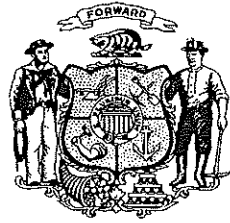


# STATE OF WISCONSIN

SENATE CHAIR  
**Howard Marklein**

316 East, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
Phone: (608) 266-0703



ASSEMBLY CHAIR  
**Mark Born**

308 East, State Capitol  
P.O. Box 8952  
Madison, WI 53708-8953  
Phone: (608) 266-2540

## JOINT COMMITTEE ON FINANCE

### MEMORANDUM

To: Members  
Joint Committee on Finance

From: Senator Howard Marklein  
Representative Mark Born

Date: April 27, 2023

Re: DOJ Report to JFC

Attached is a report on regional drug prosecutors from the Department of Justice, pursuant to s. 165.25(11), Stats.

This report is being provided for your information only. No action by the Committee is required. Please feel free to contact us if you have any questions.

Attachments

HM:MB:jm

**CORRESPONDENCE/MEMORANDUM****DEPARTMENT OF JUSTICE**

Date: April 26, 2023

APR 27 2023

*St. Finance*

To: Joint Committee on Finance

From: Lara Sutherlin  
Administrator, Division of Legal Services, DOJ

Subject: Report on DOJ regional drug prosecutors pursuant to Wis. Stat. § 165.25(11)

2017 Wisconsin Act 261, section 13 created two Assistant Attorney General (AAG) project positions intended to (1) assist the Division of Criminal Investigation field offices in Wausau and Appleton and (2) assist district attorneys with the prosecution of drug-related offenses. The statute further required the Department of Justice (DOJ) to submit an annual report to the Joint Committee on Finance regarding the project positions to "describe the activities and assess the effectiveness of the attorneys." On February 15, 2023, the Joint Committee on Finance approved DOJ's request to create two permanent AAG positions to replace these project positions. Accordingly, this report will be the final annual report relating to the project positions.

**1. Activities of these attorneys.**

The regional Assistant Attorneys General perform a variety of functions related to heroin (and other opioids) and methamphetamine trafficking investigations and prosecutions. These cases include conspiracy charges against drug trafficking organizations and First Degree Reckless Homicide (Len Bias) charges against traffickers responsible for the delivery of drugs resulting in fatal drug overdoses. The attorneys provide guidance and assistance to law enforcement agencies and district attorney's offices in the regions of the state covered by the Department of Justice - Division of Criminal Investigation (DCI) field offices in Wausau and Appleton, and occasionally to areas of the state outside of those geographic regions. The attorneys assist the district attorney's offices with criminal prosecutions in an assist capacity pursuant to Wis. Stat. § 978.05(8) and occasionally handle cases as special prosecutions pursuant to Wis. Stat. § 978.045.

The regular duties of the attorneys fall into three primary categories: (1) training and consultation, (2) investigation, and (3) prosecution.

*a. Training and Consultation*

One important function of the regional drug prosecutor program is the ability to serve as a resource for law enforcement officers and prosecutors across the state. The regional locations of the attorneys make them accessible to officers and prosecutors in their regions and allow them to build productive working relationships which result in efficient, thorough, and successful investigations and prosecutions.

The attorneys have developed training materials and standards for drug investigations and prosecutions. These training materials and standards for both prosecutors and law enforcement officers focus on high-level drug trafficking and Len Bias investigations and prosecutions with an emphasis on identifying and aggressively prosecuting the most culpable offenders. The attorneys have regularly presented these materials during formal training sessions for law enforcement officers, including to various multi-jurisdictional drug task forces, as well as to prosecutors in their regions and across the state.

In addition to formal presentations, the attorneys regularly perform case consultations for prosecutors and law enforcement officers including DCI special agents within the regional offices, investigators with local drug units, and officers from local sheriff's offices and police departments. These consultations help assess cases that are under investigation, have been referred for criminal charges, or have already been filed. The attorneys make recommendations on the merits of cases, as well as address a variety of topics including requests for search warrant and subpoena templates and reviews, various legal questions, and investigation and prosecution strategies. The accessibility made possible by the regional placement of the attorneys provides law enforcement officers and prosecutors in their respective counties a primary point of contact from DOJ and allows for frequent telephonic, email, and in-person contact.

*b. Investigation*

An important benefit of the attorneys being regionally located is their ability to get involved during the early stages of criminal investigations. The early collaborative involvement with law enforcement on major cases including drug overdose deaths and complicated drug conspiracies has repeatedly proven to result in more thorough and comprehensive investigations, improved information sharing between agencies, better compliance with legal requirements, and ultimately, more successful prosecutions. The attorneys draft and review various types of search warrants, advise on the legality of investigations, help develop and brainstorm investigative strategies, and identify follow-up investigative tasks, all with the purpose of building legally sound and prosecutable criminal cases. The attorneys work with law enforcement to identify the most culpable offenders by working up the drug chain of supply and distinguishing drug users from drug dealers.

*c. Prosecution*

The attorneys handle some cases as special prosecutions pursuant to Wis. Stat. § 978.045. Cases are assigned as special prosecutions upon the request of the applicable district attorney(s) and approval of the Court. The attorneys are assigned cases as special prosecutions only under limited circumstances. In special prosecution cases, DOJ is solely responsible for all aspects of the prosecutions, including all decisions related to settlement.

The majority of the attorneys' caseloads are criminal prosecutions handled as DOJ assists pursuant to Wis. Stat. § 978.05(8). Like special prosecutions, assist cases are assigned upon the request of the applicable district attorney. Unlike special prosecutions, assist cases remain under the authority of the district attorney. The district attorney's office assigns a prosecutor from the local office to remain on the case with the Assistant Attorney General. This structure allows the attorneys to provide valuable caseload assistance to district attorney's offices and offer a level of expertise in drug conspiracy or overdose death prosecutions. The attorneys help mentor and train prosecutors, providing specific tools and strategies prosecutors can implement into future investigations and prosecutions. In both special prosecution and assist cases, the attorneys remain assigned through resolution by plea agreement or trial, as well as any trial-level post-conviction motions.

**2. Caseload Statistics**

The following is a breakdown of cases assigned to the attorneys as either assists or special prosecutions during the 2022 calendar year. One case involved both methamphetamine and heroin/fentanyl and one case involved both methamphetamine and cocaine, so they are included in each category (Methamphetamine Distribution, Heroin/Fentanyl Distribution and Cocaine Distribution).

Total: 49  
First Degree Reckless Homicide (Len Bias): 18  
Methamphetamine Distribution: 8  
Heroin/Fentanyl Distribution: 14  
Cocaine Distribution: 3  
Other: 6

**3. Impact of the Regional Assistant Attorneys General Program**

The body of work detailed above establishes the intended purposes for the regional Assistant Attorneys General – to assist DCI in the field offices of Wausau and Appleton and to assist district attorneys in prosecuting drug-related offenses – have been accomplished. The value and effectiveness of the Assistant Attorneys General are demonstrated by reviews from the district attorneys and DCI special agents in

charge located in the regions supported by these positions.

DCI Special Agent in Charge Jeffrey Wisch of the Appleton DCI Office stated:

*Wisconsin Department of Justice, Assistant Attorney General Pete Hahn, while assigned to the DCI Appleton Field Office became part of the investigative process for countless DCI investigators. His insight and guidance answered the statutory questions of numerous investigators. AAG Hahn had developed a strong working relationship with DCI investigators breaking down the silo that different work locations had built. Working side by side led to this close partnership within DOJ. This regional AAG assignment has been the difference needed to bridge the two units and build on the teamwork concept. AAG Hoffman continues this outstanding partnership.*

Special Agent in Charge of Lake Winnebago Area Metropolitan Enforcement Group (LWAM) Jeremiah Winscher:

*Kari Hoffman is an Assistant Attorney General assigned to the Division of Criminal Investigation's Appleton Field Office and is an invaluable resource to the region specifically and the state of Wisconsin as a whole. AAG Hoffman is often consulted with by DCI Special Agents as well as local Police Department's and Sheriff's Offices in regards to criminal investigations and provides highly valued and reliable insights concerning the legal matters intertwined throughout various types of complex cases. The accessibility of AAG Hoffman at the regional field office is also highly valuable for Special Agents in that advice and consultation concerning legal matters is never more than a short walk away; increasing efficiency in reviews of legal documents, subpoenas and search warrants and ultimately case resolution. I have personally worked with AAG Hoffman and discussed numerous issues and topics with AAG Hoffman and have always been impressed by the level of attention and diligence that AAG Hoffman provides in an effort to seek an efficient and effective resolution of various types of criminal investigations.*

Outagamie County District Attorney Melinda Tempelis stated:

*The regional drug prosecutor program has been an exceptional resource for my office, working with us to combat methamphetamine, heroin, fentanyl, and other drug trafficking in the Fox Valley and surrounding areas. As my office, like many others across the state, has struggled with high caseloads and prosecutor turnover, the drug Assistant Attorneys General have provided much needed assistance with the investigation and prosecution of serious drug trafficking and reckless homicide cases. The regionalization approach has provided us with immediate access to a pool of knowledge that would otherwise be unavailable to assist both seasoned and new prosecutors.*

Marathon County District Attorney Theresa Wetzsteon stated:

*The regional drug prosecutor has been a tremendous asset to the Marathon County District Attorney's Office. While in his role as the regional drug prosecutor, former Assistant Attorney General Cass Cousins assisted in the successful prosecution of several reckless homicide cases based on drug overdose fatalities, as well as other drug trafficking cases. His specialized knowledge and assistance were essential to the success in those cases. In addition, the resource prosecutor is a valuable tool for our prosecutors as they navigate the complex and ever-changing search and seizure laws, drug trends and technology involved in these cases. The regional drug prosecutor has provided a very valuable service to the Marathon County District Attorney's Office and to the residents of Marathon County.*

Marinette County District Attorney Shea Morrow stated:

*Marinette County is a border county with Michigan, and as such, we are a pipeline for illegal drugs both going northbound and southbound. The Regional Drug Prosecutor Program is extremely valuable to smaller counties like Marinette County where resources are less available. In 2022, AAG Peter Hahn and AAG Cassidy Cousins assisted our office and law enforcement with the prosecution of two individuals for conspiracy to deliver methamphetamine in Marinette and surrounding counties. They also provided valuable help with case analysis and responding to motion issues in several 1st Degree Reckless Homicide (Len Bias) cases. The Regional Drug Prosecutor Program is a wonderful partnership with local prosecutors and law enforcement, and is a great benefit to Marinette County and Northeast Wisconsin.*

#### 4. Conclusion

The regional drug prosecutors have benefitted the safety and security of Wisconsin residents. Please let us know if you have questions or thoughts. We are proud of our staff's great work in these vital areas and thankful for the opportunity to provide support in the fight against Wisconsin's drug epidemic.