WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JOSEPH LEIBHAM

FROM: Margit Kelley, Staff Attorney

RE: Description of LRB-0294/3, Relating to Searches by a Law Enforcement Officer of a Person on Probation, Parole, or Extended Supervision

DATE: January 29, 2013

This memorandum, prepared at your request, briefly describes LRB-0294/3, relating to searches by a law enforcement officer of a person on probation, parole, or extended supervision and briefly discusses the potential considerations in a court's constitutional review of challenges that may arise under the draft.

CURRENT LAW

Under current law, a person is under field supervision by the Wisconsin Department of Corrections (DOC) if a court has placed the person on probation, extended supervision, or parole. Conditions for the person's field supervision may be imposed by the court, DOC, the Parole Commission, or the field agent assigned to supervise the person. If a person violates a condition of the field supervision, the status may be revoked.

Among the conditions, a person under field supervision is required to submit to any search ordered by the field agent of the person, the person's residence, or of any property under the person's control. A search of living quarters may be made if the field agent has reasonable grounds to believe the property contains contraband or the person is deemed to have violated a condition of the field supervision. A field agent must obtain approval from a supervisor before conducting a search of a residence, unless there are exigent circumstances, such as a suspicion that the person will destroy contraband, use a weapon, or elude apprehension. A search of the person's body includes samples of urine, breath, saliva, blood, hair, or stool. [ss. DOC 328.21 and 328.04 (3) (k), Wis. Adm. Code.]

Also under current law, a law enforcement officer may search a person stopped for temporary questioning in order to search for weapons or instruments capable of causing injury, if the officer reasonably suspects that the person may be armed and dangerous. This is known as a "stop-and-frisk," "investigative stop," or "Terry stop," from the U.S. Supreme Court case that first recognized this law enforcement procedure. [ss. 968.24 and 968.25, Stats.; *Terry v. Ohio*, 392 U.S. 1 (1968).]

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LRB-0294/3

LRB-0294/3 (hereinafter, "the draft") specifies that a law enforcement officer may require a person under field supervision to submit to a search of the person, the person's residence, or of any property under the person's control, if the officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of the field supervision. A search conducted under this authority must be conducted in a reasonable manner, and cannot be arbitrary, capricious, or harassing.

The draft additionally provides that a law enforcement officer who has conducted such a search must notify DOC as soon as practicable after the search.

CONSTITUTIONAL PROTECTION FROM UNREASONABLE SEARCHES AND SEIZURES

The Wisconsin and U.S. Constitutions provide for the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." [Art. I, s. 11, Wis. Const.; Fourth Amendment, U.S. Const.] If a search or seizure is challenged, a court must review the reasonableness of the search or seizure in light of the facts and circumstances of the case. [*Bies v. State*, 76 Wis. 2d 457 (1977).]

DISCUSSION

In reviewing any challenges to the draft, if enacted, a court must first give deference to the Legislature. Statutes enjoy a presumption of constitutionality, and a challenge on constitutional grounds must be proven beyond a reasonable doubt. [*Wisconsin Retired Teacher's Ass'n v. Employe Trust Funds Bd.*, 207 Wis. 2d 1 (1997); *Employers Health Ins. Co. v. Tesmer*, 161 Wis. 2d 733 (Ct. App. 1991).] This means that, in considering a challenge to the draft, a court would consider whether there is a rational basis in allowing offenders to be subject to a search when an officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of the field supervision. A court must sustain this type of statute against a challenge if there is any rational basis for the exercise of legislative power.

In its deliberations it is likely that a court may consider the state's interest in protecting the public and in assisting law enforcement officials, as recognized in other laws relating to persons who have been convicted of a crime. For example, the state prohibits a person who was convicted of a felony from owning or possessing a firearm, and requires certain persons to comply with sex offender registration. Furthermore, Wisconsin courts have upheld the remedial goal of protecting the public even when offenders may suffer adverse consequences or the legislation may have a punitive effect. [See, *e.g., State v. Pocian*, 2012 WI App 58; *State v. Joseph E.G.*, 2001 WI App 29; *State v. Bollig*, 2000 WI 6; *State v. Akins*, 198 Wis. 2d 498 (1996).]

In particular, a court may also consider that a person under field supervision is already required to submit to any search ordered by the field agent of the person, the person's residence, or of any property under the person's control. The Wisconsin Supreme Court reviewed the constitutionality of a field agent requiring a person to submit to a search and seizure by law enforcement in a decision issued in 1976. The Court upheld the search and seizure ordered by the field agent, explaining that by the very nature of probation, limitations are imposed on the person's liberty and privacy. The Court held that necessary infringements on constitutional freedoms, which are protected by the Fourth Amendment, are permissible as long as the limitations are not overly broad and are reasonably related to the person's rehabilitation and to the protection of the public. [*State v. Tarrell*, 74 Wis. 2d 647 (1976).]

The Court expanded this review to question the constitutionality of a warrantless search of a probationer's residence by the field agent. In that case, the Court upheld a field agent's authority to conduct a search of a person's residence, without a warrant, if the field agent has reasonable grounds to believe that the person is violating the terms of probation. The Court noted that the "ultimate standard is one of reasonableness," determined by the facts and circumstances of each case. [*State v. Griffin*, 131 Wis. 2d 41 (1986); *affirmed by Griffin v. Wisconsin*, 483 U.S. 868 (1987).]

The Wisconsin Supreme Court has recently affirmed that a person under community supervision has a "severely diminished" expectation of privacy by virtue of that status alone. In that case, the sentencing court had set a condition allowing any law enforcement officer to search the person, the person's vehicle, or residence, for firearms, at any time and without probable cause or reasonable suspicion. The Court recognized that a state's interest in reducing recidivism, and thereby promoting reintegration and positive citizenship among parolees, warrants privacy intrusions that would not otherwise be tolerated under the Fourth Amendment. The Court stated that it is "appropriate for circuit courts to consider an end result of encouraging lawful conduct, and thus increased protection of the public," when determining additional conditions that may be appropriate for a particular person. In that case, the Court held that an individualized determination does not violate a person's constitutional rights if the condition is necessary based on the facts of the case. [*State v. Rowan*, 2012 WI 60.]

Thus, compared to the language of the draft, it could be argued that an officer would be making an individualized determination based on a reasonable suspicion of criminal activity or of a violation of a condition of field supervision, in order to better protect the public. It is likely that a court would find the draft to be constitutional, although the basis for an officer's reasonable suspicion may be challenged as applied in particular circumstances.

CONCLUSION

In sum, a court is likely to conclude that legislation allowing a search of a person under supervision when an officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of the field supervision is rationally related to the governmental objective of enhancing public safety. It is also likely that an officer's authority to conduct a search would commonly be challenged as to whether or not an officer could have reasonably suspected criminal activity, or a violation of a condition of supervision, in a particular case. Ultimately, a determination as to a statute's constitutionality would be made by a court based upon the particular facts and arguments presented.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MSK:ty

WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JOSEPH LEIBHAM

FROM: Margit Kelley, Staff Attorney MK

RE: Search of Person, Property, or Home Based on Anonymous Tip

DATE: March 18, 2013

This memorandum, prepared at your request, describes the authority for law enforcement to search a person, property, or home based solely upon an anonymous tip.

CONSTITUTIONAL PROTECTION FROM UNREASONABLE SEARCHES AND SEIZURES

The Wisconsin and U.S. Constitutions provide for the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." [Art. I, s. 11, Wis. Const.; Fourth Amendment, U.S. Const.] If a warrantless search or seizure is challenged, a court must review the reasonableness of the search or seizure in light of the facts and circumstances of the case. [*Bies v. State*, 76 Wis. 2d 457 (1977).]

Investigatory Stops

Under the constitutional protections, an officer initiating an investigative stop must have at least a "reasonable suspicion" that the person committed an offense, based on more than an officer's unparticularized suspicion or hunch. An officer must be able to point to specific facts that rationally infer to an objective, reasonable person with the knowledge and experience of the officer "that criminal activity is afoot." [*State v. Rutzinski*, 241 Wis. 2d 729, par. 14 (2000), citing *Terry v. Ohio*, 392 U.S. 1 (1968).]

The Wisconsin Supreme Court has noted that each case examining reasonable suspicion for an investigatory stop, including cases involving an anonymous informant, strikes its own balance between the quality and quantity of information required. Each decision must be based on the totality of the circumstances, and is "naturally highly fact specific" depending on the particular facts of each case. [*State v. Miller*, 2012 WI 61, pars. 35 and 36.]

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Home Entries

A warrantless entry into a home may be justified either by exigent circumstances or the community caretaker function of police.

Under the community caretaker function, a law enforcement officer protecting persons or property may be permitted to perform a warrantless search or seizure. A court must carefully examine the "expressed concern" for the person who was in need of assistance, and balance the public interest in acting on that concern with the protection from an unreasonable search or seizure. [*State v. Pinkard*, 2010 WI 81, pars. 14 and 26.]

"Exigent circumstances" may generally be found in four types of circumstances, including: (1) an arrest made in "hot pursuit;" (2) a threat to the safety of the suspect or others; (3) a risk that evidence will be destroyed; or (4) a likelihood that the suspect will flee. [*State v. Robinson*, 2010 WI 80, par. 30.]

Additionally, a warrantless entry by law enforcement to a home of a person on probation, pursuant to the person's probation conditions, is allowable if the entry is supported by "reasonable suspicion" that the person is engaged in criminal activity. [*U.S. v. Knights*, 534 U.S. 112, 121 (2001).]

Anonymous Tips

When a search is based on an entirely anonymous tip, "it is critical that the informant provide significant, specific details," or future predictions that police are able to corroborate. [*Miller*, 2012 WI 61 at par. 37.]

CASE LAW FOR SEARCH AND SEIZURE ARISING FROM AN ANONYMOUS TIP

There are many cases decided by the Wisconsin and U.S. Supreme Courts on the appropriate limits for a warrantless search, and on the reliability of anonymous informants. This memorandum will highlight only a few from the Wisconsin and U.S. Supreme Courts, as examples of the issues that may arise and the analysis used in reviewing the reliability of a tip received from an anonymous informant.

Unidentified Informant Tip Leading to Traffic Stop

In *State v. Rutzinski*, an unidentified motorist calling from a cell phone reported that a black pickup truck was weaving within its lane, varying its speed from too fast to too slow, and tailgating. An officer responded to the call, and while following the pickup truck, the dispatcher stated that the caller was in front of the pickup truck, saw the squad car behind the it, and that the officer was following the correct truck. Although the officer did not independently observe any erratic driving, he stopped the pickup truck, and observed that the driver had glassy, bloodshot eyes, smelled like alcohol, and was slurring his speech. Because the unidentified caller provided the sole basis for the stop, the defendant moved to suppress

the evidence obtained as a result of the stop, contending that the stop was unreasonable under the Fourth Amendment. [*Rutzinski*, 241 Wis. 2d 729 at pars. 4-8.]

The Wisconsin Supreme Court noted that there is no per se rule for determining the reliability of an informant's tip, but due weight must be given to the informant's veracity and the informant's basis of knowledge, viewed in the light of the totality of the circumstances. The Court noted that when the informant is anonymous, the tip must be more than a bald assertion that a suspect is engaged in illegal activity, and must include verifiable information indicating how the informant came to know of the activity. In this case, the Court held that the informant was making contemporaneous observations of the actions, and gave the informant's own location in relation to the suspect's, which provided the officer with verifiable information indicating the informant's "basis of knowledge." [*Id.*, at pars. 18, 28, 32-34.]

Partially Confidential Informant Tip Leading to Drug Arrest

In *State v. Miller*, a confidential informant who had given reliable information in the past handed the phone to another informant who gave only a first name and cell phone number and told the officer that he wanted to remain anonymous. The second informant gave specific details about a planned drug buy, the vehicle the suspect would be driving, and the route and time the suspect would be traveling. The defendant moved to suppress the evidence obtained as a result of the stop, claiming that the police lacked reasonable suspicion for the investigatory stop because of the low reliability of anonymous informants. [*Miller*, 2012 WI 61 at pars. 10-18.]

The Wisconsin Supreme Court noted that the reliability of informants varies greatly, and, particularly when an informant is entirely anonymous, the tip must contain "more significant details or future predictions" that police are able to corroborate. The Court noted that where an investigatory stop is based on a higher-quality tip from an informant who has provided some self-identifying information, police often rely on information in the tip even if it lacks the quantity of details and future predictions needed to rely on a truly anonymous tip. In this case, the Court held that the police acted on reasonable suspicion, because the informant was not truly anonymous and the information was corroborated by the police. [*Id.*, at pars. 32-33, 37, 43, 51-52.]

Anonymous Tip Leading to Home Entry Under Community Caretaker Exception

In *State v. Pinkard*, an anonymous caller reported that he had just left the suspect's home, where the suspect and his girlfriend appeared to be sleeping with cocaine, money, and a digital scale nearby, and the rear door to the home was open. The residence was the rear unit of a three-unit building, and the back entrance was the main door that led exclusively to the suspect's residence. The officers knocked and announced their presence at the open door, and announced their presence again at the open bedroom door. The officers seized the cocaine, crack cocaine, marijuana, and digital scale that were in plain view, and a gun from underneath the mattress. The defendant moved to suppress the evidence seized from the residence,

arguing that the warrantless entry of his home was an unreasonable search in violation of the Wisconsin and U.S. Constitutions. [*Pinkard*, 2010 WI 81 at pars. 2-6.]

The Wisconsin Supreme Court found that an officer could reasonably have been concerned that the defendant and his companion may have overdosed on drugs, based on the anonymous report that drugs and drug paraphernalia were present and the defendant's unresponsiveness to the officers' efforts to rouse him. The Court held that the anonymous call exhibited sufficient indicators of reliability to justify concern for the health and safety of the occupants of the residence. The Court noted that the caller stated that he had just come from the residence, which explained how he came to know of the information in the tip, and the officers corroborated the information when arriving at the residence and finding the rear door standing open. The Court noted that an officer may have law enforcement concerns while also engaging in a bona fide community caretaker function in entering the residence. [*Id.*, at pars. 35-36, 40.]

Anonymous Tip Leading to Home Entry Under Exigent Circumstances

In *State v. Robinson*, an anonymous citizen reported at the police station that the suspect was selling marijuana out of his apartment. The informant gave the suspect's name, complete address, and cell phone number. The officer's warrant check revealed two open warrants, including one for possession or delivery of a controlled substance, and the other for a "family offense." Officers went to the apartment, intending to conduct a "knock and talk." After being asked who was there, through the door, and responding that it was the police department, the officers heard footsteps running from the door. An officer testified that they feared for the "safety of possibly him destroying evidence or escaping," and immediately kicked open the door. The officers arrested the suspect and seized marijuana, baggies, digital scales, the suspect's cell phone, and a large amount of currency. The defendant moved to suppress the evidence obtained from his apartment. [*Robinson*, 2010 WI 80 at pars. 4-11.]

The Wisconsin Supreme Court noted that the officers corroborated three of the four details given by the informant, and it was reasonable for the officers to believe that the suspect resided in that apartment. The Court noted that the specificity of the details given, and the fact that the informant had personally walked into the police station, supported the informant's credibility. The Court concluded that the warrantless entry into the residence was justified by exigent circumstances, because the officers reasonably believed that a delay would risk the destruction of evidence. [*Id.*, at pars. 27-29, 31.]

Limits of Reliability of an Anonymous Tip

The limits of relying on an anonymous tip are demonstrated in the case of *Florida v. J.L.* In that case, an anonymous caller reported that a "young black male standing at a particular bus stop and wearing a plaid shirt was carrying a gun." Based on the tip, the officers initiated an investigative stop, and found the suspect to be a minor who was carrying a concealed weapon without a license. The officers had not independently observed any suspicious behavior. The defendant moved to suppress the evidence of the gun, arguing that the

investigatory stop was based on an unreliable anonymous tip. [*Florida v. J.L.*, 529 U.S. 266, 268-269 (2000).]

The U.S. Supreme Court ruled that the investigatory stop based on the truly anonymous tip was unconstitutional. The Court noted that because the reliability of the informant was unknown, in order to determine the informant's veracity the police were required to corroborate the tip. The Court held that easily obtainable information that leads only to identifying the suspect does not corroborate the informant's veracity. The Court noted that the anonymous tip did not contain any information such as a prediction regarding the suspect's future behavior that, if corroborated, would have indicated the informant's basis of knowledge. The Court also noted that simply possessing a firearm is not an exigent circumstance that warrants an exception to the general rule that tips must have indicators of reliability. [*Id.*, at 270-274.]

CONCLUSION

In sum, a law enforcement officer must have reasonable suspicion that criminal activity is afoot before conducting a warrantless investigatory stop of a person, and exigent circumstances or community caretaker concerns must generally be present before conducting a warrantless entry into a home. If a tip of criminal activity is received anonymously, it must have reasonable indicators of reliability, such as future predictions that may be corroborated, for law enforcement to be entitled to rely upon the information.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MSK:ty

May 2nd, 2013

The Honorable Joel Kleefisch, Chair
Assembly Committee on Criminal Justice
Room 300 Northeast
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

PUBLIC HEARING: Assembly Bill 59 - Searches by law enforcement officers of persons on probation, parole or extended supervision.

Good Morning,

My name is Bob Wallace and I am a Captain with the Sheboygan Police Department. I have been a Wisconsin police officer for the past 32 years.

I would like to begin by thanking Chairman Kleefisch and the members of this committee for the opportunity to speak in support of Assembly Bill 59.

It is our responsibility in government and law enforcement to take reasonable measures to protect our citizens from crime. To that end, it is the objective of AB 59 is to enhance public safety by protecting citizens from re-victimization and to prevent the recidivism of supervised offenders.

AB 59 will establish a Wisconsin law with respect to the authority of police officers to conduct searches of the person, residence, and property under the control of offenders who are under the active supervision of the Department of Corrections. The standard for such a search is that the officer must be able to articulate a reasonable suspicion that the individual to be searched is committing, is about to commit, or has committed a crime or a violation of a condition of probation or release. Similar legislation has been utilized for many years, and to good effect in other states including California, where there is no "reasonable suspicion" requirement as part of the law.

It is well recognized and understood that a small percentage of society is responsible for committing a disproportionate share of a community's crime. AB 59 recognizes this fact and directs law enforcement resources directly to that population.

Police Officers are on duty in our neighborhoods 24 hours a day, 7 days a week and they frequently receive information about the criminal activities of offenders living or working in their communities who are on supervised release. Frequently that information may NOT meet the "probable cause" standard required for a search warrant; but may very well meet the "reasonable suspicion" requirement in AB 59. This legislation will enable those officers to act immediately to intervene and investigate that criminal conduct.

It must be noted here that under current case law, a police officer who possesses reasonable suspicion that an offender who is on supervision is engaging in criminal conduct is PROHIBITED from asking the probation agent to conduct a search of the offender's person or property. The courts have ruled that to do so would be using the probation officer as an agent of law enforcement and that this would violate the constitutional rights of the offender. The effect is that in the absence of AB 59, the current case law protects the offender from being apprehended. AB 59 will remedy this legal loophole by creating state law that provides law enforcement officers the authority to take immediate action that is lawful and efficient to investigation crimes committed by offenders while on DOC supervision.

It should be further noted that AB 59 has no impact whatsoever on offenders who choose to obey the law and the conditions of their release while on supervision.

The question of the legality of the legal principals supporting AB 59 has been asked and answered in the Wisconsin Supreme Court as well as The United States Supreme Court.

AB 59 is without question lawful and constitutional. In support of this assertion I offer the following cases:

Griffin v. Wisconsin (U.S. Supreme Court)
Wisconsin v. Rowan (WI. Supreme Court)
United States v. Knights (U.S. Supreme Court)
Samson v. California (U.S. Supreme Court)

In all of the cases that I have cited, the Supreme Court has made it clear that offenders on supervised release sacrifice some of the constitutional rights that other law abiding citizens enjoy during the time that they are under supervision. In support of AB 59, I can tell you that Wisconsin Probation Agents have had this same search authority for many years. Unfortunately, our probation and parole agents do not have a 24 hour a day / 7 day a week presence in our neighborhoods; they are not law enforcement officers; and they are not armed. It would not be economical, safe, or practical to expand the hours or the scope of their duties.

AB 59 requires that if a police officer conducts a search under the authority of AB 59, the law enforcement officer is REQUIRED to notify the DOC as soon as practicable afterwards. Supervised offenders are also required to notify their assigned probation / parole agent of all "police contacts." Thus the application of this law will be open, transparent, and subject to the scrutiny and monitoring of the DOC as well as the involved law enforcement agency.

Critics of AB 59 have made the attribution that AB 59 "goes against a trend in many states, including Wisconsin, to look for ways to break the cycle of probation violations resulting in imprisonment."

This argument seems to imply that it is somehow better for the rehabilitation of the offender and the safety of society, that the offender's criminal violations of the law or the rules of supervision go undetected and unabated. I think that most law abiding citizens would disagree.

The potential for criminal deterrence resulting from AB 59 cannot be overstated.

AB 59 does not provide any authority to law enforcement over potential DOC sanctions or the DOC decision to return an offender to prison. The decisions related to offender sanctions for violations of conditions of release rests solely with the DOC.

AB 59 presents a truly unique opportunity to enhance the level and quality of offender supervision in the State of Wisconsin. More importantly it does so without the expense of adding personnel or in any way increasing the tax burden on our communities.

Public safety is a big concern across our country and our state. The provisions of AB 59 represents a legally sound, fiscally responsible, and proactive measure that Wisconsin can take to focus resources directly on crime and the population of society that we know are most prone to continue in criminal activity. AB 59 will strengthen offender supervision across Wisconsin and give police the authority that is necessary to act immediately to intervene in crimes by offenders on conditional release in our communities. In effect we will be making better and more complete use of government resources to achieve the objective of preventing crime and reducing recidivism.

Thank you for the opportunity to support this important legislation.

Bob Wallace

Bob Wallace, Captain
Sheboygan Police Department

May 2nd, 2013

The Honorable Joel Kleefisch, Chair
Assembly Committee on Criminal Justice
Room 300 Northeast
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Public Hearing: Assembly Bill 59 – Searches by law enforcement officers of persons on probation, parole or extended supervision.

Representative Kleefisch and members of the committee, thank you for the opportunity to speak in support of Assembly Bill 59. My name is Jerry Mullen and I have been employed as an FBI Special Agent since August of 1996. I have had the good fortune of serving my entire career in the Green Bay Resident Agency. My testimony does not represent the official position of the FBI and I appear today on my own time. I serve as the Wisconsin Chapter Representative of the FBI Agents Association. The FBIAA is a voluntary professional association currently representing over 12,000 active duty and retired FBI Special Agents. Konrad Motyka, the national president of the FBIAA has endorsed AB59 in a letter dated March 13, 2013. I can provide copies of the letter if any member of the committee is interested.

I have spoken to several FBI Agents from both the Milwaukee and Madison offices regarding their experiences working with Probation and Parole. These comments are not intended as a criticism of the Department of Corrections, but reflect some real world issues that result from the distinct missions of P&P and law enforcement.

1. Probation and Parole has the primary mission of re-integrating offenders into society while law enforcement is responsible for investigating criminal activity and making arrests.
2. Probation/Parole agents conducting searches are looking for violations of the conditions of supervision and not evidence of criminal activity.
3. The admissibility of evidence recovered by a P&P agent conducting a search on behalf of law enforcement may be challenged in court and ordered suppressed by a judge.
4. Probation/Parole agents are not equipped to recover evidence pursuant to a criminal investigation. Proper documentation, photographs and chain of custody are issues suited for law enforcement officers not P&P agents.
5. Probation/Parole agents are not armed. Law enforcement searches pursuant to violent criminal activity should be carried out be armed personnel for officer safety.

The issues cited would be virtually eliminated by enacting Assembly Bill 59 into law. It would also open the door to including the Department of Corrections onto various FBI task forces such as the Joint Terrorism Task Force (JTTF) and Safe Streets Task Force (SSTF). The presence of DOC personnel on such task forces would provide a valuable resource with access to databases that are not currently available to law enforcement. Several states including California and Arizona have incorporated the DOC onto the task forces. I believe this bill enjoys widespread support in the law

enforcement community. I've received feedback from fellow FBI Agents as well as detectives from agencies representing northeast Wisconsin. To a person, they strongly favor passage of this bill and have no doubt that it will enhance their abilities to effectively carry out their duties.

Another benefit of this bill is that the legislation can be enacted without increasing the burden on taxpayers. There is no requirement for additional government funding or resources that would impact the state budget.

It is my privilege to represent the FBI Agents Association and stand with my law enforcement colleagues in support of AB 59. Public safety should be the top priority of government to insure the freedoms enshrined in our Declaration of Independence. I encourage the members of this committee to vote in favor of AB 59 so that it may be sent to the legislature and forwarded to the Governor for his signature.

Thank you for your time.

Jerry Mullen

Milwaukee Representative of the FBI Agents Association

May 2nd, 2013

The Honorable Joel Kleefisch, Chair
Assembly Committee on Criminal Justice
Room 300 Northeast
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

PUBLIC HEARING: Assembly Bill 59 – Searches by law enforcement officers of persons on probation, parole or extended supervision.

Good Morning,

My name is Tamara Remington and I am a Detective at Sheboygan Police Department. I have been a police officer in Wisconsin for over 7 years. I moved to Wisconsin from California, where I had been a police officer at San Jose Police Department (SJPD) for over 10 years. While at San Jose PD, I was a Gang Detective, assigned to any gang related crimes and violence in the city.

As a police officer in California, I relied on the ability to perform probation/parole searches, to solve crimes and also to prevent further crimes. I thoroughly believe that the ability to perform such searches helped us law enforcement officers to help keep the community a safer place and address crimes more effectively. When I was at San Jose Police Department, San Jose (a city of almost a million) was the safest big city in the nation.

During my ten years at San Jose PD, I conducted and assisted in hundreds of probation/parole searches. We solved many drive-by shootings and gang related assaults through such probation/parole searches and located guns/weapons and additional evidence during such searches, and were able to prevent further gang violence and retaliation.

Frequently found at drive-by shootings, one gang would yell out their gang just before shooting a rival gang member. After many of these gang crimes, police often receive information about pending retaliations. By being able to conduct probation/parole searches, law enforcement could search the probationers/parolees' residences of those we had information about involvement in planning a gang related retaliation. Numerous times we located handguns and sawed off shotguns, as well as gang evidence/indicia while conducting probation/parole searches of the rival gang members who had started out as the victim gang, but vowed retaliation. By law enforcement locating these weapons, we did prevent that planned retaliation, stopping the cycle of violence regarding that particular situation.

Other crimes that were solved through conducting probation/parole searches include home invasion robberies, burglaries, drug manufacture and distribution and homicides. Additionally, I recall one parole search that resulted in us recovering a slave of the sex trafficking industry.

When I moved to Wisconsin and joined Sheboygan Police, I was shocked to find that law enforcement officers are PROHIBITED from conducting or assisting in probation/parole searches. Such searches have been a relied upon tool in many states, including California, and I couldn't fathom effective and efficient police work without such a law/tool for law enforcement.

Since I have been a police officer in Wisconsin, I have experienced numerous cases where the ability to conduct probation/parole searches would have been extremely beneficial for not only the solving of crimes but also the prevention of additional crimes and retaliations, recovering stolen property, locating valuable evidence and weapons and locating missing/runaway at risk juveniles, being harbored by human traffickers.

Recently, I recall two serial burglars, both on probation in Sheboygan. We developed information that these subjects may be involved with the serial burglaries of residences and businesses in Sheboygan. I wished we had the ability to conduct probation searches, to solve these burglaries throughout Sheboygan and put an end to the chronic victimization, and to recover the hard earned property for all of the victims.

I also recall a gang related homicide and multiple retaliation shootings into occupied dwellings, where this gang related violence could have been prevented if we, law enforcement, could conduct probation searches of the many gang members on probation who were involved in the gang violence/weapon possession, and we could have recovered the guns prior to the escalation to the homicide. Multiple gang members involved in the gang rivalry in Sheboygan were on probation/parole, and had law enforcement been able to conduct the probation/parole searches, I believe the guns used in the ongoing shootings would have been confiscated and prevented the continued shootings.

I sincerely believe that passing AB 59 would help in the prevention of crime, assist in solving crimes and help keep Wisconsin a safer place. Problems are coming to Wisconsin from out of state, and Wisconsin must keep up with the times. Criminals are extremely mobile and I encounter gang members arriving from California to Wisconsin on a monthly basis, often bringing with them the ways they conducted their gang violence in California. This is something that we do not want to have in Wisconsin, but without AB 59, probationers/parolees will find Wisconsin a very attractive place to conduct crime.

Thank you for your time.

Sincerely,

Detective Tamara Remington
Sheboygan Police Department
Criminal Investigation Division

May 2nd, 2013

The Honorable Joel Kleefisch, Chair
Assembly Committee on Criminal Justice
Room 300 Northeast
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

PUBLIC HEARING: Assembly Bill 59 – Searches by law enforcement officers of persons on probation, parole or extended supervision.

Good Morning,

My name is Tamara Remington and I am a Detective at Sheboygan Police Department. I have been a police officer in Wisconsin for over 7 years. I moved to Wisconsin from California, where I had been a police officer at San Jose Police Department (SJPD) for over 10 years. While at San Jose PD, I was a Gang Detective, assigned to any gang related crimes and violence in the city.

As a police officer in California, I relied on the ability to perform probation/parole searches, to solve crimes and also to prevent further crimes. I thoroughly believe that the ability to perform such searches helped us law enforcement officers to help keep the community a safer place and address crimes more effectively. When I was at San Jose Police Department, San Jose (a city of almost a million) was the safest big city in the nation.

During my ten years at San Jose PD, I conducted and assisted in hundreds of probation/parole searches. We solved many drive-by shootings and gang related assaults through such probation/parole searches and located guns/weapons and additional evidence during such searches, and were able to prevent further gang violence and retaliation.

Frequently found at drive-by shootings, one gang would yell out their gang just before shooting a rival gang member. After many of these gang crimes, police often receive information about pending retaliations. By being able to conduct probation/parole searches, law enforcement could search the probationers/parolees' residences of those we had information about involvement in planning a gang related retaliation. Numerous times we located handguns and sawed off shotguns, as well as gang evidence/indicia while conducting probation/parole searches of the rival gang members who had started out as the victim gang, but vowed retaliation. By law enforcement locating these weapons, we did prevent that planned retaliation, stopping the cycle of violence regarding that particular situation.

Other crimes that were solved through conducting probation/parole searches include home invasion robberies, burglaries, drug manufacture and distribution and homicides. Additionally, I recall one parole search that resulted in us recovering a slave of the sex trafficking industry.

When I moved to Wisconsin and joined Sheboygan Police, I was shocked to find that law enforcement officers are PROHIBITED from conducting or assisting in probation/parole searches. Such searches have been a relied upon tool in many states, including California, and I couldn't fathom effective and efficient police work without such a law/tool for law enforcement.

Since I have been a police officer in Wisconsin, I have experienced numerous cases where the ability to conduct probation/parole searches would have been extremely beneficial for not only the solving of crimes but also the prevention of additional crimes and retaliations, recovering stolen property, locating valuable evidence and weapons and locating missing/runaway at risk juveniles, being harbored by human traffickers.

Recently, I recall two serial burglars, both on probation in Sheboygan. We developed information that these subjects may be involved with the serial burglaries of residences and businesses in Sheboygan. I wished we had the ability to conduct probation searches, to solve these burglaries throughout Sheboygan and put an end to the chronic victimization, and to recover the hard earned property for all of the victims.

I also recall a gang related homicide and multiple retaliation shootings into occupied dwellings, where this gang related violence could have been prevented if we, law enforcement, could conduct probation searches of the many gang members on probation who were involved in the gang violence/weapon possession, and we could have recovered the guns prior to the escalation to the homicide. Multiple gang members involved in the gang rivalry in Sheboygan were on probation/parole, and had law enforcement been able to conduct the probation/parole searches, I believe the guns used in the ongoing shootings would have been confiscated and prevented the continued shootings.

I sincerely believe that passing AB 59 would help in the prevention of crime, assist in solving crimes and help keep Wisconsin a safer place. Problems are coming to Wisconsin from out of state, and Wisconsin must keep up with the times. Criminals are extremely mobile and I encounter gang members arriving from California to Wisconsin on a monthly basis, often bringing with them the ways they conducted their gang violence in California. This is something that we do not want to have in Wisconsin, but without AB 59, probationers/parolees will find Wisconsin a very attractive place to conduct crime.

Thank you for your time.

Sincerely,

Tamara Remington

Detective Tamara Remington
Sheboygan Police Department
Criminal Investigation Division