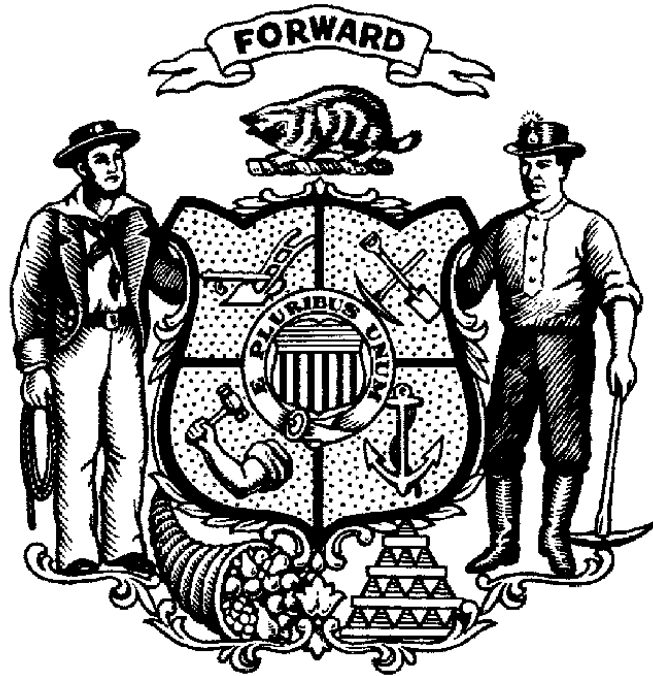


# State of Wisconsin

## Public Defender Board



Agency Budget Request  
2019 – 2021 Biennium  
September 17, 2018

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## Wisconsin State Public Defender

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**Kelli S. Thompson**  
State Public Defender

**Michael Tobin**  
Deputy State  
Public Defender

September 17, 2018

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

Dear Secretary Nowak:

On behalf of the Public Defender Board, I am submitting the attached 2019-2021 biennial budget proposal. This budget proposal, which was approved by the Board on September 7, 2018, 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.

This budget request, similar to the SPD's previous 11 biennial budget requests, asks that the rate of compensation for certified attorneys accepting conflict of interest appointments be increased from the nation's lowest hourly rate. As noted by the Wisconsin Supreme Court's June 2018 order: "We agree that the consequence – significant delays in the appointment of counsel – compromises the integrity of the court system and imposes collateral costs on criminal defendants and their families, and on all citizens of this state: jobs lost, additional expenses incurred, and justice denied."

For many years this issue was contained to the SPD or the justice system. However, the critical need to raise the reimbursement rate will become both a state government and a county taxpayer issue starting early in 2020. Without an adjustment in this biennial state budget, a significant cost will shift to individual counties throughout Wisconsin.

This budget request seeks to avert a significant constitutional crisis by providing an increase in the rate of reimbursement to ensure that attorneys providing representation are adequately compensated and have the resources necessary to meet Wisconsin's constitutional obligation to provide counsel to indigent defendants.

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 Wisconsin State Public Defender 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

### 2017 AND 2018 GOALS AND ACTUALS

Prog . No.	Performance Measure	Goal 2017	Actual 2017	Goal 2018	Actual 2018
1.	Court grants attorney withdrawals at client request as a percentage of total trial cases.	2%	2.6%	2%	2.1%
1.	Number of educational contacts with children and youth.	2,750	1,680	2,750	2,233
1.	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	682	800	650
1.	Number of cases with greatest risk of penalties handled by staff attorneys.	1,300	1,546	1,350	1,508

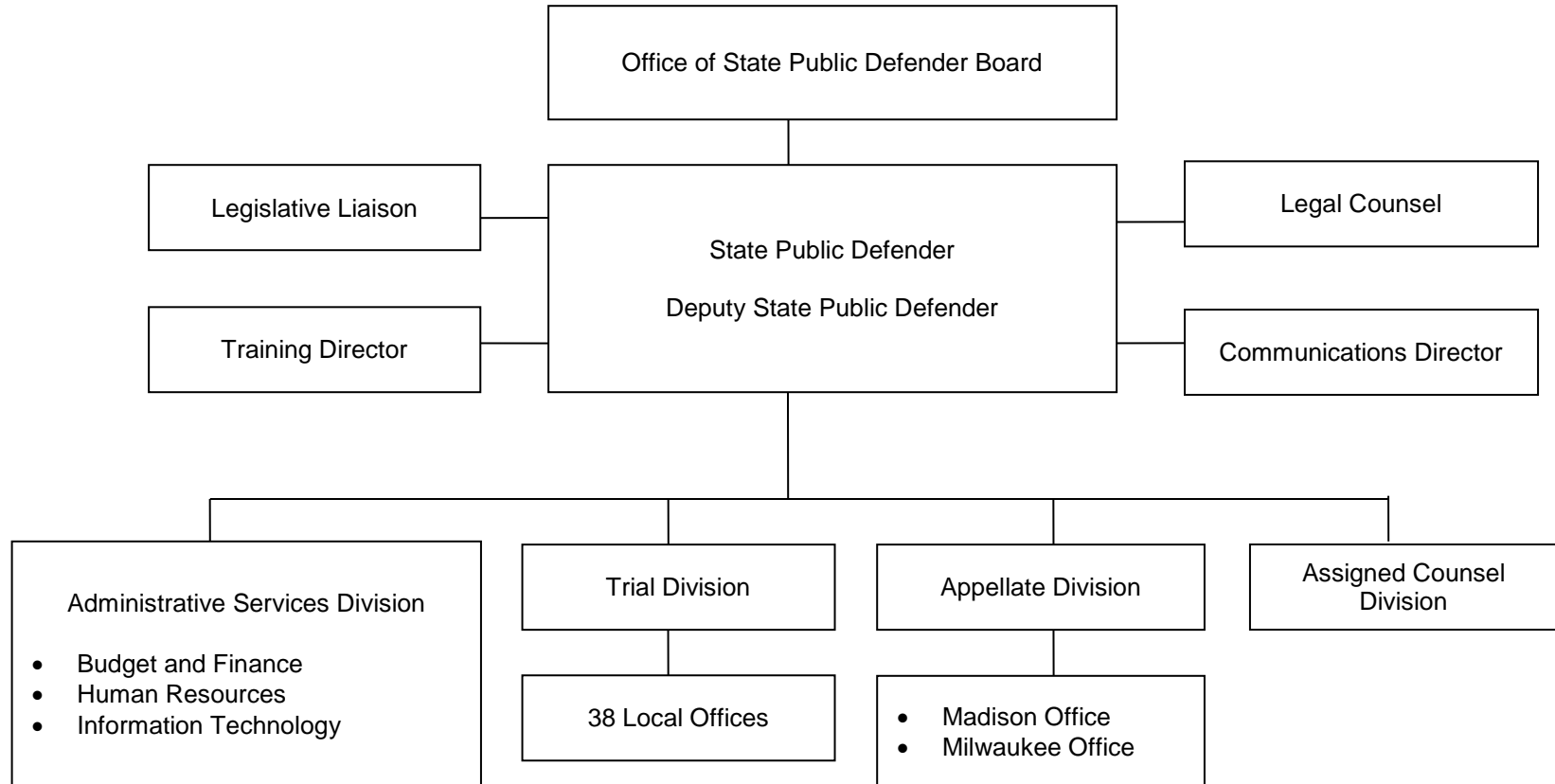
Note: Based on fiscal year.

### 2017, 2018 AND 2019 GOALS

Prog . No.	Performance Measure	Goal 2019	Goal 2020	Goal 2021
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.	2,750	2,100	2,100
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.	1,400	1,450	1,450

Note: Based on fiscal year.

# Office of the State Public Defender





# Agency Total by Fund Source

Public Defender Board

1921 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	\$85,929,977	\$87,241,300	\$111,328,000	\$112,039,500	609.85	609.85	\$174,482,600	\$223,367,500	\$48,884,900	28.0%
<b>Total</b>		\$85,929,977	\$87,241,300	\$111,328,000	\$112,039,500	609.85	609.85	\$174,482,600	\$223,367,500	\$48,884,900	28.0%
PR	S	\$1,865,063	\$1,390,200	\$1,437,900	\$1,439,100	5.00	5.00	\$2,780,400	\$2,877,000	\$96,600	3.5%
<b>Total</b>		\$1,865,063	\$1,390,200	\$1,437,900	\$1,439,100	5.00	5.00	\$2,780,400	\$2,877,000	\$96,600	3.5%
<b>Grand Total</b>		\$87,795,040	\$88,631,500	\$112,765,900	\$113,478,600	614.85	614.85	\$177,263,000	\$226,244,500	\$48,981,500	27.6%

**Agency Total by Program**

**550 Public Defender Board**

**1921 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>										
<b>Non Federal</b>										
<b>GPR</b>	<b>\$85,929,977</b>	<b>\$87,241,300</b>	<b>\$111,328,000</b>	<b>\$112,039,500</b>	<b>609.85</b>	<b>609.85</b>	<b>\$174,482,600</b>	<b>\$223,367,500</b>	<b>\$48,884,900</b>	<b>28.02%</b>
S	\$85,929,977	\$87,241,300	\$111,328,000	\$112,039,500	609.85	609.85	\$174,482,600	\$223,367,500	\$48,884,900	28.02%
<b>PR</b>	<b>\$1,865,063</b>	<b>\$1,390,200</b>	<b>\$1,437,900</b>	<b>\$1,439,100</b>	<b>5.00</b>	<b>5.00</b>	<b>\$2,780,400</b>	<b>\$2,877,000</b>	<b>\$96,600</b>	<b>3.47%</b>
S	\$1,865,063	\$1,390,200	\$1,437,900	\$1,439,100	5.00	5.00	\$2,780,400	\$2,877,000	\$96,600	3.47%
<b>Total - Non Federal</b>	<b>\$87,795,040</b>	<b>\$88,631,500</b>	<b>\$112,765,900</b>	<b>\$113,478,600</b>	<b>614.85</b>	<b>614.85</b>	<b>\$177,263,000</b>	<b>\$226,244,500</b>	<b>\$48,981,500</b>	<b>27.63%</b>
S	\$87,795,040	\$88,631,500	\$112,765,900	\$113,478,600	614.85	614.85	\$177,263,000	\$226,244,500	\$48,981,500	27.63%
<b>PGM 01 Total</b>	<b>\$87,795,040</b>	<b>\$88,631,500</b>	<b>\$112,765,900</b>	<b>\$113,478,600</b>	<b>614.85</b>	<b>614.85</b>	<b>\$177,263,000</b>	<b>\$226,244,500</b>	<b>\$48,981,500</b>	<b>27.63%</b>
<b>GPR</b>	<b>\$85,929,977</b>	<b>\$87,241,300</b>	<b>\$111,328,000</b>	<b>\$112,039,500</b>	<b>609.85</b>	<b>609.85</b>	<b>\$174,482,600</b>	<b>\$223,367,500</b>	<b>\$48,884,900</b>	<b>28.02%</b>
S	\$85,929,977	\$87,241,300	\$111,328,000	\$112,039,500	609.85	609.85	\$174,482,600	\$223,367,500	\$48,884,900	28.02%
<b>PR</b>	<b>\$1,865,063</b>	<b>\$1,390,200</b>	<b>\$1,437,900</b>	<b>\$1,439,100</b>	<b>5.00</b>	<b>5.00</b>	<b>\$2,780,400</b>	<b>\$2,877,000</b>	<b>\$96,600</b>	<b>3.47%</b>
S	\$1,865,063	\$1,390,200	\$1,437,900	\$1,439,100	5.00	5.00	\$2,780,400	\$2,877,000	\$96,600	3.47%
<b>TOTAL 01</b>	<b>\$87,795,040</b>	<b>\$88,631,500</b>	<b>\$112,765,900</b>	<b>\$113,478,600</b>	<b>614.85</b>	<b>614.85</b>	<b>\$177,263,000</b>	<b>\$226,244,500</b>	<b>\$48,981,500</b>	<b>27.63%</b>
S	\$87,795,040	\$88,631,500	\$112,765,900	\$113,478,600	614.85	614.85	\$177,263,000	\$226,244,500	\$48,981,500	27.63%
<b>Agency Total</b>	<b>\$87,795,040</b>	<b>\$88,631,500</b>	<b>\$112,765,900</b>	<b>\$113,478,600</b>	<b>614.85</b>	<b>614.85</b>	<b>\$177,263,000</b>	<b>\$226,244,500</b>	<b>\$48,981,500</b>	<b>27.63%</b>

# Agency Total by Decision Item

Public Defender Board

1921 Biennial Budget

Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000 Adjusted Base Funding Level	\$88,631,500	\$88,631,500	614.85	614.85
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$245,600	\$245,600	0.00	0.00
3005 Reclassifications and Semiautomatic Pay Progression	\$1,260,600	\$1,260,600	0.00	0.00
3007 Overtime	\$222,200	\$222,200	0.00	0.00
3010 Full Funding of Lease and Directed Moves Costs	\$335,200	\$436,900	0.00	0.00
4001 Private Bar Cost to Continue	\$3,036,200	\$3,036,200	0.00	0.00
4002 Expert Witness Services Cost to Continue	\$727,900	\$727,900	0.00	0.00
4003 Transcripts, Interpreters and Discovery Cost to Continue	\$833,000	\$833,000	0.00	0.00
4005 Assistant State Public Defender Merit Compensation	\$1,767,900	\$3,535,800	0.00	0.00
4502 Charging and Sentence Alternatives	(\$1,156,900)	(\$2,313,800)	0.00	0.00
5001 Private Bar Rate Increase	\$16,612,700	\$16,612,700	0.00	0.00
5018 Tuition Reimbursement/Loan Assistance	\$250,000	\$250,000	0.00	0.00
<b>TOTAL</b>	<b>\$112,765,900</b>	<b>\$113,478,600</b>	<b>614.85</b>	<b>614.85</b>

# GPR Earned

1921 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance

DATE September 10, 2018

Revenue	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
Royalty Checks	\$2,300	\$2,500	\$2,500	\$2,500
Misc Revenue	\$3,600	\$3,800	\$3,800	\$3,800
<b>Total</b>	<b>\$5,900</b>	<b>\$6,300</b>	<b>\$6,300</b>	<b>\$6,300</b>

# Program Revenue

1921 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>\$58,000</b>	<b>\$58,000</b>	<b>\$54,000</b>	<b>\$54,500</b>
Miscellaneous Sales	\$1,800	\$2,000	\$3,000	\$3,000
Miscellaneous Sponsors and Gifts	\$10,000	\$0	\$0	\$0
Mac Arthur Grant	\$76,300	\$74,000	\$0	\$0
<b>Total Revenue</b>	<b>\$146,100</b>	<b>\$134,000</b>	<b>\$57,000</b>	<b>\$57,500</b>
<b>Expenditures</b>	<b>\$88,100</b>	<b>\$80,000</b>	<b>\$0</b>	<b>\$0</b>
Purchase of Sale Merchandise	\$0	\$0	\$2,500	\$2,500
	\$0	\$0	\$0	\$0
<b>Total Expenditures</b>	<b>\$88,100</b>	<b>\$80,000</b>	<b>\$2,500</b>	<b>\$2,500</b>
<u>Closing Balance</u>	<b>\$58,000</b>	<b>\$54,000</b>	<b>\$54,500</b>	<b>\$55,000</b>

# Program Revenue

1921 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>\$123,000</b>	<b>\$115,600</b>	<b>\$111,100</b>	<b>\$107,100</b>
Miscellaneous Revenues	\$5,100	\$5,500	\$6,000	\$6,000
Training Course Fees	\$201,100	\$210,000	\$210,000	\$210,000
<b>Total Revenue</b>	<b>\$329,200</b>	<b>\$331,100</b>	<b>\$327,100</b>	<b>\$323,100</b>
<b>Expenditures</b>	<b>\$213,600</b>	<b>\$220,000</b>	<b>\$0</b>	<b>\$0</b>
Training Expenditures	\$0	\$0	\$220,000	\$220,000
<b>Total Expenditures</b>	<b>\$213,600</b>	<b>\$220,000</b>	<b>\$220,000</b>	<b>\$220,000</b>
<b>Closing Balance</b>	<b>\$115,600</b>	<b>\$111,100</b>	<b>\$107,100</b>	<b>\$103,100</b>

# Program Revenue

1921 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>\$295,300</b>	<b>\$295,600</b>	<b>\$336,200</b>	<b>\$342,400</b>
<b>Total Revenue</b>	<b>\$295,300</b>	<b>\$295,600</b>	<b>\$336,200</b>	<b>\$342,400</b>
<b>Expenditures</b>	<b>\$295,300</b>	<b>\$295,600</b>	<b>\$0</b>	<b>\$0</b>
Compensation Reserve	\$0	\$0	\$3,900	\$7,900
Health Insurance Reserves	\$0	\$0	\$900	\$2,600
2000 Adjusted Base Funding Level	\$0	\$0	\$302,600	\$302,600
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	\$24,400	\$24,400
3007 Overtime	\$0	\$0	\$2,900	\$2,900
3010 Full Funding of Lease and Directed Moves Costs	\$0	\$0	\$1,500	\$2,000
<b>Total Expenditures</b>	<b>\$295,300</b>	<b>\$295,600</b>	<b>\$336,200</b>	<b>\$342,400</b>
<b>Closing Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

# Program Revenue

1921 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>\$250,500</b>	<b>\$399,000</b>	<b>\$394,000</b>	<b>\$219,800</b>
Client Payments	\$490,400	\$490,000	\$550,000	\$550,000
DOA Contracted Collections	\$735,800	\$740,000	\$750,000	\$750,000
Court Ordered and Collected Atty Fees for Juveniles	\$285,300	\$280,000	\$290,000	\$290,000
Court Ordered and Collected Atty Fees for Commitment Cases	\$22,500	\$25,000	\$25,000	\$25,000
Court Ordered and Collected Atty Fees for Adult Cases	\$14,400	\$10,000	\$10,000	\$10,000
<b>Total Revenue</b>	<b>\$1,798,900</b>	<b>\$1,944,000</b>	<b>\$2,019,000</b>	<b>\$1,844,800</b>
<b>Expenditures</b>	<b>\$1,399,865</b>	<b>\$1,550,000</b>	<b>\$0</b>	<b>\$0</b>
2000 Adjusted Base Funding Level	\$0	\$0	\$913,000	\$913,000
Transfer to 20.550(1)(l)	\$0	\$0	\$336,200	\$342,400
Private bar and investigator reimbursement	\$0	\$0	\$550,000	\$550,000
<b>Total Expenditures</b>	<b>\$1,399,865</b>	<b>\$1,550,000</b>	<b>\$1,799,200</b>	<b>\$1,805,400</b>
<b>Closing Balance</b>	<b>\$399,035</b>	<b>\$394,000</b>	<b>\$219,800</b>	<b>\$39,400</b>



# Program Revenue

1921 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	\$169,900	\$170,300	\$196,300	\$200,400
<b>Total Revenue</b>	<b>\$169,900</b>	<b>\$170,300</b>	<b>\$196,300</b>	<b>\$200,400</b>
<b>Expenditures</b>	<b>\$169,900</b>	<b>\$170,300</b>	<b>\$0</b>	<b>\$0</b>
Compensation Reserve	\$0	\$0	\$2,400	\$4,900
Health Insurance Reserves	\$0	\$0	\$400	\$1,300
2000 Adjusted Base Funding Level	\$0	\$0	\$174,600	\$174,600
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	\$16,900	\$16,900
3010 Full Funding of Lease and Directed Moves Costs	\$0	\$0	\$2,000	\$2,700
<b>Total Expenditures</b>	<b>\$169,900</b>	<b>\$170,300</b>	<b>\$196,300</b>	<b>\$200,400</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

1921 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	\$38,506,900	\$38,506,900
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$122,800	\$122,800
05	Fringe Benefits	\$15,740,700	\$15,740,700
06	Supplies and Services	\$34,261,100	\$34,261,100
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	\$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>\$88,631,500</b>	<b>\$88,631,500</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	\$2,929,300	\$2,929,300	18.40	18.40
	02 Appellate representation	\$4,212,500	\$4,212,500	43.35	43.35
	03 Trial representation	\$52,691,400	\$52,691,400	542.85	542.85
	04 Private bar invstgtr reimburse	\$25,354,100	\$25,354,100	0.00	0.00
	05 Private bar invstgtr pay admin	\$646,500	\$646,500	5.25	5.25
	06 Transcripts discovery intrprtr	\$1,407,500	\$1,407,500	0.00	0.00
	07 Salary adjustments	\$0	\$0	0.00	0.00
	35 Payments from clients; administrative costs	\$302,600	\$302,600	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	\$174,600	\$174,600	2.00	2.00
	<b>Legal assistance SubTotal</b>	<b>\$88,631,500</b>	<b>\$88,631,500</b>	<b>614.85</b>	<b>614.85</b>
	<b>Adjusted Base Funding Level SubTotal</b>	<b>\$88,631,500</b>	<b>\$88,631,500</b>	<b>614.85</b>	<b>614.85</b>
	<b>Agency Total</b>	<b>\$88,631,500</b>	<b>\$88,631,500</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
Decision Item	2000	Adjusted Base Funding Level				
	GPR	S	\$87,241,300	\$87,241,300	609.85	609.85
	PR	S	\$1,390,200	\$1,390,200	5.00	5.00
	<b>Total</b>		<b>\$88,631,500</b>	<b>\$88,631,500</b>	<b>614.85</b>	<b>614.85</b>
<b>Agency Total</b>			<b>\$88,631,500</b>	<b>\$88,631,500</b>	<b>614.85</b>	<b>614.85</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

1921 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	(\$411,700)	(\$411,700)
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$657,300	\$657,300
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>\$245,600</b>	<b>\$245,600</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	\$74,400	\$74,400	0.00	0.00
	03 Trial representation	\$138,900	\$138,900	0.00	0.00
	05 Private bar invstgtr pay admin	\$6,700	\$6,700	0.00	0.00
	35 Payments from clients; administrative costs	\$24,400	\$24,400	0.00	0.00
	37 Conferences and training	\$16,900	\$16,900	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$245,600</b>	<b>\$245,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Full Funding of Continuing Position Salaries and Fringe Benefits SubTotal</b>	<b>\$245,600</b>	<b>\$245,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$245,600</b>	<b>\$245,600</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	\$204,300	\$204,300	0.00	0.00
	PR	S	\$41,300	\$41,300	0.00	0.00
	<b>Total</b>		<b>\$245,600</b>	<b>\$245,600</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$245,600</b>	<b>\$245,600</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 3005**

**Decision Item (DIN) Title - Reclassifications and Semiautomatic Pay Progression**

**NARRATIVE**

Standard Budget Adjustment - Reclassifications and Semiautomatic Pay Progression.

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$1,260,600 GPR in both years to fully fund the salary cost-to-continue for attorney pay progression from fiscal year 2019 which was not included on the final agency position report formerly called the B-1 listing.

# Decision Item by Line

1921 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>	3005	Reclassifications and Semiautomatic Pay Progression

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$1,260,600	\$1,260,600
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>\$1,260,600</b>	<b>\$1,260,600</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>3005</b>	<b>Reclassifications and Semiautomatic Pay Progression</b>			
<b>01</b>	<b>Legal assistance</b>				
	01 Program operation	\$4,000	\$4,000	0.00	0.00
	02 Appellate representation	\$106,000	\$106,000	0.00	0.00
	03 Trial representation	\$1,147,000	\$1,147,000	0.00	0.00
	05 Private bar invstgtr pay admin	\$3,600	\$3,600	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$1,260,600</b>	<b>\$1,260,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Reclassifications and Semiautomatic Pay Progression SubTotal</b>	<b>\$1,260,600</b>	<b>\$1,260,600</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$1,260,600</b>	<b>\$1,260,600</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>3005</b>	<b>Reclassifications and Semiautomatic Pay Progression</b>				
	GPR	S	\$1,260,600	\$1,260,600	0.00	0.00
	<b>Total</b>		<b>\$1,260,600</b>	<b>\$1,260,600</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$1,260,600</b>	<b>\$1,260,600</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

1921 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	\$29,500	\$29,500
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>\$222,200</b>	<b>\$222,200</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>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	\$172,300	\$172,300	0.00	0.00
	05 Private bar invstgtr pay admin	\$10,800	\$10,800	0.00	0.00
	35 Payments from clients; administrative costs	\$2,900	\$2,900	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$222,200</b>	<b>\$222,200</b>	<b>0.00</b>	<b>0.00</b>
	<b>Overtime SubTotal</b>	<b>\$222,200</b>	<b>\$222,200</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$222,200</b>	<b>\$222,200</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
Decision Item	3007	Overtime				
	GPR	S	\$219,300	\$219,300	0.00	0.00
	PR	S	\$2,900	\$2,900	0.00	0.00
	<b>Total</b>		<b>\$222,200</b>	<b>\$222,200</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$222,200</b>	<b>\$222,200</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

1921 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	\$335,200	\$436,900
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>\$335,200</b>	<b>\$436,900</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>3010</b>	<b>Full Funding of Lease and Directed Moves Costs</b>			
<b>01</b>	<b>Legal assistance</b>				
	01 Program operation	\$29,800	\$38,900	0.00	0.00
	02 Appellate representation	\$33,200	\$43,200	0.00	0.00
	03 Trial representation	\$265,400	\$345,800	0.00	0.00
	05 Private bar invstgtr pay admin	\$3,300	\$4,300	0.00	0.00
	35 Payments from clients; administrative costs	\$1,500	\$2,000	0.00	0.00
	37 Conferences and training	\$2,000	\$2,700	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$335,200</b>	<b>\$436,900</b>	<b>0.00</b>	<b>0.00</b>
	<b>Full Funding of Lease and Directed Moves Costs SubTotal</b>	<b>\$335,200</b>	<b>\$436,900</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$335,200</b>	<b>\$436,900</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>3010</b>	<b>Full Funding of Lease and Directed Moves Costs</b>				
	GPR	S	\$331,700	\$432,200	0.00	0.00
	PR	S	\$3,500	\$4,700	0.00	0.00
	<b>Total</b>		<b>\$335,200</b>	<b>\$436,900</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$335,200</b>	<b>\$436,900</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4001**

**Decision Item (DIN) Title - Private Bar 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 \$3,036,200 GPR in FY20, and \$3,036,200 GPR in FY21, for private bar and investigator reimbursement payments, based on the current \$40 reimbursement rate.

**Office of the State Public Defender  
2019-2021 Biennial Budget  
Issue Paper**

**Topic:** DIN 4001 – Private Bar 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 \$3,036,200 GPR in FY20, and \$3,036,200 GPR in FY21, for private bar and investigator reimbursement payments, based on the current \$40 reimbursement rate.

**Problem Description**

The SPD is responsible for the cost of private bar and investigator reimbursements. The SPD will face a structural deficit if budget adjustments are not made as requested.

**Background**

The State Public Defender's Trial Division is authorized 344.45 FTE attorney and attorney supervisor positions, all but ten of which are budgeted to achieve statutorily defined annual caseloads per s. 977.08(5)(bn) Wis. Stats. SPD attorneys at the trial level, on average, carry caseloads at approximately 125% of the recommended level based on national standards to provide ethical and competent representation. Additionally, the Appellate Division is authorized 27.75 FTE attorneys and attorney supervisors. In FY18, staff attorneys (Trial and Appellate) were assigned 84,636 of the 140,440 total cases in which the defendant qualified for SPD services.

Overflow cases and those in which staff attorneys may have a conflict of interest are appointed to private bar attorneys throughout the state, at a statutory hourly rate of \$40 per hour [refer to DIN 5001 regarding an increase in the private bar reimbursement rate] for time in or out of court and \$25 per hour for travel. In fiscal year 2018, a total of 55,804 (39.7%) were appointed to private bar attorneys.

**Analysis**

The private bar appropriation is impacted by factors beyond the control of the SPD, most notably variations in charging practices among counties, the number of cases in which multiple defendants face the same charges, availability of private bar attorneys in particular geographic areas, and turnover in SPD staff attorney positions.

	<b>FY20</b>	<b>FY21</b>
<b>Estimated Cost for Private Bar Assignments</b>	\$29,278,700	\$29,278,700
Client Collections	-\$1,200,000	-\$1,200,000
Estimated Client Accounts Admin Costs	\$302,600	\$302,600
<b>Funding Needed</b>	<b>\$28,390,300</b>	<b>\$28,390,300</b>
FY19 GPR Base (appn. 104)	-\$25,354,100	-\$25,354,100
<b>Additional GPR requested</b>	<b>\$3,036,200</b>	<b>\$3,036,200</b>

The agency’s overall workload is determined externally, by the number and severity of charges filed and by economic factors such as unemployment rates. When defendants qualify for a public defender, the agency must appoint counsel. In the 2017-19 budget, the SPD received \$6.8 million in cost-to-continue funding, less than the estimate. While we do note estimate carrying a structural deficit into the 2019-21 biennium, full funding of this cost-to-continue item is necessary to ensure that a structural deficit doesn’t occur.

If this decision item is not approved or is reduced, the appropriation for private bar payments will again face a structural deficit, resulting in a significant payment delay. Such payment delays cause undue hardship to private bar attorneys – small business people in communities throughout the state – by forcing them to wait months for payment.

In consideration of DIN 5001, an adjustment to this cost-to-continue item would be necessary if the rate of reimbursement was increased. For example, at \$70 an hour effective July 1, 2019, this annual \$3,036,200 estimate would increase to \$5,313,400.

**Summary**

	<b>FY20</b>		<b>FY21</b>	
	<b>Funding</b>	<b>FTE</b>	<b>Funding</b>	<b>FTE</b>
GPR	\$3,036,200	0.00	\$3,036,200	0.00
PR	\$0	0.00	\$0	0.00
<b>TOTAL</b>	<b>\$</b>	<b>0.00</b>	<b>\$</b>	<b>0.00</b>

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



# Decision Item by Line

1921 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>	4001	Private Bar 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	\$3,036,200	\$3,036,200
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>\$3,036,200</b>	<b>\$3,036,200</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>4001</b>	<b>Private Bar Cost to Continue</b>			
<b>01</b>	<b>Legal assistance</b>				
	04 Private bar invstgtr reimburse	\$3,036,200	\$3,036,200	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$3,036,200</b>	<b>\$3,036,200</b>	<b>0.00</b>	<b>0.00</b>
	<b>Private Bar Cost to Continue SubTotal</b>	<b>\$3,036,200</b>	<b>\$3,036,200</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$3,036,200</b>	<b>\$3,036,200</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>4001</b>	<b>Private Bar Cost to Continue</b>				
	GPR	S	\$3,036,200	\$3,036,200	0.00	0.00
	<b>Total</b>		<b>\$3,036,200</b>	<b>\$3,036,200</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$3,036,200</b>	<b>\$3,036,200</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 \$727,900 GPR in FY 20 and \$727,900 GPR in FY 21 for the agency to contract with expert witnesses, to reflect current needs.

**Office of the State Public Defender  
2019-2021 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 \$727,900 GPR in FY 20 and \$727,900 GPR in FY 21 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 in 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, 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 as expert witnesses for the defense.

Experts 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 in which the SPD provides representation.

The cost of expert witnesses has increased by 323.8% since FY10.

<b>Fiscal Year</b>	<b>Appellate</b>	<b>Trial</b>	<b>TOTAL</b>
<b>FY10</b>	\$ 6,575	\$ 322,505	<b>\$ 329,080</b>
<b>FY11</b>	\$ 14,840	\$ 333,399	<b>\$ 348,239</b>
<b>FY12</b>	\$ 13,069	\$ 400,020	<b>\$ 413,089</b>
<b>FY13</b>	\$ 14,822	\$ 458,770	<b>\$ 473,591</b>
<b>FY14</b>	\$ 24,068	\$ 573,468	<b>\$ 597,536</b>
<b>FY15</b>	\$ 13,787	\$ 706,437	<b>\$ 720,224</b>
<b>FY16</b>	\$ 13,306	\$ 854,299	<b>\$ 867,605</b>
<b>FY17</b>	\$ 23,941	\$1,072,491	<b>\$1,096,431</b>
<b>FY18</b>	\$ 25,738	\$1,039,795	<b>\$1,065,533</b>

The increased cost of expert witnesses can no longer be absorbed by the agency. The shortfall in funding for expert witnesses in fiscal year 2018 was \$727,933.

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>FY18 actual expenditures</u>	<u>\$ 1,065,533</u>
Annual increase needed	\$ 727,933

### **Summary**

	FY20		FY21	
	Funding	FTE	Funding	FTE
GPR	\$727,900	0.00	\$727,900	0.00
PR	\$0	0.00	\$0	0.00
<b>TOTAL</b>	<b>\$727,900</b>	<b>0.00</b>	<b>\$727,900</b>	<b>0.00</b>

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

# Decision Item by Line

1921 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	\$727,900	\$727,900
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>\$727,900</b>	<b>\$727,900</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>4002</b>	<b>Expert Witness Services Cost to Continue</b>			
<b>01</b>	<b>Legal assistance</b>				
	03 Trial representation	\$727,900	\$727,900	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$727,900</b>	<b>\$727,900</b>	<b>0.00</b>	<b>0.00</b>
	<b>Expert Witness Services Cost to Continue SubTotal</b>	<b>\$727,900</b>	<b>\$727,900</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$727,900</b>	<b>\$727,900</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>4002</b>	<b>Expert Witness Services Cost to Continue</b>				
	GPR	S	\$727,900	\$727,900	0.00	0.00
	<b>Total</b>		<b>\$727,900</b>	<b>\$727,900</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$727,900</b>	<b>\$727,900</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 \$833,000 GPR in FY 20 and \$833,000 GPR in FY 21, per year for the for payments for transcripts, discovery, and interpreters, to reflect current needs.

**Office of the State Public Defender  
2019-2021 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 \$833,000 GPR in FY 20 and \$833,000 GPR in FY 21, 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)

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, that has been the only increase to the appropriation in almost 20 years.

## **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 \$833,045 at the end of FY18.

## **Transcript Payments**

The total expenses for transcripts in FY18 was \$1,375,294. 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 FY18, the SPD incurred costs totaling \$778,199 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 FY18, the SPD incurred costs totaling \$87,052 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	\$ 1,375,294 annually
Full funding of discovery payments	\$ 778,199 annually
Full funding of interpreter payments	<u>\$ 87,052 annually</u>
Total Projected Annual Need in 2017-19	\$ 2,240,545 annually
Appn. 106 Adjusted 2019 Base Funding	<u>\$ 1,407,500</u>
Annual increase needed	\$ 833,000

**Summary**

	FY20		FY21	
	Funding	FTE	Funding	FTE
GPR	\$833,000	0.00	\$833,000	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$833,000	0.00	\$833,000	0.00

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

# Decision Item by Line

1921 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	\$833,000	\$833,000
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>\$833,000</b>	<b>\$833,000</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>4003</b>	<b>Transcripts, Interpreters and Discovery Cost to Continue</b>			
<b>01</b>	<b>Legal assistance</b>				
	06 Transcripts discovery intrprtr	\$833,000	\$833,000	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$833,000</b>	<b>\$833,000</b>	<b>0.00</b>	<b>0.00</b>
	<b>Transcripts, Interpreters and Discovery Cost to Continue SubTotal</b>	<b>\$833,000</b>	<b>\$833,000</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$833,000</b>	<b>\$833,000</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>4003</b>	<b>Transcripts, Interpreters and Discovery Cost to Continue</b>				
	GPR	S	\$833,000	\$833,000	0.00	0.00
	<b>Total</b>		<b>\$833,000</b>	<b>\$833,000</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$833,000</b>	<b>\$833,000</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), \$1,767,900 GPR in FY20 and \$3,535,800 GPR in FY21 to fund the statutory pay progression plan for assistant state public defender attorneys.

**OFFICE OF THE STATE PUBLIC DEFENDER  
2019-2021 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), \$1,767,900 GPR in FY20 and \$3,535,800 GPR in FY21 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 2019-2021 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 maintain the historic pay equity that has existed between assistant district attorneys and assistant state public defenders, the SPD is requesting increased funding in the first year equivalent to placing attorneys on the next step of a pay progression ladder and in the second year equivalent to \$1.97 per hour per attorney. 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.

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 who then leave for higher pay scales offered by district attorneys. 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. For year one, to place these attorneys on the next step of the attorney pay progression ladder would require \$1,767,900 in FY20 for salary and fringe (assuming a 15.30% variable fringe rate). In year two, to provide an across the board increase of \$1.97 per hour for each eligible attorney would require \$3,535,800 in FY21 salary and fringe, which also includes covering the year one salary amount.

**Summary**

	FY20		FY21	
	Funding	FTE	Funding	FTE
GPR	\$1,767,900	0.00	\$3,535,800	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$1,767,900	0.00	\$3,535,800	0.00

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

# Decision Item by Line

1921 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	\$1,533,300	\$3,066,600
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$234,600	\$469,200
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>\$1,767,900</b>	<b>\$3,535,800</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	\$1,767,900	\$3,535,800	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$1,767,900</b>	<b>\$3,535,800</b>	<b>0.00</b>	<b>0.00</b>
	<b>Assistant State Public Defender Merit Compensation SubTotal</b>	<b>\$1,767,900</b>	<b>\$3,535,800</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$1,767,900</b>	<b>\$3,535,800</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	\$1,767,900	\$3,535,800	0.00	0.00
	<b>Total</b>		<b>\$1,767,900</b>	<b>\$3,535,800</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$1,767,900</b>	<b>\$3,535,800</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 4502**

**Decision Item (DIN) Title - Charging and Sentence 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 \$1,156,900 GPR in FY20 and \$2,313,800 GPR in FY21 in agency-wide savings. There would also be collateral savings for other criminal justice system entities.



**OFFICE OF THE STATE PUBLIC DEFENDER  
2019-2021 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 \$1,156,900 GPR in FY20 and \$2,313,800 GPR in FY21 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 8,976 disorderly conduct cases could have been diverted if this proposed provision had been in effect during FY18 (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 \$1,158,982.

### 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 FY18, the SPD represented clients in 10,539 related to possession of drugs. If these cases would not have qualified for representation due to the suggested reclassification to ordinances, then the SPD would have saved \$980,539.

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 FY 18, SPD provided representation in 5,758 felony bail jumping cases. While this is not likely to have a significant impact specifically for SPD, it will have significant impacts for prosecutors, the courts, jails, and prisons. It is possible that a small savings of approximately \$174,308 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 2020 and the full cost in Fiscal Year 2021. These cases are represented by staff attorneys as well as private bar attorneys.

	FY20		FY21	
	Funding	FTE	Funding	FTE
GPR	\$(1,156,900)	0.00	\$(2,313,800)	0.00
PR	\$0	0.00	\$0	0.00
<b>TOTAL</b>	<b>\$(1,156,900)</b>	<b>0.00</b>	<b>\$(2,313,800)</b>	<b>0.00</b>

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

# Decision Item by Line

1921 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 Sentence 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	(\$1,156,900)	(\$2,313,800)
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>(\$1,156,900)</b>	<b>(\$2,313,800)</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 Sentence Alternatives</b>			
<b>01</b>	<b>Legal assistance</b>				
	04 Private bar invstgtr reimburse	(\$1,156,900)	(\$2,313,800)	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>(\$1,156,900)</b>	<b>(\$2,313,800)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Charging and Sentence Alternatives SubTotal</b>	<b>(\$1,156,900)</b>	<b>(\$2,313,800)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>(\$1,156,900)</b>	<b>(\$2,313,800)</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 Sentence Alternatives</b>				
	GPR	S	(\$1,156,900)	(\$2,313,800)	0.00	0.00
	<b>Total</b>		<b>(\$1,156,900)</b>	<b>(\$2,313,800)</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>(\$1,156,900)</b>	<b>(\$2,313,800)</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 5001**

**Decision Item (DIN) Title - Private Bar Rate Increase**

**NARRATIVE**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$16,612,700 GPR in FY20 and \$16,612,700 GPR in FY21 to increase the \$40 per hour reimbursement rate for private bar attorneys to a rate of \$70 per hour. The new rates would apply to cases assigned on or after July 1, 2019. The SPD requests modification of the statutory reimbursement rate for in-court and out-of-court work in Wis. Stats. s. 977.08 (4m).

**OFFICE OF THE STATE PUBLIC DEFENDER  
2019-2021 Biennial Budget  
Issue Paper**

**Topic:** DIN 5001 – Private Bar Rate Increase

**Agency Request**

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$16,612,700 GPR in FY20 and \$16,612,700 GPR in FY21 to increase the \$40 per hour reimbursement rate for private bar attorneys to a rate of \$70 per hour. The new rates would apply to cases assigned on or after July 1, 2019. The SPD requests modification of the statutory reimbursement rate for in-court and out-of-court work in Wis. Stats. s. 977.08 (4m).

**Problem Description**

The hourly rate paid to the private bar attorneys who accept appointments to provide legal representation in Public Defender cases is impeding the SPD's ability to recruit and retain private bar attorneys who consistently accept appointments and provide effective representation. It also has a direct impact on county expenses through increased jail costs and costs for appointment of counsel at county expense.

In its June 2018 Order regarding the current \$40 reimbursement rate, the Wisconsin Supreme Court explained:

“We are ... deeply concerned about the impact of prolonged underfunding of the SPD on our duty to ensure the effective administration of justice in Wisconsin. We agree that the consequence – significant delays in the appointment of counsel – compromises the integrity of the court system and imposes collateral costs on criminal defendants and their families, and on all citizens of this state: jobs lost, additional expenses incurred, and justice denied.”

...

“We hope that a confrontation in the form of a constitutional challenge will not occur and trust that the legislature will work with the courts, the SPD, the petitioners, the counties, and other justice partners to ensure adequate funding for the SPD that is urgently needed to forestall what is clearly, an emerging constitutional crisis.”

The Court described the rate paid to private bar attorneys who accept appointments to provide legal representation in Public Defender cases as “abysmally low.” In fact, it is the lowest rate in the nation.

The inability to find lawyers willing to represent SPD clients has a direct impact on county expenses through increase jail costs, costs for appointment of counsel at county expense, and costs related to delays in the court process.



## **Background**

When the Legislature created the SPD in 1977, it established the hourly rate paid to private bar attorneys at \$45 per hour for time spent in-court and \$35 for time spent out-of-court. See s. 977.08 (4m) (a). Travel time was, and continues to be, reimbursed at \$25 per hour. In 1992, the Legislature raised private bar rates to \$50 per hour for in-court and \$40 per hour for out-of-court work. See s. 977.08 (4m) (b). However, in 1995, the private bar rate was reduced to \$40 per hour for in-court work. See s. 977.08 (4m) (c). This \$40 hourly rate remains the current rate at which private bar attorneys are paid for work on Public Defender cases, for both in-court and out-of-court work.

Considering the \$40 rate and the cost of operating a law practice, it is unsurprising that there are fewer attorneys willing to accept SPD appointments. Coupled with difficulties in recruiting and retaining attorneys from all areas of practice to locate in more rural parts of Wisconsin, there are negative effects on the rights of defendants, justice for victims, the efficiency of the court system, and the budgets of both county and state-based criminal justice system partners.

On May 16, 2018, the Supreme Court of Wisconsin held a public hearing on Rule Petition 17-06 regarding the rate of compensation for court appointed attorneys. The petition asked that the court raise the rate for attorneys appointed at county expense from \$70 to \$100 an hour. It also asked the Court to find any rate lower than that, including the SPD appointment rate, unreasonable. On June 27, 2018, the Supreme Court issued an order raising the court appointed rate to \$100 an hour effective January 1, 2020. While it declined to find rates less than that unreasonable, members of the court were unambiguous in the order that the SPD rate is “abysmally low.” Comments from the order include:

“That Wisconsin’s compensation rate for SPD appointed attorneys is abysmally low is not in dispute.”

“Compensation for attorneys appointed by the court to represent indigent criminal defendants is absurdly inadequate.”

“Most attorneys will not accept SPD appointments because they literally lose money if they take these cases.”

“The evidence that indigent defendants are being held in jail for extended periods of time for want of counsel is deeply disturbing.”

“A rate of \$100/hour is reasonable and necessary to ensure the court can obtain needed counsel to assist in the administration of justice.”

“Thus, costs for indigent defense, which should be borne by the state as a whole, are being shifted to individual counties.”

## Analysis

The SPD proposes increasing the hourly rate of reimbursement from \$40 to \$70 an hour. These changes would coincide with program and policy changes designed to ensure that the quality of representation becomes more consistent with that provided by SPD staff attorneys.

### Private Bar In and Out of Court Reimbursement Rate

The SPD appoints cases to the private bar attorneys when SPD staff is unavailable due to conflicts of interest, vacancies, or workloads. Appointments to the private bar necessitated by conflicts of interest include cases such as multiple SPD clients are co-defendants in the same case or in which a current SPD client is a key witness against another client in a separate case.

The current \$40 per hour rate has been cited by private bar attorneys as the main factor in their decisions to no longer accept SPD case appointments. Most attorneys are small-business owners who must make sound economic decisions in order to remain in business. Experienced attorneys who have paying clients lose a significant amount of money for every hour they spend on an SPD case.

Attorneys in private practice set their hourly rates so that overhead is covered and the attorney is paid at a rate commensurate with experience, knowledge, and skills. As small business operational costs increased, the median hourly rate that attorneys charge clients has increased. According to the State Bar of Wisconsin's study, *2017 Economics of Law Practice in Wisconsin*, by all measures the current SPD rate is far below industry standards. The report shows the following:

- The median gross annual salary for an attorney in private practice is \$101,500.
- The median hourly billing rate for a criminal law private practitioner is \$183.
- The mean hourly billing rate for a legal associate with no experience is \$175, and for a paralegal or legal secretary is \$100.
- For paid summer law clerks, the average salary was \$26.90 per hour. This represents a reduction of approximately 35% from the private bar rate of reimbursement.

Another key finding of the State Bar's Economics of Law Practice in Wisconsin is that the median overhead rate to operate a law practice is 35% of gross income. Given the median income for attorneys, the SPD payment rate is inadequate to meet overhead requirements, and is a disincentive for many attorneys to accept SPD appointments.

In any local small business, inability to cover overhead costs reduces the ability to rent office space and hire staff. If the reimbursement for work on SPD cases is increased to better offset overhead costs, the attorneys accepting SPD appointments will likely increase their contributions to the local economy through office rentals and hiring of support staff.

In comparison, other attorneys retained by federal, state and local government are paid substantially more than \$40 per hour. Defense attorneys are paid \$140 per hour for non-capital federal cases. The Office of Lawyer Regulation uses outside counsel in some

disciplinary matters and pays them \$70 per hour. The disparities among state agencies in attorney reimbursement rates is continually identified by the private bar attorneys as another reason why they will take cases for some state or county agencies, but not the SPD.

Wage inflation rates compiled by the Social Security Administration indicate that a \$40 per hour wage set in 1995 would equate to \$78.75 per hour in 2016. Over the same period, the buying power of the dollar has decreased to \$0.64 in 2016. In perspective, the buying power of \$40 in 1995 is the equivalent of \$25.20 in 2016. The cumulative effect of even modest annual inflation rates shows that in terms of buying power, private attorneys have had their reimbursement rate substantially reduced over time.

According to a Legislative Fiscal Bureau memo dated October 17, 2013, nearly every service for which the state contracts at an hourly rate is higher than the SPD private bar rate. Some overall findings include:

- The median rate of hourly pay ranges from \$50-\$90.
- The median rate of hourly pay in legal professions ranges from \$50-\$120.
- Out of 99 different job titles, only 10 paid a maximum hourly rate *lower* than \$40 per hour.
- Attorneys received an hourly rate as high as \$509.
- Paralegal services were contracted for at a minimum hourly rate of \$70 and went as high as \$248 an hour.

While the number of appointments has remained relatively steady, the number of attorneys who have actively taken public defender appointments has declined steadily, from 1099 attorneys in 2012 to only 921 attorneys in 2017. Although there are currently about 900 lawyers on the appointment lists 17% took zero case appointments in FY 2017. 31% took less than 26 appointments. 15% took 26-50 appointments and 37% took more than 50 appointments. About 56% regularly accept SPD appointments (26 or more in a year).

This decrease is most apparent in the northern part of the state where the SPD has seen a steady increase in the number of SPD appointments going to out-of-county private attorneys (attorneys who are not located in the county where the case originated from). For example, in FY 2012, Ashland County appointed only 28% of cases to out-of-county private attorneys, whereas in FY 2017, that number had risen to 73%. Bayfield County cases are now being assigned to out-of-county private attorneys 99% of the time. There are now 7 counties in which no attorneys are certified to accept SPD appointments.

Recently, the SPD examined trends related to the appointment of private attorneys across the state. In Marathon County, it takes an average of 80 contacts and 17 days to appoint a case to a private attorney. In Price County, it takes (on average) 33 days to appoint a private attorney to a case. In Appleton, it takes an average of 17 contacts per case to find an assigned counsel attorney. In three difficult cases, it took 302, 261, and 260 contacts to find an attorney. The Ashland office (which covers Ashland, Bayfield, and Iron counties) needs nearly 39 contacts per case and an average of 24 days to find an attorney. By contrast, the Milwaukee Juvenile/Mental Health office needs fewer than 2 contacts per appointment. However, the lack of availability in rural areas is beginning to have an indirect

effect in Milwaukee as more and more attorneys from urban areas are appointed to cases in rural counties.

These numbers demonstrate the difficulties in appointing cases that have been reported by field staff. The SPD local offices report that one reason lawyers who used to accept appointments now take fewer appointments – or none at all - is because counties and federal courts pay substantially higher rates. Based on an informal survey with 41 responses from counties, the average hourly rate of pay for an attorney appointed at county expense is just over \$70 per hour. In some smaller counties, judges have ended up appointing (at the higher county rate) attorneys who only weeks earlier had declined the SPD’s request to represent the defendant.

The decision by the Supreme Court to increase the court appointment rate to \$100 per hour will dramatically exacerbate the issue of inability to find attorneys to accept SPD appointments at \$40 an hour. As has already been happening, attorneys will continue to decline SPD appointments at the current rate, resulting in more courts appointing attorneys at county expense to minimize delays for defendants, victims, and other witnesses involved in the pending cases.

Cost Estimate

Private Bar In and Out of Court Reimbursement Rate

SPD requests that the rate increase beginning with cases appointed on or after July 1, 2019. This would result in a total increase in the 2019-21 biennium of \$33,225,400.

Another alternative may be to delay the effective date to coincide with the Supreme Court’s order increasing the county appointment rate to \$100 effective January 1, 2020.

	<b>FY 20</b>	<b>FY 21</b>	<b>2019-21 Biennium</b>
<b>7/1/19</b>	\$16,612,700	\$16,612,700	\$33,225,400
<b>1/1/20 (Coincides with Supreme Court Order)</b>	\$8,668,900	\$16,612,700	\$25,281,600

Statutory Changes (Appendix A)

Amend §977.08(4m) to increase the statutory reimbursement rate for in-court and out-of-court work to \$70 per hour for cases assigned on or after July 1, 2019.

Amend §977.02(5) and §977.08(3)(b) to allow the Public Defender Board to set standards for and impose conditions upon private bar attorney certification, decertification, or recertification to represent clients.

## **Summary**

	FY 20		FY 21	
	Funding	FTE	Funding	FTE
GPR	\$16,612,700	0.00	\$16,612,700	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$16,612,700	0.00	\$16,612,700	0.00

### **Prepared by:**

Adam Plotkin  
Legislative Liaison  
608-264-8572

## **Appendix A – Statutory Changes**

**Create** §977.08(4m)(d) for an hourly rate increase to \$70.

Proposed language:

Unless otherwise provided by a rule promulgated under s. 977.02(7r) or by a contract authorized under sub. (3)(f), for cases assigned on or after July 1, 2019, private local attorneys shall be paid \$70 per hour for time spent related to a case, excluding travel, and \$25 per hour for time spent in travel related to a case if any portion of the trip is outside the county in which the attorney's principal office is located or if the trip requires traveling a distance of more than 30 miles, one way, from the attorney's principal office.

**Amend** §977.02(5) to authorize the Public Defender Board to promulgate rules related to setting standards for and imposing conditions upon private bar attorney certification, decertification, or recertification to represent clients.

Proposed language:

Promulgate rules establishing procedures to assure that representation of indigent clients by the private bar at the initial stages of cases assigned under this chapter is at the same level as the representation provided by the state public defender, including setting standards for and imposing conditions upon private bar attorney certification, decertification, or recertification to represent clients under this chapter.

**Create** §977.08(3)(b)2. to set statutory guidelines related to setting standards for and imposing conditions upon private bar attorney certification, decertification, or recertification to represent clients.

Proposed language:

977.08 (3) (b) 2. An attorney may be excluded from a list under subd. 1. if any of the following applies:

- a. The attorney fails or has failed to meet minimum attorney performance standards adopted by the state public defender.
- b. The attorney fails or has failed to comply with SCR chapter 20.
- c. The attorney engages in conduct that is contrary to the interests of clients, the interests of justice, or the interests of the minimum attorney performance standards.
- d. The state public defender learns of any information that raises a concern about the attorney's character, performance, ability, or behavior.

# Decision Item by Line

1921 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>	5001	Private Bar Rate Increase

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	\$16,612,700	\$16,612,700
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>\$16,612,700</b>	<b>\$16,612,700</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>5001</b>	<b>Private Bar Rate Increase</b>			
<b>01</b>	<b>Legal assistance</b>				
	04 Private bar invstgtr reimburse	\$16,612,700	\$16,612,700	0.00	0.00
	<b>Legal assistance SubTotal</b>	<b>\$16,612,700</b>	<b>\$16,612,700</b>	<b>0.00</b>	<b>0.00</b>
	<b>Private Bar Rate Increase SubTotal</b>	<b>\$16,612,700</b>	<b>\$16,612,700</b>	<b>0.00</b>	<b>0.00</b>
	<b>Agency Total</b>	<b>\$16,612,700</b>	<b>\$16,612,700</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>5001</b>	<b>Private Bar Rate Increase</b>				
	GPR	S	\$16,612,700	\$16,612,700	0.00	0.00
	<b>Total</b>		<b>\$16,612,700</b>	<b>\$16,612,700</b>	<b>0.00</b>	<b>0.00</b>
<b>Agency Total</b>			<b>\$16,612,700</b>	<b>\$16,612,700</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 FY20 and \$250,000 GPR in FY21 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  
2019-2021 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 FY20 and \$250,000 GPR in FY21 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 low private bar rate of reimbursement plays a role statewide (see DIN 5001), the availability of private attorneys in specific geographic regions has a severe impact on court operations in all case types, 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. However, because the private bar reimbursement rate has remained stagnant for many years, the overall trend has been that the economic incentive for attorneys to accept SPD appointments has decreased.

In recent years, and in specific parts of the state, the lack of available private bar attorneys has become a significant problem. It is not unusual for an appointment secretary in an SPD office to make a minimum of 75-100 calls to different private bar attorneys before being able to find an available attorney. Often, when making that many contacts, the attorney who is appointed is from another 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.

Aside from the low rate of reimbursement, 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.

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**

	FY20		FY21	
	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

1921 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>



## ACT 201

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

FY: **FY20**

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 FY20 TO FY20 AND 21.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2019-20		Item Ref.	Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	0% Change Target	Proposed \$	Proposed FTE		\$	FTE	Remove SBAs \$	FTE	\$	FTE
550	1a	101	GPR	2,929,300	18.4	0	2,957,300	18.40	2	28,000	0.00	(28,000)	0.00	0	0.00
550	1a	102	GPR	4,212,500	43.35	0	4,452,400	43.35		239,900	0.00	(239,900)	0.00	0	0.00
550	1a	103	GPR	52,691,400	542.85	0	54,415,000	542.85	3	1,723,600	0.00	(1,723,600)	0.00	0	0.00
550	1a	104	GPR	25,354,100	0	0	22,753,200	0.00	1, 4, 5	(2,600,900)	0.00	0	0.00	(2,600,900)	0.00
550	1a	105	GPR	646,500	5.25	0	670,900	5.25		24,400	0.00	(24,400)	0.00	0	0.00
550	1a	106	GPR	1,407,500	0	0	2,240,500	0.00		833,000	0.00	0	0.00	833,000	0.00
550	1a	107	GPR	0	0	0	1,767,900	0.00		1,767,900	0.00	0	0.00	1,767,900	0.00
550	1fb	135	PR	302,600	3	0	331,400	3.00		28,800	0.00	(28,800)	0.00	0	0.00
550	1kj	137	PR-S	174,600	2	0	193,500	2.00		18,900	0.00	(18,900)	0.00	0	0.00
550	1L	136	PR	913,000	0	0	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>88,631,500</b>	<b>614.85</b>	<b>0</b>	<b>90,695,100</b>	<b>614.85</b>		<b>2,063,600</b>	<b>0.00</b>	<b>(2,063,600)</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. Target Reduction = 0

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 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 -\$2,968,500)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 5001-Private Bar Rate Increase
- 5 Remove \$1,511,700 out of DIN 4001-Private Bar Const-to-Continue

# ACT 201

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

FY: **FY20**

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 FY20 TO FY20 AND 21.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2019-20			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	2,929,300	18.4	(146,500)	2,957,300	18.4	2	28,000	0.00	(28,000)	0.00	0	0.00
550	1a	102	GPR	4,212,500	43.35	(210,600)	4,452,400	43.35		239,900	0.00	(239,900)	0.00	0	0.00
550	1a	103	GPR	52,691,400	542.85	(2,634,600)	54,415,000	542.85	3	1,723,600	0.00	(1,723,600)	0.00	0	0.00
550	1a	104	GPR	25,354,100	0	(1,267,700)	20,922,500	0	1, 4, 5, 8	(4,431,600)	0.00	0	0.00	(4,431,600)	0.00
550	1a	105	GPR	646,500	5.25	(32,300)	670,900	5.25		24,400	0.00	(24,400)	0.00	0	0.00
550	1a	106	GPR	1,407,500	0	(70,400)	1,407,500	0	7	0	0.00	0	0.00	0	0.00
550	1a	107	GPR	0	0	0	0	0	6	0	0.00	0	0.00	0	0.00
550	1fb	135	PR	302,600	3	(15,100)	331,400	3		28,800	0.00	(28,800)	0.00	0	0.00
550	1kj	137	PR-S	174,600	2	(8,700)	193,500	2		18,900	0.00	(18,900)	0.00	0	0.00
550	1L	136	PR	913,000	0	(45,700)	913,000	0		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>88,631,500</b>	<b>614.85</b>	<b>(4,431,600)</b>	<b>86,263,500</b>	<b>614.85</b>		<b>(2,368,000)</b>	<b>0.00</b>	<b>(2,063,600)</b>	<b>0.00</b>	<b>(4,431,600)</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 source. Target Reduction =

(4,431,600)

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 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 -\$2,968,500)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 5001-Private Bar Rate Increase
- 5 Remove DIN 4001-Private Bar Const-to-Continue
- 6 Remove DIN 4005-Assistant State Public Defender Merit Compensation
- 7 Remove DIN 4003 - Transcripts Int and Disc Cost-to-Continue
- 8 Decrease base funding in App 104 by \$306,200

## ACT 201

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

FY: **FY21**

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 FY20 TO FY20 AND 21.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2020-21		Item Ref.	Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	0% Change Target	Proposed \$	Proposed FTE		\$	FTE	Remove SBAs \$	FTE	\$	FTE
550	1a	101	GPR	2,929,300	18.4	0	3,084,400	18.40	2	155,100	0.00	(37,100)	0.00	118,000	0.00
550	1a	102	GPR	4,212,500	43.35	0	4,462,400	43.35		249,900	0.00	(249,900)	0.00	0	0.00
550	1a	103	GPR	52,691,400	542.85	0	55,223,300	542.85		2,531,900	0.00	(1,804,000)	0.00	727,900	0.00
550	1a	104	GPR	25,354,100	0	0	20,139,400	0.00	1, 3	(5,214,700)	0.00	0	0.00	(5,214,700)	0.00
550	1a	105	GPR	646,500	5.25	0	671,900	5.25		25,400	0.00	(25,400)	0.00	0	0.00
550	1a	106	GPR	1,407,500	0	0	2,240,500	0.00		833,000	0.00	0	0.00	833,000	0.00
550	1a	107	GPR	0	0	0	3,535,800	0.00		3,535,800	0.00	0	0.00	3,535,800	0.00
550	1fb	135	PR	302,600	3	0	331,900	3.00		29,300	0.00	(29,300)	0.00	0	0.00
550	1kj	137	PR-S	174,600	2	0	194,200	2.00		19,600	0.00	(19,600)	0.00	0	0.00
550	1L	136	PR	913,000	0	0	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>88,631,500</b>	<b>614.85</b>	<b>0</b>	<b>90,796,800</b>	<b>614.85</b>		<b>2,165,300</b>	<b>0.00</b>	<b>(2,165,300)</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 source. Target Reduction = 0

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 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 -\$5,937,100)
- 2 Remove \$132,000 from DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 5001-Private Bar Rate Increase

## ACT 201

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

FY: **FY21**

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 FY20 TO FY20 AND 21.**

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2020-21		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	2,929,300	18.4	(146,500)	2,966,400	18.40	2	37,100	0.00	(37,100)	0.00	0	0.00
550	1a	102	GPR	4,212,500	43.35	(210,600)	4,462,400	43.35		249,900	0.00	(249,900)	0.00	0	0.00
550	1a	103	GPR	52,691,400	542.85	(2,634,600)	54,390,300	542.85	3	1,698,900	0.00	(1,804,000)	0.00	(105,100)	0.00
550	1a	104	GPR	25,354,100	0	(1,267,700)	17,103,200	0.00	1, 4, 5	(8,250,900)	0.00	0	0.00	(8,250,900)	0.00
550	1a	105	GPR	646,500	5.25	(32,300)	671,900	5.25		25,400	0.00	(25,400)	0.00	0	0.00
550	1a	106	GPR	1,407,500	0	(70,400)	1,796,100	0.00	6	388,600	0.00	0	0.00	388,600	0.00
550	1a	107	GPR	0	0	0	3,535,800	0.00		3,535,800	0.00	0	0.00	3,535,800	0.00
550	1fb	135	PR	302,600	3	(15,100)	331,900	3.00		29,300	0.00	(29,300)	0.00	0	0.00
550	1kj	137	PR-S	174,600	2	(8,700)	194,200	2.00		19,600	0.00	(19,600)	0.00	0	0.00
550	1L	136	PR	913,000	0	(45,700)	913,000	0.00		0	0.00	0	0.00	0	0.00
<b>Totals</b>				<b>88,631,500</b>	<b>614.85</b>	<b>(4,431,600)</b>	<b>86,365,200</b>	<b>614.85</b>		<b>(2,266,300)</b>	<b>0.00</b>	<b>(2,165,300)</b>	<b>0.00</b>	<b>(4,431,600)</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 = (4,431,600)

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 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 -\$5,937,100)
- 2 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 3 Remove DIN 4002 - Expert Cost-to-Continue
- 4 Remove DIN 5001-Private Bar Rate Increase
- 5 Remove DIN 4001-Private Bar Const-to-Continue
- 6 Remove \$444,400 from DIN 4003 - Transcripts Int and Disc Cost-to-Continue



## BASE BUDGET REVIEW REPORTS

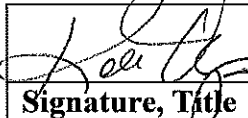
Please indicate any appropriation whose minimum level of funding to achieve objectives is less than the prior fiscal year's base funding [s. 16.423(3)(d)]. Add rows to the table as needed.

Chapter 20 Appropriation	Title	Prior Fiscal Year Budget	Prior Fiscal Year Expended	Minimum Budget Needed

The agency's mission and objectives can be found in the biennial budget submission at the following URL [s. 16.423(3)(e)]:  
<https://doa.wi.gov/Pages/StateFinances/CurrentBiennialBudget.aspx>. Please create an agency mission if your agency does not currently have a mission to include in its agency budget request.

### OPTIONAL ANALYSIS

This section is available to agencies that want to describe why expenditures varied throughout fiscal quarters and/or years.

 State Public Defender	9/17/18 Date
Signature, Title	Date