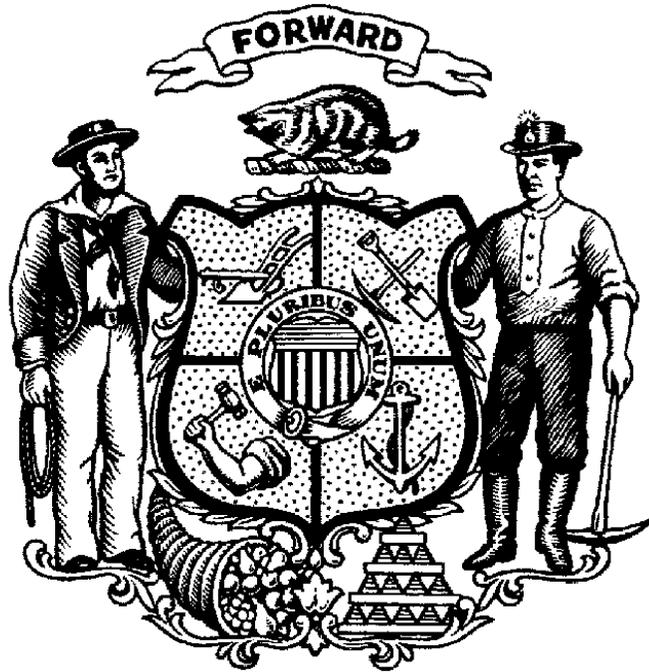


# State of Wisconsin

## Public Defender Board



Agency Budget Request  
2021 – 2023 Biennium  
September 15, 2020

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*Protecting  
justice for all  
since 1977*

## Wisconsin State Public Defender

17 S. Fairchild Street, Suite 500  
Madison, WI 53703

Office Number: 608-266-0087 / Fax Number: 608-267-0584  
[www.wisspd.org](http://www.wisspd.org)

**Kelli S. Thompson**  
State Public Defender

**Jon Padgham**  
Deputy State  
Public Defender

September 15, 2020

Secretary Joel Brennan  
Department of Administration  
1 E. Wilson St., 10th Floor  
Madison, WI 53703

Dear Secretary Brennan:

On behalf of the Public Defender Board, I am submitting the attached 2021-2023 biennial budget proposal. This budget proposal, which was approved by the Board on September 11, 2020, has been carefully screened to identify the most critical needs of both the State Public Defender (SPD) and the criminal justice system as a whole.

With the significant investment in the private bar rate in the last biennium, this budget request focuses on the significant issues in the criminal justice system that impact SPD caseload and workload. For the first time, the SPD has quantified the workload impact of video evidence such as body worn cameras. The significant amount of time that attorneys and staff spend on reviewing video evidence is having an impact on both the representation of individual clients as well the retention of staff for whom caseloads have remained consistently high but the time spent on each case has increased dramatically.

In addition, the SPD is offering a revised proposal that has been requested in previous biennia to make changes to certain crimes to reduce or graduate the penalty or to create a diversion from criminal charging. The suggested change in this request would both provide fiscal benefit to the state as well as reduce the number of people incarcerated by reducing revocation of community supervision for technical rules violations.

In relation to the SPD budget, I want to emphasize that the Summer of 2020 has brought into focus the need for changes in the criminal justice system. One of the most impactful ways to ensure that individual rights are protected is by guaranteeing that the most vulnerable individuals have high quality legal representation. This request demonstrates that Wisconsin is committed to meaningful criminal justice reform moving forward by providing adequate resources to the public defender's office.

Thank you for the opportunity to submit this proposal. Please feel free to contact me with any additional questions you may have.

Sincerely,  
  
Kelli Thompson  
State Public Defender

*Wisconsin Forward Award Mastery Recipient*

## **AGENCY DESCRIPTION**

The board oversees the Office of the State Public Defender, which provides legal representation for indigent persons who are accused of crimes or are defendants in certain civil matters. Pursuant to Wisconsin Statutes and administrative rules, the office determines financial eligibility based on an analysis of each applicant's income, assets, family size and essential expenses, unless the applicant is a juvenile or is seeking representation for cases involving mental health or protective placement proceedings.

The board consists of nine members appointed to three-year terms by the Governor with the advice and consent of the Senate. At least five of the nine must be members of the State Bar of Wisconsin. The board appoints a state public defender to oversee the agency.

The office was created by statute in 1965, became an independent agency in 1977, and gradually began to represent indigent clients at the trial level with both in-house and private bar attorneys. The office consists of the Trial, Appellate, Administrative and Assigned Counsel divisions and the Office of Training and Development.

## **MISSION**

The mission of the agency is to zealously represent clients, protect constitutional rights and advocate for an effective and fair criminal justice system. Our commitment is to treat our clients with dignity and compassion.

## **PROGRAMS, GOALS, OBJECTIVES AND ACTIVITIES**

### **Program 1: Legal Assistance**

Goal: Continuously improve services to clients.

Objective/Activity: Fair treatment and representation of clients.

Goal: Strengthen public value to clients, the community, other government agencies, other states and nations, and partners.

Objective/Activity: Reduce crime by reaching and educating young people before they offend.

Goal: Continuously improve administrative management.

Objective/Activity: Maximize resources to serve eligible clients.

## PERFORMANCE MEASURES

### 2019 AND 2020 GOALS AND ACTUALS

Prog . No.	Performance Measure	Goal 2019	Actual 2019	Goal 2020	Actual 2020
1.	Court grants attorney withdrawals at client request as a percentage of total trial cases.	2%	2.3%	2%	2.0%
1.	Number of educational contacts with children and youth.	2,750	1,899	2,100	1,935
1.	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	598	800	563
1.	Number of cases with greatest risk of penalties handled by staff attorneys.	1,400	1,477	1,450	1,458

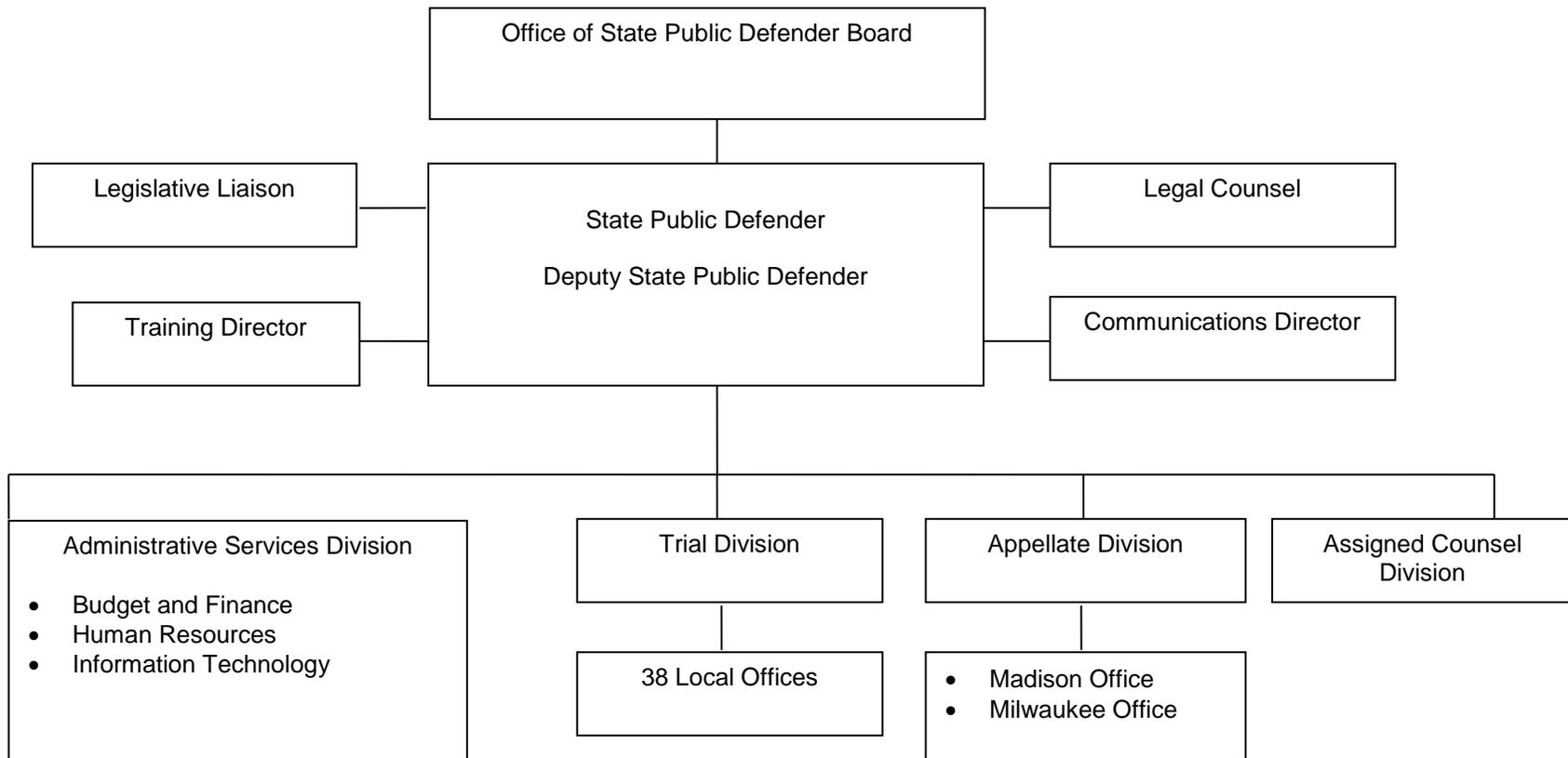
Note: Based on fiscal year.

### 2021, 2022 AND 2023 GOALS

Prog . No.	Performance Measure	Goal 2021	Goal 2022	Goal 2023
1.	Court grants attorney withdrawals at client request as a percentage of total trial cases.	2%	2%	2%
1.	Number of educational contacts with children and youth.	2,100	2,000	2,000
1.	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	800	800
1.	Number of cases with greatest risk of penalties handled by staff attorneys.	1,450	1,450	1,450

Note: Based on fiscal year.

# Office of the State Public Defender



# Agency Total by Fund Source

Public Defender Board

2123 Biennial Budget

		ANNUAL SUMMARY					BIENNIAL SUMMARY				
Source of Funds		Prior Year Total	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
GPR	S	\$89,338,999	\$107,943,600	\$114,376,900	\$116,282,900	649.85	649.85	\$215,887,200	\$230,659,800	\$14,772,600	6.8%
<b>Total</b>		\$89,338,999	\$107,943,600	\$114,376,900	\$116,282,900	649.85	649.85	\$215,887,200	\$230,659,800	\$14,772,600	6.8%
PR	S	\$652,021	\$1,452,400	\$1,456,700	\$1,456,700	5.00	5.00	\$2,904,800	\$2,913,400	\$8,600	0.3%
<b>Total</b>		\$652,021	\$1,452,400	\$1,456,700	\$1,456,700	5.00	5.00	\$2,904,800	\$2,913,400	\$8,600	0.3%
<b>Grand Total</b>		\$89,991,020	\$109,396,000	\$115,833,600	\$117,739,600	654.85	654.85	\$218,792,000	\$233,573,200	\$14,781,200	6.8%

# Agency Total by Program

550 Public Defender Board

2123 Biennial Budget

Source of Funds	ANNUAL SUMMARY						BIENNIAL SUMMARY			
	Prior Year Actual	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
<b>01 LEGAL ASSISTANCE</b>										
Non Federal										
GPR	\$89,338,999	\$107,943,600	\$114,376,900	\$116,282,900	649.85	649.85	\$215,887,200	\$230,659,800	\$14,772,600	6.84%
S	\$89,338,999	\$107,943,600	\$114,376,900	\$116,282,900	649.85	649.85	\$215,887,200	\$230,659,800	\$14,772,600	6.84%
PR	\$652,021	\$1,452,400	\$1,456,700	\$1,456,700	5.00	5.00	\$2,904,800	\$2,913,400	\$8,600	0.30%
S	\$652,021	\$1,452,400	\$1,456,700	\$1,456,700	5.00	5.00	\$2,904,800	\$2,913,400	\$8,600	0.30%
<b>Total - Non Federal</b>	<b>\$89,991,020</b>	<b>\$109,396,000</b>	<b>\$115,833,600</b>	<b>\$117,739,600</b>	<b>654.85</b>	<b>654.85</b>	<b>\$218,792,000</b>	<b>\$233,573,200</b>	<b>\$14,781,200</b>	<b>6.76%</b>
S	\$89,991,020	\$109,396,000	\$115,833,600	\$117,739,600	654.85	654.85	\$218,792,000	\$233,573,200	\$14,781,200	6.76%
<b>PGM 01 Total</b>	<b>\$89,991,020</b>	<b>\$109,396,000</b>	<b>\$115,833,600</b>	<b>\$117,739,600</b>	<b>654.85</b>	<b>654.85</b>	<b>\$218,792,000</b>	<b>\$233,573,200</b>	<b>\$14,781,200</b>	<b>6.76%</b>
GPR	\$89,338,999	\$107,943,600	\$114,376,900	\$116,282,900	649.85	649.85	\$215,887,200	\$230,659,800	\$14,772,600	6.84%
S	\$89,338,999	\$107,943,600	\$114,376,900	\$116,282,900	649.85	649.85	\$215,887,200	\$230,659,800	\$14,772,600	6.84%
PR	\$652,021	\$1,452,400	\$1,456,700	\$1,456,700	5.00	5.00	\$2,904,800	\$2,913,400	\$8,600	0.30%
S	\$652,021	\$1,452,400	\$1,456,700	\$1,456,700	5.00	5.00	\$2,904,800	\$2,913,400	\$8,600	0.30%
<b>TOTAL 01</b>	<b>\$89,991,020</b>	<b>\$109,396,000</b>	<b>\$115,833,600</b>	<b>\$117,739,600</b>	<b>654.85</b>	<b>654.85</b>	<b>\$218,792,000</b>	<b>\$233,573,200</b>	<b>\$14,781,200</b>	<b>6.76%</b>
S	\$89,991,020	\$109,396,000	\$115,833,600	\$117,739,600	654.85	654.85	\$218,792,000	\$233,573,200	\$14,781,200	6.76%
<b>Agency Total</b>	<b>\$89,991,020</b>	<b>\$109,396,000</b>	<b>\$115,833,600</b>	<b>\$117,739,600</b>	<b>654.85</b>	<b>654.85</b>	<b>\$218,792,000</b>	<b>\$233,573,200</b>	<b>\$14,781,200</b>	<b>6.76%</b>

# Agency Total by Decision Item

Public Defender Board

2123 Biennial Budget

Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000 Adjusted Base Funding Level	\$109,396,000	\$109,396,000	614.85	614.85
3001 Turnover Reduction	(\$1,225,500)	(\$1,225,500)	0.00	0.00
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	(\$59,600)	(\$59,600)	0.00	0.00
3007 Overtime	\$222,600	\$222,600	0.00	0.00
3010 Full Funding of Lease and Directed Moves Costs	\$4,500	\$65,600	0.00	0.00
4002 Expert Witness Services Cost to Continue	\$706,300	\$706,300	0.00	0.00
4003 Transcripts, Interpreters and Discovery Cost to Continue	\$414,900	\$414,900	0.00	0.00
4005 Assistant State Public Defender Merit Compensation	\$2,727,000	\$5,455,200	0.00	0.00
4010 Restore Turnover	\$1,225,500	\$1,225,500	0.00	0.00
4502 Charging and Sentencing Alternatives	(\$1,355,200)	(\$2,710,300)	0.00	0.00
5018 Tuition Reimbursement/Loan Assistance	\$250,000	\$250,000	0.00	0.00
5019 Pilot CHIPS Extension	\$0	\$0	0.00	0.00
5020 Video Evidence Workload Staffing	\$3,527,100	\$3,998,900	40.00	40.00
<b>TOTAL</b>	<b>\$115,833,600</b>	<b>\$117,739,600</b>	<b>654.85</b>	<b>654.85</b>

# GPR Earned

2123 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance

DATE September 14, 2020

Revenue	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
Misc Revenues	\$2,200	\$2,500	\$2,500	\$2,500
<b>Total</b>	<b>\$2,200</b>	<b>\$2,500</b>	<b>\$2,500</b>	<b>\$2,500</b>

# Program Revenue

2123 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	31	Gifts, grants and proceeds

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
<b>Opening Balance</b>	<b>\$70,800</b>	<b>\$68,100</b>	<b>\$69,300</b>	<b>\$69,300</b>
Miscellaneous Sales	\$2,600	\$200	\$2,500	\$2,500
Miscellaneous Sponsors and Gifts	\$3,800	\$3,500	\$0	\$0
<b>Total Revenue</b>	<b>\$77,200</b>	<b>\$71,800</b>	<b>\$71,800</b>	<b>\$71,800</b>
<b>Expenditures</b>	<b>\$9,100</b>	<b>\$2,500</b>	<b>\$0</b>	<b>\$0</b>
Purchase of Sale Merchandise	\$0	\$0	\$2,500	\$2,500
<b>Total Expenditures</b>	<b>\$9,100</b>	<b>\$2,500</b>	<b>\$2,500</b>	<b>\$2,500</b>
<b>Closing Balance</b>	<b>\$68,100</b>	<b>\$69,300</b>	<b>\$69,300</b>	<b>\$69,300</b>

# Program Revenue

2123 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	33	Tuition payments

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
<b>Opening Balance</b>	<b>\$119,000</b>	<b>\$114,600</b>	<b>\$104,600</b>	<b>\$94,600</b>
Training Course Fees	\$176,000	\$90,000	\$180,000	\$190,000
<b>Total Revenue</b>	<b>\$295,000</b>	<b>\$204,600</b>	<b>\$284,600</b>	<b>\$284,600</b>
<b>Expenditures</b>	<b>\$180,400</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$0</b>
Training Expenditures	\$0	\$0	\$190,000	\$210,000
<b>Total Expenditures</b>	<b>\$180,400</b>	<b>\$100,000</b>	<b>\$190,000</b>	<b>\$210,000</b>
<b><u>Closing Balance</u></b>	<b>\$114,600</b>	<b>\$104,600</b>	<b>\$94,600</b>	<b>\$74,600</b>

# Program Revenue

2123 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	35	Payments from clients; administrative costs

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
<b>Opening Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Transfer from 20.550(1)(fb)	\$331,500	\$332,000	\$346,300	\$351,800
<b>Total Revenue</b>	<b>\$331,500</b>	<b>\$332,000</b>	<b>\$346,300</b>	<b>\$351,800</b>
<b>Expenditures</b>	<b>\$331,500</b>	<b>\$332,000</b>	<b>\$0</b>	<b>\$0</b>
Compensation Reserve	\$0	\$0	\$4,100	\$8,200
Health Insurance Reserves	\$0	\$0	\$1,500	\$2,900
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	(\$2,300)	(\$2,300)
3007 Overtime	\$0	\$0	\$2,900	\$2,900
2000 Adjusted Base Funding Level	\$0	\$0	\$340,100	\$340,100
<b>Total Expenditures</b>	<b>\$331,500</b>	<b>\$332,000</b>	<b>\$346,300</b>	<b>\$351,800</b>
<b>Closing Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

# Program Revenue

2123 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	36	Private bar and inv. reimbursement; payments for legal representation

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
<b>Opening Balance</b>	<b>\$1,552,000</b>	<b>\$2,408,300</b>	<b>\$3,150,300</b>	<b>\$2,301,000</b>
Client Payments	\$357,200	\$300,000	\$340,000	\$340,000
DOA Contracted Collections	\$302,900	\$250,000	\$300,000	\$300,000
Court Ordered and Collected Atty Fees for Juveniles	\$297,000	\$280,000	\$290,000	\$290,000
Court Ordered and Collected Atty Fees for Commitment	\$17,400	\$15,000	\$20,000	\$25,000
Court Ordered and Collected Atty Fees for Adult Cases	\$8,600	\$7,000	\$10,000	\$10,000
<b>Total Revenue</b>	<b>\$2,535,100</b>	<b>\$3,260,300</b>	<b>\$4,110,300</b>	<b>\$3,266,000</b>
<b>Expenditures</b>	<b>\$126,800</b>	<b>\$110,000</b>	<b>\$0</b>	<b>\$0</b>
Transfer to 20.550(1)(l)	\$0	\$0	\$346,300	\$351,800
Private bar and investigator reimbursements	\$0	\$0	\$550,000	\$550,000
2000 Adjusted Base Funding Level	\$0	\$0	\$913,000	\$913,000
<b>Total Expenditures</b>	<b>\$126,800</b>	<b>\$110,000</b>	<b>\$1,809,300</b>	<b>\$1,814,800</b>
<b>Closing Balance</b>	<b>\$2,408,300</b>	<b>\$3,150,300</b>	<b>\$2,301,000</b>	<b>\$1,451,200</b>

# Program Revenue

2123 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	37	Conferences and training

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
<b>Opening Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Penalty Surcharge Transfer from DOJ	\$193,700	\$194,400	\$205,600	\$208,200
<b>Total Revenue</b>	<b>\$193,700</b>	<b>\$194,400</b>	<b>\$205,600</b>	<b>\$208,200</b>
<b>Expenditures</b>	<b>\$193,700</b>	<b>\$194,400</b>	<b>\$0</b>	<b>\$0</b>
Compensation Reserve	\$0	\$0	\$2,600	\$5,200
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	\$3,700	\$3,700
2000 Adjusted Base Funding Level	\$0	\$0	\$199,300	\$199,300
<b>Total Expenditures</b>	<b>\$193,700</b>	<b>\$194,400</b>	<b>\$205,600</b>	<b>\$208,200</b>
<b>Closing Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Decision Item (DIN) - 2000**

**Decision Item (DIN) Title - Adjusted Base Funding Level**

**NARRATIVE**

Adjusted Base Funding Level

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	2000	Adjusted Base Funding Level

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$41,138,300	\$41,138,300
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$122,800	\$122,800
05	Fringe Benefits	\$16,746,600	\$16,746,600
06	Supplies and Services	\$51,388,300	\$51,388,300
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$109,396,000</b>	<b>\$109,396,000</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	237.65	237.65
20	Unclassified Positions Authorized	377.20	377.20

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>2000</b>	<b>Adjusted Base Funding Level</b>			
<b>01</b>	<b>Legal assistance</b>				
	01 Program operation	\$3,038,800	\$3,038,800	18.40	18.40
	02 Appellate representation	\$4,598,800	\$4,598,800	43.35	43.35
	03 Trial representation	\$56,166,600	\$56,166,600	542.85	542.85
	04 Private bar invstgtr reimburse	\$41,966,800	\$41,966,800	0.00	0.00
	05 Private bar invstgtr pay admin	\$687,500	\$687,500	5.25	5.25
	06 Transcripts discovery intrprtr	\$1,485,100	\$1,485,100	0.00	0.00
	07 Salary adjustments	\$0	\$0	0.00	0.00
	35 Payments from clients; administrative costs	\$340,100	\$340,100	3.00	3.00
	36 Private bar and inv. reimbursement; payments for legal representation	\$913,000	\$913,000	0.00	0.00
	37 Conferences and training	\$199,300	\$199,300	2.00	2.00
	<b>Legal assistance SubTotal</b>	<b>\$109,396,000</b>	<b>\$109,396,000</b>	<b>614.85</b>	<b>614.85</b>
	<b>Adjusted Base Funding Level SubTotal</b>	<b>\$109,396,000</b>	<b>\$109,396,000</b>	<b>614.85</b>	<b>614.85</b>
	<b>Agency Total</b>	<b>\$109,396,000</b>	<b>\$109,396,000</b>	<b>614.85</b>	<b>614.85</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>2000</b>	<b>Adjusted Base Funding Level</b>				
	GPR	S	\$107,943,600	\$107,943,600	609.85	609.85
	PR	S	\$1,452,400	\$1,452,400	5.00	5.00
	<b>Total</b>		<b>\$109,396,000</b>	<b>\$109,396,000</b>	<b>614.85</b>	<b>614.85</b>
<b>Agency Total</b>			<b>\$109,396,000</b>	<b>\$109,396,000</b>	<b>614.85</b>	<b>614.85</b>

**Decision Item (DIN) - 3001**

**Decision Item (DIN) Title - Turnover Reduction**

**NARRATIVE**

Standard Budget Adjustment - Turnover Reduction

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	3001	Turnover Reduction

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	(\$1,225,500)	(\$1,225,500)
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>(\$1,225,500)</b>	<b>(\$1,225,500)</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>3001</b>	<b>Turnover Reduction</b>			
<b>01</b>	<b>Legal assistance</b>				
	03 Trial representation	(\$1,225,500)	(\$1,225,500)	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>(\$1,225,500)</b>	<b>(\$1,225,500)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Turnover Reduction SubTotal</b>	<b>(\$1,225,500)</b>	<b>(\$1,225,500)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>(\$1,225,500)</b>	<b>(\$1,225,500)</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>3001</b>	<b>Turnover Reduction</b>				
	GPR	S	(\$1,225,500)	(\$1,225,500)	0.00	0.00
	<b>Total</b>		<b>(\$1,225,500)</b>	<b>(\$1,225,500)</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>(\$1,225,500)</b>	<b>(\$1,225,500)</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 3003**

**Decision Item (DIN) Title - Full Funding of Continuing Position Salaries and Fringe Benefits**

**NARRATIVE**

Standard Budget Adjustment - Full Funding of Continuing Position Salaries and Fringe Benefits

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	3003	Full Funding of Continuing Position Salaries and Fringe Benefits

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	(\$488,700)	(\$488,700)
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$429,100	\$429,100
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>(\$59,600)</b>	<b>(\$59,600)</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>3003</b>	<b>Full Funding of Continuing Position Salaries and Fringe Benefits</b>			
<b>01</b>	<b>Legal assistance</b>				
	01 Program operation	(\$15,700)	(\$15,700)	0.00	0.00
	02 Appellate representation	\$148,300	\$148,300	0.00	0.00
	03 Trial representation	(\$206,500)	(\$206,500)	0.00	0.00
	05 Private bar invstgtr pay admin	\$12,900	\$12,900	0.00	0.00
	35 Payments from clients; administrative costs	(\$2,300)	(\$2,300)	0.00	0.00
	37 Conferences and training	\$3,700	\$3,700	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>(\$59,600)</b>	<b>(\$59,600)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Full Funding of Continuing Position Salaries and Fringe Benefits SubTotal</b>	<b>(\$59,600)</b>	<b>(\$59,600)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>(\$59,600)</b>	<b>(\$59,600)</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>3003</b>	<b>Full Funding of Continuing Position Salaries and Fringe Benefits</b>				
	GPR	S	(\$61,000)	(\$61,000)	0.00	0.00
	PR	S	\$1,400	\$1,400	0.00	0.00
	<b>Total</b>		<b>(\$59,600)</b>	<b>(\$59,600)</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>(\$59,600)</b>	<b>(\$59,600)</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 3007**

**Decision Item (DIN) Title - Overtime**

**NARRATIVE**

Standard Budget Adjustment – Overtime

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	3007	Overtime

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$192,700	\$192,700
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$29,900	\$29,900
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$222,600</b>	<b>\$222,600</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>3007</b>	<b>Overtime</b>			
<b>01</b>	<b>Legal assistance</b>				
	01 Program operation	\$9,900	\$9,900	0.00	0.00
	02 Appellate representation	\$26,300	\$26,300	0.00	0.00
	03 Trial representation	\$172,600	\$172,600	0.00	0.00
	05 Private bar invstgtr pay admin	\$10,900	\$10,900	0.00	0.00
	35 Payments from clients; administrative costs	\$2,900	\$2,900	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$222,600</b>	<b>\$222,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Overtime SubTotal</b>	<b>\$222,600</b>	<b>\$222,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$222,600</b>	<b>\$222,600</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>3007</b>	<b>Overtime</b>				
	GPR	S	\$219,700	\$219,700	0.00	0.00
	PR	S	\$2,900	\$2,900	0.00	0.00
	<b>Total</b>		<b>\$222,600</b>	<b>\$222,600</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$222,600</b>	<b>\$222,600</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 3010**

**Decision Item (DIN) Title - Full Funding of Lease and Directed Moves Costs**

**NARRATIVE**

Standard Budget Adjustment - Full Funding of Lease and Directed Moves Costs

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	3010	Full Funding of Lease and Directed Moves Costs

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$4,500	\$65,600
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$4,500</b>	<b>\$65,600</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>3010</b>	<b>Full Funding of Lease and Directed Moves Costs</b>			
<b>01</b>	<b>Legal assistance</b>				
	03 Trial representation	\$4,500	\$65,600	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$4,500</b>	<b>\$65,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Full Funding of Lease and Directed Moves Costs SubTotal</b>	<b>\$4,500</b>	<b>\$65,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$4,500</b>	<b>\$65,600</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>3010</b>	<b>Full Funding of Lease and Directed Moves Costs</b>				
	GPR	S	\$4,500	\$65,600	0.00	0.00
	<b>Total</b>		<b>\$4,500</b>	<b>\$65,600</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$4,500</b>	<b>\$65,600</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4002**

**Decision Item (DIN) Title - Expert Witness Services Cost to Continue**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), a cost-to-continue funding adjustment of \$706,300 GPR in FY 22 and \$706,300 GPR in FY 23 for the agency to contract with expert witnesses, to reflect current needs.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2021-2023 Biennial Budget  
Issue Paper**

Topic: DIN 4002 – Expert Witness Services Cost-to-Continue

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), a cost-to-continue funding adjustment of \$706,300 GPR in FY 22 and \$706,300 GPR in FY 23 for the agency to contract with expert witnesses, to reflect current needs.

**Problem Description**

The complexity of cases has increased significantly, causing an increased cost for expert witnesses, psychological evaluations and risk assessments that cannot be absorbed within the existing appropriation. Expert witnesses are necessary to provide an adequate defense. The increased complexity in areas such as physical and digital evidence has had a significant impact on expert witness costs.

**Background**

The SPD received funding in 2013 Wisconsin Act 20 (2013-2015 biennial budget act) for expert witnesses in the amount of \$337,600 annually to provide the additional resources to retain expert witnesses for sexually violent person commitment cases under Chapter 980 for which the SPD provides representation.

**Analysis**

The SPD provides representation to indigent persons in criminal and certain civil commitment cases. In the course of representation, they often require experts in various professions to assist with the defense and to advocate for alternatives to confinement. These include psychologists, psychiatrists, Shanken Baby Syndrome/Abusive Head Trauma experts (SBS/AHT), DNA experts, or computer analysts, who provide written reports and/or testify in court. In criminal and commitment proceedings, the State of Wisconsin is the SPD's institutional adversary, thus although some employees in other state agencies might have the skills or knowledge to perform many of these functions, it could be an inherent conflict of interest to utilize them as expert witnesses for the defense.

Expert costs are paid for by the supply and service budgets of the Trial and Appellate divisions. In the 2013-15 biennium, the agency received an additional \$337,600 annually to provide the additional resources to retain expert witnesses for sexually violent person commitment cases under Chapter 980 for which the SPD provides representation.

The cost of expert witnesses has increased by 317.2% since FY10.

Fiscal Year	Appellate	Trial	TOTAL
FY10	\$ 6,575	\$ 322,505	\$ 329,080
FY11	\$ 14,840	\$ 333,399	\$ 348,239
FY12	\$ 13,069	\$ 400,020	\$ 413,089
FY13	\$ 14,822	\$ 458,770	\$ 473,591
FY14	\$ 24,068	\$ 573,468	\$ 597,536
FY15	\$ 13,787	\$ 706,437	\$ 720,224
FY16	\$ 13,306	\$ 854,299	\$ 867,605
FY17	\$ 23,941	\$1,072,491	\$1,096,431
FY18	\$ 25,738	\$1,039,795	\$1,065,533
FY19	\$ 22,361	\$1,079,161	\$1,101,522
FY20	\$ 21,763	\$1,022,116	\$1,043,878

The increased cost of expert witnesses can no longer be absorbed by the agency. The shortfall in funding for expert witnesses in fiscal year 2020 was \$706,278.

The Public Defender Board requests that additional funding be provided for expert witnesses as follows:

Funding received in 2013 Wisconsin Act 20	\$ 337,600
<u>FY20 actual expenditures</u>	<u>\$ 1,043,878</u>
Annual increase needed	\$ 706,278

**Summary**

	FY22		FY23	
	Funding	FTE	Funding	FTE
GPR	\$706,300	0.00	\$706,300	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$706,300	0.00	\$706,300	0.00

**Prepared by:**  
Martina Allen, Budget Director  
608-267-0311

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	4002	Expert Witness Services Cost to Continue

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$706,300	\$706,300
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$706,300</b>	<b>\$706,300</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>4002</b>	<b>Expert Witness Services Cost to Continue</b>			
<b>01</b>	<b>Legal assistance</b>				
	03 Trial representation	\$706,300	\$706,300	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$706,300</b>	<b>\$706,300</b>	<b>0.00</b>	<b>0.00</b>
	<b>Expert Witness Services Cost to Continue SubTotal</b>	<b>\$706,300</b>	<b>\$706,300</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$706,300</b>	<b>\$706,300</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>4002</b>	<b>Expert Witness Services Cost to Continue</b>				
	GPR	S	\$706,300	\$706,300	0.00	0.00
	<b>Total</b>		<b>\$706,300</b>	<b>\$706,300</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$706,300</b>	<b>\$706,300</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4003**

**Decision Item (DIN) Title - Transcripts, Interpreters and Discovery Cost to Continue**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), increased funding of \$414,900 GPR in FY 22 and \$414,900 GPR in FY 23, per year for the for payments for transcripts, discovery, and interpreters, to reflect current needs.

**Office of the State Public Defender  
2021-2023 Biennial Budget  
Issue Paper**

**Topic:** DIN 4003 - Transcripts, Interpreters and Discovery Cost to Continue

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), increased funding of \$414,900 GPR in FY 22 and \$414,900 GPR in FY 23, per year for the for payments for transcripts, discovery, and interpreters, to reflect current needs.

**Problem Description**

The State Public Defender (SPD) is responsible for the cost of transcripts of court proceedings that SPD staff and private bar attorneys request from the courts, for copying costs incurred by counties and other parties to provide SPD attorneys with discovery materials, and for the cost of interpreters needed for attorney-client communication and other case preparation (the courts are responsible for the costs of in-court interpreters). Total funding and expenditure/commitment levels each year since FY02 are shown below:

<b>Fiscal year</b>	<b>Appropriated</b>	<b>Actual Expenditures</b>	<b>Shortfall</b>
FY02	\$1,339,100	\$1,365,781	(\$26,681)
FY03	\$1,339,100	\$1,449,304	(\$110,204)
FY04	\$1,339,100	\$1,595,480	(\$256,380)
FY05	\$1,339,100	\$1,966,968	(\$627,868)
FY06	\$1,339,100	\$1,761,832	(\$422,732)
FY07	\$1,339,100	\$1,644,047	(\$304,947)
FY08	\$1,339,100	\$1,775,960	(\$436,860)
FY09	\$1,339,100	\$1,844,328	(\$505,228)
FY10	\$1,325,700	\$1,963,371	(\$637,671)
FY11	\$1,325,700	\$2,084,068	(\$758,368)
FY12	\$1,325,700	\$2,098,427	(\$772,727)
FY13	\$1,325,700	\$2,130,700	(\$805,000)
FY14	\$1,325,700	\$2,279,247	(\$953,547)
FY15	\$1,325,700	\$2,429,151	(\$1,103,451)
FY16	\$1,325,700	\$2,406,052	(\$1,080,352)
FY17	\$1,325,700	\$2,120,700	(\$795,000)
FY18	\$1,407,500	\$2,240,545	(\$833,045)
FY19	\$1,407,500	\$2,050,248	(\$642,748)
FY20	\$1,485,100	\$1,900,048	(\$414,948)

The amounts appropriated were sufficient in the 1999-01 biennium. Since then, this appropriation was subjected to a five percent across the board “efficiency reduction” in 2001 Wisconsin Act 16, the 2001-2003 biennial budget act. However, as discussed below, these expenses are largely driven by the volume and complexity of SPD appointments.

While the SPD received a funding increase of \$163,600 in the 2017-19 budget and \$155,200 in the 2019-21 budget, those increases have not kept pace with the increase expenses.

## **Background**

Beginning in FY02, the SPD has ended each fiscal year with a growing amount of pending and unpaid bills relating to that fiscal year which, until FY05, were instead paid in the following fiscal year due to a funding shortfall. In FY03-04, this appropriation was depleted by the end of May 2004. This depletion resulted in delayed payments to numerous court reporters, interpreters, and counties. It also resulted in the SPD incurring interest costs on payments made after thirty days. This has again happened in FY14 where payments were delayed and some costs were moved to the following fiscal year.

At the end of each fiscal year beginning in FY02, significant delays in payments to court reporters, interpreters, and counties were avoided by transferring available expenditure authority from the salary, fringe benefit, and LTE budget lines. Although these transfers prevented funding deficits and payment backlogs from being compounded each year, they did not increase the base level of funding going forward and did not allow the agency to utilize the money in other areas of significant need, such as providing experts or information technology upgrades. The SPD had a structural deficit in this appropriation of approximately \$414,948 at the end of FY20.

## **Transcript Payments**

The total expenses for transcripts in FY20 was \$1,062,488. The demand for transcripts is a function of the number of cases appointed, their case type and complexity, the number and duration of court appearances and trials, and the number of cases in which defendants seek post-conviction (appellate) representation from SPD. The SPD has attempted to mitigate the effect of the increased expenditures for transcripts by urging staff attorneys to carefully determine when transcripts are needed and when they are not. Transcript expenditures are reviewed on a monthly basis, and higher than average expenditure levels are further reviewed to determine which individual attorneys are incurring high transcript costs and why.

Transcript requests have become more numerous and complex as more items have become electronic such as video surveillance, audio and video recordings and interrogations. Audio and video files take significant time to transcribe since people sometimes are talking at the same time or the quality of the audio and video increases the difficulty of an accurate transcription. Also, courts increasingly require attorneys to produce transcripts of recordings before the recordings are played in open court.

## Discovery Payments

Defendants have a constitutional right to discovery; that is, the disclosure of evidence in the prosecutor's possession. Prosecutors comply with this discovery obligation by making available copies of reports, recordings, and other pertinent investigative materials. Since FY94, the SPD has been responsible for reimbursing counties for copying costs associated with providing discovery materials to SPD attorneys. At first, many counties did not submit bills for discovery; however, as county budgets became tighter in recent years, they began doing so. Now, all counties bill the SPD for discovery.

The SPD was initially provided \$60,000 in the 1995 Budget Adjustment Bill for discovery payments. The appropriation was increased to \$150,000 in the 1999-2001 biennial budget, but was then reduced to \$141,100 by across-the-board reduction in the 2001-03 and 2009-11 biennial budget acts.

Discovery payments from this appropriation are driven by the number of cases appointed. In FY20, the SPD incurred costs totaling \$738,015 for discovery.

A portion of the rising discovery costs is attributable to 2005 Wisconsin Act 60, which was enacted in December 2005. Act 60 "codifies the *Jerrell* recording requirement," as described in the analysis of the bill by the Legislative Reference Bureau. It "requires that law enforcement agencies make an audio or (audio/visual) recording of a custodial interrogation of a juvenile who is suspected of committing a crime if the interrogation is conducted at a place of detention. (It) also requires law enforcement agencies to make a recording, if feasible, of a custodial interrogation of a juvenile suspected of committing a crime if the interrogation is conducted at a place other than a place of detention" with some exceptions.

Further, 2005 Wis Act 60 provides that custodial interrogations of adult felony defendants should be recorded and admitted into evidence at trial, and that, barring good cause not to do so, the judge may instruct the jury that they may consider the absence of a recording when weighing the evidence. These recordings are subject to discovery. The SPD experienced an eight-fold increase in payments for video recordings since FY05 (from \$12,184 in FY05 to \$146,707 in FY14, the last year in which SPD was able to track this expense separately). Squad-car recordings and security-camera recordings also contribute to the increased costs in this appropriation. As noted above, recordings also entail transcription costs because of the need to present the court with an accurate record of the recorded statement, interrogation, or other conversation.

## Interpreter Payments

Even before the SPD's \$10,000 budget in FY01 for interpreter payments was permanently reduced by the five percent across-the-board efficiency reduction, the funding was insufficient to meet the growing need for interpreters. The number of defendants who are not able to communicate effectively with their attorney without such assistance has grown. In FY20, the SPD incurred costs totaling \$99,544 for interpreters. The agency has attempted to mitigate costs for interpreters through language line services; however, that

option is not always available when meetings or interviews occur in jails, courthouses, and other non-office settings.

In addition to the need to communicate directly with the client, SPD staff often need to interview potential witnesses who require an interpreter.

Like discovery payments, interpreter payments from this appropriation are driven by the number of cases appointed.

**Analysis**

The Public Defender Board requests that additional funding be provided for transcript, discovery and interpreter payments as follows:

Full funding of transcript payments	\$ 1,062,488 annually
Full funding of discovery payments	\$ 738,015 annually
Full funding of interpreter payments	<u>\$ 99,544 annually</u>
Total Projected Annual Need in 2017-19	\$ 1,900,048 annually
Appn. 106 Adjusted 2021 Base Funding	<u>\$ 1,485,100</u>
Annual increase needed	\$ 414,900

**Summary**

	FY22		FY23	
	Funding	FTE	Funding	FTE
GPR	\$414,900	0.00	\$414,900	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$414,900	0.00	\$414,900	0.00

**Prepared by:**  
Martina Allen, Budget Director  
608-267-0311

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	4003	Transcripts, Interpreters and Discovery Cost to Continue

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$414,900	\$414,900
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$414,900</b>	<b>\$414,900</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>4003</b>	<b>Transcripts, Interpreters and Discovery Cost to Continue</b>			
<b>01</b>	<b>Legal assistance</b>				
	06 Transcripts discovery intrprtr	\$414,900	\$414,900	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$414,900</b>	<b>\$414,900</b>	<b>0.00</b>	<b>0.00</b>
	<b>Transcripts, Interpreters and Discovery Cost to Continue SubTotal</b>	<b>\$414,900</b>	<b>\$414,900</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$414,900</b>	<b>\$414,900</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>4003</b>	<b>Transcripts, Interpreters and Discovery Cost to Continue</b>				
	GPR	S	\$414,900	\$414,900	0.00	0.00
	<b>Total</b>		<b>\$414,900</b>	<b>\$414,900</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$414,900</b>	<b>\$414,900</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4005**

**Decision Item (DIN) Title - Assistant State Public Defender Merit Compensation**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$2,727,000 GPR in FY22 and \$5,455,200 GPR in FY23 to fund the statutory pay progression plan for assistant state public defender attorneys.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2021-2023 Biennial Budget  
Issue Paper**

**Topic:** DIN 4005 – Assistant State Public Defender Merit Compensation

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$2,727,000 GPR in FY22 and \$5,455,200 GPR in FY23 to fund the statutory pay progression plan for assistant state public defender attorneys.

**Problem Description**

2013 Wisconsin Act 20 provided statutory authorization and funding to provide pay progression for assistant state public defender attorneys. The Office of the State Public Defender (SPD) requests funding in the 2021-2023 biennial budget to retain attorneys who can provide the most effective and efficient representation.

**Background**

The SPD requests funding to retain the staff with the knowledge and expertise to not only take a large volume of complex case types, but also to mentor new attorneys and participate in criminal justice system initiatives such as the rapidly-expanding Treatment Alternatives and Diversion (TAD) programs.

To correct and maintain the historic pay equity that, until the 2019-20 biennial budget, has existed between assistant district attorneys and assistant state public defenders, the SPD is requesting funding in both years equivalent to a 10% increase. These calculations exclude any attorney already at classification maximum.

**Analysis**

An adequate compensation structure helps to address staff retention issues. Retaining experienced attorneys, both as prosecutors and public defenders, benefits the entire criminal justice system. Attorneys with 7-17 years of experience, the group for which the retention issue is most acute, are able to ethically and competently handle a significant number of complex cases, such as homicides, other high-level felonies, and Ch. 980 sexually violent person commitments. They are also qualified to serve on work groups, such as treatment court teams and justice coordinating councils, which advance cost-effective and evidence-based practices in the justice system.

Restoring and maintaining pay parity between assistant state public defenders and assistant district attorneys will also prevent the public defender's office from becoming a training ground for attorneys who gain trial skills and who then leave for higher pay scales offered by district attorneys or county corporation counsel. Although there is no inherent problem with individual attorneys deciding to enter a different area of public service, there

could be significant practical and legal problems if public defenders are simultaneously representing clients while, due to financial pressures, seeking work with their legal adversaries in the local district attorney’s office (the attorney would have an ethical requirement to take a leave of absence from the public defender’s office or to make full disclosure of the job application to all clients; either course of action would likely result in the need to reassign cases at significant agency expense).

Finally, federal funding of programs such as the John R. Justice Program and the Public Sector Loan Forgiveness Program has dramatically decreased in recent years. These programs provided limited assistance in reducing the burdens of student loan debts often carried by attorneys. Reduced relief in this area and stagnating wages will contribute to retention issues.

**Cost Estimate**

SPD estimates it will have 374.2 FTE positions not at class maximum and eligible for pay progression in the first year. For year one, to increase their base salary by 10%, would require \$2,727,000 in FY22 for only salary only. In year two, to provide an across the board increase of 10% for each eligible attorney would require \$5,455,200 in FY23 salary, which also includes covering the year one salary amount.

**Summary**

	FY22		FY23	
	Funding	FTE	Funding	FTE
GPR	\$2,727,000	0.00	\$5,455,200	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$2,727,000	0.00	\$5,455,200	0.00

**Prepared by:**  
 Adam Plotkin, Legislative Liaison  
 608-264-8572

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	4005	Assistant State Public Defender Merit Compensation

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$2,727,000	\$5,455,200
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$2,727,000</b>	<b>\$5,455,200</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>4005</b>	<b>Assistant State Public Defender Merit Compensation</b>			
<b>01</b>	<b>Legal assistance</b>				
	07 Salary adjustments	\$2,727,000	\$5,455,200	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$2,727,000</b>	<b>\$5,455,200</b>	<b>0.00</b>	<b>0.00</b>
	<b>Assistant State Public Defender Merit Compensation SubTotal</b>	<b>\$2,727,000</b>	<b>\$5,455,200</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$2,727,000</b>	<b>\$5,455,200</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>4005</b>	<b>Assistant State Public Defender Merit Compensation</b>				
	GPR	S	\$2,727,000	\$5,455,200	0.00	0.00
	<b>Total</b>		<b>\$2,727,000</b>	<b>\$5,455,200</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$2,727,000</b>	<b>\$5,455,200</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4010**

**Decision Item (DIN) Title - Restore Turnover**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$1,225,500 GPR in both years to restore the turnover reduction in DIN 3001. Historically, SPD has been exempted from taking the turnover due to constitutional requirements. The Constitution and U.S. Supreme Court case law requires that SPD provides representation for all financially eligible individuals accused of a crime. In Wisconsin's system, representation is provided by both staff attorneys by private bar attorneys. As staff attorneys are able to handle a higher volume of cases than private bar attorneys, not filling staff attorney positions will result in higher costs to provide representation. From an overall fiscal standpoint, it is more cost effective to fill all currently authorized staff attorney positions.

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	4010	Restore Turnover

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$1,225,500	\$1,225,500
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$1,225,500</b>	<b>\$1,225,500</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>4010</b>	<b>Restore Turnover</b>			
<b>01</b>	<b>Legal assistance</b>				
	03 Trial representation	\$1,225,500	\$1,225,500	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$1,225,500</b>	<b>\$1,225,500</b>	<b>0.00</b>	<b>0.00</b>
	<b>Restore Turnover SubTotal</b>	<b>\$1,225,500</b>	<b>\$1,225,500</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$1,225,500</b>	<b>\$1,225,500</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>4010</b>	<b>Restore Turnover</b>				
	GPR	S	\$1,225,500	\$1,225,500	0.00	0.00
	<b>Total</b>		<b>\$1,225,500</b>	<b>\$1,225,500</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$1,225,500</b>	<b>\$1,225,500</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4502**

**Decision Item (DIN) Title - Charging and Sentencing Alternatives**

**NARRATIVE**

The Public Defender Board, for the Office of the State Public Defender (SPD), proposes statutory changes to the penalty surcharge and/or charging process for certain offenses (juvenile and adult) to reduce the number of cases in which the SPD must appoint an attorney. This request would save \$1,355,200 GPR in FY22 and \$2,710,300 GPR in FY23 in agency-wide savings. There would also be collateral savings for other criminal justice system entities.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2021-2023 Biennial Budget  
Issue Paper**

**Topic:** DIN 4502 – Charging and Sentencing Alternatives

**Agency Request**

The Public Defender Board, for the Office of the State Public Defender (SPD), proposes statutory changes to the penalty surcharge and/or charging process for certain offenses (juvenile and adult) to reduce the number of cases in which the SPD must appoint an attorney. This request would save \$1,355,200 GPR in FY22 and \$2,710,300 GPR in FY23 in agency-wide savings. There would also be collateral savings for other criminal justice system entities.

**Problem Description**

Many criminal charges are settled before trial, reduced to a conforming municipal ordinance, or addressed with an alternative to incarceration; however, when a criminal statute is originally charged, these alleged offenders can qualify for representation by the SPD. This disparity between the criminal statute and case resolution significantly and unnecessarily increases costs overall to the criminal justice system.

**Background**

The SPD has the statutory responsibility to appoint counsel for financially eligible defendants in criminal and juvenile delinquency cases, sec. 977.05(4)(i), Stats. The SPD does not provide representation to persons whose charges are classified as non-criminal forfeitures (such as city and county ordinance cases). Thus, when cases are diverted from the formal criminal and delinquency court processes without the issuance of formal charges, the SPD will have fewer cases in which it is required to appoint counsel. Also, to the extent that remaining SPD cases are charged as misdemeanors, rather than as felonies, the average cost per case will decrease.

**Analysis**

The right to counsel in a criminal proceeding is contained in both chapter 977 of the Wisconsin statutes and in the United States and Wisconsin Constitutions. Therefore, the SPD cannot unilaterally reduce the number of cases in which the agency appoints counsel. The SPD's caseload and associated costs are largely determined by the number and nature of criminal proceedings filed in state court. This proposal advances a potential strategy for reducing the number of SPD cases by amending specified criminal statutes. Criminal charges identified in this request include both adult and juvenile charges.

**Provide a Diversion/Restitution Alternative**

The SPD requests a change to the procedure for charging an adult or a juvenile with first offense misdemeanor violations of s. 947.01, Disorderly Conduct when the alleged offender

has not been convicted of a felony offense and has not been convicted of any similar offense in the previous three years.

Before issuing a criminal charge under this misdemeanor statutes, the District Attorney would be required to offer the alleged first offender the opportunity to either 1) complete a diversion program by satisfying all conditions of the program, including restitution when applicable; or 2) pay a forfeiture under a stipulated finding of guilt of a non-criminal ordinance violation.

SPD anticipates that most defendants would accept either the diversion option or agree to pay a forfeiture, given that the alternative would be to face a criminal charge. SPD would not appoint an attorney unless the defendant turned down the options for the non-criminal disposition.

Defendants in these cases are currently eligible for representation by the State Public Defender's office because a conviction for any of these misdemeanors can result in incarceration. In practice, however, most of these cases do not result in jail time; they are ultimately dismissed (on the prosecutor's motion or following an acquittal at trial), reduced to a conforming ordinance, or addressed with one or more alternatives to incarceration.

This proposal would also provide benefits to other justice agencies, such as district attorneys and courts, because more resources could be focused on prosecution and adjudication of more-serious allegations.

We estimate that approximately half of the SPD's 7,546 disorderly conduct cases could have been diverted if this proposed provision had been in effect during FY20 (the numbers represent the numbers of SPD appointments for these case types during the fiscal year). Based on cost per case averages, this option could reduce SPD costs by \$1,149,435.

SPD also requests that violations of probation or extended supervision that are based only on violation of a condition of release and not new criminal activity not be subject to revocation of community supervision, but be subject only to non-custodial sanctions. We estimate that approximately one-third of the SPD's 6,271 revocation cases could have been diverted if this proposed provision had been in effect during FY20 (the numbers represent the numbers of SPD appointments for these case types during the fiscal year). Based on cost per case averages, this option could reduce SPD costs by \$808,444.

This proposal would also provide benefits to other justice agencies such as the Department of Corrections and the Division of Hearings and Appeals at the Department of Administration.

### Reclassify Offenses

Many counties and municipalities issue non-criminal citations for possession of marijuana. When criminal charges are filed, they are often resolved with dispositions that do not include incarceration. Thus, the proposed reclassification of these offenses to non-criminal forfeitures is a reasonable component of reducing the cost to provide SPD representation.

The SPD recommends the reclassification of drug possession for marijuana, expanding the ability for first and second offense drug charges to be prosecuted as forfeitures as allowed under 2013 Wisconsin Act 293 if there are no allegations that the individual was manufacturing, distributing or delivering the controlled substance. We further recommend that the 3<sup>rd</sup> offense be considered a misdemeanor. Additional savings could be realized if municipalities expanded the drugs allowable for forfeiture or placed individuals of controlled substances into diversion programs.

In FY20, the SPD represented clients in 6,304 related to possession of drugs. If one-third of these cases would not have qualified for representation due to the suggested reclassification to ordinances, then the SPD would have saved \$595,475.

SPD also recommends eliminating the felony penalty for bail jumping under s. 946.49 and allowing for a misdemeanor penalty regardless of the original criminal charge, which is still pending regardless of the additional bail jumping charge. In FY20, SPD provided representation in 5,479 felony bail jumping cases. While this is not likely to have a significant impact specifically for SPD as these individuals were already receiving representation prior to the bail jumping charge being added, it will have significant impacts for prosecutors, the courts, jails, and prisons. It is possible that a small savings of approximately \$156,962 may be realized by SPD through a reduction of the incarceration risk presented by a felony bail jumping charge.

As a number of statewide and county-based justice work groups study best practices, a consensus is emerging that incarceration is less effective than other responses to criminal conduct, especially when the defendant does not pose a high degree of risk to the community. The statutory changes in this proposal would apply to individuals charged with nonviolent offenses, and the decrease in potential incarceration would be consistent with evidence-based practices.

**Summary**

As it would take 6 months to complete cases charged under the current system, SPD estimates savings of half the costs listed above in Fiscal Year 2022 and the full cost in Fiscal Year 2023. These cases are represented by staff attorneys as well as private bar attorneys.

	FY22		FY23	
	Funding	FTE	Funding	FTE
GPR	\$(1,355,200)	0.00	\$(2,710,300)	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$(1,355,200)	0.00	\$(2,710,300)	0.00

**Prepared by:**  
 Adam Plotkin, Legislative Liaison  
 608-264-8572

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	4502	Charging and Sentencing Alternatives

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	(\$1,355,200)	(\$2,710,300)
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>(\$1,355,200)</b>	<b>(\$2,710,300)</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>4502</b>	<b>Charging and Sentencing Alternatives</b>			
<b>01</b>	<b>Legal assistance</b>				
	04 Private bar invstgtr reimburse	(\$1,355,200)	(\$2,710,300)	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>(\$1,355,200)</b>	<b>(\$2,710,300)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Charging and Sentencing Alternatives SubTotal</b>	<b>(\$1,355,200)</b>	<b>(\$2,710,300)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>(\$1,355,200)</b>	<b>(\$2,710,300)</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>4502</b>	<b>Charging and Sentencing Alternatives</b>				
	GPR	S	(\$1,355,200)	(\$2,710,300)	0.00	0.00
	<b>Total</b>		<b>(\$1,355,200)</b>	<b>(\$2,710,300)</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>(\$1,355,200)</b>	<b>(\$2,710,300)</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 5018**

**Decision Item (DIN) Title - Tuition Reimbursement/Loan Assistance**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$250,000 GPR in FY22 and \$250,000 GPR in FY23 to conduct a pilot tuition reimbursement program for private bar attorneys who accept public defender appointments and who meet certain additional criteria.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2021-2023 Biennial Budget  
Issue Paper**

**Topic:** DIN 5018 – Tuition Reimbursement/Loan Assistance

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$250,000 GPR in FY22 and \$250,000 GPR in FY23 to conduct a pilot tuition reimbursement program for private bar attorneys who accept public defender appointments and who meet certain additional criteria.

**Problem Description**

As a result of many factors, the availability of certified private bar attorneys to accept private bar appointments in certain parts of the state has become a systemic issue affecting the efficiency of the court system and impacting procedural justice for clients.

Although the previous budget's increase in the private bar rate of reimbursement has had a significant impact on the availability of private attorneys, specific geographic regions still lack locally placed attorneys, both civil and criminal. An even smaller subset of private attorneys seek certification to accept SPD appointments. The shortage of local attorneys who accept public defender appointments results in delays in appointing attorneys and, in an increasing number of cases, in the appointment of attorneys whose headquarters is a significant distance from the county in which the case is pending.

**Background**

For many years, the SPD has seen fluctuations in the number of attorneys who are willing to accept appointments. These fluctuations generally correlate to the state of the economy.

In recent years, the lack of locally available private bar attorneys in rural counties has become a significant problem. Even with the increase in the private bar rate, it is not unusual to appoint an attorney from a distant county for a case in a rural county. In some instances, the SPD has been required to appoint an attorney from as far away as Madison on a case pending in Bayfield County.

There has been a general decrease in the number of attorneys locating their practice in more rural parts of the state. The State Bar of Wisconsin has undertaken a review of the geographic dispersion of attorneys in Wisconsin. It has released several findings, including the following:

- Fewer than 40 percent of Wisconsin's 12,752 active attorneys practice law outside of major urban areas
- Fifteen counties have 10 or fewer attorneys actively practicing law

- Nine of those counties are in northern Wisconsin, including Iron, Langlade and Forest counties
- In Vilas County, only six of the county's 40 attorneys are under the age of 50
- Around 64 percent of active attorneys in Wisconsin practice law in Waukesha, Milwaukee and Dane counties

According to 2012 data from the American Bar Association, the average law student borrowed anywhere from \$84,000 to \$122,000 to finance their education. Repayment obligations can be a disincentive for new attorneys to start a practice in a rural community, because it may take time to build a stable client base. The availability of SPD appointments, especially if supplemented with loan assistance under this proposal, could attract more new lawyers to underserved areas.

The August 18, 2020 final report from the Governor's Task Force on Student Debt had as one of its recommendations the expansion of the current Wisconsin Teacher Education Loan program and Wisconsin's Health Professions Loan Assistance Program into other fields and areas to support with loan forgiveness programs.

Providing an incentive in the form of a pilot tuition reimbursement program to locate a law practice in a rural area would not only benefit clients and the court system by providing better access to justice, but it would serve as an economic boost to rural areas as small and solo law firms are local small businesses.

## **Analysis**

Wisconsin currently offers two tuition reimbursement programs, both geared at the medical profession - the Wisconsin Health Professionals Loan Assistance Program (WHPLA) and the Primary Care and Physician Shortage Grant (PCPS.)

The WHPLA is administered by the University of Wisconsin School of Medicine and Public Health and the Office of Rural Health. It provides up to \$100,000 in grants to a physician who practices in a federally designated shortage area. The program is funded up to \$748,000 with \$300,000 coming from the federal government and \$448,000 in state funding coming from the Division of Gaming.

The PCPS is administered by the Higher Educational Aids Board. It provides a minimum annual award of \$20,800 for up to 12 physicians and 12 psychiatrists per fiscal year with a \$1.5 million appropriation. Each applicant is eligible for up to three years of funding. The person must practice in an underserved area as defined by either the federal government or the Governor. Physicians should have completed their medical residency in Wisconsin as well.

26 states also operate a State Loan Repayment Assistance Program (LRAP) for attorneys meeting certain eligibility criteria. The general program criteria cover who may apply (type of employment, amount of qualified debt, years out of school, etc.), the available amount per person, the length of the award, and the funding source.

SPD suggests the following criteria as possible options:

- Administration of program
  - SPD (verification of attorney certification and acceptance of appointments)
    - The State Public Defender Board will need authority to promulgate administrative rules for the administration of the program
  - HEAB (potential partner organization to verify loan balances, to administer funds, and disburse funds)
- Eligibility
  - Licensed to practice in Wisconsin & certified for SPD appointments
  - Maintains a law practice with headquarters or demonstrated majority of legal work performed in a county of fewer than 25,000 residents
- Grant terms
  - Must maintain SPD practice in county while receiving award
  - Must accept minimum of 50 SPD appointments per year
  - Up to \$20,000 per year
- Funding amount
  - \$250,000 per fiscal year, \$500,000 for biennium

**Summary**

	FY22		FY23	
	Funding	FTE	Funding	FTE
GPR	\$250,000	0.00	\$250,000	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$250,000	0.00	\$250,000	0.00

**Prepared by:**  
 Adam Plotkin  
 Legislative Liaison  
 608-264-8572

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	5018	Tuition Reimbursement/Loan Assistance

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$250,000	\$250,000
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$250,000</b>	<b>\$250,000</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>5018</b>	<b>Tuition Reimbursement/Loan Assistance</b>			
<b>01</b>	<b>Legal assistance</b>				
	01 Program operation	\$250,000	\$250,000	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>0.00</b>	<b>0.00</b>
	<b>Tuition Reimbursement/Loan Assistance SubTotal</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>5018</b>	<b>Tuition Reimbursement/Loan Assistance</b>				
	GPR	S	\$250,000	\$250,000	0.00	0.00
	<b>Total</b>		<b>\$250,000</b>	<b>\$250,000</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$250,000</b>	<b>\$250,000</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 5019**

**Decision Item (DIN) Title - Pilot CHIPS Extension**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$0 GPR in FY22 and \$0 GPR in FY23 to extend the sunset date on the pilot program to provide counsel for parents in a Child in Need of Protection or Services (CHIPS) proceeding in five counties.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2021-2023 Biennial Budget  
Issue Paper**

**Topic:** DIN 5019 – Pilot CHIPS Extension

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$0 GPR in FY22 and \$0 GPR in FY23 to extend the sunset date on the pilot program to provide counsel for parents in a Child in Need of Protection or Services (CHIPS) proceeding in five counties.

**Problem Description**

2017 Wisconsin Act 253 created s. 48.233 and authorized the State Public Defender to provide representation for parents in CHIPS cases. The Act was originally conceived of as a pilot program to determine the impact of providing representation. s. 48.233 (2) contains a sunset date for the pilot program of June 30, 2021. Funding to operate the pilot program is included in the SPD base budget so an extension of the sunset date would not require additional funding, but would require that the base not be decreased to correspond with the end of the Act 253 pilot.

**Background**

Until 1995, the SPD was authorized to represent parents in CHIPS proceedings. That statutory authorization was removed as a cost cutting measure in the 1995-97 budget. When Act 253 was passed, it was hoped that the timing of the sunset would correspond with the 2021-23 budget cycle to allow policymakers to make an informed decision regarding the future of the pilot program.

**Analysis**

Providing representation for parents in CHIPS proceedings has been documented in other jurisdictions to reduce the amount of time children spend in out-of-custody placements, decreases the time to final disposition, and reduces the number of termination of parental rights petitions that are contested. Advocate counsel for the parent allows for earlier intervention in the process for parents to ensure that their chances for reunification, which is in the best interests of the child and the family, is increased.

Since the inception of the pilot on July 1, 2018 through September 1, 2020, the SPD has made approximately 1800 appointments for parents in the five pilot counties: Brown; Kenosha; Outagamie; Racine; and Winnebago.

Fiscal Year	Brown	Kenosha	Outagamie	Racine	Winnebago	Total
2019	183	267	146	209	105	910
2020	132	249	209	135	57	782
2021 (9/1)	25	29	24	15	12	105
Since start	340	545	379	359	174	1797

There were initial issues related to training and education of both attorneys and others working in the court and child protection system as to the role of advocate counsel in CHIPS cases. And while the coronavirus impacted the total number of cases, its bigger impact was on the ability to both provide representation within the court system as well as limitations on the ability for parents to meet the conditions such as limited visitation as a result of social distancing requirements.

As a result, the initial three-year pilot outcomes will have been significantly impacted making measurable outcomes uncertain due to factors beyond the control of the SPD. Extending or removing the sunset date would allow for a more thorough study of the impact of the pilot.

To ensure clarity in the CHIPS pilot program statute, SPD also requests that s. 48.233 (1) be amended to conform with the legislative intent that representation can be provided at the temporary physical custody hearing or removal hearing even if a petition has not yet been filed. Suggested statutory language could include the underlined language:

**(1)** No later than July 1, 2018, the state public defender shall establish a pilot program in Brown, Outagamie, Racine, Kenosha, and Winnebago counties to provide counsel to any nonpetitioning parent after a petition has been filed under s. 48.255 in a proceeding under s. 48.13 and at any hearing under s. 48.21.

**Summary**

	FY 22		FY 23	
	Funding	FTE	Funding	FTE
GPR	\$0	0.00	\$0	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$0	0.00	\$0	0.00

**Prepared by:**  
Adam Plotkin  
Legislative Liaison  
608-264-8572

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	5019	Pilot CHIPS Extension

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$0</b>	<b>\$0</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>5019</b>	<b>Pilot CHIPS Extension</b>			
<b>01</b>	<b>Legal assistance</b>				
	04 Private bar invstgtr reimburse	\$0	\$0	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$0</b>	<b>\$0</b>	<b>0.00</b>	<b>0.00</b>
	<b>Pilot CHIPS Extension SubTotal</b>	<b>\$0</b>	<b>\$0</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$0</b>	<b>\$0</b>	<b>0.00</b>	<b>0.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>5019</b>	<b>Pilot CHIPS Extension</b>				
	GPR	S	\$0	\$0	0.00	0.00
	<b>Total</b>		<b>\$0</b>	<b>\$0</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$0</b>	<b>\$0</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 5020**

**Decision Item (DIN) Title - Video Evidence Workload Staffing**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$3,527,100 GPR and 40.0 FTE in FY22 and \$3,998,900 GPR and 40.0 FTE in FY23 for the resources to receive, store, and review video evidence such as police body worn cameras.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2021-2023 Biennial Budget  
Issue Paper**

**Topic:** DIN 5020 – Video Evidence Workload Staffing

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$3,527,100 GPR and 40.0 FTE in FY22 and \$3,998,900 GPR and 40.0 FTE in FY23 for the resources to receive, store, and review video evidence such as police body worn cameras.

**Problem Description**

The exponential increase in the number and length of video evidence from multiple sources such as body worn cameras and squad car cameras has had a significant impact on the SPD from both a workload and technology standpoint.

The impact on workload is not reflected in the required caseload of SPD staff attorneys. So, while the number of cases each staff attorney must take has not changed, the amount of time to provide a constitutionally required defense has gone up.

Technology needs have similarly increased, most significantly the costs to store video evidence provided in criminal cases.

**Background**

Over the last several years there has been a significant increase in the use of video evidence, such as body worn cameras by law enforcement officials, in criminal proceedings. This has increased both the workload of Public Defender staff and private bar attorneys and increased demand on technology resources such as data storage and bandwidth requirements.

**Analysis**

**Workload Impact**

Supreme Court Rules require that attorneys review the evidence in order to provide their client with an adequate defense. In a case with video or other electronic evidence, the attorney must watch all video related to the case in order to ensure that evidence that might be relevant is identified. Not only must the attorney review the evidence, but they must review it with their client as well. As the number of body worn cameras and other video sources has increased, so has the workload it requires for an attorney to review the video. Even a brief interaction with law enforcement usually requires viewing hours of video as multiple officers and squad car cameras create multiple views of the law enforcement contact, each of which could provide different information. This has increased the workload for public defender staff and private bar attorneys while caseloads have remained fixed. Significant time is also spent obtaining the videos from prosecutors and law enforcement officials, downloading the files from electronic servers, and addressing technical issues in being able to access and play the video evidence.

The impact of video evidence on a case can also be significant. In numerous instances, SPD attorneys were the first to review all available video evidence which affected the charges brought in the case. One example of that was submitted by a staff attorney:

In a Len Bias case that I had, there were approximately 40 body cam videos that were disclosed to me. My co-chair and I worked a couple hours a night after hours, taking notes on what we saw. We ended up discovering that one of the witnesses spoke to an officer the morning after the overdose and provided information that completely invalidated the state's timeline. That information also better jived with the toxicology report which put the time of death many hours after the decedent had contact with our client. The information never made its way into a police report: we only learned about it by reviewing body cam footage. Eventually, the reckless homicide charge was dismissed.

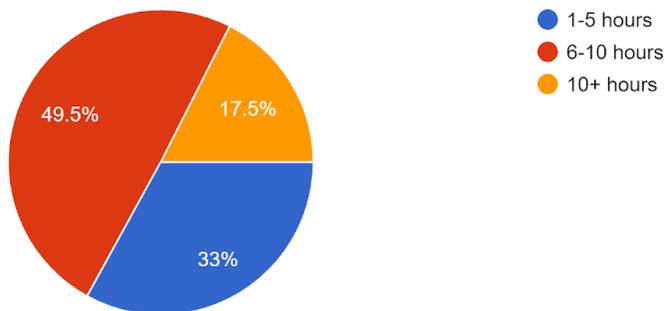
Attorneys also have to push back on the “CSI effect” by courts and juries which expect to have conclusive video evidence in every case. Like other evidence offered in court proceedings, video evidence also comes with limitations that are often not understood. Video and audio recording problems, limited and misleading perspectives, and incomplete video recordings are but a few of the limitations on video evidence.

While national data on the workload impact to defense attorneys from video evidence is in the early stages of being collected, the SPD has been tracking several data points related to video evidence and also recently conducted a survey of staff attorneys statewide to determine the impact to their workload.

A recent survey of staff attorneys statewide was answered by approximately 100 attorneys from all SPD offices and representing a majority of counties throughout the state. They were asked to estimate how much time they spend each week reviewing video evidence. The responses were consistent with data collected from the Milwaukee Trial office which is detailed below.

What is the average number of hours you estimate you spend each week viewing video footage in your cases?

97 responses



33% of respondents indicated 1-5 hours  
49.5% of respondents indicated 6-10 hours  
17.5% of respondents indicated more than 10 hours per week

Staff were also asked to indicate what aspects of reviewing video evidence have the largest impact on their workload, other than the time spent watching videos? In general, the responses indicated the following issues:

- Time to organize and take notes/transcriptions of the videos.
- Making copies of the video to review with the client.
  - One response indicated an issue that is likely to increase given the inconsistent practical impact of Marsy's Law statewide: Since Marsy's Law went into effect in May 2020, orders are being put in place which requires that my clients have to watch videos in my presence. This is doubling or tripling time it will end up taking.
- Significant issues with a wide range of software and video formats used to record and transmit video evidence.
- Difficulty obtaining all video evidence that has been provided by the prosecution or law enforcement through the discovery and open records process.
- The need to file additional discovery or open records requests to ensure that all video has been provided or to obtain another copy due to software issues.
- Additional time spent comparing the video to written police reports.
- Difficulty in finding time to watch the video. Most staff are in court or visiting clients in jail a majority of the day and must then watch video evidence at night and on the weekend.

From a workload standpoint, the data show a significant amount of time viewing video evidence. The following chart documents the amount of time spent downloading videos, the number of videos, and the length of the videos broken down by felony and misdemeanor case types. The data was collected in the Milwaukee Trial office and includes cases in which video evidence was received between December 1, 2019 and August 31, 2020.

	Misdemeanor	Felony	Total
# of Cases	448	597	1045
Total Download Time (Min.)	1678	3420	5098 (85 hours)
Average Download Time/case	3.75 minutes	5.73 minutes	4.88 minutes
# of Videos	4247	8722	12,969
Average # of Videos/case	9	15	12
Total Video Length (Min.)	83,475	156,659	240,134 (4002 hours)
Average Video Length/case	186.33 (3.11 hours)	262.41 (4.37 hours)	229.79 (3.83 hours)

The workload impact demonstrated by these data is significant. Based on the current deployment of body worn cameras to approximately 50% of law enforcement agencies (which does not include video from other sources such as private video and squad car video), an attorney with a mixed caseload may need to review more than 529 hours of video evidence per year, more than 25% of a work year. Examined another way, the total recorded time for these 9 months to download and view the videos was 4087 hours, or 5449 hours on an annualized basis. Assuming a 2080 hour work year, this is the equivalent of needing 2.6 FTE attorney positions in just one office dedicated to nothing other than watching video evidence every day.

Extrapolating the average data across all counties statewide, the anticipated average workload impact for the SPD is significant. The following table is a conservative estimate based on the number of felony and misdemeanor cases as defined by the Wisconsin Circuit Court Automated Program in which a public defender was appointed and using the assumption that 50% of cases involve body camera videos. This is conservative as it excludes other cases in which SPD appoints and may include video evidence from others sources than body worn cameras as well as assuming that video evidence collection will not increase over the biennium:

	Misdemeanor	Felony	Total
# of appointments	46,789	49,757	96,546
Average minutes to download & view	190.08 minutes	268.14 minutes	234.67 minutes
Total minutes to download & view (50%)	4,446,827 minutes (74,114 hours)	6,670,921 minutes (111,182 hours)	11,328,225 minutes (188,804 hours)

Based on these data and a 2080 hour work year, just to download and review video would take the equivalent of 90.8 FTE positions. The impact of the video workload is significant and unsustainable.

Given the current staffing patterns of the SPD and the previously undocumented impact of video evidence, in the 2021-2023 biennium, the SPD would like to prioritize the addition of non-attorney staff to coordinate obtaining, downloading, organizing, and conducting a preliminary review of video evidence. Keeping in mind that attorneys retain the primary ethical obligation to review video. In addition, the workload impact to attorneys remains significant and increasing the number of attorneys and support staff would mitigate the workload impact of reviewing video evidence.

The SPD requests the addition of the following positions:

7 attorneys (2 Appellate, 5 Trial) for 21 months salary, fringe, and supplies = \$1,153,400  
(Please see partial cost offset below)

10 Legal Secretaries (Trial) for 21 months salary, fringe, and supplies = \$1,084,200 (some of these positions will be utilized to increase existing part time positions to full time)  
9 Paralegal (1 Appellate, 8 Trial) for 21 months salary, fringe, and supplies = \$1,004,600  
5 Public Defender Investigators (Trial) for 21 months salary, fringe, and supplies = \$583,400  
9 Client Service Specialists (1 appellate, 8 trial) for 21 months salary, fringe, and supplies = \$966,400

Partial cost offset on attorney positions - In the 2015-17 biennial budget, the SPD received additional attorney positions that were funded by an offset reduction in the appropriation for assigned counsel. SPD suggests adding the attorney positions as noted above but offsetting a portion of the cost related to attorney positions within the trial division through a similar reduction to assigned counsel. The net result is the addition of staff attorneys in the trial division is partially revenue neutral.

Also, while the position authority and funding is needed to add Legal Secretary positions, some of the position authority increase would be used to increase the FTE status of existing staff. This would result in fewer than 10 new legal secretaries being hired.

### Technology Impact

Aside from the impact on workload, technology costs related to data storage and bandwidth have had a significant impact on the current SPD budget. While the bandwidth issue is being addressed using existing resources, the exponential growth of storage costs will eclipse existing agency resources.

In addition to the number of videos and time to download and view them, Milwaukee Trial staff also tracked the size of the files that were being stored on servers. The average file size in a misdemeanor case was 7.3 gigabytes (GB) and for a felony was 12.8 GB. Given the way these files must be stored while the case is pending and the costs of storage being calculated on a gigabyte per month system, the video will likely need to be retained on a server for at least 6 months for a misdemeanor, and a year or more for a felony.

In July 2019, the SPD spent \$1026 per month for server storage just for the Milwaukee Trial office. In September 2019, November 2019, April 2020, and June 2020 SPD requested additional storage space (a total increase of 6,000 gigabytes) due to the exponential growth of video evidence being provided electronically. By July 2020, the server storage cost for just Milwaukee Trial had increased more than 540% to \$6,567 per month.

While there are options for different data storage systems, based on the above trends, SPD estimates annual storage costs just for Milwaukee Trial of anywhere between \$370,400 and \$913,600 depending on which type of storage system is utilized.

Using some of the case numbers listed in the workload section above and extrapolating the Milwaukee Trial storage costs data to statewide (and continuing to assume 50% body worn camera utilization, a conservative estimate), SPD estimates statewide data storage costs on an annualized basis of anywhere between \$1,366,900 and \$3,371,600.

These unbudgeted costs are taken from the same appropriation used for, among other reasons, expert witness costs in criminal cases. For every dollar that SPD must use from base resources for storage cost, there is one less dollar available for direct client representation.

Assuming that lower-cost data storage alternatives would be approved by the Division of Enterprise Technology, the SPD requests \$1,366,900 in FY 22 and \$1,366,900 in FY 23 to account for the increased data storage costs of video evidence.

**Summary**

	FY 22		FY 23	
	Funding	FTE	Funding	FTE
GPR	\$3,527,100	40.00	\$3,998,900	40.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$3,527,100	40.00	\$3,998,900	40.00

**Prepared by:**  
 Adam Plotkin  
 Legislative Liaison  
 608-264-8572

# Decision Item by Line

2123 Biennial Budget

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	550	Public Defender Board
	<b>CODES</b>	<b>TITLES</b>
<b>DECISION ITEM</b>	5020	Video Evidence Workload Staffing

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$1,220,600	\$1,627,500
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$515,500	\$687,300
06	Supplies and Services	\$1,604,800	\$1,684,100
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$186,200	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
<b>17</b>	<b>Total Cost</b>	<b>\$3,527,100</b>	<b>\$3,998,900</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	33.00	33.00
20	Unclassified Positions Authorized	7.00	7.00

# Decision Item by Numeric

## Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>5020</b>	<b>Video Evidence Workload Staffing</b>			
<b>01</b>	<b>Legal assistance</b>				
	02 Appellate representation	\$246,600	\$302,000	4.00	4.00
	03 Trial representation	\$3,280,500	\$3,696,900	36.00	36.00
	<b>Legal assistance SubTotal</b>	<b>\$3,527,100</b>	<b>\$3,998,900</b>	<b>40.00</b>	<b>40.00</b>
	<b>Video Evidence Workload Staffing SubTotal</b>	<b>\$3,527,100</b>	<b>\$3,998,900</b>	<b>40.00</b>	<b>40.00</b>
	<b>Agency Total</b>	<b>\$3,527,100</b>	<b>\$3,998,900</b>	<b>40.00</b>	<b>40.00</b>

# Decision Item by Fund Source

## Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>Decision Item</b>	<b>5020</b>	<b>Video Evidence Workload Staffing</b>				
	GPR	S	\$3,527,100	\$3,998,900	40.00	40.00
	<b>Total</b>		<b>\$3,527,100</b>	<b>\$3,998,900</b>	<b>40.00</b>	<b>40.00</b>
<b>Agency Total</b>			<b>\$3,527,100</b>	<b>\$3,998,900</b>	<b>40.00</b>	<b>40.00</b>

## ACT 201

Proposal under s. 16.42(4)(b)2.: **0% change in each fiscal year**

FY: **FY22**

Agency: **SPD - 550**

Exclusion Federal  
Debt Service

Columns A-G were prepopulated for agencies to reflect state operations adjusted base and reductions agreed to by DOA and LFB. See Appendix H for instructions on how to complete these templates.

**Proposed \$ and Proposed FTE columns reflect total agency proposed spending and positions for indicated fiscal year. These amounts should include standard budget adjustments (SBAs), any proposed reallocations or reductions to meet the target, and any other requests that the agency would want considered under this proposal.**

Appropriations with zero dollars and zero FTEs are not loaded into the template. If you have any questions, contact your SBO analyst.

**IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY22 TO FY22 AND 23.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2021-22			Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	0% Change Target	Proposed \$	Proposed FTE	Item Ref.	\$	FTE	\$	FTE	\$	FTE
550	1a	101	GPR	\$3,038,800	18.40	0	3,033,000	18.40	2	(5,800)	0.00	5,800	0.00	0	0.00
550	1a	102	GPR	\$4,598,800	43.35	0	4,773,400	43.35		174,600	0.00	(174,600)	0.00	0	0.00
550	1a	103	GPR	\$56,166,600	542.85	0	55,209,100	542.85	3, 5, 6	(957,500)	0.00	1,254,900	0.00	297,400	0.00
550	1a	104	GPR	\$41,966,800	0.00	0	38,942,400	0.00	1	(3,024,400)	0.00	0	0.00	(3,024,400)	0.00
550	1a	105	GPR	\$687,500	5.25	0	711,300	5.25		23,800	0.00	(23,800)	0.00	0	0.00
550	1a	106	GPR	\$1,485,100	0.00	0	1,485,100	0.00	4	0	0.00	0	0.00	0	0.00
550	1a	107	GPR	\$0	0.00	0	2,727,000	0.00		2,727,000	0.00	0	0.00	2,727,000	0.00
550	1fb	135	PR	\$340,100	3.00	0	340,700	3.00		600	0.00	(600)	0.00	0	0.00
550	1kj	137	PR	\$199,300	2.00	0	203,000	2.00		3,700	0.00	(3,700)	0.00	0	0.00
550	1L	136	PR	\$913,000	0.00	0	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>109,396,000</b>	<b>614.85</b>	<b>0</b>	<b>108,338,000</b>	<b>614.85</b>		<b>(1,058,000)</b>	<b>0.00</b>	<b>1,058,000</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Target Reduction = 0

Difference = **0**

Should equal \$0

**Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency**

- 1 Additional statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 -\$1,669,200)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 4003 - Transcripts. Discovery and Interpretors
- 5 Remove DIN 4010 Restore Turnover
- 6 Remove \$3,229,700 from DIN 5020 Video Evidence workload staffing (\$246,600 in app 102 and the rest from 103)

# ACT 201

Proposal under s. 16.42(4)(b)1.: 5% change in each fiscal year

FY: **FY22**

Agency: **SPD - 550**

Exclusion Federal  
Debt Service

Columns A-G were prepopulated for agencies to reflect state operations adjusted base and reductions agreed to by DOA and LFB. See Appendix H for instructions on how to complete these templates.

**Proposed \$ and Proposed FTE columns reflect total agency proposed spending and positions for indicated fiscal year. These amounts should include standard budget adjustments (SBAs), any proposed reallocations or reductions to meet the target, and any other requests that the agency would want considered under this proposal.**

Appropriations with zero dollars and zero FTEs are not loaded into the template. If you have any questions, contact your SBO analyst.

**IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY22 TO FY22 AND 23.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2021-22			Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	5% Reduction Target	Proposed \$	Proposed FTE	Item Ref.	\$	FTE	\$	FTE	\$	FTE
550	1a	101	GPR	\$3,038,800	18.40	(151,900)	3,033,000	18.40	2	(5,800)	0.00	5,800	0.00	0	0.00
550	1a	102	GPR	\$4,598,800	43.35	(229,900)	4,773,400	43.35	6	174,600	0.00	(174,600)	0.00	0	0.00
550	1a	103	GPR	\$56,166,600	542.85	(2,808,300)	54,911,700	542.85	3,5, 6	(1,254,900)	0.00	1,254,900	0.00	0	0.00
550	1a	104	GPR	\$41,966,800	0.00	(2,098,300)	36,497,000	0.00	1,8	(5,469,800)	0.00	0	0.00	(5,469,800)	0.00
550	1a	105	GPR	\$687,500	5.25	(34,400)	711,300	5.25		23,800	0.00	(23,800)	0.00	0	0.00
550	1a	106	GPR	\$1,485,100	0.00	(74,300)	1,485,100	0.00	4	0	0.00	0	0.00	0	0.00
550	1a	107	GPR	\$0	0.00	0	0	0.00	7	0	0.00	0	0.00	0	0.00
550	1fb	135	PR	\$340,100	3.00	(17,000)	340,700	3.00		600	0.00	(600)	0.00	0	0.00
550	1kj	137	PR	\$199,300	2.00	(10,000)	203,000	2.00		3,700	0.00	(3,700)	0.00	0	0.00
550	1L	136	PR	\$913,000	0.00	(45,700)	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>109,396,000</b>	<b>614.85</b>	<b>(5,469,800)</b>	<b>102,868,200</b>	<b>614.85</b>		<b>(6,527,800)</b>	<b>0.00</b>	<b>1,058,000</b>	<b>0.00</b>	<b>(5,469,800)</b>	<b>0.00</b>

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Target Reduction = (5,469,800)

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Difference = **0**  
Should equal \$0

**Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency**

- 1 Additional statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 -\$1,669,200)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 4003 - Transcripts. Discovery and Interpretors
- 5 Remove DIN 4010 Restore Turnover
- 6 Remove DIN 5020 Video Evidence workload staffing
- 7 Remove DIN 5005 Pay Progression for ASPDs
- 8 Decrease base funding in App 104 by \$2,445,400

## ACT 201

Proposal under s. 16.42(4)(b)2.: **0% change in each fiscal year**

FY: **FY23**

Agency: **SPD - 550**

**IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY22 TO FY22 AND 23.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2022-23			Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	0% Change Target	Proposed \$	Proposed FTE	Item Ref.	\$	FTE	\$	FTE	\$	FTE
550	1a	101	GPR	\$3,038,800	18.40	0	3,033,000	18.40	2	(5,800)	0.00	5,800	0.00	0	0.00
550	1a	102	GPR	\$4,598,800	43.35	0	4,773,400	43.35		174,600	0.00	(174,600)	0.00	0	0.00
550	1a	103	GPR	\$56,166,600	542.85	0	55,566,400	542.85	3,5, 6	(600,200)	0.00	1,193,800	0.00	593,600	0.00
550	1a	104	GPR	\$41,966,800	0.00	0	35,918,000	0.00	1	(6,048,800)	0.00	0	0.00	(6,048,800)	0.00
550	1a	105	GPR	\$687,500	5.25	0	711,300	5.25		23,800	0.00	(23,800)	0.00	0	0.00
550	1a	106	GPR	\$1,485,100	0.00	0	1,485,100	0.00	4	0	0.00	0	0.00	0	0.00
550	1a	107	GPR	\$0	0.00	0	5,455,200	0.00		5,455,200	0.00	0	0.00	5,455,200	0.00
550	1fb	135	PR	\$340,100	3.00	0	340,700	3.00		600	0.00	(600)	0.00	0	0.00
550	1kj	137	PR	\$199,300	2.00	0	203,000	2.00		3,700	0.00	(3,700)	0.00	0	0.00
550	1L	136	PR	\$913,000	0.00	0	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>109,396,000</b>	<b>614.85</b>	<b>0</b>	<b>108,399,100</b>	<b>614.85</b>		<b>(996,900)</b>	<b>0.00</b>	<b>996,900</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Target Reduction = 0

Difference = **0**  
Should equal \$0

**Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency**

- 1 Additional statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 -\$3,338,500)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 4003 - Transcripts. Discovery and Interpreters
- 5 Remove DIN 4010 Restore Turnover
- 6 Remove \$3,405,300 from DIN 5020 Video Evidence workload staffing (\$302,000 from app 102 and the rest from 103)

## ACT 201

Proposal under s. 16.42(4)(b)1.: 5% change in each fiscal year

FY: **FY23**

Agency: **SPD - 550**

**IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY22 TO FY22 AND 23.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2022-23		Item Ref.	Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	5% Reduction Target	Proposed \$	Proposed FTE		\$	FTE	Remove SBAs \$	FTE	\$	FTE
550	1a	101	GPR	\$3,038,800	18.40	(151,900)	3,033,000	18.40	2	(5,800)	0.00	5,800	0.00	0	0.00
550	1a	102	GPR	\$4,598,800	43.35	(229,900)	4,773,400	43.35	6	174,600	0.00	(174,600)	0.00	0	0.00
550	1a	103	GPR	\$56,166,600	542.85	(2,808,300)	54,972,800	542.85	3, 5, 6	(1,193,800)	0.00	1,193,800	0.00	0	0.00
550	1a	104	GPR	\$41,966,800	0.00	(2,098,300)	35,918,000	0.00	1	(6,048,800)	0.00	0	0.00	(6,048,800)	0.00
550	1a	105	GPR	\$687,500	5.25	(34,400)	711,300	5.25		23,800	0.00	(23,800)	0.00	0	0.00
550	1a	106	GPR	\$1,485,100	0.00	(74,300)	1,485,100	0.00	4	0	0.00	0	0.00	0	0.00
550	1a	107	GPR	\$0	0.00	0	579,000	0.00	7	579,000	0.00	0	0.00	579,000	0.00
550	1fb	135	PR	\$340,100	3.00	(17,000)	340,700	3.00		600	0.00	(600)	0.00	0	0.00
550	1kj	137	PR	\$199,300	2.00	(10,000)	203,000	2.00		3,700	0.00	(3,700)	0.00	0	0.00
550	1L	136	PR	\$913,000	0.00	(45,700)	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>109,396,000</b>	<b>614.85</b>	<b>(5,469,800)</b>	<b>102,929,300</b>	<b>614.85</b>		<b>(6,466,700)</b>	<b>0.00</b>	<b>996,900</b>	<b>0.00</b>	<b>(5,469,800)</b>	<b>0.00</b>

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Target Reduction = (5,469,800)

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Difference = **0**  
Should equal \$0

**Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency**

- 1 Additional statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 -\$3,338,500)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 4003 - Transcripts. Discovery and Interpretors
- 5 Remove DIN 4010 Restore Turnover
- 6 Remove DIN 5020 Video Evidence workload staffing
- 7 Remove \$4,876,200 from DIN 5005 Pay Progression for ASPDs