

informational
paper #60



state criminal justice functions

legislative fiscal bureau
state of wisconsin
january 2021

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State Criminal Justice Functions

Law enforcement, prosecution, and criminal defense are three components of the state's criminal justice system. This paper focuses on the involvement of the Department of Justice (DOJ), district attorneys (DAs), and the Office of the State Public Defender (SPD) in these three areas.

While local units of government are primarily responsible for providing law enforcement protection, DOJ provides law enforcement services to state and local law enforcement agencies. In addition, DOJ is charged with certain law enforcement responsibilities under state statute. The budget for DOJ in 2020-21 totals \$142,982,100 (all funds) and 717.14 full-time equivalent positions. The Department's total funding is comprised of \$63,618,200 general purpose revenue (GPR), \$55,328,600 program revenue (PR), \$23,601,200 federal revenue (FED), and \$434,100 segregated revenue (SEG). Among the staff authorized for the Department are special agents (law enforcement officers), crime laboratory personnel, and attorneys. The organizational chart for DOJ is included as Appendix I.

Under state law, criminal prosecutions are primarily the responsibility of locally elected DAs and their prosecutorial staff. The budget for the state district attorneys function in 2020-21 totals \$55,249,000 (all funds) and 493.50 positions. The state funded DA function is comprised of \$51,481,100 GPR and \$3,767,900 PR. All of the 493.50 state positions are attorney prosecutors. Other than for the state-funded costs of prosecutors' salaries and fringe benefits, the remaining staff and other costs of DA offices are generally the responsibility of Wisconsin counties. These county-supported costs and positions are not reflected in these figures.

There are 71 elected district attorneys in Wisconsin. 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.

While DAs are primarily responsible for criminal prosecutions in the state, DOJ is responsible for: (a) representing the state in all appeals of felony convictions, as well as in appeals of other significant criminal and juvenile delinquency cases; (b) representing the state in prisoner and sexually violent person (sexual predator) conditions of confinement suits; (c) assisting DAs, when requested, in certain criminal prosecutions; and (d) initiating criminal prosecutions and sexual predator commitments under certain circumstances.

Both the United States Constitution and the Wisconsin Constitution provide the right to counsel for individuals accused of a crime. The Office of the State Public Defender is generally responsible under state law for providing this required counsel to the indigent. The budget for the SPD in 2020-21 totals \$108,450,200 (all funds) and 614.85 positions. The Office's total funding is comprised of \$107,010,800 GPR and \$1,439,400 PR. Among the staff authorized for the SPD are attorney positions in the trial and appellate divisions. The State Public Defender also contracts with private bar attorneys to address a portion of the agency's caseload. The organizational chart for the SPD is included as Appendix II.

The criminal justice functions of these agencies are summarized in the following seven chapters of this paper. The first chapter focuses on services to law enforcement agencies provided by DOJ. The second chapter focuses on services provided by DOJ's Division of Forensic Science. The third chapter focuses on the law enforcement activities of DOJ. The fourth chapter focuses on the criminal justice-related grant programs administered by DOJ. The fifth and sixth chapters discuss the prosecutorial functions of DAs and DOJ respectively. The final chapter provides a discussion of the state's criminal defense function as carried out by the SPD.

SERVICES TO LAW ENFORCEMENT AGENCIES BY THE DEPARTMENT OF JUSTICE

Wisconsin law requires counties, cities, and those villages with a population of more than 5,000 to provide law enforcement services to their citizens. Towns and smaller villages are also permitted to provide law enforcement services to their residents. In addition, certain state agencies have specifically defined law enforcement responsibilities. These agencies include: (a) DOJ's Division of Law Enforcement Services and its Division of Criminal Investigation; (b) the State Patrol under the Department of Transportation; (c) the State Capitol Police; (d) the UW Police under the University of Wisconsin System; and (e) the Bureau of Law Enforcement under the Department of Natural Resources.

The Department of Justice's Division of Law Enforcement Services (DLES) is generally charged with meeting the agency's statutory responsibilities to state and local law enforcement agencies. The budget for the Division in 2020-21 is \$60,257,800 (all funds) and 273.59 positions. The Division is organized into three bureaus. These are the: (a) Training and Standards Bureau; (b) Crime Information Bureau; and (c) Bureau of Justice Information and Analysis. Note that the funding and positions also includes the newly formed Division of Forensic Science (the former Crime Laboratory Bureau within DLES). The Division of Forensic Sciences is separately discussed in Chapter 2 of this paper.

Training and Standards Bureau

Generally, the Division of Law Enforcement Services' Training and Standards Bureau has the

following responsibilities: (a) staffing the Law Enforcement Standards Board; and (b) administering the training and certification requirements for law enforcement, tribal law enforcement, jail, and secure juvenile detention officers.

The Bureau's budget in 2020-21 is \$9,758,200 and 17.57 positions, comprised of \$2,300,000 GPR, \$7,458,200 PR and 17.57 PR positions. The Bureau's staff consists of education consultants, training officers, attorneys, grants specialists, and other supervisory and support personnel.

The Bureau's program revenue-funded budget is supported by the penalty surcharge (\$6,968,100 and 17.37 positions) as well as interagency and intra-agency services provided by the Department (\$490,100 and 0.2 positions). Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge of 26% of the total fine or forfeiture. Approximately 50% of all penalty surcharge revenues spent in 2019-20 were allocated to DOJ to fund administration and reimbursement costs associated with recruit training and annual recertification training.

In recent years the penalty surcharge fund has operated in deficit. In 2019-20, the penalty surcharge fund concluded the fiscal year with a cumulative deficit of \$17,565,100. The Department of Justice estimates that the penalty surcharge fund will close the 2020-21 state fiscal year with a cumulative deficit of \$20,668,600.

Law Enforcement Training and Certification

Statutory Authorization. The Law Enforcement Standards Board (Board) is established under ss. 15.255(1) and 165.85 of the statutes and is

attached to DOJ. The Board consists of the following 15 members: (a) seven local law enforcement officers, including one sheriff and one chief of police; (b) two local government officials who occupy executive or legislative posts; (c) one district attorney; (d) one public member not employed in law enforcement; (e) the designee of the Secretary of the Department of Transportation; (f) the designee of the special agent in charge of the Milwaukee office of the FBI; (g) the designee of the Attorney General; and (h) the designee of the Secretary of the Department of Natural Resources. The representative of the FBI acts in an advisory capacity only and has no vote.

The Legislature has included the following policy statement relating to the Board's responsibilities: "The legislature finds that the administration of criminal justice is of statewide concern, and that law enforcement work is of vital importance to the health, safety and welfare of the people of this state and is of such a nature as to require training, education and the establishment of standards of a proper professional character. The public interest requires that these standards be established and that this training and education be made available to persons who seek to become law enforcement, tribal law enforcement, jail or juvenile detention officers, persons who are serving as these officers in a temporary or probationary capacity and persons already in regular service."

The Board has the following duties: (a) ensure that law enforcement, tribal law enforcement, jail, and secure juvenile detention recruits meet the minimum qualifications for recruitment; (b) oversee and fund the training of such recruits; (c) certify such recruits as officers upon the successful completion of their training; (d) oversee and fund the annual recertification training of certified law enforcement, tribal law enforcement, jail, and secure juvenile detention officers; (e) certify schools and instructors that provide preparatory training to recruits and recertification training to certified officers; and (f) maintain an updated statewide record of all certified officers.

Under s. 165.86 of the statutes, the Department is to supply the staffing needs of the Board, and is to coordinate all preparatory, recertification, advanced, and special training activities in law enforcement in the state.

Minimum Qualifications for Recruits. Law enforcement, tribal law enforcement, jail, and secure juvenile detention recruits generally must meet the following minimum qualifications: (a) possess a valid driver's license; (b) be 18 years of age; (c) not have been convicted of any federal felony or any offense which, if committed in Wisconsin, could be punished as a felony unless granted a pardon; (d) possess a high school diploma; (e) possess either a two-year associate degree or a minimum of 60 fully accredited college level credits; (f) be of good character, as determined by the results of a background investigation and a search of local, state, and national fingerprint records; (g) be free from any physical, emotional or mental condition which might adversely affect the performance of one's duties; and (h) submit to and satisfactorily complete an oral interview with the employing authority.

Recruits who have been convicted of any crime of domestic violence may not be permitted to become a law enforcement officer or tribal law enforcement officer unless the individual has been granted an absolute and unconditional pardon for the crime. The statutes do not bar recruits who have been convicted of a domestic violence crime from becoming jail or secure juvenile detention officers. However, as indicated above, jail and secure juvenile detention recruits may not have been convicted of any federal felony or any offense which, if committed in Wisconsin, could be punished as a felony, unless they have been granted a pardon.

Preparatory Training of Recruits. Law enforcement, tribal law enforcement, jail, and secure juvenile detention recruits must all successfully complete a minimum requirement of preparatory

training in order to be certified as an officer in Wisconsin. Officers receive this training through academies certified by the Board based on adequacy of facilities and competence of instructional staff. The Board may authorize and approve a training program or training academy only if the program or academy is operated by an agency of the state or by a political subdivision of the state. Under statute, a political subdivision includes a county, city, village, town, town sanitary district, public inland lake protection and rehabilitation district, or technical college district. Only training provided by and from Board certified academies is eligible for reimbursement from DOJ. Political subdivisions must be reimbursed for expenses incurred by recruits who satisfactorily complete training at schools certified by the Board. Reimbursable preparatory training costs include Board-approved tuition, living and travel expenses.

Under 2013 Act 241, the Legislature increased the preparatory training requirements for law enforcement and tribal law enforcement recruits. Prior to 2013 Act 241, the statutes required recruits to complete a minimum 400 hour Board-prepared training curriculum. However, increased funding provided by 2001 Act 16 permitted the Department to develop and reimburse law enforcement agencies for providing up to 520 hours of preparatory training. Under 2013 Act 241, the Board must prepare a training curriculum requiring law enforcement and tribal law enforcement recruits to successfully complete a minimum of 600 hours of preparatory training before becoming certified as officers. On December 2, 2014, the Board approved a 720-hour preparatory law enforcement officer curriculum for implementation effective January 1, 2016. The new curriculum is divided into three phases: introduction and non-emergency responses; emergency response; and investigations. Various topics of study are covered in each of the three phases. These topics of study are identified, in alphabetical order, in Appendix III. Appendix III also identifies the number of hours of study the curriculum assigns each training topic.

Table 1 identifies the amounts expended by the Board in 2019-20 to provide reimbursement for training to certified academies for 423 law enforcement and tribal law enforcement recruits. The reimbursements covered the recruit's tuition, lodging, meals, and mileage costs.

Table 1: DOJ Reimbursement of Law Enforcement Recruit Training (2019-20)

Type of Law Enforcement Recruits	Recruits Trained	Reimbursement
Local*	369	\$2,095,100
State	50	539,500
Tribal	<u>4</u>	<u>20,000</u>
Total	423	\$2,654,600

*According to DOJ, some of the funding utilized to support local law enforcement recruits may also have been utilized to support tribal law enforcement recruits.

Under statute, in order to be certified as jail and secure juvenile detention officers, recruits must complete a minimum 160 hour preparatory training curriculum prepared by the Board. On June 8, 2016, the Board approved an increase in the number of hours in the curriculum for a jail officer recruit from 160 hours to 200 hours. Academies are permitted to start offering the 200-hour academy beginning January 1, 2019. The curriculum for juvenile detention officer recruits remains at 160 hours. In 2019-20, the Department provided reimbursements totaling \$522,300 (\$372,300 PR and \$150,000 GPR) to certified academies for providing preparatory training to 425 jail and secure juvenile detention recruits. The reimbursements covered costs for tuition, lodging, meals, mileage, salary and fringe benefits.

Appendix III identifies the training topics covered by the Board-certified curriculum for jail officer recruits and secure juvenile detention officer recruits. Appendix III also identifies the number of hours of study the curriculums assign each training topic.

Annual Recertification Training. Law enforcement (except locally elected sheriffs), tribal law enforcement, jail, and secure juvenile detention officers must maintain appropriate employment in order to remain certified. Additionally, officers must annually complete a minimum of 24 hours of additional training to maintain their certification.

As part of the annual 24 hours of recertification training, law enforcement and tribal law enforcement officers must biennially complete at least four hours of training in police pursuit from curricula based upon model standards established by the Board. Additionally, law enforcement and tribal law enforcement officers must annually complete a handgun qualification course from curricula based upon model standards established by the Board. Both the handgun and police pursuit training may be counted towards the required 24 hours of annual recertification training.

Under s. 165.85(5)(b) of the statutes, reimbursement of approved expenses for completion of annual recertification training must total at least \$160 per officer. Under current policy of the Attorney General, the annual reimbursement per officer is set at \$160. For recertification training received by law enforcement officers during 2019-20, DOJ provided \$2,605,300 PR in reimbursements. Due to the timing of when law enforcement agencies report annual officer recertification training, the majority of the reimbursements are provided by DOJ in the following fiscal year through the use of encumbered funds.

In addition to providing reimbursements for annual recertification training, the Bureau sponsors training events for law enforcement officers. These events provide both advanced and specialized training in areas such as sexual assault, sexual assault of a child, domestic violence, and leader

ship. In 2019-20, the Bureau sponsored 19 advanced and specialized criminal justice training events. These events provided training to 3,004 officers at a cost of \$88,600 PR.

Certification of Schools and Instructors to Train Recruits and to Provide Recertification Training. The Board may authorize and approve a training program or training academy only if the program or academy is operated by an agency of the state or by a political subdivision of the state. The Board certifies schools based on the adequacy of facilities and the competency of staff and faculty. School certifications are in effect for two year periods, and are subject to renewal. A new instructor must complete an instructor development course and other specialized instructor training as designated by the Board. Table 2 identifies the number of academies and instructors (including the number of new instructors) certified to provide preparatory training and recertification training in 2019-20. Table 3 identifies the 22 academies that were certified by the Board to provide preparatory and recertification training, as of the end of 2019-20. While only Board-certified academies can provide preparatory training to recruits, the Department has indicated that any law enforcement agency can provide recertification training for its officers. State and local law enforcement agencies may provide recertification training to their own officers and are only required to utilize certified training instructors for courses employing Board-approved training guides or curriculum, such as for police pursuit or handgun training. Law enforcement agencies are not required to utilize Board-approved training guides or curriculum for recertification training. Beyond the requirement for biennial police pursuit training and annual handgun training, individual agencies may specify the content of their 24-hour annual recertification training, although many agencies do use Board approved curriculum.

Table 2: Number of Certified Academies and Instructors (2019-20)

Training Certifications	Number
Academies	22
New Instructors*	589
All Instructors	3,539

*New instructors include individuals who became certified as an instructor and certified instructors who received a certification in an additional topic.

Table 3: Certified Academies

- Blackhawk Technical College
- Chippewa Valley Technical College
- Dane County Sheriff's Academy
- Fox Valley Technical College
- Gateway Technical College
- Lakeshore Technical College
- Madison Area Technical College
- Madison Police Academy
- Mid-State Technical College
- Milwaukee Area Technical College
- Milwaukee County Sheriff's Academy
- Milwaukee Police Academy
- Moraine Park Technical College
- Nicolet Area Technical College
- Northcentral Technical College
- Northeast Wisconsin Technical College
- Southwest Wisconsin Technical College
- Waukesha County Technical College
- Western Wisconsin Technical College
- Wisconsin Department of Natural Resources
Recruit Warden Academy
- Wisconsin Indianhead Technical College
- Wisconsin State Patrol Academy

Statewide Roster of Certified Officers. The Board must maintain a current statewide roster of certified officers. As necessary, new officers must be certified to the list and existing officers must be decertified from the list. Grounds for decertification include: (a) termination of employment with the law enforcement agency for any reason; (b) failure to comply with a rule or order of the Board relating to curriculum or training; (c) failure to make child or family support payments; (d) falsifying information to obtain or maintain certified status; (e) conviction of a felony, or any crime

that, if committed in Wisconsin, could be punished as a felony; or (f) conviction of a misdemeanor crime of domestic violence. Table 4 identifies the number and type of active certified officers on the roster as of June 30, 2020.

Table 4: Number of Active, Primary and Certified Officers, June 30, 2020

Type of Officer	Number
Law Enforcement	12,237
Jail	2,117
Law Enforcement and Jail	1,562
Jail and Secure Juvenile Detention	279
Secure Juvenile Detention	157
Tribal Law Enforcement	91
Law Enforcement, Jail, and Secure Detention	<u>4</u>
Total	16,447

Crime Information Bureau

The Division of Law Enforcement Services' Crime Information Bureau has the following responsibilities: (a) administration and maintenance of Wisconsin's criminal history database; (b) administration and maintenance of the Transaction Information for the Management of Enforcement (TIME) System; (c) operation of the handgun purchaser record check program; and (d) administration of the concealed carry licensure program. [The handgun purchaser record check and concealed carry licensure responsibilities are addressed in a Legislative Fiscal Bureau informational paper entitled "Concealed Weapons Licensure and Handgun Purchaser Background Checks."]

Under 2013 Act 20, the Department of Administration's Office of Justice Assistance (OJA) was eliminated. In addition to the responsibilities enumerated above, the Crime Information Bureau assumed the following duties from OJA: (a) justice

information sharing; and (b) managing the Wisconsin Interoperability System for Communications (WISCOM). Under 2017 Act 59, the Interoperability Council and its four subcommittees (including WISCOM) were transferred to DMA. Information regarding the state's interoperable communication systems can be found in the Legislative Fiscal Bureau's Informational Paper 95, entitled "Emergency Communications Systems."

The Bureau's budget in 2020-21 totals \$9,239,500 (\$507,000 GPR, \$8,684,700 PR, and \$47,800 FED) and 60.1 positions (6.08 GPR positions, and 54.02 PR positions). The Bureau's staff consists of license and permit program associates, criminal history record personnel, information technology personnel, and supervisory and support personnel.

The Bureau's program revenue-supported budget is primarily funded by: criminal history search fees (\$2,558,900 and 16.67 positions); TIME System user fees from law enforcement agencies (\$3,096,500 and 6.25 positions); handgun purchaser record check and concealed weapons licensure fees (\$2,180,600 and 27 positions); the Wisconsin justice information sharing program (\$156,200); and interagency and intra-agency fees received by DOJ for services provided to other state agencies (\$393,300 and 0.1 positions).

The Bureau assesses a number of criminal history search fees to various users who request a search of the state's criminal history database for purposes unrelated to criminal justice. Further, as a part of the TIME System, the Bureau is authorized to assess fees on law enforcement and tribal law enforcement agencies for rentals, use of terminals, and related costs and services associated with the system.

Revenue from the justice information system surcharge is transferred to the Bureau to fund the Wisconsin justice information sharing program. The \$21.50 justice information system (JIS)

surcharge imposed on an individual who is assessed a court fee for the commencement of certain court proceedings. In recent years the JIS surcharge fund has operated in deficit. In 2019-20, the JIS surcharge fund concluded the fiscal year with a cumulative deficit of \$5,952,200.

Criminal History Database

Statutory Authorization. Under s. 165.83(2)(a) of the statutes, DOJ is directed to obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested or taken into custody in Wisconsin for a variety of offenses. These offenses include:

- An offense which is a felony or which would be a felony if committed by an adult;
- An offense which is a misdemeanor, which would be a misdemeanor if committed by an adult or which is a violation of a local ordinance, and the offense involves burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances or controlled substance analogs, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks;
- An offense charged or alleged as disorderly conduct but which relates to an act under the previous bullet point;
- Being a fugitive from justice; or
- Any other offense designated by the Attorney General.

Within 24 hours of an arrest, the arresting agency must generally forward to DOJ all of the following for inclusion in the criminal history database: (a) fingerprints in duplicate; (b) full face, profile and full length photographs; and (c) other available identifying data. In addition, beginning

April 1, 2015, if an individual is arrested for a violent crime or is a juvenile who is taken into custody for an offense which would be a violent crime if committed by an adult, a law enforcement or tribal law enforcement agency must obtain a biological sample from that individual for DNA analysis when the agency obtains the other identifying information discussed above. [The requirement to submit a biological sample at arrest beginning April 1, 2015, is a provision under 2013 Acts 20 and 214, and is discussed in the section of Chapter 2 entitled, "DNA Collection, Analysis, Data Storage, and Usage."] In calendar year 2019, 155,635 new arrest events were submitted by Wisconsin law enforcement agencies to the Crime Information Bureau. The majority of this information is submitted electronically.

Photographs are forwarded at the discretion of the arresting agency; however, any such photographs retained locally must be available to be forwarded to DOJ if requested by the Department.

The Department must also accept for the database any fingerprints and other identifying data that have been taken at the discretion of law enforcement agencies relating to persons arrested or taken into custody for offenses other than those identified in the points above. In addition, the Department must obtain and file fingerprints and other available identifying data on unidentified human corpses found in the state.

Pursuant to s. 165.83(2)(h) of the statutes, DOJ must collect and maintain all of this submitted data and establish a state system of criminal identification. As a part of this criminal history database, the Department is required to collect information on the legal action taken in connection with offenses committed in Wisconsin from the inception of the complaint to the final discharge of the defendant, as well as any other useful information in the study of crime and the administration of justice. The database receives information on prosecution, court findings and sentences through an interface with the state court system's consolidated court

automation program (CCAP).

Section 165.83(2)(j) of the statutes further requires the Department to utilize this database to, "compare the fingerprints and descriptions that are received from law enforcement agencies and tribal law enforcement agencies with the fingerprints and descriptions already on file and, if the person arrested or taken into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement and tribal law enforcement agencies concerned and supply copies of the criminal record to these agencies." The Department is required to operate on a 24-hour-a-day basis, seven days a week in order to comply with this requirement.

Computerized Criminal History Database and Automated Fingerprint Identification System. The computerized criminal history database contains detailed information of arrests, arrest charges, prosecution, court findings and sentences, and state correctional system admissions and releases that are required to be submitted to the Department. All information in the database is linked to specific fingerprint records submitted by arresting law enforcement agencies and stored in the automated fingerprint identification system (AFIS), which is operated and maintained by the Department's Madison Crime Laboratory.

This system is intended to track the history of all arrests in Wisconsin. Beginning in 1971, law enforcement agencies were first required to submit arrest fingerprint cards to DOJ. Arrests without supporting fingerprints are not included in the criminal history database. The AFIS system was first installed in 1993, with subsequent upgrades occurring during the 2001-03 and 2009-11 biennia.

The AFIS system electronically stores the fingerprints that are required to be submitted to DOJ. The system enables law enforcement agencies to run a check either on a fingerprint collected at a

crime scene or on a fingerprint collected from an arrested individual against the entire AFIS fingerprint database. Where a matching fingerprint is found in the AFIS database, the system can positively identify the individual whose fingerprint was run. The AFIS system also allows DOJ to electronically store fingerprints collected at crime scenes that cannot be matched to an individual ("latent" fingerprints). If at a later time, the individual's fingerprint is collected by law enforcement because the individual is arrested, the electronic storing of previously unmatched crime scene fingerprints permits DOJ to link the individual to another crime the person may have committed.

Wisconsin law enforcement agencies currently take fingerprint impressions of all ten fingers (called tenprints) when an individual is arrested. As of July 1, 2020, 1,639,142 tenprints were stored on AFIS. Approximately 2,841 additional tenprints are added to the system monthly. As of July 1, 2020, the system has a storage capacity of 2,000,000 tenprint records and 40,000 latent fingerprint records.

The AFIS system permits the Department to also electronically store palm prints. Palm prints provide an additional law enforcement tool to positively identify an individual. As of July 1, 2020, 425,446 sets of palm prints were stored on AFIS. Approximately 2,184 additional palm print sets are being added to the system monthly. The AFIS system has a storage capacity for 1,000,000 palm print sets. The palm print database has been built in cooperation with the Department of Corrections. The Department of Corrections takes palm prints when new prisoners are admitted to the state correctional system.

As of July 1, 2020, there were 12,210 cases with latent fingerprint or latent palm print records stored on AFIS. There were 30,378 latent fingerprint lifts and 5,473 latent palm lifts associated with these cases.

In addition to Department personnel, access to AFIS has been granted by the agency to eight law enforcement agencies across the state through AFIS workstations. These law enforcement agencies include two county sheriff's departments (Dane and Milwaukee) and six municipal police departments (Green Bay, Kenosha, Madison, Milwaukee, Oak Creek, and Racine). These law enforcement agencies utilize AFIS workstations located at eight locations across Wisconsin.

This access enables these local agencies to independently solve crimes using the AFIS tenprint, palm print, and latent fingerprint/palm print databases and positively identify arrested individuals. This linkage also allows these local users to update the state AFIS and linked criminal history databases.

During calendar year 2019, Department and local law enforcement personnel reviewed: (a) 19,442 tenprint to tenprint verifications performed by the AFIS unit as well as tenprint to tenprint identity verification searches initiated by remote sites like Milwaukee County Sheriff's office which submits these searches for identity confirmation as well as prisoner intake, transfer and release; (b) 106,524 potential unsolved latent matches located by the AFIS and reviewed by an examiner; (c) 7,381 latent fingerprints searched against the tenprint database and reviewed by an examiner; and (d) 1,359 latent palm prints searched against the tenprint database and reviewed by an examiner.

In order to expand the accessibility and usability of AFIS, as of July 1, 2020, 272 mobile identification devices were in place at law enforcement agencies and Department of Corrections' (DOC) facilities across the state. These devices electronically capture two fingerprints and compare them to the fingerprint images on file in AFIS. This capability allows positive identification to occur remotely at these agencies without an AFIS workstation. Additionally, as of July 1, 2020, 239 desktop computers in law enforcement agencies

and DOC facilities across the state contained special software and an add-on fingerprint capture device to allow the agencies to capture fingerprints and electronically compare them to the files in AFIS.

The criminal history database is typically searched by name or by fingerprint. Law enforcement agencies may access the database or may have it searched by Department personnel, at no cost if the search is completed for criminal justice purposes.

Because Wisconsin is an "open records" state, governmental agencies, non-profit organizations and any other requester may also have the Department search the criminal history database for non-criminal justice purposes. In calendar year 2019, the Crime Information Bureau received 954,076 non-criminal justice search requests of the criminal history database. These types of requests are generally made in connection with an employment or professional licensing application.

Under s. 165.82 of the statutes, DOJ is authorized to charge a fee for non-criminal justice related searches of the criminal history database. A \$7 fee is assessed for a name-based search of the criminal history database. For a \$15 fee, government agencies and nonprofit organizations may request a fingerprint-based search of the Wisconsin criminal history database.

In addition, a \$5 surcharge is assessed if the requestor must have a paper copy of the results of the search. In 2019-20, the Department received revenues from criminal history search fees totaling \$7,884,500.

Transaction Information for the Management of Enforcement (TIME) System

Statutory Authorization. The Transaction Information for the Management of Enforcement (TIME) System provides law enforcement agencies across the state access to a variety of law

enforcement-related databases. Under s. 165.83(2) of the statutes, DOJ must: (a) obtain and file information relating to identifiable stolen or lost property; and (b) generally obtain and file a copy or detailed description of each arrest warrant issued in this state but not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. In making criminal history information, stolen property, wanted persons and other relevant information available to law enforcement agencies, the statutes further require DOJ to create and administer the TIME System.

The TIME System provides Wisconsin law enforcement agencies electronic access to the following databases:

- State and national wanted, missing and unidentified persons;
- Stolen motor vehicles;
- Identifiable stolen property;
- Driver and vehicle registration files;
- State and national criminal history information;
- The sex offender registry maintained by the Department of Corrections;
- Persons subject to protection orders; and
- Other databases of interest to law enforcement for officer safety.

The relevant data is provided by the TIME System through its access to: (a) DOJ's criminal history, stolen property and wanted persons databases; (b) the Department of Corrections' sex offender registry and probation, parole, and extended supervision files; (c) selected Department of Natural Resources files; (d) the federal National Crime Information Center database; and (e) the National Law Enforcement Telecommunication

System, which provides access to out-of-state and Canadian data on criminal history, vehicle registration and driver files.

System Administration. As of July 1, 2020, the TIME System consisted of 12,291 workstations located in 697 local, state and federal law enforcement agencies in Wisconsin. Of these workstations, 4,503 terminals were mobile units that provide information directly to the patrol officer. In addition to these physical workstations, limited, read-only access to the TIME system may also be accessed by law enforcement officers from a standard device with Internet access using an Internet browser. On an average day, the TIME system processes approximately 182,000 initiator transactions returning approximately 768,592 responses. As of July 1, 2020, there were 21,086 active users in the Wisconsin TIME system.

The Department is authorized to assess fees to law enforcement agencies for the costs of terminal rental, usage, and related services to support the operation of the TIME System. In 2019-20, the Department collected a total of \$2,276,400 in TIME System user fees.

The TIME System's 2020-21 budget includes \$3,096,500 PR and 6.25 PR positions, funded from TIME system user fees, for the Crime Information Bureau to administer the system. The TIME System's 2020-21 budget also includes \$730,300 PR and 4.0 PR positions, funded from the penalty surcharge, for the Division of Management Services' Computing Services Bureau to provide information technology services for the system. Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge totaling 26% of the fine or forfeiture imposed.

As previously discussed, in recent years the penalty surcharge fund has operated in deficit. In 2019-20, the penalty surcharge fund concluded the fiscal year with a cumulative deficit of

\$17,565,100. The Department of Justice estimates that the penalty surcharge fund will close the 2020-21 state fiscal year with a cumulative deficit of \$20,668,600.

Wisconsin Justice Information Sharing Program

Under 2013 Act 20, DOJ was charged with the responsibility of promoting and coordinating automated justice information systems between counties and state criminal justice agencies. The Department's justice information sharing initiative is known as the Wisconsin Justice Information Sharing (WIJIS) program. For 2020-21, the WIJIS program budget is \$680,400 PR and 3.1 PR funded positions. The program revenue is provided from the justice information system surcharge. The \$21.50 justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment action, 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.

The two primary IT initiatives of WIJIS are the Justice Gateway and the WIJIS Workflow Services.

Justice Gateway. The Justice Gateway is a web-based tool which provides law enforcement with a single, secure point of read-only access to information stored in separate justice-related state, local, and tribal databases from communities across Wisconsin. The objective of the Justice Gateway is to improve public safety and domestic preparedness through the sharing of justice information across geographic and organizational boundaries. Only authorized law enforcement personnel are authorized to use the Gateway in the conduct of their official duties. Participating government agencies decide which records they will make available on the Gateway.

The Gateway permits authorized users to do a name search of law enforcement contact, arrest, and investigation records. [In addition to formal arrest records, law enforcement agencies often make records of non-arrest contacts that their personnel have with individuals.]

The Gateway also permits authorized users to access: (a) prosecutor records from the Prosecutor Technology for Case Tracking (PROTECT) system under the district attorney information technology (DA IT) program; and (b) court records in the Consolidated Court Automation Program (CCAP). The prosecutorial data permits authorized users to review: (a) all cases referred to a district attorney office for prosecution; and (b) the charging history for these referred cases. The court data permits the subsequent disposition of charged criminal cases to be tracked.

As of the end of 2019-20, the Gateway contained approximately 12.9 million accessible records from 288 local law enforcement agencies, circuit court branches, district attorney offices, sheriff's offices, and universities.

Access to the Gateway is not limited to agencies that make their records accessible. As of July 1, 2020, 271 local law enforcement agencies had registered 1,245 users on the Gateway. In 2019-20, the Gateway conducted a total of 37,215 searches.

WIJIS Workflow Services. The Workflow Services is designed to support many different types of information exchange securely over authenticated Internet connections. The intent of Workflow Services is to streamline the processing of criminal justice records across multiple agencies. By providing a central hub for integration, Workflow Services allows agencies to implement information exchanges faster and at a lower cost than alternatives requiring multiple point-to-point exchanges. Workflow Services is generic technology that accommodates a wide variety of information sharing business processes.

For example, the Workflow Services application eCitation supports the secure exchange of electronic citations originated by law enforcement agencies. Workflow Services routes citations to the courts, prosecutors, local municipal court systems, and multiple tracking/reporting databases, based on business routing rules established by the users of the system.

The eCitations application has eliminated duplicative data entry of citation information. Prior to eCitations, each court, district attorney office, and the Department of Transportation (DOT) had to manually key in information for each citation. The eCitations application has enabled DOT to satisfy federal requirements for posting convictions on driving records within 10 days of adjudication. All of Wisconsin law enforcement agencies, including the State Patrol, submit electronic traffic citations via eCitations.

Bureau of Justice Information and Analysis

In August, 2014, DOJ reorganized its Division of Law Enforcement Services and created the Bureau of Justice Information and Analysis (BJIA). According to DOJ, the purpose of the Bureau is to develop the State's capacity to conduct research, analysis, and program evaluation efforts to address a variety of criminal justice research needs and to support data-driven decision making and policy development. The Bureau contains the state's Statistical Analysis Center (SAC) and the Uniformed Crime Reporting (UCR) program, both of which were administered by the Office of Justice Assistance prior to its dissolution under 2013 Act 20. Research is conducted by the Bureau at the request of the Department, the state Criminal Justice Coordinating Council (CJCC), and Legislature. The Bureau also assists in developing studies and setting metrics for grant programs administered by DOJ. Finally, BJIA, along with the Training and Standards Bureau, staffs the state

CJCC to provide the Council with information regarding the state's criminal justice system.

The Bureau consists of two units: the UCR unit and the research and evaluation unit. The UCR unit is primarily responsible for the collection, analysis, and reporting of crime and related data for the state, as well as conducting research related to crime trends and patterns.

The Bureau of Justice Information and Analysis is not separately budgeted for within DOJ. However, DOJ estimates that for 2020-21, BJIA is supported by \$199,500 GPR, \$391,500 PR, and \$277,800 FED, as well as 1.9 GPR positions and 3.0 FED positions. The positions assigned to BJIA support both the uniform crime reporting unit and the research and evaluation unit, along with the overall role of BJIA as the Statistical Analysis Center for Wisconsin.

Statistical Analysis Center and Uniform Crime Reporting

Statutory Authorization. Under s. 165.845 of the statutes, the Department must: (a) maintain a statistical analysis center to serve as a clearinghouse of justice system data and information and conduct justice system research and data analysis; (b) collect and publish statewide crime and arrest data from all participating law enforcement agencies (primarily local law enforcement agencies); and (c) forward statewide crime and arrest data to the FBI and participate in the FBI's Uniform Crime Reporting (UCR) program. Under state statute, law enforcement agencies and other criminal and juvenile justice system agencies must supply DOJ with crime data. Data collected and managed by SAC is utilized to satisfy federal grant reporting requirements under the Violence Against Women Act and the Juvenile Justice Delinquency Prevention Act, as well as to produce statewide crime publications.

SAC and UCR Operations. The state's Statistical Analysis Center, which encompasses the

state's UCR program, has generally been funded through federal grant monies since 2003. As a result, the work of the SAC is completed under the restrictions of utilized federal funding. Additionally, the Department has indicated that it utilizes its federal funding to support limited-term employees and contract hours for project support from the Department's Bureau of Computing Services. The Department primarily utilizes federal Justice Assistance Grant (JAG) funds to support SAC/UCR, however additional federal grants are also utilized to support various projects performed by SAC. Due to reductions in federal funding, annual JAG funds have not been sufficient to support the operating budget of SAC/UCR. As a result, the Department has utilized unused federal grant money from initiatives in prior years to support the annual operating costs for SAC/UCR.

Data currently collected by the SAC is utilized to satisfy federal grant reporting requirements for DOJ's Violence Against Women Act (VAWA) and Juvenile Justice programs. The Department's VAWA program utilizes the Center's access to Consolidated Court Automation Program (CCAP) records to meet federal reporting requirements for temporary restraining orders and restraining orders, thereby ensuring the state's eligibility to continue to receive federal VAWA funding.

The SAC also collects and maintains a statewide database of juvenile admission records to Wisconsin's secure detention centers. The juvenile justice program at DOJ utilizes this data to assess the state's compliance with the federal Juvenile Justice Delinquency Prevention Act (JJDP) and to satisfy federal reporting requirements. Maintaining compliance with JJDP is necessary in order to receive federal juvenile justice grant funding.

In the 1920s, the UCR program was first developed by the International Association of Chiefs of Police to create a national uniform collection of crime statistics for trend comparison and data analysis. The initial UCR program

tracked offense and arrest data for seven crimes: (a) murder and non-negligent manslaughter; (b) forcible rape; (c) robbery; (d) burglary; (e) aggravated assault; (f) theft/larceny; and (g) motor vehicle theft. In 1978, Congress added arson as a crime to be tracked under the UCR program. Under the UCR program, in a multiple offense case only the most severe offense is counted.

In 1930, the FBI assumed responsibility for the UCR program. The FBI collected, organized, and disseminated criminal offense and arrest data voluntarily submitted by local, state, federal, and tribal law enforcement agencies under the UCR program.

In the late 1970s, the law enforcement community identified a need for a more detailed crime reporting program. In 1988, the National Incident-Based Reporting System (NIBRS) was created. The system expands on the original UCR system, now referred to as the Summary-Based Reporting System (SBR), by increasing the number of crimes for which data is collected and reported from eight to 50. While NIBRS provides information on alleged offenses and arrests (similar to SBR), it also provides additional information on associated victims, offenders, property, weapons and arrestees. In addition, NIBRS does not limit data collection in a multiple offense case to only the most severe offense.

The UCR system now encompasses both the traditional SBR system, as well as the NIBRS system. With slight modifications, Wisconsin adopted NIBRS as the Wisconsin Incident-Based Reporting System (WIBRS) in 2005. The Office of Justice Assistance, and now the Department of Justice, has been working towards transitioning more law enforcement agencies from summary-based reporting to incident-based reporting as local technology capacity improves and federal grant funding becomes available.

The Department collects, validates, and synthesizes this crime data. Of the 562 law

enforcement agencies in Wisconsin, 364 agencies report offense and arrest data to DOJ under the UCR program, as of July, 2020. Of these 364 agencies, 138 agencies report under the summary-based reporting system, 226 agencies are certified to report under the incident-based reporting system, and 80 agencies are currently testing for IBR certification. The remaining law enforcement agencies in Wisconsin are considered "covered by" agencies and report their offense and arrest data through another agency, typically the county sheriff office, rather than reporting directly to DOJ.

Reports for both systems are collected on a monthly basis: UCR-SBR reports are submitted by paper and UCR-WIBRS reports are submitted electronically. This data is organized into annual statewide reports, as well as forwarded to the FBI for nationwide trend and comparison reports on crime. Major SAC reports include the annual crime, arrest, sexual assault, hate crimes, and assault of police officer reports.

In recent years, some federal funding has been utilized to begin WIBRS implementation. As of July, 2020, 226 law enforcement agencies are certified to participate in the WIBRS system, including 179 municipal police departments, 44 sheriff's offices, and three tribal law enforcement agencies. As of July, 2020, 72% of the population in Wisconsin was covered by WIBRS reporting agencies. The high percentage of population coverage relative to the number of agencies is due in part to the top three populated cities of Milwaukee, Madison, and Green Bay reporting under IBR. According to DOJ, the FBI intends to sunset the SBR system by January, 2021, and therefore all law enforcement agencies will utilize incident-based reporting.

The UCR data collected by DOJ is used to calculate Wisconsin's federal JAG funding and to satisfy certain federal reporting requirements. This UCR data is the only statewide source of long-term crime and arrest data, law enforcement

staffing levels, and data on law enforcement officers killed or injured in the line of duty.

Staff at BJIA assists law enforcement with the collection and coding of crime statistics data, including answering questions and solving reporting and jurisdictional issues with individual agencies. In addition, BJIA began offering training sessions on both summary-based and incident-based UCR reporting to law enforcement agencies across the state in 2016. In 2020-21, BJA hosted 21 in person trainings and 10 webinars.

In April, 2016, BJIA launched a set of interactive data tables on DOJ's website to make UCR data available to the public. While the data tables currently focus on offense and arrest data, DOJ indicates that it is preparing additional data tables that will contain more detailed information on homicides, sexual assault, arrestee demographics, and other topics of concern.

Research and Evaluation. The Research and Evaluation Unit is responsible for program evaluation of grant-funded programs and projects funded with state resources and under the federal Justice Assistance Grant (JAG). In addition to program evaluation, the unit conducts research projects on issues facing Wisconsin's criminal justice system. Information on state funded criminal justice grant programs can be found in Chapter 4 of this paper, and information on state funded grant programs that provide victim and witness services can be found in the Legislative Fiscal Bureau's informational paper entitled, "Crime Victim and Witness Services."

The unit does on-going data collection and reports for the state's Treatment Alternatives and Diversion (TAD) grant program. Specifically, the unit is working on the five-year evaluation of the TAD program released in 2020. Further, the unit was involved in the rollout of the Comprehensive, Outcome, Research, and Evaluation (CORE) Reporting System. The CORE system is a web-based application that tracks treatment court and

diversion program participant data from referral to discharge for performance measurement and evaluation purposes. The goal is the system is to improve data quality and provide tools to evaluate the effectiveness of treatment courts and diversion programs. As of September, 2020, approximately 49 counties and two tribes had access to the system, with the majority being TAD counties.

In addition, the unit provides research for the DOJ Sexual Assault Kit Initiative (SAKI). The purpose of this initiative is to build a multi-disciplinary approach to sexual assault response, test previously unsubmitted sexual assault kits, and prevent future backlog of unsubmitted kits. The unit was involved in developing the process and tracking all aspects of data for this project from initial inventory through prosecution. The data is updated on the Wisconsin SAKI website.

In 2017, the Research and Evaluation Unit began working with the Department of Health Services to develop strategies to improve the response to overdose deaths through Overdose Fatality Reviews (OFR). Through training, technical assistance, data collection, case review, and action planning, teams in selected counties are adopting multidisciplinary response strategies to reduce overdose deaths. The role of BJIA has been to provide support with data collection and analysis for the reviews, and tracking of recommendations.

As of October, 2020, a total of 12 counties had initiated overdose fatality reviews, including Columbia, Dane, Dunn, Eau Claire, Kenosha, La Crosse, Marathon, Milwaukee, Outagamie, Racine, Sauk, and Winnebago. Six additional counties were selected through the Department of Health Services (DHS) in 2020 for the final year of the current funding (Sheboygan, Chippewa, Marinette, and Green Lake, Marquette, and Waushara Counties (multi-county site)). The majority of the funding has been pass through funding from DHS based on a grant from the Centers for Disease Control (CDC).

DIVISION OF FORENSIC SCIENCES

Three state crime laboratories, located in Madison, Milwaukee, and Wausau, comprise the Department's Division of Forensic Sciences. The Madison Crime Laboratory was created by the Legislature in 1947; the Milwaukee Crime Laboratory was opened in 1975; and the Wausau Crime Laboratory began operations in 1991.

In April, 2019, DOJ created the Division of Forensic Sciences (DFS). Previously, the three crime laboratories made up the Wisconsin State Crime Laboratory Bureau within the Division of Law Enforcement Services (DLES) at DOJ.

The state crime laboratories are responsible for providing scientific and technical assistance to state and local law enforcement agencies, upon their request. The budget in 2020-21 for the state crime laboratories (less amounts budgeted for deoxyribonucleic acid (DNA) analysis) totals \$14,341,900 (all funds) and 91.4 positions. The state crime laboratories' funding is comprised of \$6,482,900 GPR and \$7,859,000 PR, as well as 53.4 GPR and 38.0 PR.

The 2020-21 budget for DNA analysis totals \$9,605,100 (all funds) and 87.6 positions. The DNA analysis funding is comprised of \$1,714,200 GPR and \$7,890,900 PR, as well as 8.5 GPR and 79.1 PR positions.

The state crime laboratories' program revenue-supported budget (including amounts budgeted for DNA analysis) is funded from a variety of sources: (a) the crime laboratory and drug law enforcement surcharge and the DNA surcharge (\$13,904,200 and 96.0 positions); (b) criminal history search fees (\$1,635,800 and 20.0 positions); and (c) penalty surcharge revenues (\$209,900 and 1.0 position).

A \$13 crime laboratory and drug law enforcement surcharge is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for most violations of state law or municipal or county ordinance. Additionally, a court must impose a DNA surcharge when it either imposes a sentence or places a person on probation for committing a felony or misdemeanor. The DNA surcharge is \$250 for each felony conviction and \$200 for each misdemeanor conviction.

Criminal history search fees, described in Chapter 1, are imposed whenever DOJ receives a request for a non-criminal justice search of the criminal history database.

The penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge equals 26% of the total fine or forfeiture.

Under 2017 Act 59, the appropriation structure for receiving and expending revenue from the crime laboratory and drug law enforcement (CLDLE) surcharge and deoxyribonucleic acid (DNA) analysis was modified. Act 59 created a continuing PR appropriation within DOJ for the purpose of receiving revenue from the CLDLE surcharge and DNA surcharge. The appropriation is authorized the appropriation to transfer funds to the following PR appropriations within DOJ and to the District Attorney function: (a) DOJ's crime laboratories and DNA analysis appropriation; (b) DOJ's crime laboratories, drug law enforcement, and genetic evidence activities appropriation; (c) DOJ's crime laboratories equipment and supplies appropriation; and (d) the District Attorney's appropriation for a statewide DNA evidence prosecutor position. For the appropriations

identified in (b), (c) and (d) any unencumbered balance at the end of a given fiscal year must revert to the appropriation created for receiving and transferring CLDLE and DNA surcharge revenue. If DOJ anticipates that the CLDLE surcharge and DNA surcharge fund may go into deficit, the Department must promptly notify the Joint Committee on Finance in writing.

Act 59 specified that DOJ's crime laboratories and DNA analysis appropriation is no longer authorized to directly receive CLDLE surcharge and DNA surcharge revenue or make transfers to other appropriations. The Department is required to determine the amount of funding necessary to transfer to the appropriation from the receipts appropriation.

Under 2019 Act 9, additional positions and funding were provided including \$200,500 GPR and \$108,000 PR in 2019-20 and \$267,300 GPR and \$146,600 PR in 2020-21, and 6.4 GPR and 2.6 PR DNA analyst positions annually for operations at the state crime laboratories to increase services provided to the criminal justice system.

In 2019-20, the crime laboratories and drug law enforcement surcharge and DNA surcharge fund concluded the fiscal year with a balance of \$3,407,600. The Department estimates that the crime laboratory and drug law enforcement surcharge fund will close the 2020-21 state fiscal year with a cumulative balance of \$3,585,400.

Statutory Authorization. Under s. 165.75(3) (a) of the statutes, the purpose of the state crime laboratories is to "provide technical assistance to local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. ...[T]he laboratories shall maintain services and employ the necessary specialists, technical and scientific employees for the recognition and proper preservation, marking and scientific analysis of evidence material in the investigation and prosecution of crimes in such fields as

firearms identification, the comparison and identification of toolmarks, chemistry, identification of questioned documents, metallurgy, comparative microscopy, instrumental detection of deception, the identification of fingerprints, toxicology, serology and forensic photography."

Employees of the state crime laboratories may undertake an investigation of criminal conduct only upon the request of a sheriff, coroner, medical examiner, district attorney, chief of police, warden or superintendent of any state prison, state agency head, the Attorney General or the Governor. Following such a request, the laboratories must collaborate fully in the complete investigation of criminal conduct and bring to bear the full range of their forensic skills. These efforts may involve field investigations at the scene of the crime. The Madison, Milwaukee and Wausau crime laboratories have a Crime Scene Response Unit (CSRU) which provides 24 hour/seven days a week crime scene investigation assistance to law enforcement agencies at major violent crime scenes and autopsy examinations investigations. The CSRUs primarily respond to three types of scenes: homicides; officer-involved shootings; and clandestine grave sites. In 2019-20, the CSRUs responded to 86 requests for assistance by law enforcement. In addition to responding to requests for assistance, the CSRUs also provide training to local officers in crime scene investigation techniques.

The Department is authorized to decline laboratory services in any case that does not involve a potential felony charge. The state crime laboratories generally do not accept misdemeanor cases.

State Crime Laboratory Operations

Appendix IV identifies the geographic areas of the state served by each crime laboratory. Below is a list of services provided by the state crime

labs:

1. *Drug Identification.* A combination of different tests may be performed on an unknown material until the analyst can identify or eliminate the presence of any controlled substance, narcotic, pharmaceutical, or other ingredient. Controlled substances are those compounds prohibited under Chapter 961 of the statutes. Drug identification services are provided by the Madison, Milwaukee, and Wausau crime labs.

2. *Toxicology.* An analysis of bodily specimens may be undertaken for the presence of chemicals that are harmful or for which ingestion is in some way defined as a criminal offense. The laboratory identifies and quantifies the amount of drugs, alcohol, and poisons in biological samples such as blood, urine, or tissue. Full toxicology services are provided by the Madison and Milwaukee crime labs. The Wausau crime lab provides toxicology services only as it relates to blood alcohol content. For other toxicological services, the region is served by the Madison crime lab.

3. *Trace Evidence.* A comparison and identification of trace evidence may be undertaken. This includes such substances as paints, soil, plastics, glass, metals, insulation, arson accelerants, explosives, and fibers. During a crime, negligible amounts of such materials may be transferred from one surface to another. By linking the transferred material back to its original source, a suspect may be linked back to the crime scene. The Milwaukee crime lab provides trace analysis services for the entire state.

4. *DNA/Serology.* This type of analysis involves the identification and characterization of biological materials, including blood, semen and other body fluids. Except for identical twins, each individual's genetic profile is unique. The genetic profile of a suspect developed from submitted biological material may be compared to the genetic profile developed from biological material

collected from a crime scene to link a suspect to a crime. DNA/serology analysis services are provided by the Madison and Milwaukee crime labs. The Wausau crime lab region is served by Madison crime lab.

5. *DNA Databank.* The DNA Databank stores DNA profiles from samples on all convicted offenders and, beginning on April 1, 2015, the profiles of certain individuals arrested for violent felonies. The state system is connected to the national system to help identify suspects when unknown DNA is found at a crime scene. The DNA databank is located at the Madison crime laboratory, however it includes DNA profiles from samples which were analyzed and catalogued at the Milwaukee crime laboratory.

6. *Firearms/Toolmarks.* This activity involves the: examination of firearms and ammunition, as well as toolmarks and suspect tools; serial number restoration; and distance determination tests. To determine whether a firearm recovered in the case was the firearm that fired the bullets and cartridge cases that have been recovered, the laboratory compares the recovered bullets and cartridge cases with laboratory fired bullets and cartridge cases from the suspected firearm. A subsequent microscopic examination permits a final determination to be made. Recovered firearms and cartridges may also be compared to other firearms cases in the Midwest through the use of the National Integrated Ballistic Information Network (NIBIN) computer system. The Milwaukee crime lab provides firearms analysis services for the entire state.

7. *Latent Prints/Footwear.* This activity involves an analysis to determine the presence of fingerprints, palm prints, or footprints and the comparison of such prints to establish identity. Fingerprint and footprint identification services are provided by the three crime labs.

8. *Photo Work Orders.* This casework is submitted directly from local law enforcement

agencies and typically involves still or video photography services. Casework can include making copies of videos to protect the original from damage and capturing and enhancing individual "still" images from a video. Photo work order services are provided by each of the crime labs.

9. *Forensic Imaging.* The forensic imaging unit in the state crime laboratories also provides support for the work of other crime laboratory units. These services include specialized forensic photography support using black and white, color, ultraviolet, digital, infrared and infrared luminescence techniques. These images are typically utilized to: (a) record the condition of an item of evidence at the time of receipt; (b) document the location and condition of items of interest (for example, recording the condition of a crime scene); and (c) recording the results of analytical investigation (for example, producing fingerprint or palm print images). Forensic imaging services are provided by the three crime labs.

The three state crime laboratories are currently authorized the following types of specialists (excluding specialists for DNA analysis): (a) fingerprint and footwear examiners; (b) controlled substance analysts; (c) forensic program technicians; (d) toxicologists; (e) forensic imaging specialists; (f) firearms and toolmark examiners; (g) trace evidence examiners; (h) forensic science training coordinators; and (i) identification technicians. In addition to these specialist positions, additional supervisory and support positions include forensic scientist supervisors, office associates, forensic science program chiefs, justice supervisors, a crime laboratory director, information services personnel, and an executive staff assistant.

The state crime laboratories are also authorized positions for DNA analysis activities. These positions include: (a) DNA analysts; (b) forensic scientist supervisors; and (c) forensic program technicians.

Table 5 identifies the caseload of the state

crime laboratory analysts during 2019-20. Many cases referred to the state crime laboratories require more than one type of analysis. As a result, the total number of case types opened and completed by the crime laboratories, as identified in Table 5, is larger than the total number of distinct law enforcement cases referred to the crime laboratories.

Table 5: Analyst Caseloads in 2019-20

Case Type	Opened	Completed
DNA databank	20,795	19,809
Controlled substances	4,316	4,144
DNA analysis	3,628	2,985
Toxicology	1,971	1,881
DNA screening	1,499	1,342
Identification	850	882
Firearms	421	414
Photo work order	303	327
Trace evidence	143	127
Crime scene response	88	86
Field photo	72	58
Forensic imaging	64	59
Footwear or tire track	24	28
Toolmarks	21	10
Familial search	<u>1</u>	<u>1</u>
Total	34,196	32,153

DNA Collection, Analysis, Data Storage and Usage

The analysis of DNA evidence at crime scenes has become an increasingly important forensic tool for law enforcement agencies. In recent years, several laws have been enacted affecting the frequency and manner in which DNA is utilized during the criminal justice process.

Individuals who, after January 1, 2000, have either been found guilty of a felony or are in prison for any felony committed in this state must submit a biological sample to be sent to the state crime laboratories for DNA analysis. Individuals committed as sexually violent persons must also

submit a biological sample. Further, under 2013 Act 20, individuals who have been found guilty of a misdemeanor on or after April 1, 2015, must submit a biological sample for DNA analysis. Additionally, under 2013 Acts 20 and 214, and beginning April 1, 2015, adults who are arrested for or charged with a felony defined as a violent crime must submit a biological sample for DNA analysis. Appendix V identifies the offenses which, under s. 165.84(7) of the statutes, constitute a violent crime for the purpose of biological sample submission.

Under 2013 Act 20 and beginning April 1, 2015, juveniles who have been adjudicated delinquent on the basis of a violation that would be a felony if committed by an adult in this state must submit a biological specimen for DNA analysis. Additionally, beginning April 1, 2015, juveniles who have been adjudicated delinquent for an act that, if committed by an adult in this state, would constitute a violation of any of the following misdemeanors must submit a biological sample: (a) fourth-degree sexual assault; (b) endangering safety by use of a dangerous weapon; (c) lewd or lascivious behavior; (d) prostitution; (e) patronizing prostitutes; (f) pandering; (g) failure to submit a required biological sample; and (h) exposing genitals, pubic area, or intimate parts. Moreover, beginning April 1, 2015, juveniles who are taken into custody or before a court for committing an offense which would constitute a felony violent crime if committed by an adult must submit a biological sample. Appendix V identifies the offenses which constitute a violent crime for the purpose of biological sample submission.

Individuals who have been placed in institutional care or found not guilty by reason of mental disease or defect as a result of committing an offense which would constitute a felony must also submit a biological sample for DNA analysis. Additionally, those placed in institutional care or found not guilty by reason of mental disease or defect as a result of committing any of the following misdemeanor violations must submit a

biological sample: (a) failure to submit a required biological specimen; (b) fourth-degree sexual assault; (c) lewd or lascivious behavior; and (d) exposing genitals, pubic area, or intimate parts.

Those who are on parole, extended supervision, or probation in another state, but are supervised in Wisconsin for a violation in the other state that the Department of Corrections determines would constitute a felony if committed in Wisconsin must submit a biological sample for DNA analysis. Finally, the courts may order an individual to submit a biological sample if the individual is before the court for certain crimes or the court determines that a biological sample was not collected from an individual who is required under statute to submit a sample.

After biological specimens are submitted, the specimens are sent to the state crime labs for DNA analysis. Biological samples collected as a result of one of the reasons discussed above (except, as discussed below, if the biological specimen is obtained from an individual at arrest, or when a juvenile is taken into custody, for a violent crime) are analyzed by the crime laboratories. The crime laboratories enter the data obtained from the DNA analysis into the DNA databank. The laboratories may compare the data obtained from one specimen with data obtained from other specimens. The laboratories may also make the data obtained from the analysis available to those in connection with criminal or delinquency investigations, including law enforcement agencies, prosecutors, defense attorneys, and the subject of the data.

Beginning April 1, 2015, law enforcement officers and tribal law enforcement officers must collect a biological specimen from individuals arrested or taken into custody for committing a felony violent crime (or for a juvenile offense that would be a felony violent crime if committed by an adult) and submit the biological specimen to the state crime laboratories in a manner specified by DOJ by rule. Biological specimens collected from

arrested individuals (or juveniles taken into custody) are only analyzed and included in the DNA databank if, within one year of the date the biological sample was submitted to the state crime laboratory, the court has notified the crime laboratory that one of the following applies: (a) the individual was arrested, or the juvenile was taken into custody, pursuant to a warrant; (b) the court has made a finding that there is probable cause that the individual committed a violent crime, or that the juvenile committed an offense that would be a violent crime if committed by an adult; (c) the individual failed to appear at the initial court appearance or preliminary examination, or the individual waived the preliminary examination; or (d) the individual failed to appear for a delinquency proceeding under Chapter 938 of the statutes (Juvenile Justice Code). If one year passes and the court has not notified the crime laboratory that one of preceding conditions applies, then the crime laboratory must destroy the biological sample.

In addition to analyzing biological specimens submitted as a requirement under state law, the crime laboratories must analyze the DNA in human biological specimens that are provided pursuant to any of the following requests: (a) a law enforcement agency regarding an investigation; (b) a defense attorney regarding his or her client's specimen, pursuant to a court order; and (c) an individual regarding his or her own specimen, subject to rules established by the Department. The laboratories may compare the DNA data from the provided specimen with data obtained from other specimens. The laboratories may also make this data available to those in connection with criminal or delinquency investigations, including law enforcement agencies, prosecutors, defense attorneys, and the subject of the data. The data obtained from one of these provided specimens may be used in a criminal or delinquency proceeding. However, the DNA data obtained from a specimen provided pursuant to one of the requests enumerated above may not be included in the DNA databank.

Furthermore, s. 165.77(7) of the statutes specifies that DNA data obtained from biological specimens analyzed pursuant to a request from a Wisconsin law enforcement agency or health care professional collecting evidence in a case of alleged or suspected sexual assault may not be included in the DNA databank. This provision ensures that the privacy of sexual assault victims and individuals erroneously suspected of committing sexual assault is not violated.

Individuals whose DNA data is stored in the DNA databank may have the data expunged if any of the following conditions are satisfied: (a) all convictions, findings, or adjudications for which the person was required to submit a biological specimen have been reversed, set aside, or vacated; (b) if the individual was required to provide a biological sample for being arrested or charged with a violent crime, then either: (1) all charges for which the person was required to provide the biological specimen have been dismissed; (2) the trial court adjudged the individual not guilty on all charges for which the person was required to provide a biological specimen; (3) at least one year has passed since the arrest and the individual has not been charged with a violent crime in connection with the arrest; or (4) the person was adjudged guilty of a violent crime, and all such convictions for a violent crime have been reversed, set aside, or vacated; and (c) if the individual is a juvenile and the juvenile was required to submit a biological specimen because he or she was taken into custody or before a court for an offense which would be considered a violent crime if committed by an adult, then either: (1) all criminal complaints or delinquency petitions that allege the juvenile committed an offense which would be considered a violent crime if committed by an adult have been dismissed; (2) the juvenile was neither convicted nor adjudged delinquent by a trial court on all violations that would be considered a violent crime if committed by an adult; or (3) at least one year has passed since the juvenile was taken into custody and no criminal complaint or delinquency

petition has been filed alleging that the juvenile committed a violation, in connection with the juvenile being taken into custody, that would be a violent crime if committed by an adult. If DOJ determines that any of the conditions enumerated above have been satisfied, and the individual sends DOJ a written request for expungement and any other documentation DOJ requires by rule, then the laboratories must purge all records and identifiable information in the data bank pertaining to the individual, as well as destroy all samples from the person.

As of July 1, 2020, there were 322,626 DNA profiles in the state's convicted offender database, comprised of 304,857 offender profiles and 17,769 arrestee profiles. "Casework" DNA profiles are developed from biological specimens from crime scenes that are not tied to a specific individual. As DNA profiles are added to the convicted offender DNA database, DOJ is increasingly able to match "casework" DNA profiles with either known profiles in the convicted offender DNA database or with other "casework" profiles in the casework index. As of July 1, 2020, there were 22,166 casework DNA profiles in the state database.

The convicted offender DNA database and the casework DNA profiles have become increasingly effective crime-solving tools. In calendar year 2019, there were 956 matches or "hits." Of these 956 hits, there were 913 instances of hits that matched unknown profiles with known convicted offender profiles and 43 instances of hits that involved evidentiary profiles matching evidentiary profiles derived from different cases.

Collection of biological submissions from violent felony arrestees began on April 1, 2015. In 2018-19, the state crime labs received 6,203 biological sample submissions from violent felony arrests and felony and misdemeanor conviction collections. These 6,203 biological sample submissions from violent felony arrests led to the state crime labs entering 5,527 DNA profiles into the DNA databank. As discussed above, prior to analyzing a biological sample stemming from a violent felony arrest, the state crime labs must ensure that the necessary statutory requirements are met (for example, that probable cause for the arrest existed or that the crime for which the arrest was made is defined as a violent felony under state statute). According to DOJ, the arrest charges associated with collections of biological specimens from violent felony arrestees was not tracked.

LAW ENFORCEMENT ACTIVITIES OF THE DEPARTMENT OF JUSTICE

Various provisions of the Wisconsin Statutes require DOJ to become involved in active law enforcement activities. Under s. 165.50 of the statutes, DOJ is required to investigate crime that is statewide in nature, importance or influence, and to conduct arson investigations.

Further, the Department is specifically authorized to enforce Chapter 108 of the statutes (Unemployment Insurance and Reserves), and selected statutory provisions regulating or prohibiting the following: (a) prostitution; (b) illegal gambling; (c) smoking; and (d) carrying carry concealed weapons.

Finally, under s. 165.70 of the statutes, DOJ is authorized to investigate and enforce selected statutory provisions regulating certain conduct or prohibiting certain crimes that are statewide in nature, importance, or influence. These provisions include: (a) prostitution; (b) illegal gambling; (c) controlled substances; (d) battery or intimidation of jurors and witnesses; (e) machine guns; (f) extortion; (g) usurious loans; (h) loan sharking; (i) obstruction of justice; (j) arson; and (k) use of a computer to facilitate a child sex crime. With respect to these latter provisions under s. 165.70, the statutes stipulate that it is not the intent to deprive local law enforcement of its concurrent power and duty to enforce these provisions.

The statutes generally provide DOJ agents the powers of peace officers in carrying out these responsibilities. Under s. 939.22(22) of the statutes, a peace officer is defined as "any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes."

**Law Enforcement Activities of the
Division of Criminal Investigation**

The Department of Justice's Division of Criminal Investigation (DCI) is charged with the responsibility of carrying out and meeting the statutory law enforcement obligations of the Department. In addition, in representing the state, or any state department, agency, official, employee or agent, the Department's Division of Legal Services may utilize the investigative expertise of DCI. Finally, DCI will also provide investigative assistance to local law enforcement, when requested, to help solve serious crimes.

The budget for the Division in 2020-21 is \$23,329,700 (all funds) and 155.45 positions. The Division is organized into four bureaus: the Field Operations Bureau Eastern Region, the Field Operations Bureau Western Region the Special Operations Bureau, and the Human Trafficking Bureau. The narcotics enforcement activities of the Division are separately budgeted, but narcotics enforcement is a part of the Field Operations Bureaus. The Internet crimes against children task force unit is also separately budgeted but elements of the unit report to both the Field Operations Bureaus and the Special Operations Bureau. Dedicated funding from tribal gaming and lottery fund revenues support the gaming investigations program, but the gaming investigations program is a part of the Special Operations Bureau. In 2015-16, the DOJ created the Special Investigation Bureau to provide management of officer involved death investigations and other programs requiring heightened awareness and coordination, as well as management of public records compliance for all

investigations conducted by DCI.

Field Operations Bureaus -- Narcotics Enforcement

The Field Operations Bureaus are responsible for carrying out the Division's narcotics enforcement effort. The budget for narcotics enforcement in 2020-21 totals \$7,150,800 (all funds) and 31.0 positions. Funding is comprised of \$2,541,600 GPR, \$3,636,800 PR, and \$972,400 FED, supporting 15.0 GPR, 14.5 PR and 1.5 FED positions. Narcotics enforcement staff consists of special agents, criminal analysts, and supervisory and support personnel.

The program revenue-funded budget for narcotics enforcement is provided from the \$13 crime laboratory and drug law enforcement surcharge and the DNA surcharge (\$1,232,500 and 6.0 positions), as well as the penalty surcharge (\$2,280,700 and 7.5 positions). The \$13 crime laboratory and drug law enforcement surcharge is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for most violations of state law or municipal or county ordinance. A court imposes the DNA surcharge either when it imposes a sentence or places a person on probation. The DNA surcharge is \$250 for each felony conviction and \$200 for each misdemeanor conviction.

The penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. The penalty surcharge equals 26% of the total fine or forfeiture.

In 2019-20, the crime laboratory and drug law enforcement surcharge and DNA surcharge fund concluded the fiscal year with a positive balance

of \$3,407,600. The Department estimates that the crime laboratory and drug law enforcement surcharge fund will close the 2020-21 state fiscal year with a cumulative balance of \$3,585,400.

Statutory Authorization. Under s. 165.70 of the statutes, the Department is charged with enforcing the Uniform Controlled Substances Act (Chapter 961 of the statutes) for violations that are statewide in nature, importance or influence. Further, s. 165.72 of the statutes provides that DOJ must maintain a single toll-free telephone number during normal retail business hours where persons may provide anonymous tips regarding suspected controlled substances violations and where pharmacists may report suspected controlled substances violations. The Department of Justice is required to cooperate with the Department of Public Instruction in publicizing the use of this toll-free telephone number in the public schools.

Program Administration. The Field Operations Bureaus administers a statewide drug enforcement program to stem the flow of drugs into and within the state. The Bureaus participate in cooperative anti-drug efforts with local, state, and federal law enforcement agencies by providing investigative assistance.

Organized Crime Drug Enforcement Task Force. The Bureaus participate in the federal Organized Crime Drug Enforcement Task Force. This task force is a program administered by the United States Attorneys' Offices in both the Eastern District and the Western District of Wisconsin. The task force targets organized high-level drug trafficking groups. State and local agencies investigating high-level drug traffickers apply to the United States Attorney for task force funding. Task force funding ordinarily pays for overtime, travel and other expenses related to drug investigations. The task force made 93 prosecution referrals in 2019-20.

Wisconsin High Intensity Drug Trafficking Area Task Force. The Bureaus are also involved in the Wisconsin High Intensity Drug Trafficking Area Task Force (HIDTA). The goal of this multi-jurisdictional task force is to apply enhanced intelligence processes, as well as a high level of enforcement, coordination, and prosecution to reduce organized drug distribution, drug-related violent crime, and money laundering.

The enforcement component of Wisconsin HIDTA consists of three investigative bodies: (a) the Heroin Initiative; (b) the Drug Gang Task Force; and (c) the Interdiction Initiative. The Heroin Initiative, supervised by a DCI special agent in charge, investigates high level heroine drug trafficking organizations in the Wisconsin HIDTA region. The Drug Gang Task Force is a multi-agency initiative supervised by the Milwaukee Police Department. The Drug Gang Task Force focuses on the identification, infiltration, disruption, and dismantling of violent street gangs involved in drug trafficking in the Milwaukee area. Finally, the Interdiction Initiative coordinates regional enforcement efforts with law enforcement agencies throughout southeastern Wisconsin in an attempt to intercept the transportation of controlled substances and currency into, out of, and through the Wisconsin HIDTA area of responsibility.

The Heroin Initiative made 53 arrests in 2019-20. The Drug Gang Task Force made 40 arrests in 2019-20. Finally, the Interdiction Initiative made 80 arrests in 2019-20.

Cannabis Enforcement and Suppression Effort. The Field Operations Bureaus coordinate the Cannabis Enforcement and Suppression Effort (CEASE), which is a law enforcement program directed at the reduction of cultivated and non-cultivated marijuana and marijuana demand. The CEASE program supports federal, state, and local law enforcement efforts to curb marijuana cultivation, distribution, and use. The primary goal of the program is to augment local law enforcement

efforts in locating indoor and outdoor marijuana grow operations and arresting those responsible. The program also supports efforts to eradicate wild marijuana. The CEASE program informs the public on issues related to marijuana legalization efforts and educates citizens and youth about the dangers associated with marijuana and illegal drug use in general. Program management for CEASE compiles statewide statistics and intelligence data. Program management also distributes funds, equipment, and information to be used for the investigation and eradication of domestic marijuana grow operations. Reports on CEASE activity are prepared and forwarded to the U.S. Drug Enforcement Administration and law enforcement agencies throughout Wisconsin. The Field Operations Bureaus provides training and equipment to local law enforcement agencies throughout the state for their marijuana eradication efforts, and reimburses local agencies for pre-approved overtime expenses involving marijuana eradication efforts. The CEASE program made 102 arrests in 2019-20. Under the CEASE program, 127 marijuana grow operations were destroyed in 2019-20.

Methamphetamine Laboratories. The Department of Justice has identified as a significant challenge the proliferation of methamphetamine laboratories, particularly in northwestern Wisconsin.

To combat the spread of methamphetamine laboratories, the Department coordinates a group of certified law enforcement officers to investigate clandestine laboratories. This multi-jurisdictional team is comprised of 31 DCI Special Agents and 66 local officers representing 42 agencies.

The Field Operations Bureaus identified and decommissioned 19 laboratories in 2019-20. In 2019-20, DOJ opened 39 methamphetamine-related cases and closed 62 cases.

Drug Tipline and Pharmacy Hotline. Section 165.72 of the statutes requires the Department of Justice to operate both the drug tipline and the

pharmacy hotline from the same toll-free telephone number. All calls made to this telephone number are received by the Dane County Public Communications Center, which operates the tipline and hotline under contract with DOJ. This toll-free telephone number received four tips in 2019-20.

Training. The Field Operations Bureaus provides specialized training to certified law enforcement officers. Topics include search and seizure law, execution of search warrants, undercover activity, surveillance, consent searches, and the latest drug trends throughout the state. The Bureaus also provide training to communities around Wisconsin on heroin awareness. In 2019-20, the Bureaus provided one 64-hour drug investigation school that was attended by 56 investigators, as well as 55 drug presentations that were attended by 1,961 attendees.

Bureaus Caseload. In 2019-20, the Bureaus opened 128 narcotics cases and closed 85 narcotics cases. The Field Operations Bureaus are generally the lead agency in these cases.

Internet Crimes Against Children Task Force

The Internet Crimes Against Children (ICAC) task force unit at DOJ is responsible for investigating Internet crimes against children in conjunction with other law enforcement partners in the Internet Crimes Against Children Task Force. The budget for the ICAC Unit at DOJ in 2020-21 is \$5,304,200 (all funds) and 38.0 positions. The unit's total funding is comprised of \$4,227,500 GPR, \$820,800 PR, and \$255,900 FED, supporting 36.0 GPR and 2.0 FED positions. The unit's program revenue-funded budget is supported by the \$13 crime laboratory and drug law enforcement surcharge and the DNA

surcharge.

The Wisconsin ICAC task force was created in 1998 with federal funding to counter the threat of offenders using online technology to sexually exploit children. The task force conducts investigations, provides investigative, forensic and prosecutorial assistance to police agencies and prosecutors, encourages statewide and regional collaboration, and provides training for law enforcement, prosecutors, parents, teachers, and other community members. The task force also coordinates with the Wisconsin Clearinghouse for Missing and Exploited Children to provide support services to children and families that have experienced victimization. As of August, 2020, there were 271 law enforcement agencies, including DOJ, participating in the Wisconsin ICAC task force.

Internet crimes against children cases generally fall into four broad categories: (a) investigations of cyber-tips received from individuals and Internet service providers through the National Center for Missing and Exploited Children; (b) online child enticement investigations; (c) "peer-to-peer" investigations; and (d) cases involving other law enforcement agencies. In 2019-20 the ICAC task force opened 3,547 ICAC investigations. The Division took the lead on 520 investigations in 2019-20.

All 271 law enforcement agencies participating in the Wisconsin ICAC task force have a capacity to conduct "reactive" ICAC investigations, responding to tips or information that an Internet crime against a child may have occurred. In addition, many of these agencies can also conduct "proactive" investigations, such as peer-to-peer investigations and online child enticement investigations.

In 2000, Congress mandated that all internet service providers register and report any child pornography on their servers to the cyber-tiplines pro-

gram at the National Center for Missing and Exploited Children. In 2019-20, the Wisconsin ICAC task force received 2,993 cyber tips from the National Center for Missing and Exploited Children. From these cyber tips, the ICAC task force opened 1,507 cases, of which 945 were investigated by DOJ and the remaining 2,048 were referred to affiliate law enforcement agencies. When the ICAC task force receives multiple cyber tips involving the same suspect, these cyber tips are consolidated into a single case for subsequent follow-up by DOJ or affiliated law enforcement agencies.

Online child enticement investigations involve investigations of chat rooms and other web-based communication sites to identify adults who want to meet children for the purpose of engaging in sexual activity, or adults who are willing to make their children available for adult sexual contact. These investigations also include cases in which adults direct obscenity towards minors. In 2019-20, the entire ICAC task force opened 197 child enticement investigations. Of the 197 child enticement investigations opened by the Wisconsin ICAC task force in 2019-20, DOJ special agents initiated eight of these cases.

"Peer-to-peer" investigations identify the illegal sharing of child pornography images and videos over the Internet. Department of Justice staff indicates that the current electronic statistical system for the ICAC task force does not permit the Department to identify the number of cases opened by the whole task force that can be attributed to "peer-to-peer" investigations. In 2019-20, DOJ special agents initiated 15 peer-to-peer investigations.

Finally, cases involving other law enforcement agencies include: (a) child exploitation initiatives with other law enforcement agencies, such as following up on customer information from web-based companies identified as illegally trafficking images of child pornography; (b) assisting local law enforcement agencies with investigations of Internet-based or other child exploitation cases;

and (c) assisting other ICAC task forces around the country.

In 2019-20, the Wisconsin ICAC task force made 478 arrests. Of the 478 arrests made by the Wisconsin ICAC task force in 2019-20, 61 arrests were made by DOJ special agents. The Department staff indicates that it does not currently have an electronic reporting system that would permit it to report the case types to which these arrests could be attributed, either for the ICAC task force as a whole or for DOJ.

Department staff further indicates that its electronic statistical analysis system does not currently permit it to provide data on annual ICAC case closings.

Digital forensic analysis is an important element to the successful prosecution of ICAC cases. Criminal analysts are responsible for conducting on-site forensic previews of evidence and subsequently developing the evidence more thoroughly in the laboratory. The analysis involves: (a) the creation of a duplicate image of relevant evidence; (b) an examination of all relevant computer files; and (c) restoring information pertinent to the investigation. Department staff indicates that this work can be laborious often due to the large volume of data involved in ICAC investigations. In 2019-20, the ICAC task force conducted forensic ICAC examinations of 1,210 hard drives and 3,227 cell phones for a total of 649 terabytes examined.

Criminal analysts in the DOJ ICAC Digital Forensics Unit investigate crimes committed using the computer and analyze information contained in electronic formats. The personnel in this unit are trained to conduct forensic analysis of digital evidence. These cases include Internet crimes against children cases, audio and video enhancements, cell phone forensics, and other digital evidence and technical assistance cases. In 2019-20 DOJ criminal analysts opened 857 cases and closed 874 cases. Forensic ICAC cases are opened separately

from criminal investigations initiated by the Wisconsin ICAC task force. Forensic ICAC cases are opened for the specific purpose of conducting forensic examinations of electronic devices. One forensic ICAC case is designated for the total number of devices submitted in a case.

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

To further Wisconsin's ability to investigate internet crimes against children, the Legislature passed 2015 Act 369 which, among other provisions, allowed the Attorney General or his or her designee the authority to issue an administrative subpoena on an electronic communication service or remote computing service (more commonly, an Internet service provider) to compel the production of the name, address, and duration of the assignment of any Internet protocol (IP) address of a customer or subscriber. The Attorney General or his or her designee does not require a court's approval to issue an administrative subpoena. However, a person served with an administrative subpoena may petition a circuit court in the county where the subpoena was issued for an order to modify or quash the subpoena or to prohibit disclosure of information. Further, the Attorney General's administrative subpoena authority is limited by the following conditions: (a) the information likely to be obtained is relevant to an ongoing investigation of an Internet crime against a child; and (b) the Attorney General or his or her designee has reasonable cause to believe that an Internet or

electronic service account provided by an electronic communication service or remote computing service has been used in the crime.

Under 2017 Act 59, an additional \$750,000 PR was provided for ICAC activities in each year of the biennium on a one-time basis. Under 2019 Act 9, the funding was provided again on a one-time basis. In addition, Act 9 provided an additional \$42,300 PR in 2019-20 and \$56,400 PR in 2020-21 and 1.0 PR position annually. Funding is supported by a transfer of revenue from the crime laboratory and drug law enforcement surcharge and the DNA analysis surcharge.

Special Operations Bureau -- Gaming Investigation Program

The budget for the gaming investigation program in 2020-21 is \$551,900 (all funds) and 3.4 positions. The program's total funding is comprised of \$117,800 PR and \$434,100 SEG, supporting 0.65 PR and 2.75 SEG positions. The program's staff consists of a director and 2.4 special agents.

The program's PR-funded budget is supported by tribal gaming revenues. The program's SEG-supported operations are funded from lottery fund revenues.

Statutory Authorization. Prior to the enactment of 1991 Wisconsin Act 269, DOJ had enforcement responsibilities relating to bingo control, crane games, racing and pari-mutuel wagering, the lottery, gambling on Indian lands and general gambling prohibitions.

Act 269 specified that DOJ establish a bureau to oversee the Department's gambling-related

responsibilities, and provided additional funding and staffing for these enforcement activities. The primary consideration for providing the additional resources appears to have been the increased workload associated with the new tribal gaming compacts. [The provisions of 2011 Act 32 eliminated the requirement that DOJ have a separate Gaming Enforcement Bureau.]

The legalization of gaming on Indian lands initially raised a number of jurisdictional questions with respect to which federal, state or local entity had primary enforcement authority. On August 26, 1992, the United States Attorneys for the Eastern District and the Western District of Wisconsin, the FBI, and DOJ agreed that the Division of Criminal Investigation, through its Gaming Enforcement Bureau, would be the primary contact for reporting and investigating all alleged criminal activity affecting the operation and administration of Class III (casino) Indian gaming in Wisconsin. This agreement does not preclude criminal investigation by local or tribal law enforcement agencies; however, the Division is to be apprised by local or tribal law enforcement agencies (or others) of criminal allegations and investigations affecting the integrity of Indian gaming in Wisconsin. This notification requirement is intended to ensure the coordination of investigations of common interest and to encourage the prompt dissemination of information that may be of concern to other gaming operations or enforcement agencies.

Under ss. 165.60 and 165.70 of the statutes, the Department is granted criminal law enforcement responsibilities relating to commercial gaming and illegal gambling. In addition, under Chapters 562, 563, 565, and 569 of the statutes, DOJ is granted law enforcement responsibilities relating to racing and pari-mutuel betting, bingo and raffle control, the Wisconsin Lottery, and Indian gaming. Department of Revenue's Division of Lottery and Department of Administration's (DOA) Division of Gaming are required by statute to report all suspected criminal activity to DOJ.

The gaming investigation program also conducts background investigations related to major procurement contracts for the Wisconsin Lottery, and assists DOA's Division of Gaming in conducting background investigations of contractors and individuals seeking certification or licensure relating to Indian gaming or pari-mutuel racing. In addition, the program assists local law enforcement in meeting its responsibility to enforce the state's gambling laws.

Program Administration. In 2020, Wisconsin had 24 casinos and ancillary gambling facilities with more limited games. As of September, 2020, these 24 casinos and ancillary gambling facilities had 14,985 electronic gaming machines and 264 table games.

In 2019-20, program staff opened two gaming cases and closed one gaming cases. The gaming investigation program is generally the lead agency in these cases.

In 2019-20, the gaming investigations program conducted 394 background investigations for DOA's Division of Gaming and no background investigations for the Wisconsin Lottery.

Remaining DCI Operations for the Special Operations Bureau and Field Operations Bureaus

Expenditures in 2019-20 for the Special Operations Bureau as well as the Eastern and Western Field Operations Bureaus (less amounts specifically budgeted for narcotics enforcement, the ICAC task force unit, and the gaming investigation program) is \$8,268,600 and consists of 77.15 positions. This funding is comprised of \$6,448,200 GPR supporting 58.4 GPR positions, \$1,006,300 PR supporting 14.0 PR positions, and \$411,600 FED supporting 4.75 FED positions.

The staff for these operations consist of special agents, criminal analysts, program and policy analysts, technicians, and support staff.

The program revenue-funded portion of these budgets is supported by interagency and intra-agency assistance funding (\$691,800 and 7.5 positions (salary and fringe)); law enforcement training fund state operations (\$52,400 and 1.0 position (salary and fringe)); and drug enforcement intelligence operations from penalty surcharge receipts (\$664,600 and 5.5 positions (salary and fringe)).

Special Operations Bureau

Officer Involved Death Investigations. Under 2013 Wisconsin Act 348, each law enforcement agency in the state is required to have a written policy regarding the investigation of an officer-involved death that involves a law enforcement officer. The written policy must require that an investigation into an officer-involved death (OID) be conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs an officer involved in the OID. Act 348 defines an OID as the death of an individual that results directly from an action or an omission of a law enforcement officer while the officer is on duty or while the officer is off duty but performing activities that are within the scope of his or her law enforcement duties.

Prior to the passage of Act 348, DOJ's Division of Criminal Investigation would, upon request, assist local law enforcement agencies investigate certain officer-involved deaths and non-fatal officer involved incidents. Larger law enforcement agencies would often investigate their own such incidents.

With the passage of Act 348, DCI became the preferred resource for local law enforcement

agencies requiring independent investigators to investigate OIDs and non-fatal officer involved incidents. In recognition of DOJ's increased workload related to these investigations, the Department's funding and position authority was increased in the 2015-17 biennial budget (2015 Act 55). Specifically, Act 55 provided DOJ \$305,300 PR in 2015-16 and \$329,800 PR in 2016-17 to support 4.0 PR positions (3.0 special agents and 1.0 program and policy analyst position) for these investigations. Program revenue for the positions was supported by the crime laboratory and drug law enforcement surcharge and the DNA surcharge. The Department does not separately budget for the special investigations, and instead utilizes existing funds to support the function.

In 2019-20, DOJ opened 18 OID investigations and closed 11 as well as opened four and closed two non-fatal officer-involved shooting incidents.

Technical Services Unit. This unit provides covert surveillance investigative support for all types of criminal investigations. Special agents from this unit install and operate the equipment necessary to gather information on criminal activity. Assistance is available to all law enforcement agencies for nearly all forms of felony criminal investigations. The Division of Criminal Investigation may limit its investigative involvement in a given case to the provision of technical surveillance services. The Department indicates that through partnerships with federal programs and initiatives, the Division has been able to secure state-of-the-art covert surveillance equipment. The technical services unit provided 187 case assists in 2019-20.

Analytical Services Unit. This unit provides analysis and specialized investigative support to DCI and to other law enforcement agencies in the state. The unit offers both experienced criminal intelligence analysts and specialized analytical software. Analytical services are normally free of charge to Wisconsin law enforcement agencies

and prosecutors for investigations of all types of crime. During 2019-20, the unit provided 1,130 case assists.

Investigative Records Section. This section provides information gathering, program support and background searches, and manages the Division's investigative records. The section serves as the Wisconsin liaison to the FBI's Violent Criminal Apprehension Program (ViCAP). ViCAP is a national data center organized to collect, collate and analyze specific investigative data. The purposes of the system are to enable local and state law enforcement agencies to link potentially related cases and to establish state and local crime trends.

Wisconsin Clearinghouse for Missing and Exploited Children/Amber Alert. The clearinghouse serves as a resource for both law enforcement and affected families in investigating cases involving missing and abducted children. The state works in conjunction with the National Center for Missing and Exploited Children, and forms part of a nationwide network that works to reunite missing and abducted children with their families.

For the 12-month period August 1, 2019, to July 31, 2020, the clearinghouse received and evaluated 201 tips.

In April, 2003, Congress passed the Protect Act of 2003. This act created the national AMBER (America's Missing: Broadcast Emergency Response) Alert System. Under AMBER Alert, the public is quickly informed through television and radio public service announcements of a child's abduction. This immediate and widespread dissemination of information alerts the public, some of whom may be able to provide relevant and timely information to law enforcement that could end an abduction and result in the apprehension of the perpetrator.

The clearinghouse is responsible for

establishing and monitoring the state AMBER Alert System. The Division of Criminal Investigation has entered into a contract with the Dane County Public Communications Center to provide the technical services associated with a statewide AMBER Alert.

In order to activate AMBER Alert, local law enforcement who suspect that a child abduction has occurred contact the Dane County Public Communications Center (DCPCC). The DCPCC relays the information provided by local law enforcement to the on-call Bureau director or special agent in charge. After confirming the information with local law enforcement, DOJ instructs DCPCC to issue an Amber Alert if the following criteria are met: (a) the child is 17 years of age or younger; (b) the child is in danger of serious bodily harm or death; and (c) the initiating agency has enough descriptive information about the child, the suspect(s), and/or the suspect's vehicle(s) to believe an immediate broadcast alert would help locate the child. From August 1, 2019, to July 31, 2020, the clearinghouse evaluated 16 requests for AMBER Alert activation, fully activated the system on five occasions.

Silver Alert. Created under 2013 Act 264, Wisconsin's Silver Alert program is utilized by law enforcement to disseminate reports on missing "adults at risk." "Adults at risk" are adults who suffer, or could suffer without access to medication, from a developmental disability, Alzheimer's disease, dementia, or a cognitive impairment if the impairment would likely render the adult incapable of getting to a familiar location without assistance. Under the program, DOJ must create a form for reports on missing adults at risk that law enforcement agencies can access through the state's crime alert network. The crime alert network allows law enforcement officers trained by DOJ to send out messages to participating businesses and members of the community regarding criminal activity, crime trends, or missing persons. If a law enforcement agency receives a report of a missing

adult at risk, the law enforcement agency must use the form to disseminate a report using the crime alert network. Similar to an AMBER Alert, Silver Alerts are disseminated through email, text messages, or fax using the crime network. Silver Alerts may also be broadcast through television and radio, digital billboards, and lottery display terminals. Unlike AMBER Alerts, Silver Alerts are not evaluated by the Wisconsin Clearinghouse for Missing and Exploited Children. Rather, Silver Alerts are evaluated by DCI on-call supervisors and a Silver Alert coordinator.

While DOJ is statutorily authorized to charge a fee to members of the private sector who receive information regarding known or suspected criminal activity through the crime alert network, DOJ may not charge a fee to individuals utilizing the crime alert network to receive information on Silver Alerts. Act 264 provided DOJ with \$64,500 GPR and 1.0 GPR position annually to administer the Silver Alert program. Further, note that under current policy, the Department does not charge members of the private sector for participating in the crime alert network. Expenses related to the crime alert network are generally supported by DOJ's law enforcement services general program operations appropriation.

The Silver Alert program began in August, 2014. From August 1, 2019, to July 31, 2020, there were 114 requests for Silver Alert activation. These 114 requests led to the activation of the system on 87 occasions.

Green Alert. Created under 2017 Act 175, Wisconsin's Green Alert program is utilized by law enforcement to disseminate reports on missing "veterans at risk." Green Alerts are evaluated and disseminated by the local law enforcement agency of jurisdiction rather than by DOJ.

Field Operations Bureaus

Major Crime Caseload. The Field Operations

Bureaus are in charge of investigating major crimes. According to DOJ, major crimes include violent crimes and cases of a sensitive nature. Sensitive cases are those cases of statewide nature, scope, or importance that may require special investigative techniques and close coordination with local law enforcement or a prosecutor. Sensitive cases may also require special victim resources, depending on the nature of the criminal conduct. Examples of sensitive cases could include: serial sexual assaults; missing person investigations; child abductions; or crimes committed against a public official. These cases are handled at the field office level within the Bureau. In 2019-20, the Bureau opened 78 major crime investigations and closed 34 investigations.

Financial Crimes Caseload. The Field Operations Bureaus conduct criminal investigations of complaints relating to: (a) economic or "white collar" crimes (such as embezzlement, theft, bank fraud, security fraud, health care fraud, insurance fraud and identity theft); and (b) antitrust violations (such as bid rigging, territory allocation and restraint of trade). The Bureau generally conducts investigations at the request of local district attorney offices and local law enforcement agencies, as well as through coordination with assistant attorneys general or as a result of citizen reports. In 2019-20, the Bureau opened 22 financial crimes cases and closed two cases.

Public Integrity Caseload. Under s. 165.50 of the statutes, DCI is authorized to investigate crime that is statewide in nature, importance, or influence. While the Division is not specifically authorized to investigate crimes arising under the Code of Ethics for Public Officials (Chapter 19), bribery and official misconduct provisions (Chapter 946), or violations of state election or campaign laws under the state election code (Chapters 5 through 12), district attorneys may refer cases arising under these statutory provisions to the Department for prosecution. Under such circumstances, the Field Operations Bureaus are authorized to assist

DOJ attorneys in the prosecution of the case.

The Department also has primary enforcement responsibility regarding the state's open records and open meetings laws.

The Bureau generally works in cooperation with other agencies such as the Ethics Commission, local law enforcement agencies, and district attorneys in evaluating and investigating civil and criminal complaints involving state election and ethics laws, campaign finance, and misconduct in public office violations. The Bureau has independent authority to investigate violations of the state's open meetings and open records laws.

Referrals to the Field Operations Bureaus come from a number of sources. These include: (a) internal requests from assistant attorneys general to investigate complaints received from citizens or other sources; (b) requests from local law enforcement agencies or district attorneys for investigative assistance; and (c) requests from other state agencies for investigative assistance with complaints involving matters within their regulatory jurisdiction.

In 2019-20, the Bureau opened 15 public integrity cases and closed seven cases.

Cold Case Homicide Caseload. In September, 2010, the Division of Criminal Investigation received a federal grant in the amount of \$506,300 to conduct cold case homicide investigations. To conduct the investigations, DCI hired two, part-time retired police detectives and utilized special agents assigned to the Field Operations Bureaus. The investigators worked with local, state, and federal enforcement agencies to resolve cold case homicides. The cold case grant expired in December, 2013, with all funds exhausted. Cold case homicides are currently investigated exclusively by special agents assigned to the Field Operations Bureaus. In 2019-20, the Bureau opened one cold case homicide, and closed one case.

Office of the State Fire Marshal

Prior to the 2013-15 biennium, the Arson Unit of the Field Operations Bureaus were responsible for carrying out DOJ's responsibility to investigate cases related to arson. In 2012-13, DOJ reorganized its Division of Criminal Investigation and the Arson Unit was removed from the Field Operations Bureaus and converted into the Arson Bureau (also known as the Office of the State Fire Marshal).

The Department has indicated that it does not separately budget for the Office, and instead utilizes existing funds to support the Office. However, DOJ has estimated that in 2020-21, the budget for the Office is \$2,300,000 GPR supporting 12.0 GPR positions. The Office is comprised of 10.0 special agents/deputy state fire marshals; one special agent in charge, and one state fire marshal. The State Fire Marshal acts as the director of the Office and is appointed by the Attorney General.

Statutory Authorization

Under s. 165.50 of the statutes, the Department of Justice is responsible for conducting arson investigations. Under s. 165.55(1) of the statutes, the fire chief or chief executive of every Wisconsin municipality must investigate the cause, origin, and circumstances of every fire in their jurisdiction causing more than \$500 in damage, and, when the fire is of unknown origin, the fire chief or chief executive must especially investigate whether the fire was the result of negligence, accident, or design. The municipality's fire chief or chief executive must report any investigation that discloses the fire may have been of incendiary origin to the state fire marshal. In addition, the Office must supervise and direct the investigation of fires of incendiary origin when the state fire marshal deems the investigation expedient.

Program Administration

The Office responds to fatal fires, fires with statewide importance, large commercial structure fires, fires suspected to be arson by local authorities, explosions, and fires involving injury or death to first responders. The Office does not respond to requests from insurance companies or private citizens.

When supervising arson investigations, the state fire marshal and his or her deputies have the authority to conduct hearings, take testimony, seize evidence, apply for special inspection warrants, obtain records from insurance companies, and obtain information relating to a juvenile from a law enforcement agency. All investigations conducted by the Office may, at the discretion of the state fire marshal, be kept private. If an investigation leads to the discovery of sufficient evidence

to charge an individual with arson or criminal damage to property (or the attempt to commit arson or criminal damage to property), the state fire marshal must have the suspect prosecuted and provide the prosecuting attorney with the testimony, information, and names of witnesses gathered during the course of the Office's investigation.

In 2019-20, the Office opened 153 arson cases and closed 101 arson cases. It should be noted that cases are often complex and may be investigated for a year or two before charges are filed, much less closed.

In addition to their arson caseload, Office staff provides fire and arson investigation training to local fire and law enforcement officials. In 2019-20, the Office provided 14 presentations to 484 attendees.

CRIMINAL JUSTICE-RELATED GRANT PROGRAMS OF THE DEPARTMENT OF JUSTICE

To assist local units of governments, tribes, and organizations provide the public with law enforcement, rehabilitation, and victim and witness services, the state administers several state and federally funded criminal justice grant programs.

The responsibilities of administering criminal justice related grant programs are split between DOJ's Division of Management Services, Division of Law Enforcement Services, Division of Criminal Investigation, and Office of Crime Victim Services. The Division of Management Services is generally responsible for: (a) developing and monitoring the Department's budget and finances; (b) providing human resource services to the Department; and (c) providing information technology services to the Department. The Office of Crime Victim Services is generally responsible for providing direct assistance to victims and witnesses of crimes and administering programs that support services to crime victims.

Under s. 165.25(10m), the department must annually provide the Legislature the following information: (a) the amount of each grant awarded by DOJ under the relevant grant program for the prior fiscal year; (b) the grantee to whom each grant was awarded; (c) the agency's methodology for awarding grants and determining the level of grant funding to be provided to each grant recipient; (d) performance measures created by DOJ for each grant program; and (e) reported results of each grant recipient in each fiscal year as to the attainment of performance measures developed for it under the relevant grant program. The reporting requirement is applicable to the Treatment Alternatives and Diversion grant program, the Drug Court grant program, the Child Advocacy Center grant program, the Law Enforcement Officer grant program, and the Youth Diversion grant program.

With the exception of grant programs intended to provide support to crime victims and witnesses, the remainder of this chapter discusses the state funded grant programs administered by DOJ. Grant programs intended to provide support to crime victim and witnesses (including the Child Advocacy Center grant program) are discussed in the Legislative Fiscal Bureau's informational paper, "Crime Victim and Witness Services."

Youth Diversion Grant Program

Under s. 165.987 of the statutes, DOJ is required to enter into contracts with organizations for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs. The statutes specifically direct the Department to enter into the following contracts for the following amounts: (a) \$500,000 to an organization which provides services in a county having a population of 500,000 or more (which DOJ has awarded to Milwaukee County); (b) \$150,000 to an organization in Racine County; (c) \$150,000 to an organization in Kenosha County; (d) \$150,000 to an organization in Brown County; and (e) \$100,000 to an unspecified organization (which DOJ has awarded to the City of Racine).

Funding for the youth diversion program during the 2019-21 biennium is supported by \$672,400 PR annually. The program revenue funding is provided from the penalty surcharge. Under current law, whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also

imposes a penalty surcharge of 26% of the total fine or forfeiture.

In addition to the budget for youth diversion contracts, the statutes specify that DOJ may not distribute more than \$300,000 PR annually to the organization it has contracted with which provides services to a county with a population of 500,000 or more for alcohol and other drug abuse education and treatment services for participants in that organization's youth diversion program. These funds are provided by the Department of Health Services from federal Substance Abuse and Mental Health Services Administration (SAMHSA) funds that it administers. In recent years, DHS has transferred \$281,600 of these federal funds to DOJ for the youth diversion program.

Table 6 identifies the youth diversion grants awarded in 2019-20, including: the county in which the grantee operates; the amount of the award; and a description of the youth diversion project for 2019-20.

Law Enforcement Officer Grants

Under 1993 Wisconsin Act 193, the Legislature created a law enforcement officer supplement grant program under the Office of Justice Assistance. After the dissolution of the Office of Justice Assistance, the responsibility to administer this grant program was transferred to DOJ's Division of Law Enforcement Services. Under this program, DOJ provides grants to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling.

Under s. 165.986 of the statutes, a city is eligible to apply for a grant under this program if it has a population of at least 25,000. The Department of Justice must make grant awards to the 10 eligible

cities submitting applications that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available from the FBI's uniform crime reporting (UCR) system. The Department may not award an annual grant in excess of \$150,000 to any one city. Awards are made on a calendar year basis and a city may receive a grant for three consecutive years without submitting a new application each year.

A city applying for a grant under the program must include a proposed plan for expenditure of the grant monies. Such funding may be utilized only for salary and fringe benefits costs. Further, the grantee must provide a 25% local match to any grant funds received under the program. Cities may generally not utilize the grant funding to pay for overtime costs (except in the first year of a city's initial grant under the program). Grant funding under this program must result in a net increase in the number of uniformed law enforcement officers assigned to beat patrol duties, when compared to the number of uniformed law enforcement officers the city assigned to beat patrol on April 21, 1994.

Under 1993 Act 193, initial funding for the grant program totaled \$1,000,000 GPR. 2011 Act 32 eliminated GPR funding for the program and instead provided justice information system surcharge funding to support the grant program. As a result, funding for the law enforcement officer grant program totaled \$1,224,900 PR annually. Under 2019 Act 9 provided \$1,000,000 GPR annually the program. Further, Act 9 reduced funding for the beat patrol grant program by \$1,000,000 PR annually.

Table 7 shows the municipalities in 2019-20 that were awarded a supplemental grant. The table also shows the amount each city's local match as well as a description of how the grant funding was utilized.

Table 6: Youth Diversion Grants Awarded in 2019-20

County	Award	Project Description
Brown	\$96,200	The Brown County Ties project is a gang diversion initiative targeting Brown County youth that involves collaboration between local youth service agencies and law enforcement. The Boys & Girls Club of Green Bay’s professional youth development staff target at-risk youth and link them to structured programs that provide positive social and activity outlets. Project activities include educational, recreational, and employment readiness programs. Programming emphasizes good character, leadership, and health and life skills while developing resiliency to gang influences, alcohol, drugs, and other risk behaviors. The Boys & Girls Club subcontracts with Family Services of Northeast Wisconsin to support outreach programming for youth who are susceptible to recruitment by Asian gangs. The Boys & Girls Club also subcontracts with the Green Bay Police Department to establish a positive relationship between youth and law enforcement officers during community based activities such as prevention education presentations, teen events, and resiliency training programs.
Kenosha	\$96,200	The Kenosha County Department of Human Services and two community-based provider agencies use grant funds to provide gang diversion/prevention services to at-risk or gang-involved youth. Prevention/intervention services are designed to reduce gang-risk/involvement and delinquent behavior, and increase participation in pro-social activities.
Milwaukee	\$320,400	The Social Development Commission (SDC) Youth Service’s Gang Diversion program implements best practices and evidence-based models to benefit of under-resourced youth who are involved or at-risk of becoming involved in the juvenile justice system. Gang diversion activities are designed to address the risk factors underlying gang recruitment and gang involvement. The program provides youth with anti-gang and violence diversion strategies. SDC implements individual and family centered approaches to decrease in the number of youth who partake in delinquent behavior or who have used aggression to handle a conflict.
Milwaukee	\$281,600	SDC’s Counseling and Wellness Clinic will provide outpatient treatment services for Alcohol, Tobacco, and Other Drug Abuse (ATODA). The program’s central goals are to educate and treat youth and parents/guardians about ATODA issues and provide them with effective coping skills. SDC staff assists under-resourced youth who struggle with ATODA issues. Staff conduct assessments, develop a treatment plan, and provide case management. Participating youth gain an awareness of the community issues that impact the safety of Milwaukee County residents.
Racine	\$63,400	The City of Racine partners with Safe Haven of Racine, RUSD, Why Gangs LLC, Racine Vocational Ministries and the YMCA to provide specific intervention services to mitigate the adverse impact of gang membership (and gang affiliation) in the City of Racine. Under the administrative oversight of the Executive Director of Safe Haven of Racine, Why Gangs LLC will provide specific gang diversion services as delineated in the evidence-based outcomes documentation. Why Gangs facilitators will work with RUSD school administrators, Racine County HSD youth counselors, YMCA youth program directors to develop a network of services to strategically engage the target population. Racine Vocational Ministries will be contracted to assist with employment opportunities for at-risk youth who are released back into the community from corrections.
Racine	\$96,200	The Young Leaders Academy (YLA) is a year-round program consisting of three components dedicated to reversing the negative trend of low academic achievement and stereotypical behavior of youth ages 7-18 from low-income communities in Racine, WI. The YLA’s mission is to nurture the development of leadership abilities and life skills of inner-city youth, empowering them to improve the quality of their life and assist them in becoming productive citizens. The YLA uses the Search Institutes 40 Developmental Assets as the foundation of its education and leadership philosophy. The Assets are a set of skills, experiences, relationships and behaviors that enable young people to develop into successful and contributing adults.
Total	<u>\$954,000</u>	

Table 7: Law Enforcement Officer Supplement Grants Awarded in 2019-20

Grantee	Award	Local Match	Project Description
Beloit	\$121,434	\$40,478	Beloit funded a portion of two beat patrol officers. The program utilizes the latest community policing practices to improve community relationships and reduce violent crime.
Fitchburg	121,434	40,478	Funds are used by Fitchburg Police Department to support two officers. The officers' goals are to build positive relationships that foster trust and to cooperatively problem-solve community crime/disorder issues with stakeholders.
Wausau	121,434	40,478	Funds are used by the Wausau Police Department to perform community patrols. The project adds police officers to community beats to respond more quickly to calls and to investigate, deter, and solve crime.
Green Bay	121,434	40,478	Funds are used by the Green Bay Police Department to allow five officers to perform beat patrol duties, towards community and intelligence-led policing practices.
Kenosha	121,434	40,478	Kenosha funds are used to support four beat patrol officers working foot patrol and other beat patrol duties. The officers assist with neighborhood and business collaboration initiatives and address crime issues.
Madison	126,714	42,238	Madison Police Department funds are used to support four police officers' community work through beat patrols.
Milwaukee	126,714	42,238	City of Milwaukee funded a portion of two beat patrol officers. Funds are used to conduct proactive community policing in partnership with the community to identify, reduce, and prevent crime.
Racine	121,434	40,478	City of Racine Police Department funds two beat patrol officers. Funds target and address crime and quality of life issues at the neighborhood level. The beat patrol officers utilize squad, foot, and bicycle patrols to perform standard law enforcement duties in addition to developing problem-solving partnerships at the local level.
Sheboygan	121,434	40,478	Funds are used by the Sheboygan Police Department to support two full time sworn police officers' salary and fringe benefits to provide targeted beat patrol activities in the City of Sheboygan. The officers engage in outreach activities within neighborhoods identified as having high violent crime rates, lower educational attainment, lower economic status, and other challenges that have lead to decreased neighborhood cohesion and collective efficacy.
West Allis	<u>121,434</u>	<u>40,478</u>	West Allis Police Department funds a portion of the salary and fringe benefits of three officers assigned to daily patrol duties. Duties include traffic enforcement, accident investigations, criminal investigations, neighborhood patrols, and over all community policing efforts.
Total:	\$1,224,900	\$408,300	

**Law Enforcement Drug
Trafficking Response Grants**

Under 2017 Act 261, a law enforcement drug trafficking response grant was created and provided \$1 million GPR in 2018-19. A Wisconsin law enforcement agency or tribal law enforcement agency may apply to DOJ for a grant

by submitting a proposed plan of expenditure of the grant money. The proposed plan of expenditure must specify a new program or purpose for which the funds will be used. If the proposed plan of expenditure will result in the agency incurring an ongoing expense that will continue after all grant funds have been spent, the plan must include a description of how that expense will be met when there are no remaining grant funds.

The Department of Justice is required review each application and plan and may provide grants to an eligible Wisconsin law enforcement agency or tribal law enforcement agency of not more than \$50,000 per application and plan and not more than \$100,000 per agency. A grant may be provided only to fund a new program or purpose within the agency and may not be provided to supplement an existing program.

A Wisconsin law enforcement agency or tribal law enforcement agency receiving a grant may use the grant to fund extra training for law enforcement officers, the hiring of additional officers to investigate drug trafficking, or any other purpose that is directly related to drug trafficking response and that is not an existing program within the agency at the time the grant is received.

As part of the application process, each law enforcement agency or jurisdiction is required to include the following information within their submission to be considered for funding: (a) budget narrative describing how items relate to the overall drug enforcement strategy; (b) projective narrative describing how the proposed plan responds to the current drug trafficking trends within the jurisdiction; (c) problem description identifying the drug trafficking problems in the area, and current strategies to combat these problems; (d) agency profile describing the law enforcement agency related to drug trafficking enforcement, including the names of participating jurisdictions and their role in the project; and (e) other funding received related to drug trafficking in place during the project time period and explaining how this new requested funding will support a new program or purpose within the agency. Compliant applications are reviewed for completeness and scored according to the grant guidelines within the solicitation. In addition to review ratings, consideration may be given to the following factors: (a) underserved populations, (b) strategic priorities, (c) past performance, (d) underserved geographic areas, and (e) available funding.

Table 8 shows the municipalities in 2020-21 that were awarded a law enforcement agency drug trafficking response grant.

Table 8: Law Enforcement Agency Drug Trafficking Response Grants Awarded in 2020-21

Agency Name	Award Amount
City of Algoma	\$50,000
City of Appleton	31,800
City of Ashwaubenon,	31,800
Brown County	31,800
Calumet County	24,500
Columbia County	50,000
Crawford County	50,000
Dane County	50,000
Eau Claire County	48,500
Florence County	18,500
Iowa County	50,000
City of Kenosha	46,200
La Crosse County	44,700
City of La Crosse	25,600
Manitowoc County	50,000
Oneida County	21,300
Ozaukee County	19,800
Racine County	49,200
City of Sheboygan	20,400
St Croix County	50,000
Washington County	49,600
Waupaca County	50,000
Waukesha County	47,300
WI Dept of Justice/DCI	39,200
Winnebago County	<u>50,000</u>
Total	\$1,000,000

**Treatment Alternatives and
Diversion Grant Program**

Provisions of 2005 Wisconsin Act 25 created the Treatment Alternatives and Diversion (TAD) grant program under the Office of Justice Assistance (OJA). The program is intended to provide grants to counties and tribes to establish and operate programs, including suspended and deferred

prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. Projects supported by the TAD program typically follow one of two models: pre-trial diversion or adult drug court.

A county or tribe is eligible for a TAD grant if its proposed program meets all of the following conditions:

- Is designed to meet the needs of an individual who abuses alcohol or other drugs and who has been or may be charged or convicted of a crime related to the individual's use of alcohol or other drugs;
- Is designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families;
- Establishes eligibility criteria for an individual's participation in the program, and the criteria specify that a violent offender is not eligible to participate in the program;
- Subject to the criteria identified in the following point, the program does not prohibit a person from beginning or continuing participation in the program because he or she uses a medication that is approved by the federal Food and Drug Administration for the treatment of his or her substance abuse disorder;
- Allows a participant to use a medication that is approved by the federal Food and Drug Administration if all of the following are true: (a) a licensed health care provider, acting in the scope of his or her practice, has examined the participant and determined that the participant's use of the medication is an appropriate treatment for the person's substance use disorder; (b) the medication was appropriately prescribed by a person authorized to prescribe medication in Wisconsin; and (c)

the participant is using the medication as prescribed as part of treatment for a diagnosed substance use disorder.

- Provides services that are consistent with evidence-based practices in substance abuse and mental health treatment, and the program provides intensive case management;
- Utilizes graduated sanctions and incentives to promote successful substance abuse treatment;
- Provides holistic treatment to its participants and provides its participants services to eliminate or reduce their alcohol or other drug use, improve their mental health, facilitate their gainful employment, education or training, provide them stable housing, facilitate family reunification, ensure child support payments, and increase the payment of other court-ordered obligations;
- Is designed to integrate all mental health services provided to program participants by organizations and government agencies;
- Provides substance abuse and mental health treatment services through providers that are certified by the Department of Health Services;
- Requires participants to pay a reasonable amount for their treatment, based on their income and available assets, and utilizes all possible resources available through insurance and government aid programs;
- Is developed and implemented in collaboration with at least one circuit court judge, the district attorney, the state public defender, local law enforcement officials, and county agencies responsible for providing social services; and
- Complies with other eligibility requirements established by DOJ.

Under 2005 Act 25, funding for TAD program

grants and evaluation was supported by a continuing PR appropriation. Program revenue for this appropriation was provided from: (a) the drug abuse program improvement surcharge (DAPIS); and (b) a \$10 drug offender diversion surcharge (DODS) assessed for property crime convictions under Chapter 943 of the statutes. Act 25 also created an annual GPR appropriation to support the TAD program, but provided no GPR funding.

Under 2009 Wisconsin Act 28, the Legislature created a PR appropriation to provide additional funding to the TAD program from revenue generated from the justice information system surcharge. The justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment actions, 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.

Under 2013 Acts 20 and 197, the TAD program was transferred to DOJ's Division of Law Enforcement Services and expanded. Act 20 provided an additional \$1,000,000 GPR annually to support grants under the TAD program, and Act 197 provided an additional \$1,500,000 GPR to support grants under the program.

Under 2015 Act 388, the TAD program was provided additional funding through a one-time transfer of \$2,000,000 PR in 2018-19 to DOJ from the unencumbered balance in a Department of Health Services institutional operations and charges appropriation.

Under 2017 Act 32, an additional \$2,000,000 GPR annually was provided for the TAD program during the 2017-19 biennium only. Act 32 provided an additional \$150,000 GPR annually during the 2017-19 biennium and required that the additional funds be utilized to support TAD grants to counties that do not currently receive a grant under the TAD program.

Under 2017 Act 59, \$250,000 PR annually was provided for the TAD program during the 2017-19 biennium only. Program revenue funds were transferred from the Attorney General's discretionary settlement fund in 2017-18.

Under 2019 Act 9, one-time funding for the following was provided: (a) \$250,000 annually for existing programs to replace \$250,000 annually in one-time program revenue funding provided in the 2017-19 biennium; (b) \$250,000 annually to expand existing programs; and (c) \$500,000 annually for new TAD programs in a new appropriation.

As a result, funding for the TAD program during the 2019-21 biennium is \$6,739,200 annually (\$5,650,000 GPR annually and \$1,089,200 PR annually). Program revenue for the TAD program is comprised of the following: (a) \$1,078,400 PR annually from the justice information system surcharge; and (b) \$10,800 PR annually from DAPIS and DODS.

Any county or tribe receiving a grant under the TAD program must provide matching funds equal to 25% of the amount of the grant. Beginning in 2012-13 and every five years thereafter, DOJ must make TAD grants available to counties and tribes on a competitive basis.

In addition to providing increased funding for the TAD program, 2013 Acts 20 and 197 required DOJ to undertake new evaluative responsibilities. Under Act 20, DOJ must evaluate the TAD grant program every two years. Under Act 197, each month, a county or tribe receiving TAD grant funding must submit to DOJ any data requested by the Department. The Department must analyze the data provided by the counties, tribes, and prepare an annual progress report that evaluates the effectiveness of the TAD program. The Department must make this annual progress report public. Moreover, every five years, DOJ must analyze both the data it receives from the counties, tribes, and its own annual progress reports and prepare a

comprehensive report on the TAD program. The comprehensive report must include a cost benefit analysis of the program. The Department's five-year comprehensive report must be submitted to the Legislature.

Prior to the expansion of TAD under 2013 Acts 20 and 197, seven TAD projects were operational. The expansion of the program's GPR budget under Act 20 allowed the Department to award grants to nine additional counties to develop TAD projects. These nine projects began operation in January, 2014. The later expansion of TAD's GPR budget under Act 197 allowed the Department to award grants to 14 counties and two tribes to develop 14 TAD projects. These 14 projects began operation in June, 2014.

A new, competitive five-year grant cycle for TAD grants began in January, 2017. Due to the increase in funding for the TAD program under 2015 Act 388, DOJ was able to award grants to 41 TAD projects for the new grant cycle. These 41 projects are operated by 41 counties and two tribes. Appendix VI lists all of the TAD projects in calendar year 2019, by county or tribe, as well as the date each project began operation, the grant that is awarded to each project in 2019, and a description of each project.

Table 9 identifies the number of individuals who successfully completed TAD treatment, by county or tribe, in calendar year 2020 ("program graduates"). Staff for new TAD projects generally spend the initial months after a project's inception planning and developing future operations. Further, it can be up to two years before any participants graduate from the program.

The Department of Justice prepared a cost-benefit analysis of the TAD program covering the years 2014-2018. The report concluded that, "the Wisconsin criminal justice system receives a benefit of \$4.17 for every \$1 in state TAD funding spent on treatment courts and a benefit of \$8.68

Table 9: TAD Program Graduates, 2020

County/Tribe	Program Graduates
Adams County	2
Ashland County	19
Barron County	1
Bayfield County	5
Brown County	99
Buffalo County	12
Burnett County	8
Chippewa County	14
Columbia County	10
Crawford County	2
Dane County	40
Dodge County	25
Douglas County	2
Dunn County	26
Eau Claire County	27
Grant County	16
Green County	0
Green Lake County	1
Iowa County	5
Jackson County	0
Jefferson County	28
Kenosha County	3
La Crosse County	6
Lac du Flambeau Tribe	3
Manitowoc	15
Marathon County	4
Marinette County	7
Marquette County	5
Menominee Tribe	1
Milwaukee County	49
Monroe County	4
Outagamie County	202
Ozaukee County	16
Pepin County	5
Pierce County	28
Polk County	6
Portage County	7
Racine County	3
Richland County	5
Rock County	15
Rusk County	3
Sauk County	5
Sheboygan County	3
St. Croix County	30
Taylor County	3
Trempealeau County	6
Walworth County	12
Washburn County	0
Washington County	17
Waukesha County	24
Waushara County	0
Wood County	<u>16</u>
Total	845

for diversion programs. These benefits are incurred through averted incarceration costs and reduced future crime costs per discharge in 2014-2018."

Drug Court Grant Program

Under 2013 Act 20, the Department of Justice was charged with administering a drug court grant program. A drug court is a court that diverts a substance-abusing individual from prison or jail into treatment by increasing direct supervision of the individual, coordinating public resources, providing intensive community-based treatment, and expediting case processing. Several TAD projects, discussed in the section "Treatment Alternatives and Diversion Grant Program," are drug courts.

Under the drug court grant program, DOJ may only provide grants to counties or tribes without an established drug court, in order for those counties to establish and operate a drug court. Table 10 lists the 26 counties and tribes with established drug courts in 2019-20.

During the 2019-21 biennium, the Department was appropriated \$500,000 GPR annually to provide grants to counties or tribes without an

Table 10: Counties and Tribes with Drug Courts in 2019-20

Brown County	Marathon County
Columbia County	Marinette County
Dane County	Monroe County
Dodge County	Justice Department
Door County	Outagamie County
Douglas County Health and Human Services	Polk County
Grant County	Portage County
Green County	Racine County
Green Lake County	Rock County
Iowa County	Shawano County
Jefferson County	St. Croix County
Kenosha County	Walworth County
Manitowoc County	Waukesha County
	Wood County

established drug court. In 2018-19, the Department awarded grants totaling \$500,000 for drug courts in: Adams County, Green County, Green Lake County, Portage County, and Richland County. [Note that Adams and Portage Counties received funds from both the TAD grant program and the county drug court grant program.] These new drug courts began operation in January, 2019. Appendix VII provides the amount which will be awarded for each of these new drug courts in calendar year 2019, as well as brief description of each project.

Diversion Pilot Program

Under 2017 Act 32 as modified by 2019 Act 9, an appropriation was created for a Diversion pilot program that diverts nonviolent offenders to a treatment option. The Act provided \$261,000 GPR for 2019-20 and \$261,000 GPR for 2020-21 for the TAD pilot program and then repeals the appropriation on July 1, 2021. On February 7, 2018, funding was released by the Joint Committee on Finance for a pre-booking diversion program. The Department selected three sites for this pilot: (a) Superior Police Department (\$81,000); (b) Sauk Prairie Police Department (\$100,000); and (c) Door County Sherriff's Department (\$80,000).

County/Tribal Law Enforcement Grant Programs

The budget for the Division of Management Services includes \$1,911,800 PR and 1.0 PR position in 2020-21 to administer three related grant programs to support law enforcement services on tribal lands and in counties bordering tribal reservations. Of these budgeted funds and positions in 2020-21: (a) \$631,200 PR is budgeted for grants under the county-tribal law enforcement grant

program; (b) \$695,000 PR is budgeted for grants under the tribal law enforcement assistance grant program; (c) \$490,000 PR is budgeted for grants under the county law enforcement services grant program; and (d) \$115,400 PR and 1.0 PR position is budgeted to permit the Department to administer the county-tribal law enforcement grant program. Funding for the grants and for program administration is provided from tribal gaming revenues.

Statutory Authorization. Section 165.90 of the statutes creates the county-tribal law enforcement grant program, and assigns the program's administrative responsibility to DOJ. Any county with one or more federally-recognized Indian reservations within or partially within its boundaries may enter into an agreement with an Indian tribe located in the county to establish a cooperative county-tribal law enforcement program. The county and tribe must develop and annually submit to DOJ a joint program plan, and report on the performance of law enforcement activities on the reservation in the previous fiscal year. The joint program plan must identify all of the following: (a) a description of the proposed cooperative county-tribal law enforcement program for which funding is sought, including information on the population and geographic area or areas to be served by the program; (b) the program's need for funding and the amount of funding requested; (c) the governmental unit that will receive and administer the grant funding and the method by which the funding will be disbursed, which includes specifying the allocation of the aid between the tribe and county; (d) the types of law enforcement services that will be performed on the reservation and the persons who will perform the services; (e) the individual who will exercise daily supervision and control over law enforcement officers participating in the program; (f) the method by which county and tribal input into program planning and implementation will be assured; (g) the program's policies regarding deputization, training and insurance of law enforcement officers; (h) the record keeping procedures and types of data to be

collected by the program; and (i) any other information required by DOJ or deemed relevant by the county and tribe submitting the plan.

Section 165.91 of the statutes creates the tribal law enforcement assistance grant program. Wisconsin tribes are eligible to participate in this grant program. Under the program, a tribe must submit an application that includes a proposed plan for expenditure of the grant funds. The Department is required to develop criteria and procedures in administering this program.

Section 165.89 of the statutes creates the county law enforcement services grant program. A county is eligible to participate in the grant program if the county: (a) borders one or more federally-recognized Indian reservations; (b) has not established a cooperative county-tribal law enforcement program with each such tribe or band; (c) demonstrates a need for grant-eligible law enforcement services; and (d) applies for a grant and submits a proposed plan showing how the funds will be used to support law enforcement services.

Program Administration. Under section 165.90(3m) of the statutes, DOJ must consider the following factors when determining whether to approve and fund a county/tribal program plan under the county-tribal law enforcement program: (a) the population of the reservation area to be served by the program; (b) the complexity of the law enforcement problems that the program proposes to address; and (c) the range of services that the program proposes to provide. When determining whether to make grants under the county-tribal law enforcement program, the Department also considers the county crime rate and the tribal unemployment rate. The Department averages the preliminary award for a given year with up to three of the most recent grants for a given tribe, in order to mitigate large grant award fluctuations from year to year.

Table 11 identifies the grant amounts awarded

Table 11: Grants Awarded to Counties and Tribes in 2020

County/Tribe	Grant
Ashland/ Bad River Band of Lake Superior Chippewa Indians	\$44,306
Barron/ St. Croix Chippewa Community	14,904
Bayfield/ Red Cliff Band of Lake Superior Chippewa Indians	48,895
Brown/Oneida Nation	34,687
Burnett/ St. Croix Chippewa Community	20,715
Forest/Forest County Potawatomi Community	36,110
Forest/ Sokaogon Chippewa Community in Mole Lake	37,069
Jackson/Ho Chunk Nation	25,026
Juneau/Ho Chunk Nation	29,578
Menominee/ Menominee Indian Tribe of Wisconsin	71,246
Monroe/Ho Chunk Nation	20,943
Outagamie/Oneida Nation	31,313
Polk/ St. Croix Chippewa Community	19,461
Sauk/Ho Chunk Nation	23,684
Sawyer/ Lac Courte Oreilles Band of Lake Superior Chippewa Indians	50,099
Shawano/Ho Chunk Nation	19,264
Shawano/ Stockbridge-Munsee Mohican Community	30,362
Iron/ Lac du Flambeau Band of Lake Superior Chippewa Indians	56,501
Wood/Ho Chunk Nation	<u>17,037</u>
Total	\$631,200

to counties and tribes for calendar year 2020 grant activities. Although some of the grants were awarded to programs that include tribal police departments, most of the grants help pay for services provided by county sheriffs to Indian reservations and communities.

Section 165.91 of the statutes delegates the responsibility to DOJ to develop the criteria and procedures to be used in administering the tribal law enforcement grant program. The Department utilizes a three-criteria formula in making the awards. In evaluating the grant applications and making awards, DOJ considers: (a) reservation population; (b) county crime rate; and (c) tribal unemployment rate. The Department further averages the preliminary award for a given year with up to three of the most recent grants for a given

Table 12: Grants Awarded to Tribes in 2020

Tribe	Grant
Bad River Band of Lake Superior Chippewa Indians	\$109,973
Ho Chunk Nation	24,846
Red Cliff Band of Lake Superior Chippewa Indians	74,523
Oneida Nation	89,916
St. Croix Chippewa Community	82,979
Forest County Potawatomi Community	23,825
Sokaogon Chippewa Community in Mole Lake	23,555
Menominee Indian Tribe of Wisconsin	65,778
Lac Courte Oreilles Band of Lake Superior Chippewa Indians	74,376
Stockbridge-Munsee Mohican Community	43,454
Lac du Flambeau Band of Lake Superior Chippewa Indians	<u>81,775</u>
Total	\$695,000

tribe, in order to mitigate large grant award fluctuations from year to year. Table 12 identifies the grant amounts awarded to tribes for calendar year 2020 activities. All of the grants provided under this program support tribal law enforcement operations.

As with the tribal law enforcement grant program, section 165.89 of the statutes delegates to DOJ the responsibility to develop the criteria and procedures to be used in administering the county law enforcement grant program. Of the \$490,000 PR in annual grant funding under the program, however, state statute specifically provides that DOJ must allocate \$300,000 under the program to Forest County to fund law enforcement services. The Department also utilizes a modified three-criteria formula (county population, county crime rate, and county unemployment rate) to make awards of the remaining \$190,000 in funding under this program to Wisconsin counties. As with the other programs, in order to mitigate large grant award fluctuations from year to year, DOJ averages the preliminary award for a given year

with up to three of the most recent grants for a given county. Table 13 identifies the grant amounts awarded to counties for calendar year 2020 activities. All counties use these grant funds to support law enforcement services, typically near bordering reservation lands.

Table 13: Grants Awarded to Counties in 2020

County	Grant
Barron	\$21,481
Burnett	29,441
Langlade	22,889
Menominee	29,698
Oconto	23,819
Oneida	32,102
Shawano	30,570
Forest	<u>300,000</u>
Total	\$490,000

Local Anti-Drug Task Force Grants

The Field Operations Bureaus within the Department's Division of Criminal Investigation works with all anti-drug task forces in the state on a regular basis. In the Lake Winnebago Area Multi-Agency Enforcement Group (LWAM), an assigned DOJ special agent-in-charge is the task force commander.

Under current law, DOJ administers a program to provide grant funding to local anti-drug task forces. The Department provides funding for the task forces through the state penalty surcharge and federal Byrne Justice Assistance Grants.

In providing funding for local anti-drug task forces, the first priority under the program is to support task forces with a significant multi-jurisdictional component. Priority under the program is also given to those task forces rated high under a threat assessment of drug trafficking.

Appendix VIII identifies the grant funding provided to local anti-drug task forces for calendar year 2019. The appendix also identifies budgeted allocations for the task forces for calendar year 2020.

ShotSpotter Program

Under 2013 Act 263, the Department was charged with administering a grant program which provides funding to the City of Milwaukee for the ShotSpotter program. The ShotSpotter program is a system of sensors that are installed throughout Milwaukee. When a gun is fired, installed sensors pick up the sound of the gun shot and transmit information on the location of the gun shot to police communications and squad cars equipped with special software.

Act 263 appropriated \$175,000 GPR in 2014-15 to the City of Milwaukee's ShotSpotter program. Similarly, during the 2015-17 biennium, funding to support the City of Milwaukee's ShotSpotter program totals \$175,000 GPR annually. ShotSpotter's current coverage spans 11.36 square miles divided into two coverage areas on the north and south side of Milwaukee. The coverage area consists of approximately 190 acoustic audio sensors that record impulsive sounds, like gunshots. The City indicates that the ShotSpotter grant in 2019-20 was utilized for the continued funding and operation of ShotSpotter.

24/7 Sobriety Programs -- Pilot Project

Under 2015 Act 55, the Legislature created a 24/7 sobriety program pilot project that is intended to provide a high level of monitoring to participants convicted of multiple operating while intoxicated (OWI) offenses to ensure that the

participants are not consuming alcohol or controlled substances, with immediate sanctions if a violation occurs. The provisions of the pilot project are set to sunset on June 30, 2021.

Under the pilot program, DOJ is authorized to designate up to five counties to participate in a voluntary 24/7 sobriety program. A county may opt not to participate in the program, and if it does, DOJ may designate another county to replace it.

A 24/7 sobriety program must limit participation to the following participants: (a) 2nd offense or above OWI offenders who, as a condition of bond, release under bail, probation, release to parole, or release to extended supervision, are ordered by a judge or the Department of Corrections to totally abstain from using alcohol or a controlled substance and participate in the 24/7 sobriety program; and (b) 2nd offense or above OWI offenders who, while released on bond, bail, probation, parole, or extended supervision, voluntarily agree to totally abstain from using alcohol or a controlled substance and participate in the 24/7 sobriety program.

Act 55 also created a PR annual appropriation in DOJ to support the costs of analyzing data and preparing annual reports on the 24/7 sobriety program. Program revenue for the appropriation would be generated from the monies received from agreements between DOJ and the counties with pilot programs. Act 55 did not provide this appropriation any expenditure authority during the 2015-17 biennium. In 2020, DOJ determined there was insufficient interest from counties in order to implement the program.

Office of School Safety

Under 2017 Act 143, an Office of School Safety was created in the Department of Justice. In

conjunction with the Department of Public Instruction (DPI), the Office is required to create model practices for school boards and private schools to use when developing or reviewing a school safety plan. The Department of Public Instruction is required to provide any resources or staff requested by the Office to create the model practices. The Office is be required to consult with the Wisconsin School Safety Coordinators Association and the Wisconsin Safe and Healthy Schools Training and Technical Assistance Center. When requested, the Office is required to assist a school board or the governing body of a private school in developing or reviewing the school safety plans. In addition, the Office is required to offer, or contract with a state agency to offer, training to school teachers, school counselors, and coaches on school safety. Act 143 allows DOJ to collect fees from schools that receive a grant for the training and creates an appropriation to receive these fees. Training subjects are required to include trauma informed care.

The Office is responsible for administering the grants for school safety and safety-related upgrades to school buildings, equipment, and facilities. Act 143 appropriated \$100 million in GPR funding for this purpose under a continuing appropriation. The Office has awarded \$93.2 million for over 1,300 grants in two rounds of funding. As of September 1, 2020, approximately \$77.0 million has been used to reimburse schools for eligible expenses. The Office is required to award the grants for expenditures related to improving school safety. The Office must accept grant applications from public schools, private schools, independent charter schools, and tribal schools. The Office developed a plan for awarding the grants, in consultation with DPI, and must include a description of what types of expenditures are eligible to be funded by grant proceeds.

Statute specifies certain eligible expenditures, but does not otherwise limit DOJ authority to determine how grants are awarded or what expenditures are eligible. Eligible expenditures explicitly

include expenditures for compliance with DOJ model practices for school safety; expenditures for DOJ school safety training; expenditures for safety-related upgrades to school buildings, equipment, and facilities; and expenditures necessary to comply with requirements to submit school blueprints to law enforcement and the Office of School Safety.

Act 143 provided the Office of School Safety with an unclassified director. The director is appointed by the Attorney General. The Office has a total of 11.8 positions (1.0 GPR, 3.8 PR, and 7.0 FED positions) and utilizes a number of limited-term employee positions.

In addition to state school safety grants, the Office was awarded \$2.2 million in federal grants over two years to create a Resource Center. The Resource Center is intended to provide the following services: (a) develop and implement a state-run threat reporting system; (b) threat assessment

consultation; (c) create a critical incident response team; and (d) general school safety guidance. In 2020-21, the Office is budgeted \$1,417,600 all funds.

Court Appointed Special Advocates

Under 2017 Act 255, the Wisconsin Court Appointed Special Advocate Association (CASA Association) is provided grant funding of \$250,000 GPR each fiscal year. In addition, Act 255 requires the CASA Association to submit an annual report describing the use of the grant funds to the Governor, Joint Committee on Finance, and the appropriate standing committees of the Legislature. The Association trains advocates who are then appointed by a judge to advocate for a child, or sibling group, who are in the child welfare system.

PROSECUTORIAL RESPONSIBILITIES OF 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 four-year term at the general election held in each presidential election 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 (0.6), Florence (0.6), and Pepin (0.8) Counties, and are full-time in all other prosecutorial units.

**Duties and Responsibilities
of District Attorneys**

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

1. Prosecute all criminal actions in state courts.
2. 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.
3. Participate in John Doe proceedings (proceedings to determine whether a crime has been committed and by whom).
4. When requested, appear before grand juries to examine witnesses and provide advice and legal services to the grand jury.
5. Assist the Departments of Children and

Families and Health Services in conducting welfare fraud investigations.

6. 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.

7. Commence or appear in certain civil actions.

8. Commence or appear in sexually violent person commitment proceedings.

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

10. 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.

District Attorney Funding and Staffing

While some counties have a single district

attorney to perform the duties identified above, most DAs have one or more assistant DAs who are also authorized to perform the duties. Assistant DAs must be admitted to practice law in this state. If a county has a population of 100,000 or more, the DA may also appoint between one and seven deputy DAs, depending 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.

On the date of transition to state service, 332.05 prosecution positions became state employees. As of September, 2020, 495.5 prosecutor positions were authorized, including 449.0 funded from general purpose revenue and 46.5 funded from program revenue. Of the 495.5 prosecutors statewide, 70.0 are elected DAs, 26 are Deputy DAs, and the remaining 399.5 are ADAs. Salary and fringe benefit funding for DAs, ADAs, and deputy DAs in 2020-21 (including amounts to make salary adjustments under the pay progression plan, discussed below) is \$51,481,100 GPR and \$3,767,900 PR.

Under 2019 Act 9, \$3,581,900 GPR in 2019-20 and \$4,784,900 GPR in 2020-21 and 61.46 additional prosecutor positions were provided. These positions were allocated to 56 counties as directed by the Governor. Table 14 shows the total number of prosecutor positions authorized for each county as of September, 2020.

In addition DAs and ADAs, in order to prosecute a case, a court may appoint a special prosecutor on its own motion or at the request of a district attorney to perform the same duties as a state-employed prosecutor. Before a court appoints a

Table 14: State Prosecutor Positions – September, 2020

County	Positions	County	Positions
Adams	2.00	Marathon	12.00
Ashland	2.60	Marinette	3.00
Barron	4.00	Marquette	1.60
Bayfield	1.70	Milwaukee	115.50
Brown	16.00	Monroe	4.00
Buffalo	1.20	Oconto	2.00
Burnett	2.00	Oneida	2.50
Calumet	3.00	Outagamie	11.00
Chippewa	6.00	Ozaukee	4.60
Clark	2.00	Pepin	0.80
Columbia	5.00	Pierce	3.00
Crawford	1.00	Polk	4.00
Dane	30.00	Portage	6.00
Dodge	5.00	Price	1.50
Door	2.00	Racine	20.00
Douglas	5.00	Richland	1.80
Dunn	5.00	Rock	15.00
Eau Claire	11.00	Rusk	2.00
Florence	0.60	Saint Croix	7.00
Fond du Lac	8.00	Sauk	5.00
Forest	2.00	Sawyer	3.00
Grant	2.00	Shawano/ Menominee	4.00
Green	2.60	Sheboygan	9.00
Green Lake	2.60	Taylor	1.50
Iowa	2.00	Trempealeau	2.00
Iron	1.00	Vernon	2.00
Jackson	3.00	Vilas	2.00
Jefferson	6.00	Walworth	6.00
Juneau	3.00	Washburn	2.00
Kenosha	17.00	Washington	6.40
Kewaunee	1.50	Waukesha	19.00
LaCrosse	10.00	Waupaca	4.00
Lafayette	1.00	Waushara	2.60
Langlade	2.50	Winnebago	12.00
Lincoln	3.00	Wood	6.00
Manitowoc	6.00		
		Total	481.50

special prosecutor for an appointment that exceeds six hours per case, the court or requesting district attorney must request assistance from a prosecutor from another prosecutorial unit, or an assistant attorney general at the Department of Justice. A court may appoint an attorney as a special prosecutor at the request of the district attorney to assist the DA in a prosecution, grand jury proceeding, sexually violent person commitment proceeding, or an investigation. The court may appoint an attorney as a special prosecutor only if the judge or

the requesting DA submits an affidavit to the Department of Administration attesting that any of the following conditions exists: (a) there is no district attorney; (b) the district attorney is absent; (c) the district attorney, or a deputy or assistant district attorney, is on parental leave; (d) the district attorney has acted as the attorney for a party accused in relation to the matter of which the accused stands charged or for which the accused is to be tried; (e) the district attorney is near of kin to the party to be tried on a criminal charge; (f) the district attorney is unable to attend to his or her duties due to a health issue or a mental incapacity that impairs his or her ability to substantially perform his or her duties; (g) the district attorney is serving in the armed forces; (h) the district attorney is charged with a crime; or (i) the district attorney determines that a conflict of interest exists regarding the district attorney or the district attorney staff.

A court may not appoint an attorney as a special prosecutor to assist the district attorney in John Doe proceedings unless one of the requisite conditions identified above exists, or unless the judge receives a complaint that relates to the conduct of the district attorney to whom the judge would otherwise refer the complaint.

The state pays for the compensation of special prosecutors, while other expenses reimbursed to special prosecutors are paid by counties. Generally, any private attorney appointed as a special prosecutor is paid by the state at the following rates, as specified under 977.08(4m)(b) of the statutes: (a) \$50 per hour for time spent in court; (b) \$40 per hour for time spent out of court; and (c) \$25 per hour for time spent in travel related to a case if the trip is outside the county in which the attorney's principal office is located or if the trip requires travelling a distance of more than 30 miles, one way, from the attorney's principal office. Judges, on occasion, establish a rate of pay for the special prosecutor that is higher than the statutorily defined rate due to the special prosecutor's level of experience and the complexity of the

case. In order to be reimbursed by the state, private attorneys serving as special prosecutors must submit a listing of the time they spent on a case to the court for approval. If a special prosecutor is not paid within 120 days of the court approving their compensation, the special prosecutor receives interest, at a rate of 12% compounded monthly.

Payments to special prosecutors are made from the District Attorney's annual GPR appropriation. In 2018-19, the state incurred \$419,912 GPR in special prosecutor expenses. In 2019-20, the state incurred \$250,190 GPR in special prosecutor expenses. Due to budgetary considerations, some of the payments made to special prosecutors in 2018-19 and 2019-20 were for services rendered in prior fiscal years. Table 15 identifies for 2018-19 and 2019-20 payments made by the state to special prosecutors (excluding interest), by county.

Table 15: Payments to Special Prosecutors (Excluding Interest) By County, 2018-19 and 2019-20

County	2018-19	2019-20
Ashland	\$58,041	
Barron	33,191	
Brown		\$27,080
Burnett	34,576	
Columbia	45,091	24,335
Crawford	11,286	5,428
Dane	67,270	15,525
Florence	268	808
Fond du Lac		34,304
Forest	4,520	2,828
Kenosha	5,019	16,123
Manitowoc	16,308	4,553
Marinette		20,788
Milwaukee	61,423	78,427
Ozaukee	630	
Polk	505	
Racine	56,205	
St Croix	9,504	7,800
Taylor	9,029	
Trempealeau	7,048	200
Waukesha		8,319
Waushara		<u>3,675</u>
Total	\$419,913	\$250,190

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 6.0 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 (4.0 clerks) and violations relating to the unlawful possession or use of firearms (2.0 clerks). In 2020-21, \$305,000 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, 1989 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 (restricted to salary increases only); (f) advising elected DAs on their rights and responsibilities under the state compensation plan, Department of Administration Division of Personnel Management administrative code, and the statutes; (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 \$144,000 GPR and 1.0 position in 2020-21.

The District Attorney Information Technology (DA IT) program, administered by DOA, provides

IT services and support in district attorney offices statewide. Budgeted funding for the program in FY20 is \$4,166,800 and FY21 is \$4,169,900 PR, supported with an allocation from the \$21.50 justice information system surcharge.

Under the program, DA offices transitioned from independent county networks to a statewide platform, implemented a statewide case management system (PROTECT), and coordinated with the Circuit Courts, the Departments of Justice and Corrections, the Wisconsin State Patrol, and local law enforcement agencies on shared interfaces. Examples of such collaborations include: (a) an interface with the state court system's database (CCAP) in DA offices to provide a two-way transfer of case data; (b) an interface to the criminal history repository to provide updated criminal history records to DA offices; (c) an interface with law enforcement agencies to electronically process referrals; (d) an interface with the Department of Corrections to provide crime victims information from Corrections' notification service; and (e) a criminal eFiling system for all case types.

In addition to the general prosecutor positions authorized for county DA offices, there are currently two types of specialized state-funded prosecutor positions. First, both Brown County and Milwaukee County have 1.0 GPR-funded sexually violent person commitment prosecutor position. These sexually violent person prosecutors are hired and assigned by the DA of Brown County and Milwaukee County, respectively. Under s. 978.043 of the statutes, 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 2019, the Brown County sexually violent person commitment prosecutor handled 59 cases, including three original cases and 56 post-commitment petitions for supervised release or discharge. In calendar year 2019, the Milwaukee

County sexually violent person commitment prosecutor handled 96 cases, including three original cases, five cases in which the offender was discharged, four cases in which the case was dismissed or the offender died, and 59 post-commitment petitions for supervised release.

Second, 1.0 PR-supported statewide DNA evidence prosecutor position has been assigned to Milwaukee County. This position is funded from the \$13 crime laboratory and drug law enforcement surcharge (which is imposed in certain criminal and forfeiture actions) and the DNA surcharge (which is imposed whenever a court imposes a sentence or places a person on probation, totaling \$250 for each felony conviction and \$200 for each misdemeanor conviction). 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 Violence Against Women Act (VAWA) federal grant program, federal Title IV-E funding under the Social Security Act, and the federal Edward Byrne Memorial Justice Assistance Grant Program. These three revenue sources provide support for approximately 60% of the PR funded prosecutorial positions.

There are a number of grant programs authorized under the federal Violence Against Women Act (VAWA). 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 September, 2020, 9.0 PR authorized 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 September, 2020, 9.5 PR authorized prosecutor positions were supported with Title IV-E funding.

Wisconsin's share of the Federal Byrne Justice Assistance Grant (JAG) funds is awarded: (a) directly to the local governments; and (b) to the State for further sub-grant programs and statewide initiatives. Wisconsin's Department of Justice is in charge of awarding the state's share of JAG funds for sub-grant programs. Funds for the program may be used for, among other things, funding personnel, training, and equipment relating to criminal prosecution and law enforcement programs. As of September, 2020, 9.0 PR authorized prosecutor positions were supported with Byrne funds.

Under current law, the salaries of DAs 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 after January 3, 2021, the rates have been established as shown in Table 16.

The range of assistant DA and deputy DA compensation is established under a state

Table 16: District Attorney Salaries

Prosecutorial Unit Population	Salary
More than 750,000	\$148,200
250,000 to 750,000	134,098
100,000 to 250,000	127,359
75,000 to 100,000	127,359
50,000 to 75,000	121,264
35,000 to 50,000	121,264
20,000 to 35,000	108,431
Not more than 20,000	108,431

compensation plan developed by the Division of Personnel Management within DOA and approved by the Joint Committee on Employment Relations. Under the 2019-21 state compensation plan, the minimum assistant DA and deputy DA salary is \$26.17 per hour (\$54,434 annually) and the maximum is \$63.20 per hour (\$131,456 annually). In addition to the maximum salary rate, deputy district attorneys may receive up to a \$2.75 per hour add-on (\$5,720 annually), based on merit, because of supervisory or managerial responsibilities.

Under 2011 Act 238, the Legislature created an annual pay progression plan for assistant DAs to provide increased compensation for assistant district attorneys. The pay progression plan was then expanded under 2013 Act 20 to include deputy DAs, assistant public defenders, and assistant attorneys general. The pay progression plan for assistant and deputy DAs consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest salary and the highest salary. [As noted above, in addition to the salary under the pay progression plan, deputy DAs may be awarded an hourly add-on based on merit.]

Notwithstanding the creation of a 17 hourly salary step pay progression plan, supervising DAs are authorized to: (a) deny annual salary increases to individual assistant DAs or deputy DAs; and (b) increase the salary of individual assistant DAs or deputy DAs by up to 10% per year. Even at the minimum annual salary of \$54,434, a 10% annual wage increase (\$5,434) exceeds the value of the current hourly step (\$4,534).

The 2019-21 biennial budget (2019 Act 9) appropriated funding to the District Attorneys in 2019-20 to make awards to assistant DAs and deputy DAs under the pay progression plan. The amounts provided were intended to support a \$2.09 per hour (\$4,356 annually) increase for eligible ADAs and DDAs. A \$2.09 per hour salary increase represented one full step under the pay progression plan.

Prosecutorial Workload

The Wisconsin District Attorneys Association (WDAA) is an association of elected DAs, deputy DAs, and assistant DAs that meet to discuss various issues that affect DAs. Since DAs do not have an official state governing board, the WDAA acts, *de facto*, on behalf of elected DAs. The WDAA utilizes a caseload measurement of prosecutorial workload to estimate the need for prosecutors in the 71 DA offices across the state. While the Governor and the Legislature approve changes in authorized position authority for the DA function, neither the Governor nor the Legislature independently reviews and approves changes made to the caseload measurement by the WDAA. Rather, changes to the caseload measurement of prosecutorial workload and the methodology employed to make these changes are determined solely by the WDAA. The WDAA caseload measurement of prosecutorial workload is intended to identify the number of prosecutors that could be added to or deleted from DA offices across the state to permit prosecutors, on average, to work 40-hour work weeks.

Based on recommendations included in a December, 1995 Legislative Audit Bureau (LAB) audit, the WDAA caseload measurement of prosecutorial workload estimates the number of hours that a full-time prosecutor has available per year for prosecution. A full-time prosecutor begins with 2,088 hours per year available for prosecution (this assumes a 40 hour work week). The caseload measurement then reduces this estimate of available time by seven and a half weeks per year (300 hours) attributable to the number of state holiday hours, personal hours, sick leave, and vacation time per prosecutor.

The caseload measurement then reduces the estimate of available time by an additional 15 and a half weeks per year (626 hours) associated with various other responsibilities of prosecutors that

do not involve the prosecution of criminal and other cases for which prosecutors receive credit under the WDAA's caseload measurement of prosecutorial workload. The WDAA caseload measurement estimates that, on average, a prosecutor spends: (a) five weeks per year (200 hours) reviewing law enforcement referrals for cases that are not charged and investigative work with law enforcement; (b) more than four weeks per year (169 hours) on general administrative duties, prosecutor training, community service, service on boards and commissions, and providing training for law enforcement; (c) two and a half weeks per year (100 hours) on contested civil ordinance and civil traffic cases; (d) 50 hours per year on criminal appeals; (e) 30 hours per year on search warrants; (f) 25 hours per year on post-conviction hearings; (g) 20 hours per year on John Doe proceedings; (h) 20 hours per year on document subpoenas; and (i) 12 hours per year on wage claims, public record requests, writs, weatherizations, and probation revocations.

In total, the WDAA estimates that for approximately 23 working weeks per year (926 hours) a full-time prosecutor's time is reserved for the activities and leave time addressed above. The WDAA estimates that a full-time prosecutor has the remaining 29 working weeks per year (1,162 hours) available to prosecute specific cases for which a prosecutor receives credit under the WDAA caseload measurement of prosecutorial workload, including all criminal cases. Based on recommendations included in the 1995 LAB audit, the WDAA caseload measurement of prosecutorial workload then estimates the number of prosecutorial hours required for different types of cases. Table 17 identifies the case weights assigned by the WDAA to various types of cases.

Finally, the WDAA caseload measurement of prosecutorial workload multiplies the number of annual cases for each case type by the estimated

number of hours required to complete the case type, to determine the annual number of prosecutorial hours for each prosecutorial office and statewide. This estimate of prosecutorial hours is divided by 1,162 hours (the number of hours available per year per full-time prosecutor for prosecution) to estimate the number of prosecutors needed for each prosecutorial office and statewide.

Based on a three-year average of cases filed in calendar years 2017 through 2019, the WDAA caseload measurement of prosecutorial workload estimates that 597.97 prosecutors would be needed across the state in order to permit prosecutors, on average, to address their caseload and work 40-hour work weeks. This would represent a 24% increase in the number of authorized prosecutor positions when compared to the number of authorized prosecutor positions as of September, 2020 (481.5).

The hourly weights for various activities and case types in the WDAA caseload measurement are not based on a recent time study in which prosecutors tracked the amount of time spent on these specific activities and case types.

Table 17: Case Weights Adopted by the WDAA

Case Type	Hours Per Case
Class A homicides	160.00
1 st Degree reckless homicides	160.00
Sexual predator	100.00
Other homicides	80.00
Inquests	64.00
2 nd and 3 rd strike non-homicides	50.00
Termination of parental rights	35.00
Security fraud	30.00
All other felony cases	8.49
Children in need of protection and services	6.00
CHIPS Extensions	3.50
Guardianships	3.50
Juvenile delinquency	3.44
Misdemeanors	2.91
Criminal traffic	2.91
Writs of habeas corpus	2.00

PROSECUTORIAL AND RELATED RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE

While district attorneys are primarily responsible for prosecuting criminal and juvenile delinquency offenses at the trial or hearing level, DOJ's Division of Legal Services represents the state in felony and other significant criminal and juvenile delinquency cases on appeal. In addition, the Division: (a) represents the state in prisoner and sexually violent person ("sexual predator") conditions of confinement suits; (b) assists DAs, when requested, in certain criminal prosecutions; and (c) initiates criminal prosecutions and sexual predator commitments under limited circumstances.

These prosecutorial and related functions constitute only a portion of the work of the Division and are primarily the responsibility of the following units in the Division: (a) Criminal Appeals; (b) Civil Litigation; and (c) Criminal Litigation. This chapter discusses the prosecutorial and related workload of each of these units. In addition, this chapter discusses the criminal caseload of the Medicaid Fraud Control and Elder Abuse Unit and the Environmental Protection Unit.

The criminal justice workload of the Division of Legal Services is generally GPR funded, supported by the Division's general program operations appropriation

Criminal Appeals Unit

Statutory Authorization. Under s. 165.25(1) of the statutes, DOJ is required to represent the state in all appeals of felony convictions to the state Court of Appeals or Supreme Court. Under s. 165.25(1) of the statutes, DOJ also represents the

state in appeals of significant criminal and juvenile delinquency cases. However, at the request of and under supervision of the Attorney General, a district attorney may brief and argue a felony or other significant criminal or juvenile delinquency case before the state Court of Appeals or Supreme Court on appeal from his or her jurisdiction.

Under s. 752.31 of the statutes, misdemeanor, juvenile delinquency, and traffic appeals are normally decided by a single Court of Appeals judge. However, any party to the appeal may request that the case be decided by a three-judge panel.

A district attorney who filed a misdemeanor, juvenile delinquency, or traffic case that is on appeal to a single Court of Appeals judge, must represent the state. However, if a request for a three-judge panel is granted in such an appeals case, the district attorney must transfer all relevant files and papers relating to the case to the Attorney General.

Because of these responsibilities, the Criminal Appeals Unit has a significant criminal justice workload.

Program Administration. While most initial felony prosecutions are handled by the district attorney of jurisdiction, the Criminal Appeals Unit is charged with preparing briefs and presenting arguments before state appellate or any federal court hearing a challenge to a felony conviction.

Additionally, the unit evaluates requests for discretionary appeals in the Wisconsin Court of Appeals when a district attorney receives an adverse circuit court ruling in a felony case (for example, dismissal of charges after a preliminary examination hearing or suppression of evidence) or when a circuit court orders a new trial after post-

conviction proceedings. The criminal appeals unit handles any resulting appeal.

The unit also represents the state in state and federal courts on appeals arising from sexual predator commitments, and on appeals of selected misdemeanor, traffic, and juvenile delinquency cases.

While district attorneys are authorized to accept felony and other significant criminal and juvenile delinquency cases on appeal at the request and under the supervision of the Attorney General, this delegation to district attorneys is rarely done.

The Criminal Appeals Unit also defends state criminal convictions in federal habeas corpus proceedings. In a petition for federal habeas corpus relief, a convicted criminal defendant argues in federal district court that his or her conviction and/or sentence should be overturned because it was obtained in violation of the defendant's federal constitutional rights. Attorneys from the Criminal Appeals Unit also represent the state when these habeas corpus cases are appealed to the United States Court of Appeals and to the United States Supreme Court.

The Criminal Appeals Unit prepares and distributes training materials, briefing memoranda, and other publications to assist local prosecutors. Staff of the unit also review and draft legislation affecting the criminal justice system and advise the Governor on extradition matters.

In 2019-20, the criminal appeals unit opened 1,258 cases and closed 3,944.

Civil Litigation Unit

Statutory Authorization. The Civil Litigation Unit is responsible for representing the state in prisoner and sexual predator conditions of

confinement suits. Under ss. 801.02(7) and 893.82(3) of the statutes, a prisoner condition of confinement suit generally may not be brought against an officer, employee or agent of the state for an act committed by such an individual in the performance of his or her duties unless the claimant in the matter serves written notice of the claim on the Attorney General within 120 days of the event. Section 893.82(3m) further stipulates that where the claimant is a prisoner, an action may not be commenced until the earlier of the Attorney General's denial of the claim or 120 days after the notice has been served on the Attorney General, unless a court finds that there is a substantial risk to the prisoner's health or safety.

Under s. 165.25(6) of the statutes, the Attorney General may, at the request of the head of any department of state government, defend any state department, officer, employee, or agent in a civil action or other matter in a court or administrative agency relating to any act committed by the state department, officer, employee, or agent in the lawful course of their duties.

Program Administration. The nature of the prisoner and sexual predator conditions of confinement lawsuits and the focus of the unit's work are substantially the same for both types of cases.

Typically, these types of lawsuits involve one or more allegations of the following acts committed by state officers, employees, or agents: (a) allegations of religious discrimination; (b) failure to provide adequate medical care; (c) excessive force by staff; (d) denial of access to court; (e) interference with privacy of mail communications; (f) failure to allow mailings of certain kinds of literature; (g) denial of access to a notary public; (h) failure to follow due process and administrative rule requirements in imposing discipline; (i) erroneous application of administrative code or prison policy when imposing discipline; (j) erroneously calculating prison release date; (k) illegal revocation of probation, extended supervision, or parole;

(l) negligence; (m) unconstitutional strip search; (n) harassment and retaliation for suing staff; (o) cruel and unusual punishment; (p) unlawful denial of visitors; (q) invalid transfer from one facility to a more restrictive facility; (r) erroneous security classification; (s) denial of the right to speak in a foreign language in the presence of officers; (t) denial of access to rehabilitation programs necessary to enhance parole eligibility; (u) errors in denying discretionary parole; and (v) invalid confiscation of contraband.

The Civil Litigation Unit normally seeks dismissal of these suits before they reach the trial stage, either through motions to dismiss for failure to state a claim or failure to exhaust administrative remedies, or by a motion for summary judgment. If such motions are denied, the case proceeds to trial. Cases are tried in both state and federal courts. Any appeals from such cases are also handled by the unit's attorneys.

In 2019-20, the unit opened 401 prisoner conditions cases and closed 549 such cases. In addition, during 2019-20, the unit opened seven sexual predator condition of confinement cases and closed three.

Criminal Litigation Unit

Statutory Authorization. Attorneys in the Criminal Litigation Unit frequently act as "special prosecutors."

Under s. 978.045 of the statutes, a court may appoint a special prosecutor either on its own motion or at the request of a district attorney. A special prosecutor has all of the powers of a district attorney and may assist a district attorney in the prosecution of persons charged with a crime, in grand jury or John Doe proceedings, in sexually violent person commitment proceedings, or in

investigations.

Further, before a court makes a special prosecutor appointment that exceeds six hours per case, the court or the requesting district attorney must request assistance from staff in other prosecutorial units or from an assistant attorney general in DOJ's Criminal Litigation Unit.

Section 165.255 of the statutes provides that DOJ may represent the state in commitment proceedings for sexually violent persons under Chapter 980.

Under s. 165.60 of the statutes, the Department of Justice is authorized to enforce Chapter 108 of the statutes (Unemployment Insurance and Reserves). Furthermore, under s. 108.14(3m) of the statutes, the Department of Workforce Development, the Labor and Industry Review Commission, or the state may request representation from the Department of Justice in cases regarding unemployment insurance fraud. The Criminal Litigation Unit is responsible for handling such cases regarding unemployment insurance fraud.

Finally, under s. 165.25(3) of the statutes, DOJ is required to consult and advise with district attorneys, when requested by them, in all matters pertaining to the duties of their office. This consultation frequently involves the Criminal Litigation Unit.

Program Administration. Unit attorneys act as "special prosecutors" throughout Wisconsin by court motion or at the request of a district attorney. Frequently, these appointments involve homicide and white-collar crime cases, and other cases where the district attorney is unable to act. Most of the unit's criminal prosecutions result from such "special prosecutions." The unit's remaining criminal prosecutions involve cases for which the Department has original jurisdiction to initiate the criminal case. Table 18 identifies the criminal referrals to the unit by case type and case disposition for 2019-20.

Table 18: Criminal Referrals

	2019-20
<i>Case Type</i>	
Special Prosecution	112
Original Jurisdiction	<u>70</u>
Total	124
<i>Case Resolution</i>	
Charged	72
No Charge or Ongoing Investigation	<u>50</u>
Total	122

Unit attorneys also handle sexual predator commitments and currently process a significant portion of all such commitments in the state. Under current law, a petition alleging that an individual is a sexually violent person may be filed by either: (a) DOJ, at the request of the agency with the authority or duty to release or discharge the person (either the Department of Corrections or the Department of Health Services); or (b) a district attorney. If an individual is found guilty of a sexual violent offense, he or she is sentenced to prison, while if an individual is found not guilty of or not responsible for a sexually violent offense by reason of insanity or mental disease, defect, or illness, he or she is committed to an institution under the Department of Health Services (DHS). Subsequent to an individual serving a prison sentence or being released from the care of DHS for having committed a sexually violent offense, the individual may be committed to DHS as a sexually violent person based on the petition filed by DOJ or a district attorney. If, after a trial, an individual is determined to be a sexually violent person, the court must enter a judgment on the finding and commit the person as a sexually violent person. In that event, the court must order the person committed to the custody of DHS for control, care, and treatment until the person is no longer a sexually violent person.

In 2019-20, the unit received six sexually violent person referrals and assumed these referrals. All other sexually violent person commitments

were handled by district attorneys. Sexual predator commitment cases assumed by the Department generally stay open for an extended period of time as there are ongoing annual evaluations of sexual predator commitments. In 2019-20, the unit represented the state in 15 post-commitment proceedings.

The Criminal Litigation Unit meets the Department's statutory responsibility to consult and advise with district attorneys, in part, through the staffing of an on-call service that state prosecutors can contact for advice. Further, the unit targets publications and training sessions to local prosecutors. In addition, the unit sponsors training for newly elected district attorneys. This training reviews the duties of the office of district attorney and highlights the resources that are available through DOJ and other state and federal agencies.

In addition to its duties discussed above, the Criminal Litigation Unit handles cases regarding the enforcement of unemployment insurance regulations. These cases are generally referred to the unit by the Department of Workforce Development. In 2019-20, the unit handled 151 unemployment insurance fraud cases.

Under 2017 Act 261, \$300,000 and 2.0 GPR attorney project positions were created to assist the Division of Criminal Investigation (DCI) in the field offices of Wausau and Appleton and to assist district attorneys in the prosecution of drug-related offenses. The project positions terminate after five years (current law limits project positions to four years). The Department of Justice is required to submit an annual report to the Joint Committee on Finance on the project prosecutor attorney positions that describes the activities and assesses the effectiveness of the attorneys in assisting DCI in the Appleton and Wausau field offices. In 2019, the project attorneys assisted with 68 drug related cases.

Medicaid Fraud Control and Elder Abuse Unit

Statutory Authorization. The Medicaid Fraud Control and Elder Abuse Unit (MFCEAU) investigates and prosecutes crimes committed against vulnerable adults in nursing homes and other facilities, as well as fraud perpetrated by providers against the Wisconsin Medicaid program. Under ss. 49.49 and 49.846 of the statutes, DOJ and the district attorneys are responsible for prosecution of criminal laws affecting the medical assistance program, including Medicaid fraud, as well as the health, safety and welfare of recipients of medical assistance. The unit also prosecutes civil enforcement actions affecting Medicaid.

Program Administration. The Department of Justice is the state agency responsible for conducting a statewide program for the investigation and prosecution of providers that defraud the Wisconsin Medicaid program. In 2019-20, the unit received 44 referrals, opened 41 investigations, closed 30 investigations, and obtained one criminal convictions for Medicaid fraud. Unit attorneys are also periodically appointed special prosecutors by district attorneys for Medicaid-related offenses.

In addition to the Medicaid fraud workload, in 2019-20, the unit received 124 referrals, opened five cases, and closed 13 investigations related to elder abuse. Three criminal convictions related to elder abuse were obtained in 2019-20. In 2018-19 the unit was copied on all credentialed provider referrals sent to the Department of Safety and Professional Services to ensure referrals that properly fell within the scope of MFCEAU authority were not missed. In 2019-20, this policy was reversed because it failed to yield significant open investigations for the unit.

In Medicaid fraud cases, restitution recovered by the unit is used to reimburse the Wisconsin Medicaid program. In cases of elder abuse, recovered restitution is used to reimburse either the

Medicaid program, identified victims, or both, depending on the court judgment. In both Medicaid fraud cases and cases of elder abuse, fines and forfeitures are deposited in the common school fund.

In 2019-20, the unit recovered \$35,500 in restitution.

Environmental Protection Unit

Statutory Authorization. Primarily under ss. 30.03 and 299.95 of the statutes, the Attorney General is required to enforce several environmental law chapters which include criminal provisions. In addition, s. 978.05(8)(b) of the statutes provides that district attorneys may request DOJ to assist in the investigation and prosecution of any matter for which a district attorney has jurisdiction. District attorneys have duties to prosecute criminal violations of certain fish, wildlife and environmental laws. Typically a district attorney will request that DOJ prosecute a case when: (a) the district attorney or a member of the staff has a conflict of interest; (b) the case is of such a magnitude or specialty that the district attorney could not adequately attend to his or her other duties upon attending to the case; (c) the case is outside the area of the district attorney's expertise and is within the expertise of the assistant attorney general; or (d) the case involves the same crime committed in several counties.

Program Administration. The Department of Natural Resources' (DNR) conservation enforcement wardens and environmental enforcement specialists, assisted by regulatory program staff, perform audit, investigation and enforcement functions with respect to state environmental laws. Generally, DNR applies a "stepped enforcement" process with the violator in an attempt to obtain compliance, prevent further violations, and avoid escalation of enforcement measures. However, if

there are serious, damaging, continuous, or repetitive violations, the staff present their evidence and facts in an enforcement referral packet to DNR Division of Enforcement and Science staff for review and recommendation to the DNR Secretary. If approved, the DNR Secretary sends a letter requesting enforcement, copied to the violator, to the Attorney General with an accompanying confidential investigation file of evidence and materials that justify the prosecution request.

When received by DOJ, DNR's enforcement "referral file" is sent to the Legal Services Division Administrator for referral to the unit. The unit director assigns the case to an appropriate assistant attorney general (AAG) for review and potential prosecution. If, after review and consultation with DNR staff as necessary, the AAG believes prosecution is justified, the AAG prepares a justification memorandum and draft complaint for prosecution. Depending on the circumstances, the AAG may have prefiling discussions of the matter with

the accused and his or her attorney. Upon approval of the justification memorandum by the unit director and the Legal Services' administrator or deputy administrator, the case is commenced. A judgment may be entered upon stipulated settlement between the defendant and DOJ in consultation with DNR enforcement staff, or the case may go to trial and appeal. The unit handles its own criminal appeals.

In 2019-20, DOJ's Environmental Protection Unit was referred 36 cases. These 36 cases included one criminal enforcement case, 22 civil enforcement cases, 12 civil defense cases, two agency consultations, and no uncategorized cases.

Unit attorneys may also occasionally act as special prosecutors upon request of district attorneys under s. 978.045 of the statutes. The unit handled no criminal case as a special prosecutor in 2019-20.

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 defense." 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 absolute 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 State Public Defender 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) subject to petitions for protective placement (Chapter 55); (d) facing involuntary commitment; (e) involved in certain post-conviction or post-judgment appeals; and (f) undergoing proceedings for modification of a bifurcated sentence, if representation has been requested by the indigent person or the case has been referred by a court, and the Public Defender determines that the case should be pursued.

Determining Indigency

In making a determination of indigency, the SPD first considers the anticipated cost of the individual retaining private counsel. The anticipated cost of retaining private counsel is established by administrative rule. Table 19 identifies these anticipated costs of retaining private counsel, by case type.

The Public Defender's standard for determining whether an individual accused of a crime is indigent is modeled after the 2011 Wisconsin Works (W-2) eligibility standard for an employment position. As a result, gross income of an individual in excess of 115% of the 2011 federal poverty guideline will generally be considered available to pay the costs of legal representation. [While the W-2 financial eligibility requirements for an employment position adjust annually to reflect any changes in inflation captured by an updated federal poverty guideline, under 2011 Act 32, the

Table 19: Anticipated Cost of Retaining Private Counsel, By Case Type

Case Type	Anticipated Cost
1st degree intentional homicide	\$17,500
Trial appeal category I*	9,000
Chapter 980 original petition**	6,000
Other class A/B/C felony	5,000
Trial appeal category II***	4,500
Involuntary termination of parental rights	4,500
Chapter 980 post-commitment	3,500
Other felony	2,200
Felony diversion	1,500
Felony delinquency	1,500
Revocation	1,400
Chapter 55****	1,200
Paternity	1,000
Misdemeanor	750
Traffic misdemeanor	750
Special proceedings	750
Other juvenile	600
Chapter 51*****	600

*Category I includes misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases, and class G to I felony cases.

**Chapter 980 proceedings are in regards to sexually violent person commitments.

***Category II includes all of Category I cases, and class A to F felony cases.

****Chapter 55 proceedings are in regards to protective services and placement for persons with mental illnesses, degenerative brain disorders, developmental disorders, or other like incapacities.

***** Chapter 51 proceedings are emergency detention or involuntary civil commitment cases.

SPD indigency standard remains linked to the 2011 federal poverty guideline.] Table 20 identifies 115% of the 2011 federal poverty guideline, for the 48 contiguous states and the District of Columbia.

An individual's assets that exceed \$2,500 in combined equity value are also considered available to pay for representation. In determining the combined equity value of assets available to pay for representation, up to \$10,000 in the equity value of vehicles would be excluded, as well as the first \$30,000 of the equity value of a home that serves as the individual's homestead. Under 2011 Act 32, the SPD's indigency standard does not adjust for any future changes to the W-2 asset standard.

Table 20: 2011 Federal Poverty Guideline for the 48 Contiguous States

Persons in Family	115% of Federal Poverty Line
1	\$12,524
2	16,917
3	21,310
4	25,703
5	30,096
6	34,489
7	38,882
8	43,275
For each additional person, add	\$4,393

The State Public Defender is required to determine whether a person has the ability to pay the costs of representation. The Public Defender Board is also 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 SPD. Table 21 identifies the optional prepayment amounts for the different types of SPD representation, as established by rule by the Public Defender Board.

Determining Ability to Pay

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 22 summarizes the fee schedule established by rule by the Public Defender Board beginning on February 1, 2014. These fee amounts are based

Table 21: Prepayment Options for SPD Representation

Case Type	Amount
First-degree intentional homicide	\$600
Other class A or B felony	120
Chapter 980 proceedings*	120
Trial appeal (category I)**	120
Trial appeal (category II)***	60
Felony diversion	60
Other felony	60
Misdemeanor	60
Revocation	60
Termination of parental rights	60
Paternity	60
Special proceeding	30

*Chapter 980 proceedings are in regards to sexually violent person commitments.

** Category I includes misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases, and class G to I felony cases.

***Category II includes all of Category I cases, and class A to F felony cases.

on the average costs for representation for the type of case, as determined by the Board.

In 2019-20, the SPD received \$1,198,100 PR in payments from its indigent clients, including receipts from court-ordered recoupment. These amounts are used primarily to offset the cost of retaining private bar attorneys to represent individuals qualifying for SPD representation.

Court Appointed Attorneys

If an individual does not meet the statutory indigency standard of the SPD, 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 with repayment expected. Appendix IX identifies expenditures, recoupment and net costs, for counties in calendar year 2019 for court-appointed defense counsel by county. While 72 counties reported \$6.5 million in costs for providing defense counsel in 2019, the net expenditure by these counties for court-appointed defense counsel in 2019 totaled

Table 22: Schedule for Repayment of SPD Costs by Clients Determined to Have Ability to Pay

Case Type	Amount
First-degree intentional homicide	\$7,500
Other class A or B felony	1200
Chapter 980 proceedings*	1200
Trial appeal (category I)**	1200
Trial appeal (category II)***	480
Juvenile felony	480
Other felony	480
Termination of parental rights	480
Chapter 55 proceedings****	480
Felony diversion	240
Misdemeanor	240
Other juvenile offense	240
Revocation	240
Paternity	240
Commitment to mental health/rehab facility	120
Special proceeding	120

*Chapter 980 proceedings are in regards to sexually violent person commitments.

** Category I includes misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases, and class G to I felony cases.

***Category II includes all of Category I cases, and class A to F felony cases.

****Chapter 55 proceedings are in regards to protective services and placement for persons with mental illnesses, degenerative brain disorders, developmental disorders, or other like incapacities.

\$2.6 million. In reviewing the data, the following should be noted: (a) the reports are unaudited; and (b) counties may not be consistent in how they reported costs. Further, the amounts identified as recoupment by a county may be from previous calendar years. Therefore, in some counties during 2019, recoupment of appointed counsel costs exceeded appointed counsel expenses.

Minimum reimbursement for court appointed counsel is established by the Wisconsin Supreme Court Rules (SCR). Initially, the rate in SCR 81.02 was \$50 per hour, with lesser rates for office and travel time. In 1989, this rate was increased to \$60 per hour. In 1993, the court increased the rate from \$60 to \$70 per hour and adopted SCR 81.02(1m), permitting county flat rate contacts. Dane County

has used county flat rate contracts since 2008. Other counties may have adopted similar cost-saving measures in the years since 2011 when the indigency standard was last updated. On June 27, 2018, the Supreme Court ordered an increase to \$100 per hour, starting January 1, 2020.

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 State Public Defender 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 State Public Defender was directed to phase-in its services at the trial level over the biennium to the extent that funding and position authority permitted. The Public Defender 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, beginning July 1, 1979. Chapter 34, Laws of 1979, subsequently provided funding for the 1979-80 fiscal year to implement the statewide 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:

1. *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.

2. *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.

3. *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.

4. *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.

5. *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 2,685 misdemeanor and commitment cases in 2020-21.

The provisions of 2007 Wisconsin Act 20 eliminated the requirement that the SPD make a finding of indigency prior to representing adults subject to involuntary civil commitment, protective placement, or involuntary administration of psychotropic medication. Instead, during or after relevant court proceedings, the court may inquire as to the individual's ability to reimburse the state for the cost of representation. If the court determines that the individual is able to make reimbursement for the costs of representation, the court may order the individual to reimburse the state an amount not to exceed the maximum amount established by the SPD Board, by rule, for the type of case at issue.

Under 2009 Wisconsin Act 164, the SPD indigency standard was generally modeled after the Wisconsin Works (W-2) eligibility standard for an employment position, effective with case appointments on or after June 19, 2011. While under Act 164, the SPD indigency standard would adjust

over time to reflect changes in the W-2 eligibility standard, under 2011 Act 32, the SPD indigency standard is linked to the 2011 W-2 financial eligibility requirements for an employment position. As a result, the SPD indigency standard remains linked to the 2011 federal poverty guideline and to the W-2 asset standard as it existed in 2011.

Current Public Defender 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. Members of the Board may not be employed by, or themselves be, a judicial or law enforcement officer, district attorney, corporation counsel, or the state public defender.

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 administrative 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.

After being appointed by the Board, the State Public Defender serves for a period of five years. However, that individual must continue to serve in his or her role until a successor is appointed.

In 2019-20, state SPD expenditures totaled \$90,180,500 to provide legal representation for eligible indigent persons in Wisconsin. Of that amount, \$25,778,400 (29%) was paid to private attorneys for their time and certain legal expenses (investigators and expert witnesses). The remaining \$64,402,100 (69%) funded staff attorneys,

their legal expenses and program overhead. The SPD has been budgeted \$98,726,300 GPR and \$1,438,200 PR in 2020-21 and is currently authorized 609.85 GPR and 5.0 PR positions.

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

The trial division consists of 542.85 positions, including 344.45 attorneys and attorney supervisors. The trial division is housed in 37 local offices across the state. (See Appendix XI 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. Under 1999 Act 9, 10 attorney supervisor positions were exempted from the statutory caseload requirement. This caseload exemption is spread among 46.8 supervising attorneys. In practice, most supervisors are relieved of some portion of their caseload responsibilities. In 2019-20, 73,554 new cases were assigned to SPD trial division attorneys.

The appellate division consists of 43.35 positions, including 27.75 attorneys and 5.0 attorney supervisors who provide assistance to eligible indigent clients involved in appeals, including post-conviction and post-commitment proceedings. The SPD typically 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. In 2019-20, 1,217 new cases were assigned to SPD appellate division attorneys.

The assigned counsel division consists of 5.25 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 \$70 per hour); or (b) for some misdemeanor and commitment cases, a flat, per case contracted amount. As of July 1, 2020, 875 private attorneys were certified by the SPD. In 2019-20, 47,148 new SPD cases were accepted by private attorneys.

The administrative services division consists of 23.4 positions that oversee the general administration of the Office. Staff provides support services in the areas of budget preparation, fiscal analysis, purchasing, payroll, personnel, and client accounts.

Under 2017 Act 59, the SPD is allowed to request increased GPR position authority from the Joint Committee on Finance under a 14-day passive review process. If within 14 working days after notification the Committee does not schedule a meeting to review the SPD's request, the SPD's request would be approved. No ability to increase funding is authorized. As a result, positions would need to be funded from an internal reallocation or resources within the SPD's budgeted funding.

Under 2019 Act 9, the rate at which private bar attorneys are compensated was increased from \$40 per hour to \$70 per hour. The increase in hourly compensation applies to cases assigned on or after January 1, 2020.

established by the Public Defender Board. Limitations on the Board's power to set the State Public Defender's salary exist, however, as the Public Defender is considered a state agency head under s. 20.923(4) of the statutes, and, therefore, must be paid within a given salary range. Furthermore, anyone serving as the State Public Defender may not have his or her salary decreased while serving in that position.

Assistant state public defenders (ASPD), however, are paid based on a pay progression plan created under 2013 Act 20. The pay progression plan created for ASPDs mirrors the pay progression plan for assistant and deputy district attorneys (discussed in Chapter 5 of this paper). The ASPD pay progression plan is merit-based and consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest annual salary and the highest annual salary. Beginning July 1, 2014, the State Public Defender may increase the hourly salary of an ASPD by an hourly salary step, or part thereof, above the individual's hourly salary on the immediately preceding June 30. Notwithstanding the creation of a 17 hourly salary step pay progression plan, the State Public Defender is authorized to: (a) deny annual salary increases to individual ASPDs; and (b) increase the salary of individual ASPDs by up to 10% per year. Even at the minimum annual salary of \$54,434, a 10% annual wage increase (\$5,443) exceeds the value of the current hourly step (\$4,534).

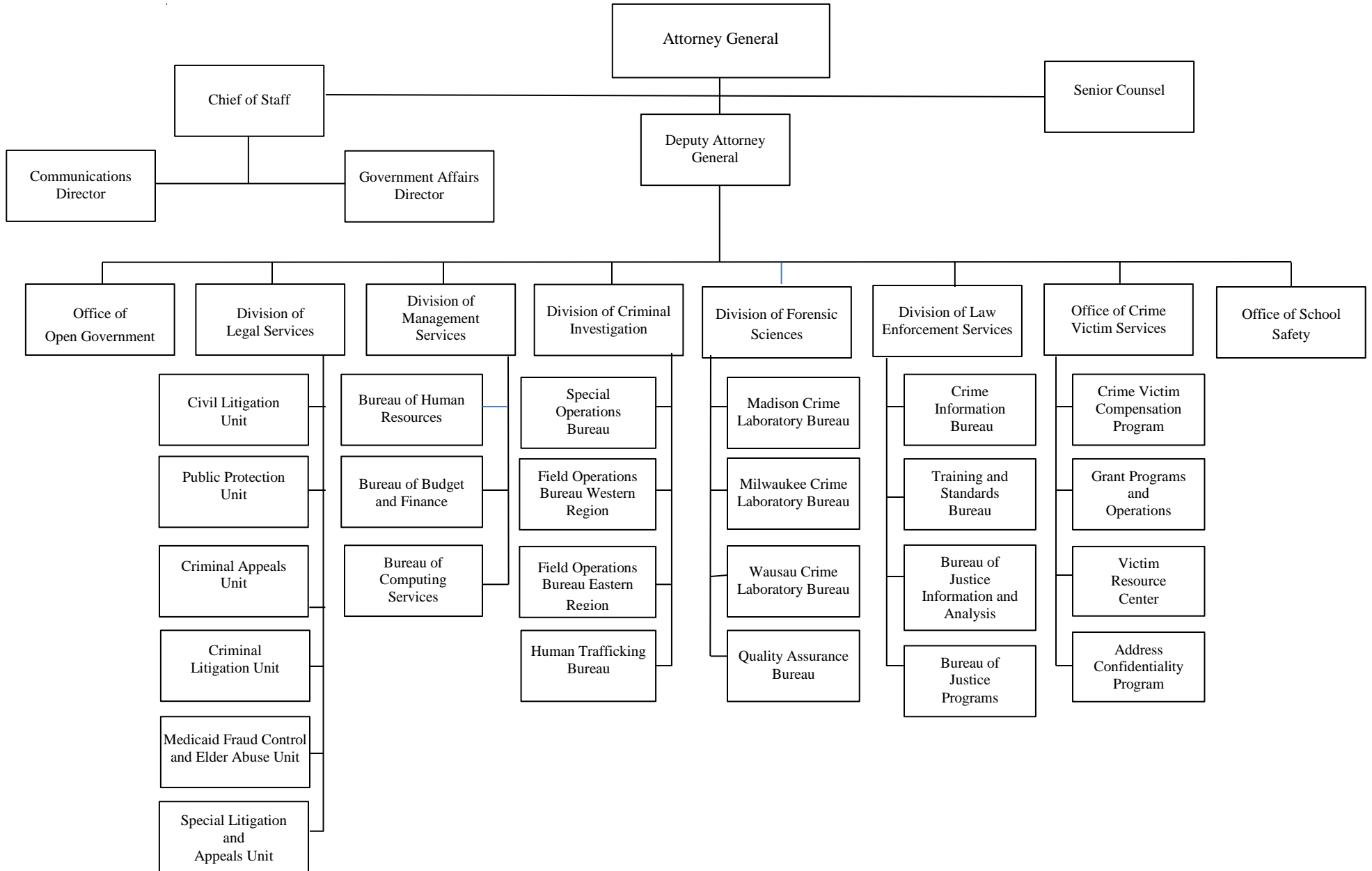
Under 2019 Act 9 the SPD was provided funding totaling \$320,600 GPR in 2019-20 and \$956,900 GPR in 2020-21. Funding appropriated for ASPDs was intended to support a 2% average salary adjustment for those ASPDs eligible under the pay progression plan in 2019-20.

Compensation for the Public Defender and Assistant Public Defenders

The salary of the State Public Defender is

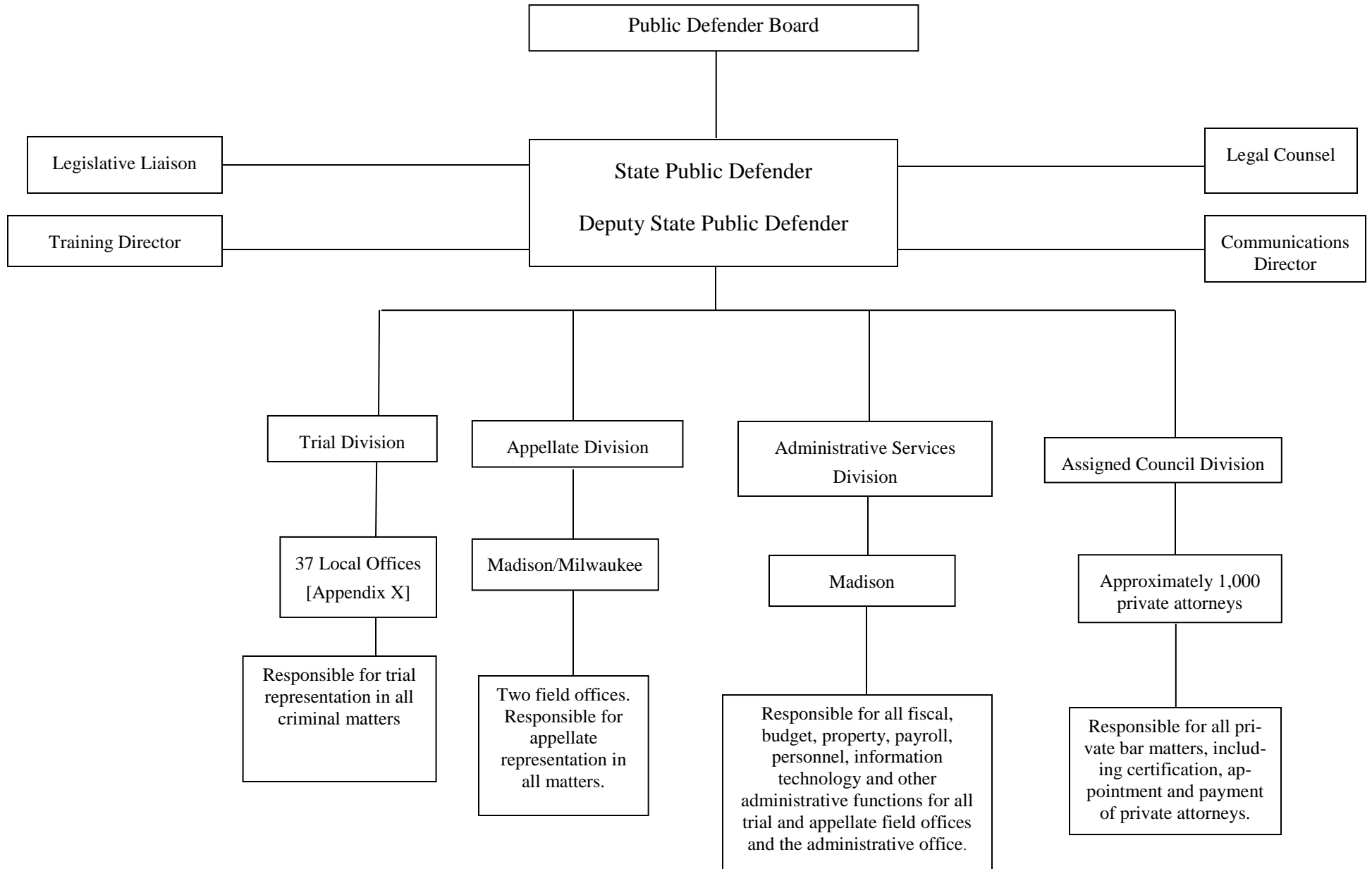
APPENDIX I

Department of Justice Organizational Chart



APPENDIX II

Office of the State Public Defender Organizational Chart



APPENDIX III

Law Enforcement Training and Standards Board Certified Training Topics for Law Enforcement Officer, Juvenile Detention Officer, and Jail Officer Recruits

Topic	Hours	Topic	Hours
<i>720-Hour Law Enforcement Officer Recruit Training Topics</i>		<i>200-Hour Jail Officer Recruit Training Topics</i>	
Academy orientation	2	Academy orientation	2
Agency policy	2	Admit and release inmates	10
Basic response (RESPOND)	2	Correctional law	8
Child maltreatment	8	CPR and AED	4
Constitutional law	32	Ethics and ethical decision making	4
Crimes	14	Fire safety	8
Crisis management	20	Health care	12
Critical thinking and decision making	8	Hostage response	4
Cultural competence	8	Inmate supervision and behavior control	12
Defensive and arrest tactics	60	Introduction to corrections	2
Domestics	16	Investigations	2
Emergency vehicle operation and control	40	Maintain jail security: jail security techniques	8
Ethics	8	Officer wellness	4
First aid, CPR/AED	24	Prepare reports	6
Fundamentals of criminal justice	12	Principles of subject control	40
Handgun and rifle	68	Professional communication skills	24
Hazardous materials and weapons of mass destruction	4	Suicide prevention for jail officers	4
Incident command system	2	Supervision of special needs inmates / crisis intervention	<u>14</u>
Interrogations	4	Subtotal	170
Interviews	12	Evaluation scenarios	8
Introduction to TRACS	2	Integration exercises	12
Juvenile law	8	Testing	4
Officer wellness/suicide prevention	8	Training scenarios	<u>8</u>
Operating a motor vehicle while intoxicated/ standardized field sobriety testing	36	Total	200
Physical evidence collection	8	<i>160-Hour Secure Juvenile Detention Officer Recruit Training Topics</i>	
Physical fitness entrance exam	2	Admitting and releasing juveniles	4
Physical fitness training and physical fitness exit exam	32	Adolescent development	8
Professional communication skills	24	Behavior management	16
Radio procedures	2	Crisis intervention	4
Report writing	20	Detention facility security	8
Sexual assault	12	Diversity	6
Tactical emergency critical care	8	Fire safety	10
Tactical response	24	Health care	12
Testifying in court	8	Introduction to detention operations	4
Traffic crash investigation and traffic incident management	16	Legal requirements for secure detention of juveniles	4
Traffic/Speed law enforcement	36	Prepare reports	8
Vehicle contacts	24	Principles of subject control	32
Victims	<u>8</u>	Principles of supervision	2
Subtotal	624	Professional communication skills	24
Exams	12	Managing personal stress	2
Integration exercises	44	Suicide prevention	<u>4</u>
Scenarios	<u>40</u>	Subtotal	148
Total	720	Scenarios	8
		Testing	<u>4</u>
		Total	160

APPENDIX IV

State Crime Laboratory Service Areas



The state is served by three crime laboratories located in Madison, Milwaukee, and Wausau. This appendix shows the service area for each lab.

APPENDIX V

Offenses Considered Violent Crimes for DNA Submission

Arson of buildings/damage of property by explosives*

Battery (felony violation)

Battery or threat to an employee of the Department of Revenue, Department of Safety and Professional Services,
or Department of Workforce Development

Battery or threat to a judge

Battery or threat to a witness

Battery, special circumstances

Battery to an unborn child (felony violation)

Battery to certain employees of counties, cities, villages, or towns

Burglary*

Causing a child to view or listen to sexual activity*

Child abduction by use or threat of force*

Child enticement*

Disarming a peace officer*

Endangering safety by use of a dangerous weapon (felony violation)*

Engaging in repeated acts of physical abuse of the same child (Class A, B, C, and D felony violation)*

False imprisonment*

Felony murder

Homicide (1st degree)*

Homicide (2nd degree)*

Homicide by negligent handling of a dangerous weapon, explosives, or fire

Homicide by intoxicated use of a vehicle or firearm

Homicide by negligent operation of a vehicle

Homicide resulting from negligent control of a vicious animal

Human trafficking*

Intentional causation of great bodily harm, or harm that creates a high probability of great bodily harm, to a child*

Intimidation of witnesses (felony violation)*

Intimidation of victims (felony violation)*

Kidnapping*

Mayhem*

Possession, manufacturing, selling, or transferring a fire bomb*

Repeated sexual assault of the same child*

Robbery*

Reckless injury

Reckless homicide (1st degree)

Reckless homicide (2nd degree)

Reckless causation of bodily harm to a child

Recklessly endangering safety

Sexual assault (1st degree)*

Sexual assault (2nd degree)*

Sexual assault (3rd degree)*
Sexual assault of a child (1st degree)*
Sexual assault of a child (2nd degree)*
Sexual assault of a child placed in substitute care*
Sexual assault of a child by a school staff person or a person who works or volunteers with children*
Sexual exploitation of a child*

Soliciting a child for prostitution*
Stalking*
Strangulation or suffocation*
Taking a vehicle without owner's consent*
Taking hostages*

Tampering with household products*
Trafficking of a child*

Any felony, if an increased penalty for certain domestic abuse offenders, under s. 939.621 of the statutes, could be imposed

*The solicitation, conspiracy, or attempt to commit this crime constitutes a violent crime.

APPENDIX VI

Treatment Alternatives and Diversion Grant Projects, 2021

Grantee	Award	Project Type	Project Description
Adams County	\$69,519	Hybrid Court	Funds continue to support operations for the Adams County Hybrid Treatment Court, which includes the treatment court coordinator (salary & benefits), various office supplies, monitoring services, training for the treatment court team, and drug testing services. The expansion funding will fund a part-time Peer Support Specialist, rental assistance for participants, and travel costs for participants and volunteer drivers.
Ashland County	\$97,915	Diversion Program	Funds will be used to continue TADPRO (treatment, alternatives, and diversion with track level implementation). The program uses an intervention/dosage model based on the participants' risk/needs level determined using the COMPAS, LSI-R, or GAIN assessments to determine the participants' level of intervention and treatment needs.
Barron County	\$26,962	Hybrid Court	Funds employ a part-time coordinator/case manager position and benefits to assist in the operation of the program. The funds send team members to training events and support the costs of MRT groups and Support Groups.
Bayfield County	\$125,078	Hybrid Court	Funding supports a 4-phase system program using an intervention/dosage model based upon participant's risk and needs level utilizing the COMPAS assessment. With funding, the team will be able to participate in current training trends supported by WATCIP allowing for enhanced implementation of evidence based practices with participants.
Brown County	\$159,712	Drug Court; Diversion Program	Grant funds will be utilized by the Brown County Treatment Alternatives and Diversion Program in coordination with the Criminal Justice Coordinating Board (CJCB) in effort to maintain and enhance our established treatment courts and diversion program; each of which operates to individually meet the specific treatment needs of non-violent offenders in Brown County whom are charged with criminal actions related to their drug and alcohol abuse.
Buffalo/Pepin County	\$125,286	Diversion Program	Funds operate a dedicated Community Justice Services agency to conduct a universal assessment of all nonviolent adult offenders to inform setting risk based conditions of pretrial release, to determine eligibility for pre-charging and post-charging diversion, and provide risk based alternatives to incarceration at sentencing addressing substance abuse risks and needs.

Grantee	Award	Project Type	Project Description
Burnett/Washburn County	\$125,000	Hybrid Court	Funds sustain the joint Matrix Intensive Outpatient program that serves all TAD programming, and a large portion of Northwest Wisconsin. Furthermore, the TAD funding allows for intense wrap-around services that includes frequent drug and alcohol testing, intensive case management, immediate incentives and sanctions and consistent community programming.
Chippewa County	\$115,327	Diversion Program	Funds will be used to continue implementation of its TAD and First Time Offender Diversion Programs. Specifically, funds will be used to support the Diversion Specialist and part-time Assessor/Programmer position. The Diversion Specialist provides case management services, completes COMPAS assessments, monitors drug testing compliance, provides cognitive behavioral programming for participants, and runs the First Time Offender Program. The Assessor/Programmer position will complete pre-trial and COMPAS assessments, and offer Evidence Based programs to TAD and Drug Court participants.
Columbia County	\$204,124	OWI Court; Drug Court	Funds will be used by Columbia County Health and Human Services, in partnership with the Columbia County Criminal Justice Coordinating Council and a variety of other criminal justice partners, to continue operations of a Drug Treatment Court and an Operating while Intoxicated Treatment Court.
Crawford County	\$108,030	Hybrid Court	Crawford County Treatment Court is designed to provide an alternative to incarceration for non-violent offenders who abuse alcohol or other drugs.
Dane County	\$214,931	Drug Court; Diversion Program	Funds will be used to enhance both the Drug Court Diversion Program and the Opiate Diversion Project in Dane County. The Dane County Drug Court Diversion Program, a problem-solving court for individuals at moderate risk to re-offend, will be enhanced through continued development of a cognitive-behavioral approach that is more specific to the population being served. The Opiate Diversion Project, a pretrial diversion program for opiate offenders, will be enhanced by an evaluation of program outcomes and an assessment instrument that has been developed specifically for the program. These enhancements will increase conformity to evidence-based practices, which are expected to increase positive outcomes for individual participants.
Dodge County	\$209,620	OWI Court; Drug Court	Funds will be used by Dodge County to support a Drug Treatment Court and an OWI Treatment Court.
Door County	\$141,011	Drug Court	Door County Department of Health and Human Services, in collaboration with Door County's Circuit Court Judges, District Attorney's Office, Clerk of Courts, Law Enforcement, and the Criminal Justice Collaborating Council will use funds to implement a treatment court.
Douglas County Health and Human Services	\$108,031	Drug Court	Funds will be used by the Douglas County Treatment Court to serve participants convicted of drug and/or alcohol related offenses.

Grantee	Award	Project Type	Project Description
Dunn County	\$99,566	Diversion Program	Funds will be used by Dunn County to implement a pretrial diversion program to divert nonviolent offenders facing criminal charges related to use of drugs and/or alcohol from the criminal justice system into treatment. Funds will be used to pay employ a full time Criminal Justice Assessor to assess offenders' risk, need, and responsivity factors and screen and refer for TAD program eligibility. Funds will cover wages and benefits for the Assessor, office supplies, drug testing services, and staff travel and training.
Eau Claire County	\$137,213	Multiple Treatment Courts	Funds will be used by the Eau Claire County Department of Human Services (ECCDHS) to support the provision of evidence-based treatment and services to treatment court participants. Grant dollars will be used to fund regular alcohol and drug testing for individuals in the tri-county Veterans Treatment Court (VTC) in order to promote accountability and monitor progress, as well as to ensure access to needed substance abuse and mental health treatment. Likewise, TAD money will be used to provide a higher fidelity, criminal justice version of the intensive AODA outpatient Matrix Model to participants in the county's Alternatives to Incarcerating Mothers (AIM) and Mental Health courts. Finally, funds will enable treatment court team members to attend training on evidence-based and best practices within the field.
Grant County	\$119,572	OWI Court; Drug Court	Grant funds will be used by the Grant County Treatment Court to support its Drug Court and OWI Court. The funds will support the position of the Treatment Court Coordinator, which will enhance the intensity and accountability of the Treatment Courts by providing hands-on oversight and guidance to Participants and the Treatment Court Team. Participants are individuals convicted of crimes related to or impelled by their substance abuse.
Ho-Chunk Nation	\$72,615	Healing to Wellness Court	Funds will be used by the Ho-Chunk Nation to hire a part-time assistant to help manage the daily activities of the Healing to Wellness Court. The funds will also be used to assist with training costs for team members, UA expenses, and various supplies and operating expenses that are needed for daily Healing to Wellness Court operations.
Iowa County	\$65,046	Drug Court	Funds will be used by Iowa County to support continued operation of its Drug Treatment Court through the funding of the treatment court coordinator, treatment services, drug and alcohol testing supplies, transportation and housing aid, and training for the treatment court team.
Jackson County	\$88,000	Diversion Program	Funds will be used by the Jackson County CJCC to operate a post-charge diversion program, targeting offenders assessed as medium/moderate risk and needs related to substance use disorders.
Jefferson County	\$174,020	Drug Court; OWI Court	Funds will be used by the Jefferson County CJCC to sustain an OWI Treatment Court, which started in 2013, and a Drug Treatment Court, which was started in August 2017. The Jefferson County Treatment Courts will use the funds to contractual costs to cover salary and benefit expenses for the case managers, the Treatment Court Coordinator position, various office supplies and training.

Grantee	Award	Project Type	Project Description
Kenosha County	\$124,500	Drug Court	Funds will be used to support operations of the Kenosha County Treatment Court through the use of random drug and alcohol testing, staff development training for team members, clinical assessments and coordination, medication assisted treatment, and internal evaluation.
La Crosse County	\$156,885	Diversion Program	Funds will be used by La Crosse County Justice Support Services to support staffing of pre- and post-charge diversion supervision.
Lac du Flambeau Band of Lake Superior Chippewa Indians	\$113,294	Healing to Wellness Court	Funds awarded to Zaagiibagaa Healing to Wellness Court will successfully divert participants from incarceration and reintegrate them into their culture and community through activities and therapy that supports sober living and uses evidence-based curriculum to achieve program goals for 2020. The grants funds will be used to support 70% of the Coordinator's salary and benefits, travel and training expenses to ensure continuing education of the Team. Funds will also be used to cover supplies for hands-on learning of traditional practices and cultural gatherings, which will be included in graduations, self-care socials and Healthy Living projects. Contractual funds have been designated for participants needing inpatient treatment and could also be used to assist with housing needs.
Lafayette County	\$118,533	OWI Court	Lafayette County Circuit Court will use the funds to create an OWI court program. The grant will fund personnel costs of the AODA Treatment Provider/case manager salary/benefits and 20% coordinator salary/benefits; training for staff and CJCC members; and assessment and drug testing materials.
Manitowoc County	\$142,396	Drug Court; Diversion Program	Continued implementation of the Pre-Trial Diversion and Adult Drug Court programs.
Marathon County	\$150,000	Drug Court	The funds will be used by Marathon County to implement an evidence based Drug Treatment Court which will adhere to the Ten Key Components and the Wisconsin Treatment Court Standards. The goals of the program are to promote self-sufficiency in program participants by reducing drug use through individual participation in a community based integrated program of drug treatment and rehabilitation services. In addition to improving public health, it is the goal of Marathon County to improve public safety by reducing the number of drug related crimes within Marathon County. The program will divert offenders with nonviolent crimes linked to substance abuse from jail, reduce recidivism and increase public safety.
Marinette County	\$203,770	Drug Court	Funds will be used by Marinette County to support the salary and benefits of the Treatment Court Coordinator and expansion funding will be used to fund a full-time case manager position to help increase capacity in the program. The grant will also help fund training events for the treatment court team and will help cover the cost of drug and alcohol testing.

Grantee	Award	Project Type	Project Description
Marquette County	\$100,082	Hybrid Court	Funds will be used by Marquette County Department of Human Services, in partnership with the District Attorney, Probation & Parole, Law enforcement, the Court and the Public Defender's office to reduce recidivism rates for non-violent offenders in the program and increase public safety as well as reduce prison and jail populations by diverting non-violent offenders to community based interventions. In addition, the program plans to increase the number of program participants as well as expand law enforcement's participation in the recovery process of the participants in Marquette County.
Menominee Indian Tribe of Wisconsin	\$98,148	Diversion Program	Funds will be used by the Menominee Probation and Parole to ensure direct coordination for pre- or post-charged, low-risk defendants who qualify and are referred into the Kakaecec Diversion Program. Funds will be used to support the salaries and benefits of the Diversion Coordinator and Resource Coordinator, as well as cover some training and supplies costs.
Milwaukee County	\$380,981	Diversion Program	Funds will be used to contract with JusticePoint, a private non-profit agency, to identify individuals arrested for non-violent offenses who have substance abuse and/or co-occurring mental health disorders who are eligible for deferred prosecutions. The enhancement funds will be used to contract with JusticePoint for screening and community supervision services for TAD participants.
Monroe County Justice Department	\$69,401	OWI Court; Drug Court	Funds will be used by Monroe County's OWI & Drug Treatment Courts to implement a Recovery Peer Support/Mentorship Program, hire a Mental Health provider and cover training costs for the treatment court teams in 2020. Funds will also be used to send team members to training. Funds will also be used to fund a mental health provider.
Outagamie County	\$178,343	Drug Court; Diversion Program	Funds continue to enhance both evidence-based program services and participant services throughout our diversion and treatment courts. These TAD enhancement funds will continue to support drug and alcohol testing, treatment court team training, Level 3 substance use disorder treatment services, treatment court incentives, and transitional/sober living rental assistance.
Ozaukee County	\$125,930	Diversion Program	Funds will be used by the Ozaukee County Criminal Justice Collaborating Council to support the existing diversion programs, which include a Pre-Charge/Post-Charge Diversion/Deferred Prosecution Agreement program and a Post-Charge, Alternatives to Revocation Diversion program. Grant funds will support the salaries and benefits of the programs' Administrator and Coordinator, will cover alcohol and drug testing supplies, and will cover MAT expenses.
Pierce County	\$205,777	OWI Court; Diversion Program	Funds will be used to continue operations of three programs: Intoxicated Driver Improvement Diversion Program, Pre-charge/post-charge Diversion Program, and an OWI Court.
Polk County	\$150,118	Drug Court; Diversion Program	Funding will be used to cover the salary and benefits of the Treatment Court Case Manager. Expansion funding will be used to increase capacity in the Diversion Program by funding a full-time Diversion Program Case Manager position and drug and alcohol testing supplies.

Grantee	Award	Project Type	Project Description
Portage County	\$76,187	Drug Court; Diversion Program	Funds will be used to continue the Portage County Adult Drug Treatment Court and to fund a full-time Case Manager position in the Diversion Program.
Racine County	\$124,975	Drug Court	Funds will be used by the Racine County Alcohol and Drug Treatment Court to expand drug and alcohol testing, provide comprehensive mental health screenings, provide staff development training for treatment court team members, as well as maintain the Program Coordinator position, incentives and wraparound services.
Rock County	\$125,000	Drug Court	Grant funding will be used to provide case management and treatment services for Drug Treatment Court. Drug Court is a collaborative justice system diversion opportunity for medium and high-risk, non-violent offenders with an underlying substance use disorder. Successful participants will be diverted from incarceration and will see their charges reduced or dismissed upon completion.
Rusk County	\$123,144	Hybrid Court	Funds will be used to provide intensive treatment, monitoring, and supervision for participants with AODA addictions who will be involved in an outpatient treatment program provided mainly by Aurora Community Counseling. Due to lack of credentialed service providers in specialized areas, the grant will be used to enhance program services by utilizing providers within neighboring areas.
Sauk County	\$116,733	Hybrid Court	Funds will be used to operate the Sauk County Hybrid Treatment Court. Funds will be used for salary and benefits for a Case Coordinator, relevant training for the team, various office supplies, drug testing supplies, participant incentives, and treatment costs.
Shawano County	\$107,347	Drug Court	Funding will be used by the Shawano County Department of Human Services to implement a Drug Court in Shawano County. Grant funds requested will be used to cover the costs of the Drug Court Coordinator, training expenses, drug testing, and treatment services.
Sheboygan County	\$93,079	Hybrid Court	Funds will be used by the Sheboygan County Drug & Alcohol Treatment Court to enhance ongoing operations of the program by increasing capacity.
St. Croix County	\$146,517	Drug Court; OWI Court; Diversion Program	Funds will be used to support two positions, a Case Management/COMPAS Assessor for Drug Court, OWI Court, and Case Management Specialist for Diversion Programs.
Taylor County	\$100,000	Hybrid Court	Funding will support the salary and benefits of the treatment court coordinator, training, incentives, a case management system, and drug testing expenses.
Trempealeau County	\$110,000	Hybrid Court	The funding will be used to cover the majority of the salary & benefits of the Recovery Court Case Manager position, training, residential treatment, testing supplies and a peer support specialist.
Walworth County	\$195,000	Drug Court; Diversion Program	Funds will be used to support the operations of the Walworth County Drug Court, an OWI Diversion Program, and a Disorderly Conduct Diversion Program for non-violent offenders involved in the criminal justice system due to alcohol and/or drug use disorders.

Grantee	Award	Project Type	Project Description
Washington County	\$96,720	Diversion Program	Funds will be used to cover the costs of a program coordinator, drug testing expenses and training needs to continue operations of the post-charge, deferred prosecution agreement, diversion program.
Waukesha County	\$139,680	Drug Court	Funds will be used by the Waukesha County Criminal Justice Collaborating Council (CJCC) to maintain 1 full-time Case Manager for the Waukesha County Drug Court program, allowing for up to 25 clients to be served with a total program capacity of up to 60 participants with supplemental federal funding. Rigorous drug testing and client assistance (i.e. transportation) expenses will also be included in the budget, as well as a part-time Recovery Coach Coordinator who will recruit, train, and supervise volunteer Recovery Coaches assigned to TAD clients in the program.
Waushara County	\$89,782	Hybrid Court	Funds will be used to support the continued operation of a hybrid OWI/adult drug treatment court program.
Wood County	\$140,000	Drug Court	Funds will be used by the Wood County Drug Court program and Wood County Human Services to provided treatment and supervision services to high risk/ high need drug addicted people of Wood County. Funds will be used to cover court staff, treatment court training, drug testing, outpatient treatment, risk and need assessments, and inpatient services.
Total	\$6,688,900		

APPENDIX VII

Drug Court Grant Awards, Calendar Year 2019

Grantee	Award	Project Type	Project Description
Adams County	\$28,470	Hybrid Court	Funds will be used to continue to support operations for the Adams County Hybrid Treatment Court, which includes the Treatment Court Coordinator (salary and benefits), various office supplies, monitoring services, training for the Treatment Court Team, and drug testing services. The expansion funding will fund a part-time Peer Support Specialist, rental assistance for participants, and travel costs for participants and volunteer drivers.
Green County	122,900	Drug Court	Funding will be used by Green County Human Services to support operations of a drug treatment court. The grant will fund the Drug Court Coordinator and AODA Counselor salaries, training for staff, detox and transportation services, and drug testing materials.
Green Lake County	101,130	Drug Court	Funds will be used by the Green Lake County Treatment Court Program for the coordinator's salary and benefits, drug screening supplies and lab services, treatment services, and training for members of the Treatment Court Team.
Portage County	125,000	Drug Court; Diversion Program	Funds will be used to continue the Portage County Adult Drug Treatment Court and to fund a full-time Case Manager position in the Diversion Program.
Richland County	122,500	OWI Court	Funds will be used to cover the OWI Treatment Court Coordinator position salary and benefits. The grant funds also support necessary supplies and equipment to manage program participants, based on principles of restorative justices that provides an alternative to incarceration for criminal offenders who are alcohol dependent.
Total	\$500,000		

*Adams County will receive a total of \$97,989 from both the TAD program and the drug court grant program (see Appendix VIII). Funding will be split as follows: \$69,519 from the TAD program and \$28,470 from the drug court grant program.

*Portage County will receive a total of \$201,187 from both the TAD program and the drug court grant program (see Appendix VIII). Funding will be split as follows: \$76,187 from the TAD program and \$125,000 from the drug court grant program

APPENDIX VIII

Local Anti-Drug Task Force Funding

Task Force	Participating Counties	Lead Agency*	<u>2019 Funding</u>		<u>2020 Funding</u>	
			Byrne	Penalty Surcharges	Byrne	Penalty Surcharges
Brown County Drug Task Force	Brown	Brown County Sheriff's Department	\$49,024	\$33,922	\$49,024	\$33,922
Dane County Narcotics & Gang Task Force	Dane	Dane County Sheriff's Department	\$78,141	\$54,070	\$78,141	\$54,070
Northwest Area Crime Unit	Ashland, Bayfield, Burnett, Douglas, Iron, Sawyer, Washburn	Douglas County Sheriff's Department	\$24,288	\$16,806	\$24,288	\$16,806
West Central Drug Task Force	Buffalo, Clark, Chippewa, Dunn, Eau Claire, Pepin	Eau Claire County Sheriff's Department	\$41,761	\$28,896	\$41,761	\$28,896
South East Area Drug Operations Group	Dodge, Jefferson, Kenosha, Racine, Walworth	Racine County Sheriff's Office	\$125,176	\$86,616	\$125,176	\$86,616
West Central MEG Drug Task Force	Jackson, La Crosse, Monroe, Trempealeau, Vernon	La Crosse County Sheriff's Department	\$23,173	\$16,035	\$23,173	\$16,035
Manitowoc County Metro Drug Unit	Manitowoc	Manitowoc County Sheriff's Department	\$14,624	\$10,119	\$14,624	\$10,119
Central Area Drug Enforcement Group	Marathon	Marathon County Sheriff's Department	\$26,269	\$18,177	\$26,269	\$18,177
Milwaukee Metropolitan Drug Enforcement Group	Milwaukee	Milwaukee County District Attorney's Office	\$321,147	\$222,218	\$321,147	\$222,218
North Central Drug Enforcement Group	Forest, Langlade, Lincoln, Oneida, Price, Taylor, Vilas	Oneida County Sheriff's Department	\$30,302	\$20,967	\$30,302	\$20,967
Richland-Iowa-Grant Drug Task Force	Iowa, Grant, Richland	Iowa County Sheriff's Department	\$13,495	\$9,338	\$13,495	\$9,338
Sheboygan County MEG Unit	Sheboygan	Sheboygan Police Department	\$14,251	\$9,861	\$14,251	\$9,861
St. Croix Valley Drug Task Force	Pierce, Polk, St. Croix	St. Croix County Sheriff's Department	\$33,379	\$23,097	\$33,379	\$23,097
Central Wisconsin Drug Task Force	Adams, Green Lake, Juneau, Marquette, Portage, Waupaca, Waushara, Wood	Wood Co. Sheriff's Dept. (CY 2019) Marshfield PD (CY 2020)	\$53,977	\$37,349	\$53,977	\$37,349
Washington County Multi-Jurisdictional	Washington	Washington County Sheriff's Department	\$19,030	\$13,168	\$19,030	\$13,168

Drug Unit						
Waukesha County Metropolitan Drug Enforcement Unit	Waukesha	Waukesha County Sheriff's Department	\$52,871	\$36,584	\$52,871	\$36,584
Lake Winnebago Area MEG Unit	Calumet, Fond du Lac, Outagamie, Winnebago	Lake Winnebago Area MEG Unit	\$78,759	\$54,498	\$78,759	\$54,498
NADGI Tribal Task Force	WI Tribes	Oneida Police Department	<u>\$37,833</u>	<u>\$26,179</u>	<u>\$37,833</u>	<u>\$26,179</u>
Total			\$1,037,500	\$717,900	\$1,037,500	\$717,900

*Lead agency for 2020.

APPENDIX IX

Court-Appointed Counsel, 2019

County Name	County-Paid Counsel Expenditures		County-Paid Counsel Recoupments		Net Expenditure	
	Amount	%	Amount	%	Amount	%
Adams	\$15,647	0.2%	\$15,347	0.4%	\$300	0.0%
Ashland	118,045	1.8	13,384	0.3	104,661	4.1
Barron	99,322	1.5	49,502	1.3	49,819	1.9
Bayfield	19,433	0.3	10,579	0.3	8,855	0.3
Brown	235,104	3.6	180,812	4.6	54,292	2.1
Buffalo	25,348	0.4	22,673	0.6	2,674	0.1
Burnett	64,670	1.0	30,647	0.8	34,022	1.3
Calumet	34,679	0.5	15,902	0.4	18,778	0.7
Chippewa	30,397	0.5	40,771	1.0	-10,374	-0.4
Clark	1,152	0.0	0	0.0	1,152	0.0
Columbia	100,283	1.5	54,209	1.4	46,074	1.8
Crawford	21,224	0.3	17,545	0.4	3,679	0.1
Dane	354,406	5.5	104,671	2.7	249,735	9.7
Dodge	78,507	1.2	67,487	1.7	11,020	0.4
Door	19,641	0.3	29,585	0.8	-9,944	-0.4
Douglas	16,386	0.3	21,742	0.6	-5,356	-0.2
Dunn	18,500	0.3	20,986	0.5	-2,486	-0.1
Eau Claire	149,293	2.3	153,918	3.9	-4,625	-0.2
Florence	4,737	0.1	6,134	0.2	-1,397	-0.1
Fond du Lac	221,876	3.4	145,932	3.7	75,944	2.9
Forest	6,610	0.1	8,028	0.2	-1,418	-0.1
Grant	38,436	0.6	38,689	1.0	-253	0.0
Green	20,396	0.3	16,023	0.4	4,373	0.2
Green Lake	19,238	0.3	12,473	0.3	6,765	0.3
Iowa	56,983	0.9	34,403	0.9	22,580	0.9
Iron	6,409	0.1	2,823	0.1	3,586	0.1
Jackson	49,362	0.8	28,859	0.7	20,503	0.8
Jefferson	79,397	1.2	78,681	2.0	716	0.0
Juneau	39,252	0.6	0	0.0	39,252	1.5
Kenosha	164,212	2.5	50,873	1.3	113,339	4.4
Kewaunee	18,572	0.3	11,095	0.3	7,477	0.3
La Crosse	112,583	1.7	74,510	1.9	38,073	1.5
Lafayette	516,639	0.8	12,222	0.3	39,417	1.5
Langlade	10,885	0.2	10,998	0.3	-113	0.0
Lincoln	69,015	1.1	41,934	1.1	27,082	1.1

County Name	County-Paid Counsel Expenditures		County-Paid Counsel Recoupments		Net Expenditure	
	Amount	%	Amount	%	Amount	%
Manitowoc	\$151,144	2.3	\$60,182	1.5	\$90,962	3.5
Marathon	234,689	3.6	256,168	6.6	-21,479	-0.8
Marinette	147,754	2.3	71,040	1.8	76,714	3.0
Marquette	13,508	0.2	26,587	0.7	-13,079	-0.5
Menominee	0	0.0	0	0.0	-	0.0
Milwaukee	503,185	7.8	130,632	3.3	372,553	14.5
Monroe	154,358	2.4	100,070	2.6	54,288	2.1
Oconto	131,112	2.0	73,173	1.9	57,939	2.3
Oneida	53,772	0.8	21,712	0.6	32,060	1.2
Outagamie	300,437	4.6	55,852	1.4	244,585	9.5
Ozaukee	76,250	1.2	51,994	1.3	24,255	0.9
Pepin	8,037	0.1	9,783	0.3	-1,746	-0.1
Pierce	51,693	0.8	60,851	1.6	-9,159	-0.4
Polk	168,206	2.6	48,741	1.2	119,466	4.6
Portage	86,317	1.3	50,385	1.3	35,933	1.4
Price	593	0.0	131	0.0	463	0.0
Racine	0	0.0	0	0.0	-	0.0
Richland	59,359	0.9	19,798	0.5	39,561	1.5
Rock	211,381	3.3	97,503	2.5	113,878	4.4
Rusk	17,885	0.3	20,806	0.5	-2,921	-0.1
Sauk	140,499	2.2	95,969	2.5	44,530	1.7
Sawyer	71,739	1.1	18,662	0.5	53,076	2.1
Shawano	43,249	0.7	43,592	1.1	-343	0.0
Sheboygan	292,331	4.5	148,717	3.8	143,613	5.6
St Croix	168,624	2.6	128,673	3.3	39,951	1.6
Taylor	4,065	0.1	5,799	0.1	-1,735	-0.1
Trempealeau	38,486	0.6	35,764	0.9	2,722	0.1
Vernon	18,594	0.3	10,133	0.3	8,461	0.3
Vilas	38,931	0.6	16,406	0.4	22,525	0.9
Walworth	104,374	1.6	141,402	3.6	-37,028	-1.4
Washburn	92,484	1.4	24,861	0.6	67,623	2.6
Washington	174,897	2.7	165,929	4.2	8,968	0.3
Waukesha	261,532	4.0	176,630	4.5	84,902	3.3
Waupaca	40,621	0.6	46,809	1.2	-6,188	-0.2
Waushara	35,893	0.6	38,817	1.0	-2,925	-0.1
Winnebago	141,273	2.2	201,562	5.2	-60,289	-2.3
Wood	<u>72,928</u>	<u>1.1</u>	<u>28,524</u>	<u>0.7</u>	<u>44,405</u>	<u>1.7</u>
Total	\$6,481,839	100.0	\$3,907,096	100.0	\$2,574,743	100.0

APPENDIX X

State Public Defender Trial Division Offices

