



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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September 17, 2018

VIA ELECTRONIC SUBMISSION

Secretary Ellen Nowak
State of Wisconsin Department of Administration
Post Office Box 7864
Madison, WI 53707

Re: 2019-21 Biennial Budget Request

Dear Secretary Nowak:

I am pleased to submit to you the 2019-2021 biennial budget request for the Department of Justice (DOJ).

Public safety is a fundamental responsibility of government and I know you recognize how critical it is for Wisconsin to have a robust, efficient, and effective criminal justice system in order for our state to flourish and for our citizens to be safe. Thanks to the partnerships between the Department of Justice, the Governor and the Legislature, Wisconsin has made incredible strides in the fight against major public safety challenges.

Combatting the Drug Abuse Epidemic

Nearly everyone, including myself, has been affected directly by Wisconsin's drug epidemic. Wisconsin has seen continued success by tackling the epidemic with a multi-pronged approach; prevention, enforcement, and treatment. I have created public awareness campaigns, including, "Dose of Reality" and "kNOw Meth" aimed at combatting opiate and methamphetamine abuse. Further, I have worked with my public health and law enforcement partners to grow Wisconsin's Drug Take Back Day in order to prevent drug abuse. I have and will continue to advocate for additional drug enforcement resources for law enforcement, including additional narcotics agents, enhanced criminal penalties for drug related activity, and grant funding for

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law enforcement to combat trafficking. Further, I have advocated for the expansion of and administered our Treatment Alternatives and Diversion programs, and made life saving overdose reversal medication more accessible and affordable.

Protecting our Children from Internet Predators

Further, we have made protecting Wisconsin's most vulnerable from victimization a top priority. I spent a large part of my nearly 30-year law enforcement career prosecuting sensitive crimes against children, and I swore to continue protecting Wisconsin's children when I became Attorney General. Thanks to the training, investigations and work accomplished thanks to Alicia's Law and the incredible work of DOJ's Internet Crimes Against Children (ICAC) Taskforce, Wisconsin families can feel more comfortable having their children use the Internet.

Thanks to Alicia's Law and the efforts of the ICAC investigators, there have been over 1,000 arrests of sexual predators in just two years. In 2017, the Wisconsin ICAC Task Force received more than 1,700 cybertips; inspected more than 415,000 gigabytes of seized data on hard drives, cellphones, and other data storage devices; and arrested 537 people who were suspected of conducting internet crimes against children including child enticement, obscenity directed to minors, child prostitution, and manufacture, distribution, and possession of child pornography.

Just this month, Wisconsin DOJ special agents led an investigation, alongside our federal counterparts, resulting in the indictment of a Las Vegas man, David Ohmar Harris, for producing child pornography, extortion and threats via interstate communications, and stalking. The investigation to date has revealed that Harris may have used social media to victimize up to 500 teenage girls throughout the United States and internationally since 2012.

Combatting Human Trafficking

The Division of Criminal Investigation and law enforcement at all levels - federal, state, and local - share a common mission to disrupt human trafficking, help survivors, and prosecute perpetrators. The DCI Human Trafficking Bureau was established in 2017 to provide a coordinated statewide strategy to identify, target, and prosecute traffickers in order to combat human trafficking and provide needed assistance to survivors. DOJ's anti-human trafficking efforts aim to make Wisconsin inhospitable to human traffickers and to support victim-centered strategies and partnerships throughout the state.

Protecting Senior Citizens

While significant efforts are underway to protect Wisconsin's children, we also must protect our elderly. In August of 2017, I created the Attorney General's Task Force on Elder Abuse, a multi-disciplinary team of professionals tasked with compiling resources, studying the impact of elder abuse in Wisconsin, and assessing ways to improve outcomes for this growing population of elderly citizens.

Supporting Victims of Crime

In addition, DOJ continues supporting crime victims. I have prioritized supporting and empowering crime victims through reforming Wisconsin's response to sexual assault, completing testing on over 4,100 previously unsubmitted sexual assault kits, partnering with the Wisconsin Coalition Against Sexual Assault to support survivors of sexual assault, establishing and expanding Wisconsin's Safe at Home address confidentiality program to protect victims of abuse, and offering statewide sexual assault and domestic violence response training for law enforcement, sexual assault nurse examiners and prosecutors. DOJ commits to continuing and expanding these victim-centric efforts.

Investing in the Criminal Justice System

As we continue to improve crime response, combat the seemingly insurmountable drug epidemic, protect our children from internet predators, and eradicate the scourge of human trafficking, it is critical that Wisconsin continues to invest in the infrastructure of the criminal justice system. Investing in our law enforcement, crime lab, courts, prosecutors, and public defenders is necessary to see these critical initiatives have a real impact on the safety and success of our state.

Over the last several years, the resources of the Wisconsin State Crime Laboratory (WSCL) have not been sufficient to keep up with the increasing demand. Between 2015 and 2017, the WSCL saw a 26% increase in case submissions. On top of that, in 2015, I voluntarily undertook our statewide Sexual Assault Kit Initiative. I committed to testing thousands of unsubmitted sexual assault kits that were held by law enforcement and hospitals across the state. In large part due to the hard work of our WSCL team, we completed that project successfully months ahead of schedule.

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In addition, over the last several years, WSCL has experienced significant personnel turn-over due to market forces and insufficient pay flexibility to retain fully-trained scientists. High turnover at the labs has a detrimental impact on turnaround time, because it takes between 12 and 24 months for a new analyst to be trained to a point where the analyst is certified to perform his/her own casework.

Further, in recent years, the forensic work conducted by our WSCL has become more complex in nature. As we have trained law enforcement to effectively find and collect ever more precise and intricate evidence from crime scenes, the demand for scientific support and analysis has skyrocketed.

We have also dramatically improved the responsiveness and effectiveness of our mobile Crime Scene Response Teams (CSRT). Local law enforcement agencies increasingly request assistance from this team of top-notch evidence experts who bring the most advanced evidence collection equipment and experience to crime scenes.

As time goes on, criminal tactics and science both evolve. With the advent of many of the synthetic drugs and the growth of our opiate and methamphetamine epidemics, we must analyze blood and urine samples, and controlled substances for the presence of multiple complex chemicals. We are now finding cocaine, methamphetamine, marijuana, and, of course, heroin laced with one of many fentanyl analogs. Further, in the case of toxicology, our chemists can only test for one substance at a time, so we have more drug screens to run in each case, requiring more time and scientific resources. Relatedly, relative to our DNA section, effective as of January 2017 the FBI significantly raised the standards for submission of DNA profiles to the national CODIS databank, resulting in more precise evidentiary reliability, but more steps for our DNA analysts to complete a test.

These combined events have resulted in an ever-increasing volume of active cases at the WSCL. DOJ has made every effort within its authority to improve the efficiency at the lab. Further, I have tirelessly advocated for higher pay to match market rates and decrease turn over. I have lobbied for the ability to give retention pay increases, signing bonuses, and to raise the pay of our administrative staff. I have seen some success in these efforts, but unfortunately, I do not have final say in these matters. This is why I must advocate for comprehensive reform regarding pay structure and opportunities for advancement through the budget process.

I have done everything within my authority to improve the efficiencies with the WSCL. I have added Limited Term Employee (LTE) scientists to assist with statutorily-required crime scene responses. I have also added LTE forensic biologists to assist with preparing DNA evidence for testing, so analysts can focus on the analysis of evidence. I found efficiencies elsewhere in the agency which allowed me to move two Full Time Employee (FTE) positions to the crime lab from other divisions. WSCL has updated their submission guidelines, and enforced them, so that law enforcement is only submitting evidence that is absolutely necessary for a conviction. I also repurposed a position in order to hire a case manager to assist with determining when testing of submitted evidence is no longer necessary because a case is no longer active. It is, unfortunately, not uncommon for us to not be advised that a case has resolved and evidence testing is no longer necessary. Crime lab personnel has provided, and continues to provide training to educate district attorneys, judges, and law enforcement on the scientific requirements of evidence testing, as well as submission guidelines and how their behavior impacts timelines for evidence testing.

I have added new equipment to increase speed and efficiency, including equipment that decreases testing time and increases automation, safety equipment that prevents inadvertent exposure to dangerous chemicals, automatic monitoring and control systems, updated crime scene response vehicles, and more. Each piece of equipment or equipment upgrade requires re-verification, a process that takes analyst time but ultimately increases efficiency which we are only now beginning to see.

The WSCL has also implemented pilot programs based on best practices around the country, including a High Through Workflow Pilot, which incorporates automation and batching into many of the DNA processing steps, assigning analysts to a specific step of DNA processing for a given period of time and moving cases through the steps in batches rather than having one analyst focus on one case at a time.

I have shifted funding in shared appropriations to the WSCL when needed, and hired new WSCL management. WSCL has re-written internal policies to increase efficiency, and relied on interns and LTEs for special projects whenever possible. However, all of these efforts are not enough. DOJ does not have the independent authority to make the changes necessary to keep up with the increased burden on the lab, so we are seeking that authority in this budget submission.

As you will see, the bulk of DOJ's state budget submission is focused on crime lab resources. Though we have made all efforts within our authority to keep up with

the changing and growing demands on the WSCL, we need the assistance of the Legislature and the Governor to make the necessary changes.

In order to support what we knew would be a significant budget request, DOJ commissioned an assessment by an independent third-party lab to evaluate the current state of our crime labs, and make recommendations for changes. The final assessment is attached, and confirms the concerns we have had for the last several years. We are satisfied that the assessment supports our request, including additional staffing for the labs, increased pay for our scientists, and autonomy to make decisions.

We are committed to maintaining our crime lab's high standards of service, and through this budget request, we ask for your assistance in doing so.

Wisconsin Act 201 Analysis

As required under 2015 Wisconsin Act 201, the department has developed proposals to maintain base funding and to implement a five percent budget reduction in each year of the upcoming biennium, following a detailed and comprehensive review of department operations.

During my term as Attorney General, my goal has been to identify department resources that can be reallocated to address some of the state's most pressing public safety issues, like combating the heroin and methamphetamine epidemic, ensuring the safety of our schools, and the prevention, identification and prosecution of elder abuse, internet crimes against children, human trafficking, sexual assault and cybercrime. On an ongoing basis, all department operations are reviewed to find ways to optimize personnel utilization, consolidate resources and eliminate unnecessary and duplicative programs.

In the past few years, efficiencies have been gained by automating manual payment and application processing across the department, consolidating administrative functions to reduce overhead, eliminating low priority activities like non-essential printing, implementing secure web-based data sharing to reduce delivery and mailing of physical storage devices and paper records, identifying and reallocating underutilized vehicles, merging administrative positions and eliminating duties, and sharing resources with other agencies and local governments. These efficiencies have allowed me to increase the resources that directly support local law enforcement agencies and prosecutors.

In my budget request, there are significant savings that will be realized by converting contract information technology (IT) positions to state employees. Over the past five years, the department has undertaken a large scale, complex project to modernize critical law enforcement communication and information systems. As this project reaches completion, a few of the contractors engaged for the development and conversion will continue to have ongoing responsibilities for the maintenance and support of the datacenters. Hiring these positions as state employees will reduce department IT costs by \$1.4 million in future biennia once fully implemented.

Because the department continually reviews operations, there is little left to cut before negatively impacting critical activities. Over 75 percent of the Department's nonfederal state operations budget is spent on personnel-related costs including salary, fringe, travel, training, facilities and telecommunications. The majority of the remaining expenditures are primarily fixed in nature due to workload demands (e.g., state crime lab supplies) or scale, such as the criminal history database information technology infrastructure. Because substantial expenditure reductions cannot be made without eliminating state positions, the Governor and Legislature have chosen to implement prior budget reduction initiatives by lapsing revenues to boost the general fund balance instead of cutting the department's positions or operating budgets. Expenditure reductions of this level would counteract the progress we have made addressing significant criminal justice challenges during the last session and would have a direct negative impact on the ability of state and local criminal justice agencies to investigate and prosecute crime.

Under a zero growth budget, the Department would need to reduce GPR and PR expenditures by \$3,381,600 in the first year and \$2,997,000 in the second year. Over the biennium, 72 percent of an across-the board cut would come from \$4,600,000 in position reductions, or the equivalent of 24 full-time positions. Another 12 percent of the reduction, or \$765,000, would come from associated reductions in travel, training, facilities and telecommunications. The remaining 16 percent, or \$990,000, would come from reducing information technology and other supplies and services expenditures. The Department does not propose eliminating any programs or responsibilities but would have to prioritize workloads to adjust for the reduction in staff. All of the Department's programs perform critical and essential work. Consequently, reductions would be allocated across programs based on the relative share of the personnel budget to reduce the impact on any single program. Preferably, reductions would be managed through attrition and the eliminated

positions would be comprised of a mix of support, administrative and technical classifications. The Division of Legal Services and the State Crime Laboratories would each be reduced by six positions while the Division of Criminal Investigation would lose five positions. The remaining programs would absorb the rest of the reductions including the Training and Standards Bureau, Crime Information Bureau and Office of Crime Victim Services.

Under a five percent decrease, the reduction plan would remain the same but the expenditure cuts would increase to \$7,682,100 in the first year and \$7,297,500 in the second year, of which \$10,885,000 over the biennium would come from position savings, \$1,800,000 from travel and training, \$2,326,000 from facilities, information technology and other supplies and services. The Department would have to eliminate 55 positions with 15 from the State Crime Labs, 14 from the Division of Legal Services, 12 from the Division of Criminal Investigation and the remaining 14 from the rest of the department, including Crime Information Bureau, Training and Standards and the Office of Victim Witness Services.

In addition to the requests that directly impact the DOJ budget, I must emphasize the importance of addresses staffing, compensation, recruitment and retention issues affecting the District Attorneys and Public Defenders across the state. One of the most prominent barriers to effective and efficient enforcement of criminal laws in Wisconsin is the staffing shortages in the Wisconsin DA's offices. Further, it is necessary to ensure Wisconsin can attract and retain experienced advocates both in the DA's offices and Public Defender's office by incentivizing employment. Throughout my 72 county public safety roundtable meetings across the state, I have heard over and over again that we are at a crisis point in our criminal justice system as a whole.

Crime has become increasingly more complex over the years. The onset of the internet and rapid growth in technology have made cases more complex and labor-intensive for all involved in the criminal justice system. The prosecutors, public defenders and judges must now deal routinely with complex identity theft and child pornography and internet traveler cases that did not exist when staffing levels were last adjusted in any significant way.

When staffing levels were last significantly adjusted, DNA evidence was only theoretically a tool for crime solving. Now DNA is routinely used to solve crimes that never could have been prosecuted not so many years ago. We now train investigators and prosecutors in Trauma Informed Care concepts that are encouraging more

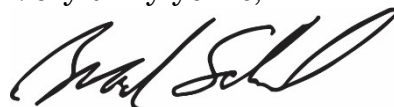
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survivors of traumatic crimes to come forward and participate in prosecution of the offenders. We have expanded the statutes of limitations for sexual assaults, put in place minimum mandatory sentencing for many serious cases, such as possession of child pornography and increased penalties for chronic OWI offenders. We have expanded the controlled substances statutes to address the introduction of new synthetic and designer drugs that are incredibly dangerous. We are now able to prosecute those who traffic drugs that kill for homicide. We have seen accidental drug overdose become the number one cause of accidental death in our state, and we have addressed that sobering reality by creating Treatment, Alternative and Diversion programs that are now functioning in 51 counties and 2 tribal communities in Wisconsin. I could go on and on.

All of those things are very good for public safety, but they have substantially increased the workload of those on the front lines of the criminal justice system for all involved, from investigators to crime lab analysts to prosecutors, to public defenders and courts.

I appreciate the opportunity to bring these issues to your attention and I look forward to working with you in the coming months to ensure the public safety of Wisconsin's citizens.

Very truly yours,



Brad D. Schimel
Wisconsin Attorney General

BDS:LER

Enclosure