into the state treasury</p>
<p>State forfeitures concerning vehicles - size, weight and load (s. 59.25(3)(j)&amp;(k), 348.11 and 348.21)</p>	<p>Fines and forfeitures collected from citations issued by the State Patrol or county law enforcement officers for violations of state law are deposited in the common school fund, state transportation fund, and the remainder is retained by counties.</p>	<p>\$10 to more than \$300, depending on the violation</p>	<p>90% of the fine or forfeiture (50% to the common school fund and 40% to the state transportation fund)</p>	<p>10% retained by county where citation issued</p>
<p>All other state fines and forfeitures (except those specifically listed above) (s. 59.25(3)(j))</p>	<p>Fines and forfeitures imposed by the courts for violations of state laws (except those laws listed above) are deposited to the county and the common school fund.</p>	<p>As determined by the court and/or statutes</p>	<p>90% of the fine, forfeiture or penalty to the common school fund</p>	<p>10% of the fine or forfeiture to be retained by the county treasurer for fees in receiving and paying monies into the state treasury</p>
<p>Ordinance violation forfeitures concerning vehicles - size, weight and load (s. 59.25(3)(L) and 66.0114(3)(c))</p>	<p>Forfeitures imposed by courts for ordinance violations relating to vehicles - size, weight and load are deposited into the state transportation fund, and the remainder is retained by the municipality or county.</p>	<p>\$10 to more than \$300, depending on the violation</p>	<p>100% in excess of \$150 per forfeiture to the state transportation fund provided the violation occurred on an interstate highway, a state trunk highway or a highway over which the local highway authority does not have primary maintenance responsibility</p>	<p>Up to \$150 per forfeiture retained by the municipality if the violation occurred on an interstate highway, a state trunk highway or a highway over which the local authority does not have primary maintenance responsibility. If the violation did not occur on one of the above mentioned highways, the municipality retains the entire amount of the forfeiture</p>

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Special prosecution clerks surcharge (Milwaukee County only) (s. 814.86(1m))	Whenever the clerk of circuit court for Milwaukee County charges and collects the justice information fee, he or she must also collect a special prosecution clerks surcharge.	\$2	100% to fund clerks in the Milwaukee County District Attorneys Office	None
Consumer protection surcharge in criminal and forfeiture action (s. 100.261(1) and (3)(c), 814.75(1), 814.76(1), 814.78(1), 814.80(1) and 814.81(1))	Whenever a court imposes a fine or forfeiture for violations relating to consumer protection, the court must also impose a consumer protection surcharge.	25% of the total amount of the fine or forfeiture	100% of the first \$185,000 annually to the Department of Agriculture, Trade and Consumer Protection for consumer protection information and education. The remainder is deposited to the general fund	None
Crime lab and drug law enforcement surcharge in criminal and forfeiture actions (s. 165.755, 814.75(3), 814.76(2), 814.77(2), 814.78(3), 814.79(2), 814.80(3) and 814.81(3))	If a court imposes a sentence, places a person on probation or imposes a forfeiture for a violation of state law or municipal or county ordinance (except for violations involving smoking in restricted areas, falling to properly designate smoking or nonsmoking areas, nonmoving traffic violations or safety belt use, or first time violations for operating a motor vehicle, all-terrain vehicle, motorboat, or snowmobile if the operator had a blood alcohol concentration of 0.08 more but less than 0.1), the court must also impose a crime laboratories and drug law enforcement surcharge for each offense.	\$7	100% to the state to help fund drug law enforcement, crime laboratories, and the DNA databank activities	None
Crime victim and witness surcharge - Part A (s. 973.045(3)(a)(1))	If a court imposes a sentence or places a person on probation, the court shall also impose a crime victim and witness surcharge.	\$30 for each misdemeanor offense and \$50 for each felony offense	100% to fund crime victim and witness services	None
Crime victim and witness surcharge - Part B (s. 973.045 (3)(a)(2))	If a court imposes a sentence or places a person on probation, the court shall also impose a crime victim and witness surcharge.	\$20 for each misdemeanor offense and \$20 for each felony offense	100% to fund sexual assault victim services	None

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
DNA analysis surcharge in criminal actions (s. 814.75(7), 814.76(5) and 973.046))	If a court imposes a sentence or places a person on probation for committing certain sex offenses, the court must also impose a DNA surcharge on the defendant. In addition to those sex offenses for which the court must impose the DNA analysis surcharge, the court may also impose the surcharge any time the court imposes a sentence or places a person on probation for a felony conviction.	\$250	100% for the state DNA data bank	None
Domestic abuse surcharge in criminal and forfeiture actions (s. 814.75(8), 814.76(6), 814.80(6), 814.81(6), and 973.055))	The domestic abuse surcharge applies only in those cases in which the defendant's conduct was directed against a spouse or former spouse, against an adult with whom the defendant resides or formerly resided, or against an adult with whom the defendant has created a child. If a court imposes a sentence on an adult person or places an adult person on probation for violating certain crimes against life and bodily security, crimes against property, bail jumping, or crimes against public peace, order and other interests, regardless of whether any fine is imposed, the court shall also impose a domestic abuse assessment for each offense (unless the court determines the assessment would have a negative impact on the offender's family).	\$75 for each offense	100% to the state for domestic abuse grants	None
Driver improvement surcharge in criminal and forfeiture actions (s. 346.655(1) and (2), 814.75(9), 814.76(7), 814.78(7), 814.79(4m))	If a court imposes a fine or forfeiture for certain violations relating to operating while intoxicated, it shall also impose a driver improvement surcharge.	\$355	38.5% of the surcharge amount for activities related to alcohol abuse, OWI enforcement and crime victim compensation services	61.5% of the surcharge amount for community mental health, developmental disabilities, alcoholism and drug abuse services
Drug abuse program improvement surcharge in criminal actions (s. 814.75(10), 814.76(8) and 961.41(5)(a))	When a court imposes a fine for a violation concerning the manufacture, distribution or delivery of controlled substances, the court must also impose a drug abuse program improvement surcharge on the defendant.	50% of the fine and penalty assessment imposed	100% for DHFS alcohol and drug abuse initiatives	None

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Environmental surcharge in criminal and forfeiture actions (s. 299.93, 814.75(12), 814.76(10) and 814.77(5))	If a court imposes a fine or forfeiture for a violation of laws concerning pure drinking water, water and sewage, pollution discharge elimination, air pollution, solid waste facilities, hazardous waste management, remedial action, metallic mining, nonmetallic mining, reclamation or oil and gas exploration and production, the court must also impose an environmental surcharge on the defendant.	10% of the amount of the fine or forfeiture	100% to the environmental management account of the state environmental fund, which funds contaminated land cleanup and administration, the Brownfields grant program, groundwater standards development and implementation, and environmental education grants	None
Fishing shelter removal surcharge in forfeiture actions (s. 29.985, 814.75(13) and 814.77(6))	If a court imposes a forfeiture (up to \$100) on a person that fails to reimburse the DNR for the costs associated with the seizure and destruction or sale of an ice fishing shanty that is considered a public nuisance, the court must also impose a fishing shelter removal surcharge on the defendant.	Equal to the costs that the fishing shelter owner should have reimbursed the DNR	100% to the fish and wildlife account of the state conservation fund	None
Juvenile delinquency victim and witness assistance surcharge (s. 938.34(8d)), 814.75(6), 814.77(4), 814.78(5), 814.79(4) and 814.80(5))	For a juvenile adjudged delinquent, the court must impose a delinquency victim and witness assistance surcharge.	\$20	100% to fund crime victim and witness services	None
Natural Resources surcharge in criminal and forfeiture actions (s. 29.987, 814.75(16), 814.76(12), 814.77(9))	If a court imposes a fine, forfeiture or order for violating laws concerning wild animals and plants, the court is also required to impose a natural resources surcharge.	Equal to 75% of the fine or forfeiture amount	100% to the fish and wildlife account of the state conservation fund	None
Natural Resources restitution surcharge in criminal and forfeiture actions (s. 29.989, 814.75(17), 814.76(13) and 814.77(10))	If court imposes a fine or forfeiture or an order for violating laws concerning wild animals and plants, the court is also required to impose a natural resources restitution surcharge (when a restitution surcharge is required).	Equal to the amount of the statutory fee for the approval which was required and should have been obtained	100% to the fish and wildlife account of the state conservation fund, which funds such things as fish and game management, law enforcement and licensing	None
Occupational drivers license fee (habitual traffic offender) (s. 351.07 (1g))	Persons considered habitual traffic offenders that file a petition for an occupational license must pay a fee.	\$40	50% of the fee to the transportation fund	50% of the fee to be retained by the county

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
<p>Railroad crossing improvement surcharge in forfeiture actions (s. 346.177, 346.495, 814.75(19) and 814.79(8))</p>	<p>Whenever a court imposes a forfeiture for certain violations concerning driving or stopping on railroad crossings, the court must also impose a railroad crossing improvement surcharge.</p>	<p>50% of the amount of the forfeiture, which may be up to \$1,000</p>	<p>100% to the Department of Transportation for railroad crossing protection, installation, and maintenance</p>	<p>None</p>
<p>Reimbursement of legal fees for state- provided counsel in juvenile actions - delinquency, JIPS or CHIPS (s. 48.275 (2) and 938.275(2))</p>	<p>If the state or county provides legal counsel to a child or an expectant mother in CHIPS proceedings, or to juveniles in delinquency or JIPS proceedings, the court must also order the non-indigent parents to reimburse the state or county for the representation, unless the parent is the complaining or petitioning party or if the court finds that the interests of the parent and the interests of the child in the proceeding are substantially and directly adverse and that reimbursement would be unfair to the parent.</p>	<p>As determined by the court</p>	<p>75% to the state when state counsel is provided for JIPS and delinquency proceedings regardless of county size (money credited to SPD private bar and investigator reimbursement appropriate). 75% to the state when state counsel is provided for CHIPS proceedings in counties with a population less than 500,000 (money credited to SPD private bar and investigator reimbursement appropriate). 100% to the state when state counsel is provided for CHIPS proceedings in counties having a population equal to or greater than 500,000 (25% credited to Milwaukee child welfare services and 75% credited to SPD private bar and investigator reimbursement appropriation)</p>	<p>25% to the county when state counsel is provided in JIPS and delinquency proceedings (regardless of county population)</p>
<p>Restitution administrative surcharge (s. 973.20(1)(a), 814.75(20) and 814.76(15))</p>	<p>Restitution surcharge in a criminal action if an offender is sentenced to prison or placed on probation.</p>	<p>5% of the total amount of any restitution, costs, attorney fees and any fines and related payments ordered under s. 973.05(1)</p>	<p>To the Department of Corrections for administrative expenses</p>	<p>None</p>
<p>Uninsured employer surcharge in criminal and forfeiture actions (s. 102.85(4)(a), 814.75(24) and 814.76(17))</p>	<p>If a court imposes a fine or forfeiture for employer insurance or worker's compensation violations, the court must also impose an uninsured employer surcharge on the defendant.</p>	<p>75% of the amount of fine or forfeiture (which can range from \$10 to \$10,000)</p>	<p>100% to the state uninsured employers fund (which pays the claims of employes of uninsured employers)</p>	<p>None</p>

Name and Statutory Citation	How Applied	Fee Amount	State Share and Recipients	County Share
Snowmobile registration restitution surcharge in forfeiture actions (s. 350.115, 814.75(21) and 814.77(12))	If a court imposes a forfeiture for a snowmobile violation in which a registration fee is required, the court must also impose a snowmobile registration restitution surcharge on the defendant.	Equal to the amount of the fee that was required and should have been obtained	100% to the snowmobile account of the state conservation fund, which funds such things as snowmobile trail and project aids and county snowmobile enforcement aids	None
Truck driver education surcharge in criminal and forfeiture actions (s. 349.04(1), 814.75(23), 814.76(16), 814.78(12) and 814.79(10))	If a court imposes a fine or forfeiture for violating laws concerning rules of the road, equipment of vehicles, or vehicles – size, weight and load, the court must impose a truck driver education surcharge.	\$8	100% to the state for truck driver training grants to Chippewa Valley Technical College, Fox Valley Technical College, and Waukesha County Technical College	None
Weapons surcharge in criminal and forfeiture actions (s. 167.31(5), 814.75(25), 814.76(18) and 814.77(14))	If a court imposes a fine or forfeiture for violating laws concerning safe use and transportation of firearms and bows, the court must also impose a weapons surcharge.	75% of the amount of fine or forfeiture (which can be up to \$1,000)	100% to the fish and wildlife account of the state conservation fund	None
Supplemental food enforcement surcharge in criminal and forfeiture actions (s. 253.06(4)(c)1, 814.75(22m), 814.76(15m) and 814.80(11))	Whenever a court imposes a fine, forfeiture or recoupment for violating laws or rules concerning the Women Infants and Children (WIC) program, the court must also impose a supplemental food enforcement surcharge.	50% of the total fine, forfeiture or recoupment amounts imposed	100% to finance fraud reduction in the WIC program	None
Wild animal protection surcharge in criminal and forfeiture actions (s. 29.983, 814.75(26), 814.76(19) and 814.77(15))	If a court imposes a fine or forfeiture for violating laws concerning wild animals and plants or issues an order regarding the unlawful killing, wounding, catching, taking, trapping or possession of a wild animal, the court may impose a wild animal protection surcharge on the defendant.	\$8.75 to \$2,000, depending on the type of animal	100% to the fish and wildlife account of the state conservation fund	None

**APPENDIX VI**

**Wholly Retained County or Municipal Fees Collected by the Clerk of Circuit Court**

Statutory Section	Type of Fee	Amount of Fee	Special Handling
778.105	Forfeitures for violation of municipal or county ordinances	As determined by the court and/or statutes	Revenues from forfeitures imposed by any court for the violation of any municipal or county ordinance shall be paid to the municipality or county, unless otherwise specified.
302.46(1), 814.75(14), 814.76(11), 814.77(7), 814.78(8), 814.79(5), 814.80(7) and 814.81(7)	Jail surcharge in criminal and forfeiture actions. If a court imposes a fine or forfeiture for state law or municipal or county ordinance violations (except for violations involving smoking in restricted areas, failing to properly designate smoking or nonsmoking areas, nonmoving traffic violations or safety belt use, or first time violations for operating a motor vehicle, all terrain vehicle, motorboat, or snowmobile if the operator had a blood alcohol concentration of 0.08 or more but less than 0.1), the court must also impose a jail surcharge on each fine or forfeiture, paid to the county treasurer.	The greater of 1% of the fine or forfeiture or \$10	Counties may use these revenues for construction, remodeling, repair or improvements of county jails.
814.615(2) and 767.11	Family court counseling services fee	Based on services actually provided	Deposited by the county treasurer in a separate account to be used by the county exclusively for the purposes of family court counseling services.
814.61(4)	Jury fee, for all civil actions except garnishment	\$6 per juror paid by the party demanding the trial	Non-refundable. If jury fee is not paid, no jury will be called.
814.61(5)	Judgments, writs, executions, liens, warrants, awards, certificates	\$5	

Statutory Section	Type of Fee	Amount of Fee	Special Handling
814.61(6) and 806.24	Foreign judgments filing fee	\$15	Filing under uniform enforcement of foreign judgments act.
814.61(9)	Certifying and transmitting documents	\$15 plus postage	
814.61(10)	Copies, except for the State Public Defender (which is charged the actual costs).	\$1.25 per page	
814.61(11)	File or record searches	\$5	
814.61(12)(a)	Receiving and disbursing money - trust funds and small estates	\$10 or 0.5% of amount deposited (whichever is greater), and an additional \$10 upon each withdrawal of any or all of the money deposited with the clerk.	If funds are deposited by court order or by law, the type of account shall be in the clerk's discretion unless the court order specifies differently.
814.61(12)(c)	Receiving and disbursing deposits in contempt proceedings	\$10 per deposit	For receiving and disbursing deposits made under s. 818.12 in contempt proceedings under chapter 785, The \$10 fee shall be deducted from the deposit, unless the entire deposit is ordered returned to the defendant, before applying the deposit to the satisfaction of a judgment under s. 818.14.
814.61(14)	Occupational drivers license fees (petitions under s. 343.10(4))	\$40	
767.11(5), 814.615(1)(a)2 and (2)	Family mediation sessions (except the first mediation session upon referral for which there is no fee)	\$200 (single fee regardless of the number of mediation sessions held)	The county treasurer deposits collected fees in a separate account for the exclusive purpose of providing family court mediation services and studies. In lieu of \$200, counties can establish a fee schedule to recover their reasonable costs. Counties must reduce fees based on parties' ability to pay.
767.11(14), 814.615(1)(a)3 and (2)	Legal custody and physical placement study	\$300	The county treasurer deposits collected fees in a separate account for the exclusive purpose of providing family court mediation services and studies. In lieu of \$300, counties can establish local schedule to recover their reasonable costs. Counties must reduce fees based on parties' ability to pay.
814.62(2)	Fee for commencing a wage earner amortization proceeding	\$10	The clerk of court collects the fee from the wage earner voluntarily commencing a proceeding for amortization of debts.



Statutory Section	Type of Fee	Amount of Fee	Special Handling
814.62(3)(e)	Demand for a jury trial in a small claims action	\$53	The party demanding the jury trial shall pay a fee equal to the difference between the civil filing fee and the small claims filing fee in addition to the 6-person jury fee.
814.61(4)	Nonrefundable fee for a jury in all actions, except a garnishment action, 6-person jury (\$6 per juror)	\$36	
814.62(4)	Small claims service of summons by mail  Small claims service of summons by certified mail return receipt	\$2 for each defendant  \$2 for each defendant plus cost of certified mail	Cost of certified mail may be rounded up to the nearest dollar.
814.63(2)	Non-refundable fee for forfeiture action in circuit court for violation of a municipal ordinance (except for violations involving safety belts use or first time violations for operating a motor vehicle, all-terrain vehicle, motorboat, or snowmobile if the operator had a blood alcohol concentration of 0.08 or more but less than 0.1)	\$5	Upon disposition of a forfeiture action in circuit court, the municipality shall pay a non-refundable fee to the clerk of court.
48.275(2)(d) and 938.275(2)	Parent reimbursement of legal fees in juvenile actions (for county-provided counsel)	Court-ordered amount, based on ability to pay	
346.65(2g)(b)	Fee to offset cost of providing community service work that demonstrates the adverse effects of substance abuse or operating a vehicle under the influence of an intoxicant or other drug	Reasonable fee, based on the person's ability to pay	

Statutory Section	Type of Fee	Amount of Fee	Special Handling
346.65(2g)(c)	Fee to offset cost of providing community service work that benefits children or that demonstrates the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an in-toxicant or other drug	Reasonable fee, based on the person's ability to pay	
346.65(2i)	Fee to offset cost of providing site visits that demonstrate the adverse effects of substance abuse or of operating a vehicle under the influence of an in-toxicant or other drug	Reasonable fee, based on the person's ability to pay	
973.06(1)(g)	Restitution fee	10% of any restitution ordered	Payable to the county treasurer for use by the county.
973.20(1)(a)	Restitution administrative surcharge in a criminal action if offender is not placed on probation or sentenced to prison	5% of total amount of any restitution, costs and attorneys fees and any fines and related payments ordered if restitution is paid to the clerk of court for transfer to the appropriate person	To the clerk of court for administrative expenses if offender is not placed on probation or sentenced to prison.

APPENDIX VII

2000, 2001, and 2003 Court-Appointed Counsel at County Expense\*

County	Adult Criminal and Commitment			CHIPS Parents and Others			Total		
	2000	2001	2003	2000	2001	2003	2000	2001	2003
Adams	\$0	\$11,036	\$11,105	\$0	\$0	\$0	\$0	\$11,036	\$11,105
Ashtland	0	0	24,387	0	0	20,237	17,934	28,446	44,624
Barron	0	19,032	64,221	0	0	2,271	20,746	19,032	66,492
Bayfield	4,196	1,785	16,154	0	4,152	2,742	4,196	5,937	18,896
Brown	0	0	240,724	0	0	0	171,453	181,033	240,724
Buffalo	4,833	12,014	8,978	0	0	0	4,833	12,014	8,978
Burnett	0	532	22,153	0	0	1,087	2,128	532	23,240
Calumet	18,338	22,466	37,816	7,103	2,627	9,701	25,441	25,093	47,517
Chippewa	18,066	22,446	30,991	1,491	1,596	2,436	19,557	24,042	33,427
Clark	0	14,021	13,331	0	4,468	6,631	9,067	18,489	19,962
Columbia	0	31,843	21,736	0	1,000	0	15,454	32,843	21,736
Crawford	9,858	13,792	10,584	372	0	0	10,230	13,792	10,584
Dane	187,960	245,639	428,475	136,945	153,357	240,808	324,905	398,996	669,283
Dodge	100,774	0	0	7,430	0	0	108,204	101,178	74,788
Door	14,120	21,423	40,046	2,464	2,921	4,187	16,584	24,344	44,233
Douglas	0	0	18,241	0	0	10,280	27,753	39,543	28,521
Dunn	0	0	38,298	0	0	36,358	16,904	21,847	74,656
Eau Claire	154,516	138,918	133,766	74,026	19,419	97,483	228,542	158,337	231,249
Florence	0	3,425	3,731	0	0	1,539	0	3,425	5,270
Fond du Lac	78,045	105,429	140,477	24,130	42,299	42,732	102,175	147,728	183,209
Forest	0	0	0	0	0	0	0	1,755	0
Grant	0	0	27,967	0	0	0	62,157	71,004	27,967
Green	0	20,738	38,051	0	6,980	1,113	43,261	27,388	39,164
Green Lake	7,737	7,049	12,734	0	685	23,544	7,737	7,734	36,278
Iowa	0	42,154	38,442	0	11,020	0	33,690	53,174	38,442
Iron	2,238	0	0	0	0	0	2,238	5,856	11,304
Jackson	4,737	7,003	25,922	547	0	0	5,284	7,003	25,922
Jefferson	46,543	62,292	95,097	2,414	25,027	693	48,957	87,319	95,790
Juneau	11,863	35,730	58,273	0	0	35,929	11,863	35,730	94,202
Kenosha	57,206	65,138	82,003	54,922	32,028	22,909	112,128	97,166	104,912

APPENDIX VII (continued)

County	Adult Criminal and Commitment			CHIPS Parents and Others			Total		
	2000	2001	2003	2000	2001	2003	2000	2001	2003
Kewaunee	\$32,525	\$18,686	\$17,511	\$2,163	\$0	\$2,105	\$34,688	\$18,686	\$19,616
LaCrosse	0	0	0	0	0	0	78,200	148,769	222,605
Lafayette	0	0	42,194	0	0	50,168	12,977	12,977	92,362
Langlade	0	1,601	2,122	0	1,354	0	5,772	2,955	2,122
Lincoln	29,665	26,942	28,254	1,932	357	7,915	31,597	27,299	36,169
Mantowoc	0	3,412	9,418	0	3,331	1,652	8,614	6,743	11,070
Marathon	126,485	199,052	151,433	15,212	17,924	15,879	141,697	216,976	167,312
Marquette	33,136	0	35,210	0	0	13,124	33,136	17,200	48,334
Marquette	0	55,868	0	0	0	0	0	55,868	47,203
Menomone	0	0	0	0	0	0	0	0	0
Milwaukee	305,681	377,807	406,486	1,164,156	1,468,097	1,103,866	1,469,837	1,845,904	1,510,352
Monroe	14,990	33,316	73,734	21,101	14,701	0	36,091	48,017	73,734
Oconto	34,326	55,072	55,509	0	2,072	4,711	34,326	57,144	60,220
Oneida	0	4,939	14,750	0	4,312	3,614	21,823	9,251	18,364
Outagamie	0	135,737	154,725	0	0	0	106,600	135,737	154,725
Ozaukee	0	0	0	0	0	0	23,527	40,325	24,609
Pepin	8,093	8,355	10,620	84	1,071	252	8,177	9,426	10,872
Pierce	12,534	12,534	21,086	0	0	3,360	12,534	12,534	24,446
Polk	0	0	0	11,836	0	0	11,836	14,732	25,608
Portage	0	0	63,577	0	0	18,244	41,535	32,203	81,821
Price	812	0	9,254	0	0	1,372	812	0	10,626
Racine	39,892	50,417	85,742	698	4,285	9,308	40,590	54,702	95,050
Richland	12,508	16,580	11,364	1,307	3,625	1,582	13,815	20,205	12,946
Rock	0	127,317	72,317	0	0	68,275	106,600	127,317	140,592
Rusk	0	7,659	0	0	0	0	0	7,659	3,601
Sauk	0	62,042	77,850	0	579	7,875	48,867	62,621	85,725
Sawyer	6,622	575	31,218	1,188	84	0	7,810	659	31,218
Shawano	4,116	3,284	0	294	3,021	0	4,410	6,305	6,722
Sheboygan	41,224	39,020	70,818	768	14,377	4,964	41,992	53,397	75,782
St. Croix	20,464	19,796	62,956	3,096	633	0	23,560	20,429	62,956

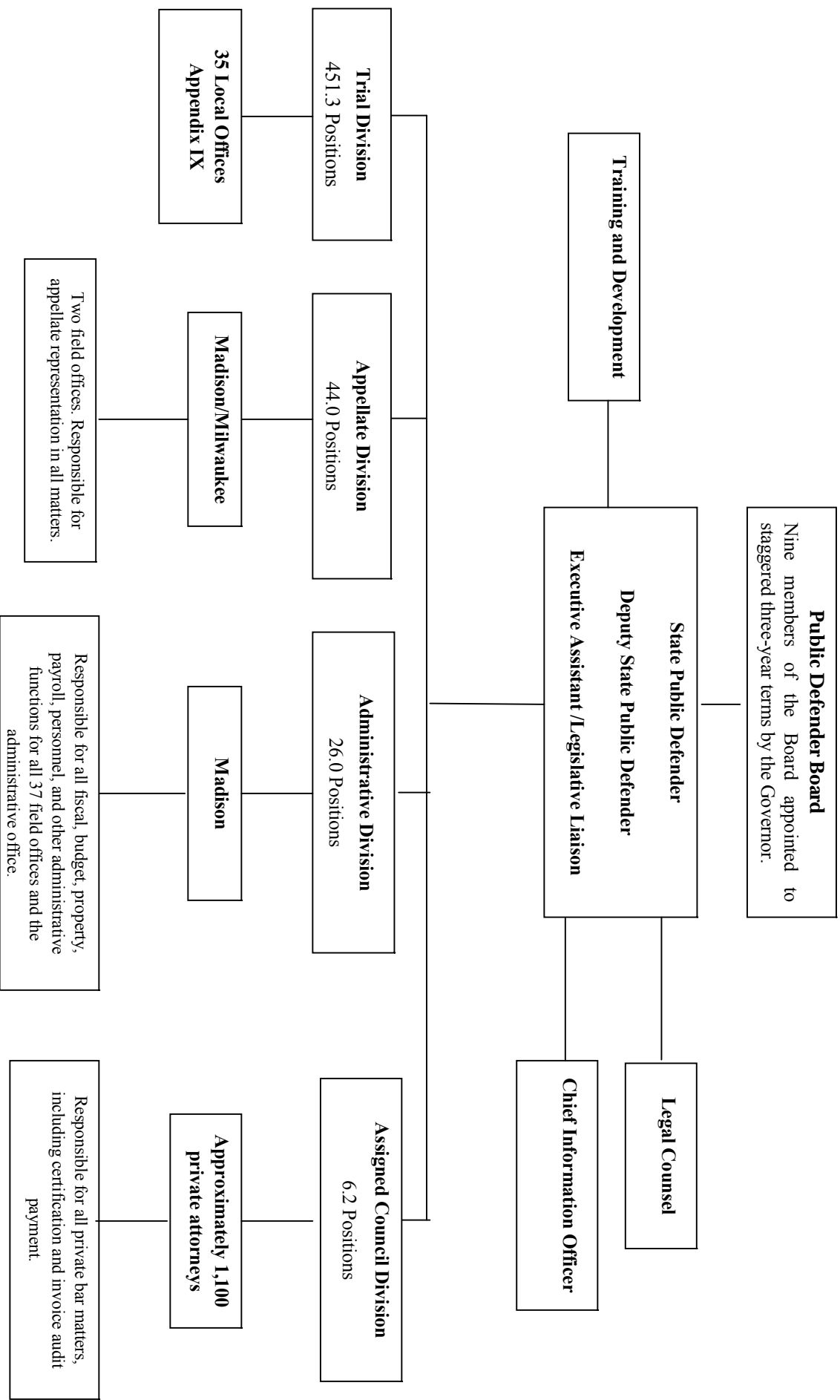
**APPENDIX VII (continued)**

County	Adult Criminal and Commitment			CHIPS Parents and Others			Total		
	2000	2001	2003	2000	2001	2003	2000	2001	2003
Taylor	\$16,708	\$0	\$19,723	\$500	\$0	\$2,731	\$17,208	\$16,813	\$22,454
Trempealeau	25,324	31,274	48,947	1,514	2,979	6,472	26,838	34,253	55,419
Vernon	0	0	0	0	0	0	6,317	16,974	25,678
Vilas	0	0	22,915	0	0	10,950	4,829	7,400	33,865
Walworth	113,377	185,843	98,311	3,989	8,537	1,422	117,366	194,380	99,733
Washburn	18,100	30,286	0	0	0	0	18,100	30,286	43,749
Washington	0	96,651	164,408	0	13,086	11,540	71,255	109,737	175,948
Waukesha	107,279	123,148	165,126	55,090	56,711	88,953	162,369	179,859	254,079
Waupaca	0	63,277	55,975	0	4,599	8,687	44,620	67,876	64,662
Wauslara	18,518	21,171	28,672	0	0	0	18,518	21,171	28,672
Winnebago	32,015	62,834	89,838	28,629	12,034	59,720	60,644	74,868	149,558
Wood	0	16,792	26,732	0	41,900	1,794	28,321	58,692	28,526
<b>Total</b>	<b>\$1,775,400</b>	<b>\$2,795,200</b>	<b>\$3,912,500</b>	<b>\$1,625,400</b>	<b>\$1,987,200</b>	<b>\$2,073,200</b>	<b>\$4,431,200</b>	<b>\$5,544,800</b>	<b>\$6,471,600</b>
Counties Reporting	39	53	60	29	37	46	66	70	70

\* The 2002 data was not included as only 49 counties reported.

## APPENDIX VIII

### Organizational Chart of the Office of the State Public Defender



**APPENDIX IX**

**State Public Defender  
Trial Division Offices**



## APPENDIX X

### Local Corrections and Detention Expenditures Reported By Counties for 2003

County	Amount	County	Amount
Adams	\$1,378,098	Manitowoc	\$3,824,758
Ashland	1,136,744	Marathon	4,467,805
Barron	1,973,716	Marinette	2,505,740
Bayfield	3,107,758	Marquette	340,815
Brown	14,258,096	Menominee	152,890
Buffalo	602,103	Milwaukee	105,441,707
Burnett	1,176,214	Monroe	1,615,435
Calumet	1,039,159	Oconto	1,923,386
Chippewa	2,463,607	Oneida	2,222,492
Clark	1,992,259	Outagamie	8,868,556
Columbia	3,451,317	Ozaukee	5,908,706
Crawford	932,071	Pepin	393,828
Dane	25,420,914	Pierce	235,831
Dodge	7,887,775	Polk	2,132,259
Door	1,452,311	Portage	2,869,322
Douglas	2,770,387	Price	780,650
Dunn	2,153,034	Racine	12,171,390
Eau Claire	4,224,291	Richland	891,901
Florence	376,211	Rock	10,467,930
Fond du Lac	3,684,479	Rusk	1,006,950
Forest	1,283,950	St. Croix	2,598,519
Grant	954,253	Sauk	4,433,858
Green	1,028,707	Sawyer	1,751,068
Green Lake	568,866	Shawano	3,369,750
Iowa	684,762	Sheboygan	4,542,437
Iron	6,187	Taylor	1,640,980
Jackson	1,441,674	Trempealeau	1,520,066
Jefferson	4,227,437	Vernon	668,718
Juneau	1,799,434	Vilas	1,405,762
Kenosha	19,581,239	Walworth	7,519,311
Kewaunee	1,426,811	Washburn	1,433,278
La Crosse	7,321,156	Washington	5,212,771
Lafayette	412,136	Waukesha	11,184,705
Langlade	1,433,720	Waupaca	2,548,189
Lincoln	1,348,273	Waushara	2,217,521
		Winnebago	6,622,695
		Wood	<u>3,194,662</u>
		<b>Total</b>	<b>\$355,085,790</b>



**APPENDIX XI**

**2003-04 Probation and Parole Holds Reimbursed in 2004-05**

County	Reimbursable Days	Reimbursable Amount	County	Reimbursable Days	Reimbursable Amount
Adams	444	\$17,760	Manitowoc	1,839	\$73,560
Ashland	617	24,680	Marathon	4,014	160,560
Barron	1,353	54,120	Marinette	1,098	43,920
Bayfield	381	15,240	Marquette	663	26,520
Brown	7,037	281,480	Menominee	0	0
Buffalo	134	5,360	Milwaukee	1,596	63,840
Burnett	595	23,800	Monroe	1,179	47,160
Calumet	346	13,840	Oconto	925	37,000
Chippewa	702	28,080	Oneida	982	39,280
Clark	356	14,240	Outagamie	7,051	282,040
Columbia	1,325	53,000	Ozaukee	1,385	55,400
Crawford	492	19,680	Pepin	296	11,840
Dane	7,131	285,240	Pierce	250	10,000
Dodge	2,233	89,320	Polk	608	24,320
Door	259	10,360	Portage	1,461	58,440
Douglas	1,096	43,840	Price	297	11,880
Dunn	419	16,760	Racine	8,406	336,240
Eau Claire	2,870	114,800	Richland	95	3,800
Florence	31	1,240	Rock	5,993	239,720
Fond du Lac	2,911	116,440	Rusk	231	9,240
Forest	632	25,280	Sauk	1,820	72,800
Grant	435	17,400	Sawyer	610	24,400
Green	1,283	51,320	Shawano	2,887	115,480
Green Lake	283	11,320	Sheboygan	2,977	119,080
Iowa	292	11,680	St. Croix	732	29,280
Iron	260	10,400	Taylor	287	11,480
Jackson	816	32,640	Trempealeau	148	5,920
Jefferson	1,065	42,600	Vernon	602	24,080
Juneau	1,457	58,280	Vilas	875	35,000
Kenosha	7,435	297,400	Walworth	2,431	97,240
Kewaunee	330	13,200	Washburn	889	35,560
La Crosse	3,045	121,800	Washington	1,723	68,920
Lafayette	62	2,480	Waukesha	4,534	181,360
Langlade	853	34,120	Waupaca	1,753	70,120
Lincoln	1,301	52,040	Waushara	1,217	48,680
			Winnebago	5,118	204,720
			Wood	<u>1,509</u>	<u>60,360</u>
			Total	118,762	\$4,750,480