



## WISCONSIN LEGISLATIVE COUNCIL

### CRIMINAL JUSTICE FUNDING AND STRATEGIES

Room 412 East  
State Capitol

August 30, 2010  
10:00 a.m. - 3:15 p.m.

[The following is a summary of the August 30, 2010 meeting of the Special Committee on Criminal Justice Funding and Strategies. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

#### Call to Order and Roll Call

Chair Taylor called the committee to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Lena Taylor, Chair; Rep. Robert Turner, Vice-Chair; Reps. Ed Brooks and John Steinbrink; and Public Members John Barrett, John Birdsall, Thomas Caywood, Ben Kempinen, Jeffrey Kremers, Sherri McNamara, Scott Needham, David O'Leary, Dennis Rome, Ragen Shapiro, John Skilton, Marla Stephens, and Noble Wray.

COUNCIL STAFF PRESENT: Anne Sappenfield, Senior Staff Attorney; and Katie Bender Olson, Staff Attorney.

APPEARANCES: Sen. Fred A. Risser and Rep. Marlin D. Schneider, Co-Chairs, Joint Legislative Council; Terry C. Anderson, Director, Legislative Council; Chief Justice Shirley Abrahamson, Wisconsin Supreme Court; Winn Collins, President, Wisconsin District Attorneys' Association; David Feiss, President, Association of State Prosecutors; Nicholas Chiarkas, Office of the State Public Defender; Attorney General J.B. Van Hollen, Department of Justice; and David Steingraber, Executive Director, Office of Justice Assistance.

## **Opening Remarks**

Senator Fred A. Risser and Representative Marlin D. Schneider, Co-Chairs, Joint Legislative Council, and Terry C. Anderson, Director, Legislative Council, welcomed members of the Special Committee.

Senator Risser and Representative Schneider explained the role of the Joint Legislative Council in forming the Special Committee on Criminal Justice Funding and Strategies and the selection of public members. The Co-Chairs noted the traditionally high passage rate of Joint Legislative Council bills. Mr. Anderson also addressed the committee members, introduced Legislative Council staff assigned to work with the committee, and explained the general rules and guidelines for study committees.

Senator Taylor, Chair of the committee, addressed the members and thanked Senator Risser, Representative Schneider, and Mr. Anderson for their introductory remarks.

## **Committee Member Introductions**

The committee members briefly introduced themselves and noted their positions.

## **Description of Materials Distributed**

Anne Sappenfield described materials mailed to the committee members prior to the hearing. The materials included a staff brief entitled *Funding of State Criminal Justice Functions*. The materials also included informational papers prepared by the Legislative Fiscal Bureau (LFB), an evaluation and letter report prepared by the Legislative Audit Bureau, a memorandum to the Joint Committee on Finance, four papers prepared by the LFB, a flow chart of the criminal justice system, and a report by the Planning and Policy Advisory Committee of the Wisconsin Supreme Court.

## **Presentations by Invited Speakers**

### ***Chief Justice Shirley Abrahamson, Wisconsin Supreme Court***

Chief Justice Abrahamson noted the public safety objective of the criminal justice system and the small percentage of the state budget that supports the court system. She also described the financial support that the circuit courts receive from state funding and revenues generated from certain surcharges on court fines and forfeitures. However, Chief Justice Abrahamson noted that a large portion of funds received from surcharges assessed against parties appearing before the court goes to fund programs not related to the courts or the criminal justice system.

Chief Justice Abrahamson highlighted the proliferation of court surcharges and fees in recent years and described the phenomenon as a “troubling trend.” She stated that increased surcharges and fees adversely affect access to the courts and generate diminishing returns because the ability of parties to pay surcharges has not increased along with the rising surcharges. Chief Justice Abrahamson emphasized that adequate funding is important not only for courts, but also for other components of the interrelated criminal justice system such as public defenders and district attorneys (DAs).

The chief justice addressed other developments putting stress on the courts. She noted that increasing numbers of self-represented litigants tend to decrease court efficiency. She stated that the

increased numbers of individuals appearing before the court with limited English proficiency and alcohol, drug abuse, or mental health problems create a need for additional services and resources. Chief Justice Abrahamson noted that courts have developed specialty treatment programs like drug courts, but that programs are limited due to a lack of resources.

The chief justice responded to questions from committee members following her remarks. She noted that clerks of court employ innovative measures to increase the collection of surcharges and fees, but stated that increased fees and surcharges lead to smaller portions of the fees being recovered and require more court time and resources to collect fees from parties who fail to pay. Chief Justice Abrahamson related anecdotal information that officers are less likely to write tickets when the expense related to the tickets increases. She stated that fee and surcharge increases may be attractive methods of increasing revenue because court users and criminal defendants offer no organized opposition, but urged decisionmakers to explore funding sources for court programs other than increasing court user fees.

***Winn Collins, President, Wisconsin District Attorneys' Association***

Mr. Collins spoke about the high rate of turnover in state prosecutor positions. He noted that more than half of the assistant DAs in the state have left the profession within the last six years. Mr. Collins attributed the turnover to large caseload demands and a lack of pay progression. He stated that the purpose behind switching DA and assistant district attorneys (ADAs) from county employees to state employees was to encourage the retention of prosecutors and said that this original intent is not being honored. He said that the lack of experienced prosecutors in the state also means that inadequate attention is given to “low-end” cases for which alternatives to incarceration may be appropriate, but require more time-intensive review, and to “high-end” cases that require sophisticated case development and trial experience.

***David Feiss, President, Association of State Prosecutors***

Mr. Feiss noted that DA’s offices in the state include large numbers of newly-hired attorneys and older attorneys, but that individuals in the middle range are leaving the profession at alarming rates. Mr. Feiss attributed the migration to salary compression and noted that the salaries of prosecutors hired after 2003 did not keep pace with inflation. He explained that a lack of experienced prosecutors negatively impacts the criminal justice system because new prosecutors are unable to train law enforcement or reject cases where constitutional limits are not met and may also make charging decisions without understanding the admissibility of the pertinent evidence. Finally, Mr. Feiss noted that prosecution is solely a government function and that private services cannot be obtained. Therefore, citizens must rely solely on the expertise and experience of the individuals employed within DA offices.

***Nicholas Chiarkas, Office of the State Public Defender***

Mr. Chiarkas commented to the committee about the recent enactment of a law reforming the financial eligibility requirements for state public defender representation. He then urged the committee to take a holistic view of the criminal justice system in completing its work. Mr. Chiarkas emphasized that the criminal justice system must consider long-term efficiencies such as reducing recidivism, rather than simply focusing on imposing punishment.

Mr. Collins, Mr. Feiss, and Mr. Chiarkas responded to questions from committee members after the conclusion of Mr. Charkas’ remarks. The speakers noted the difficulties of the current shared funding system and the reliance upon grants to fund positions and programs. They commented that

grant moneys impose requirements and cannot be relied upon as a stable funding source because grants have end dates. Grants also follow political momentum and fund only pieces of the criminal justice system, rather than taking a systemic approach to funding.

***Attorney General J.B. Van Hollen, Department of Justice (DOJ)***

Attorney General Van Hollen explained that public safety and the criminal justice system is a primary responsibility of the government and should have significant general purpose revenue funding. The Attorney General discouraged heavy reliance upon fees and surcharges because of limited defendant resources and because of the impact on other programs paid for with surcharge revenue. He also noted that the use of surcharges greatly enhances the actual costs of a case or action and that increasing costs to defendants discourages law enforcement officers from issuing citations. The issuance of fewer citations results in less revenue from surcharges.

Attorney General Van Hollen next provided the committee with a description of the divisions and offices within the DOJ. He explained the role of the DOJ in providing criminal investigation services, law enforcement services, legal services, and victim services. Attorney General Van Hollen commented on the most recent state budget and its impacts on the DOJ. He also provided observations about several surcharges that fund a portion of the DOJ's operations. He noted that the crime laboratory and drug enforcement surcharge was originally intended to fund the crime lab and related operations, but revenues have been partially diverted to other purposes. The Attorney General also noted that the penalty assessment surcharge was originally intended to support law enforcement training, but the number of programs funded by the surcharge has increased.

The Attorney General responded to questions from committee members following his remarks.

***David Steingraber, Executive Director, Office of Justice Assistance (OJA)***

Mr. Steingraber explained the historical role of federal funding in the criminal justice system. He also described the differences between federal formula grants and discretionary grants. Mr. Steingraber outlined the various federal justice-related funds and grants administered by the OJA, including the Edward Byrne Memorial Justice Assistance Grant, the Juvenile Justice and Delinquency Prevention Grant, the Juvenile Accountability Block Grant, Title V Prevention Grants, Violence Against Women Act funds, and the Homeland Security Program funds, among others. Mr. Steingraber also informed the committee about the limitations presented by federal funding. He noted that federal funds often impose requirements for use and certification, are limited in duration, and are ill-suited for funding innovations or continuing operation costs. Mr. Steingraber explained that the OJA also administers state-funded criminal justice grants and noted the nature of the funded programs.

Mr. Steingraber responded to questions from committee members following his remarks.

**Resolution and Appointment of Working Groups**

Chair Taylor proposed that the committee members divide into three working groups. She then facilitated the assignment of members to each group. The first working group was labeled "Funding Components" and included the following committee members: Mr. Birdsall, Mr. O'Leary, Mr. Skilton, Representative Brooks, Representative Steinbrink, Ms. Shapiro, and Ms. Stephens. The second working group was labeled "Courts and Effective Justice Strategies" and included the following members: Judge Needham, Representative Turner, Mr. Kempinen, Mr. Rome, and Chief Wray. The third working group

was labeled “Justice System Funding and Organization” and included the following members: Chair Taylor, Mr. Barrett, Mr. Caywood, Judge Kremers, and Ms. McNamara.

### **Working Groups Meet**

The members of the working groups met briefly and each group selected a point person to facilitate communication with Chair Taylor’s office and the study committee as a whole. The members also discussed the goals and charges of their respective working group.

### **Discuss Initial Working Group Meetings**

The study committee reconvened and the point persons for the three working groups reported on their meetings.

### **Other Business**

Chair Taylor advised the committee members that a hearing will be scheduled for September.

### **Adjournment**

The meeting was adjourned at 3:15 p.m.

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