



## Legislative Fiscal Bureau

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June 21, 2006

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: District Attorneys: Section 13.10 Request to Extend a 0.5 FTE Assistant District Attorney Project Position in Dane County -- Agenda Item VI

### REQUEST

The Department of Administration (DOA) is requesting that the Joint Committee on Finance authorize the extension of a 0.5 full-time equivalent (FTE) assistant district attorney (ADA) project position in the Dane County District Attorney's Office from the date of approval of this request through June 17, 2007. This position would be supported from federal Edward Byrne Memorial Justice Assistance Grant Program monies under the District Attorneys' program revenue-funded gifts and grants appropriation. This appropriation is an "all monies received" continuing appropriation and will be reestimated based on actual experience. Consequently, the Committee is not required to authorize the associated additional expenditure of program revenue funds for the position. The request is only for approval of the additional position authority.

This request was originally submitted to the Joint Committee on Finance on April 20, 2006, pursuant to ss. 16.505(2)/16.515 of the statutes under a 14-day passive review process. On May 10, 2006, an objection was raised; consequently, the request is now before the Committee for its consideration under s. 13.10 of the statutes.

### BACKGROUND

On June 18, 2003, the Joint Committee on Finance approved a DOA request submitted under ss. 16.505(2)/16.515 of the statutes to create a 0.5 FTE ADA project position in the Dane County District Attorney's Office for a period ending September 30, 2004. This position was funded with federal Juvenile Justice and Delinquency Prevention Act (JJDP) monies.

The purpose of the position was to serve as the coordinator for the Dane County Disproportionate Minority Confinement Project. In that capacity, the position was responsible for providing staff support and guidance to the Dane County Prevention Oversight Board, made up of parents, youth, private citizens, and staff from law enforcement agencies, juvenile court, schools, detention programs, and private for-profit and non-profit businesses. The responsibility of the Board was to identify key points in the juvenile justice system affecting the disproportionate incarceration of minority juveniles.

Subsequently, on August 19, 2004, the Joint Committee on Finance approved a DOA request to extend this project position through March 31, 2006. At that time, the request indicated that the position would again be funded with federal JJDPAs.

This 0.5 FTE ADA project position became vacant on March 18, 2006, when the federal funds supporting it were exhausted. Then, on April 1, 2006, the current authorization for this project position formally ended. On April 20, 2006, this Committee received a ss. 16.505(2)/16.515 request from DOA to extend this same project position through June 17, 2007. [Any continuation of this position beyond June 17, 2007, will require that it be created as a permanent position since s. 230.27(1) sets the maximum duration of any project position at four years.] The current request indicated that due to federal budget cuts, the position extension would now be funded with federal Byrne dollars rather than federal JJDPAs. Following an objection to the requested extension of the project position, the matter is now before the Committee for its consideration under s. 13.10 of the statutes.

Dane County previously utilized this 0.5 FTE ADA project position to permit a senior ADA to serve as coordinator for the County's Disproportionate Minority Confinement Project. However, the associated grant funding for the project position was never sufficient to fully fund the salary and fringe benefits costs of this senior ADA. According to staff of DOA's Office of Justice Assistance (OJA), the federal government authorized Dane County to utilize its federal grant funding to support the salary and fringe benefits costs of a less experienced ADA who could then cover 50% of the caseload of the senior ADA detailed to serve as coordinator for the project. This type of arrangement enabled Dane County to dedicate experienced ADA staff to this project. Under any extension of this 0.5 FTE ADA position, Dane County has indicated that it would continue this type of staffing practice.

## **ANALYSIS**

*Federal Funding Grants for State Disproportionate Minority Contact Programs.* The federal Juvenile Justice and Delinquency Prevention Act, as affected by a series of 1988 amendments, requires states to address disproportionate minority confinement in the state plans submitted under the Act. Under JJDPAs Title II formula grant program, each state must act to reduce the proportion of detained or confined minority youth if the proportion of such youth exceeds the proportion of non-minority youth who are detained or confined. Additional

amendments in 2002 affecting JJDPAs Title II formula grants now require states not only to reduce the disproportionate number of minority youth who are detained or confined but also to reduce the disproportionate number of such youth who come in contact with the juvenile justice system generally. A state failing to address this latter issue can be at risk of losing 20% of its JJDPAs Title II formula grant allocation.

All JJDPAs grant funding received by Wisconsin is administered by OJA. However, the Governor's Juvenile Justice Commission provides oversight and makes discretionary funding decisions relating to the use of JJDPAs funds. In 2002, the Commission reviewed arrest and detention data and identified the six Wisconsin counties with the greatest incidence of disproportionate arrests and detentions of minority youth, compared to the overall minority youth population in those counties. These six jurisdictions were Brown, Dane, Kenosha, Milwaukee, Racine and Rock Counties.

In June, 2002, these six counties were invited to submit JJDPAs grant proposals to OJA to implement possible disproportionate minority confinement projects. A panel comprised of a subcommittee of the Juvenile Justice Commission and OJA staff reviewed the submitted grant proposals and made funding recommendations to the full Commission. In August, 2002, the Commission made JJDPAs grant awards totaling \$594,000 to these six counties for disproportionate minority confinement projects. Each county received a grant of \$60,000, except for Milwaukee County, which received a grant of \$294,000. The amounts awarded to each county were for a 24-month period corresponding to FFY 2003 and FFY 2004 (October 1, 2002, through September 30, 2004). Dane County utilized its \$60,000 JJDPAs award to provide the initial funding for the 0.5 FTE assistant district attorney project position that is the subject of this request.

*2003-05 Biennial Budget Juvenile Justice Initiative.* Provisions of 2003 Wisconsin Act 33 (the 2003-05 biennial budget act) included a gubernatorial initiative to provide \$825,000 FED annually in federal Byrne funding and \$165,000 PR annually of matching penalty surcharge funds to support a new juvenile mentoring, truancy, and supervision grant program. Under this Act 33 initiative, no specific programs were identified for funding.

Subsequently, in February, 2004, the Governor pledged federal Byrne and state penalty surcharge matching funds to provide ongoing support for disproportionate minority confinement projects. During this period, the total amount of federal juvenile justice grant funding received by OJA for Wisconsin [from JJDPAs Title II and Title V funds, from Juvenile Accountability Block Grants, and from the now discontinued Challenge Program] declined. In FFY 2004, when the Governor pledged that Byrne funds would be used for the previously JJDPAs-funded disproportionate minority confinement projects, the state's juvenile justice federal funding allocations from these sources had dropped from \$4,086,200 FED in FFY 2003 to \$2,334,000 FED in FFY 2004. By comparison, the federal Byrne allocation to Wisconsin had dropped from \$9,019,000 FED in FFY 2003 to \$8,804,000 FED in FFY 2004. As a result, it was suggested that federal Byrne funding might be a more reliable source of funding for such projects.

The effect of this pledge was to earmark portions of the federal Byrne funding reserved under Act 33 for the new mentoring, truancy, and supervision initiative to support the ongoing funding needs for the state's existing JJDPA-supported disproportionate minority confinement projects. OJA staff indicate that the shift in the source of federal funding from JJDPA to Byrne monies for the county disproportionate minority contact programs was appropriate because: (1) the broad program purposes of the Byrne monies would provide these funded projects with wide latitude for program development; and (2) the federal Byrne funding was viewed at the time as a potentially more stable funding source for this gubernatorial and Commission priority.

OJA notified the six Wisconsin counties with the JJDPA-funded disproportionate minority contact programs that additional federal funding was available for these programs after September 30, 2004, from Byrne monies. All six counties submitted grant continuation proposals for the Byrne funds and were awarded a total of \$540,000, effective October 1, 2004. [These funds were budgeted in the state's 2003-04 fiscal year.] Each county received a continuation grant of \$60,000, except for Milwaukee County, which received a continuation grant of \$240,000.

For Dane County, this grant permitted the extension of the 0.5 FTE ADA project position for the period October 1, 2004, through March 31, 2006, and the Finance Committee approved that extension under a ss. 16.505(2)/16.515 request on August 19, 2004. [Although the DOA request at the time inadvertently identified the position as being funded from JJDPA monies, the position was actually funded with Byrne monies.]

*Continuation Funding in 2005-06 for Disproportionate Minority Contact Projects.* OJA staff indicate that Byrne monies allocated under 2005 Wisconsin Act 25 (the 2005-07 biennial budget act) to the juvenile mentoring, truancy, and supervision initiative have been committed in 2005-06 for the continuation of currently-funded county disproportionate minority contact projects. This funding priority reflects a recommendation by the Juvenile Justice Commission that reduced Byrne funding for the juvenile mentoring, truancy, and supervision initiative be specifically earmarked for county disproportionate minority contact projects, which the Commission designated as its top funding priority. Other types of juvenile justice programming were not considered for funding under this initiative in 2005-06.

Subsequently, a total of \$514,000 (\$394,000 of Byrne funds and \$120,000 of available JJDPA funds) was awarded in 2005-06 to the six counties. Each county received a continuation grant of \$60,000, except for Milwaukee County, which received a continuation grant of \$214,000. The Dane County grant was funded from the available Byrne monies.

Table 1 identifies the allocation of federal Byrne and state penalty surcharge funding under the mentoring, truancy and supervision initiative for state fiscal years 2003-04 through 2005-06. In general, the Byrne funding allocations in 2003-04 were sufficient to support the six Wisconsin counties with disproportionate minority contact programs through the 2004-05 state fiscal year.

**TABLE 1****Federal Byrne and State Penalty Surcharge Funding Under the Mentoring, Truancy and Supervision Initiative**

<u>Grantee</u>	<u>Project</u>	<u>Funding</u>	<u>Project Period</u>
<b>2003-04</b>			
Milwaukee County	Disproportionate Minority Contact	\$240,000	10/1/04 to 6/30/06
Social Development Commission	Community Partners	228,300	7/1/04 to 6/30/05
FAST National Training and Evaluation	Juvenile Delinquency Prevention	191,700	9/1/04 to 9/30/06
Kenosha County	Disproportionate Minority Contact	60,000	10/1/04 to 4/30/06
Racine County	Disproportionate Minority Contact	60,000	10/1/04 to 6/30/06
Rock County	Disproportionate Minority Contact	60,000	10/1/04 to 3/31/06
Brown County	Disproportionate Minority Contact	60,000	10/1/04 to 6/30/06
Dane County	Disproportionate Minority Contact	60,000	10/1/04 to 6/30/06
OIC of Racine County	Racine AHANA Leadership	<u>30,000</u>	8/1/04 to 7/31/05
Subtotal		\$990,000	
<b>2004-05</b>			
Milwaukee County	Truancy Reduction	\$300,000	10/1/04 to 12/31/06
Milwaukee County	Family Connections Project	300,000	10/1/04 to 9/30/07
Boys & Girls Club of Dane County	Gang Prevention/Mentoring	150,300	10/1/04 to 9/30/05
Social Development Commission	Community Partners	131,700	7/1/04 to 6/30/05
Children's Outing Association	Neighborhood Youth Center	88,000	8/1/05 to 9/30/06
Milwaukee Public Schools/ Police Department	Safe Routes to School	<u>50,000</u>	1/1/05 to 12/31/05
Subtotal		\$1,020,000	
<b>2005-06</b>			
Milwaukee County	Disproportionate Minority Contact	\$214,000	To be determined
Dane County	Disproportionate Minority Contact	60,000	JFC approval-6/17/07
Kenosha County	Disproportionate Minority Contact	60,000	To be determined
Rock County	Disproportionate Minority Contact	<u>60,000</u>	To be determined
Subtotal		\$394,000	
Total 2003-04 through 2005-06		\$2,404,000	

Federal Byrne-funded programming has experienced significant reductions in recent years. While Wisconsin's FFY 2004 Byrne award totaled \$8,804,000 FED, the state's FFY 2005 Byrne award totaled \$4,949,100 FED, and its current FFY 2006 Byrne award totals \$2,982,800 FED. The FFY 2005 and 2006 awards will fund state and local Byrne-supported programs in state fiscal years 2005-06 and 2006-07. [A portion of these awards will also fund projects that were previously supported under the federal Local Law Enforcement Block Grant Program. That program was made a part of the federal Byrne program, beginning with FFY 2005.]

OJA advises that it has managed these federal grant award changes through across-the-board proportional funding reductions of Byrne-supported state and local initiatives. Table 2 identifies budgeted Byrne funding for state fiscal years 2004-05 through 2006-07.

**TABLE 2**  
**Federal Byrne-Funded Programs**  
**(2004-05 through 2006-07)**

<u>Programs</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
<b>Local Programs</b>			
Local Anti-Drug Task Forces	\$4,000,000	\$1,910,200	\$1,033,000
<b>Mentoring, Truancy and Supervision</b>	<b>825,000</b>	<b>394,000</b>	<b>213,100</b>
County Victim-Witness Programs	709,000	338,600	183,100
Re-allocated Funding*	428,100	0	0
GLECC Set-Aside (Special Projects)	358,500	171,300	92,600
Wisconsin Incident Based Reporting System	319,500	152,500	82,500
Jail Literacy Programs	250,000	119,400	64,600
Anti-Drug Prosecutors--Milwaukee County	221,100	105,600	57,100
Restorative Justice Prosecutors	85,500	40,800	22,100
Anti-Drug Prosecutors--Dane County	72,000	34,300	18,600
Milwaukee Youth Development Center	60,000	28,700	15,500
Court-Appointed Special Advocates Program	37,500	17,900	9,700
Children's Safe House Child Care Program	37,500	17,900	9,700
Milwaukee Police Athletic League	<u>3,900</u>	<u>0</u>	<u>0</u>
Subtotal	\$7,407,600	\$3,331,200	\$1,801,600
<b>State Programs</b>			
District Attorney Information Technology	\$1,402,400	669,700	\$362,200
Corrections' 5th Offense OWI Program	<u>348,600</u>	<u>166,500</u>	<u>90,000</u>
Subtotal	\$1,751,000	\$836,200	\$452,200
OJA Administration	\$314,000	\$149,900	\$250,400
Total	\$9,472,600	\$4,317,300	\$2,504,200

\*Funding vetoed by the Governor under the 2003-05 biennial budget that was earmarked by the Legislature for 11.0 FTE prosecutor positions. OJA staff indicate that the funding has been utilized primarily to support the Milwaukee Offender Resource Center, which provides alternatives to jail and prison for individuals who have violated the conditions of their probation/parole.

*Adequacy of Funding for the Requested Dane County Position.* Under the current request, the salary and fringe benefits for the 0.5 FTE Dane County ADA project position would be funded through June 17, 2007, from the County's 2005-06 Byrne award of \$60,000 as part of the juvenile mentoring, truancy, and supervision initiative. As identified in Table 2, funding for this program initiative was budgeted as part of the 2005-07 biennial budget.

It is anticipated that this 0.5 FTE Dane County ADA project position would enable the County to continue to provide basic prosecutorial caseload coverage, thereby permitting the reassignment of a senior ADA to provide staff support and guidance to the Dane County Prevention Oversight Board in connection with the County's Disproportionate Minority Confinement Project. The County's request for the continuation of the position indicates that historically this reassigned position has pursued the following four principal objectives: (1) identifying the key decision points in the juvenile justice system that impact the incarceration of minority juveniles; (2) recommending procedural changes that would assure equitable treatment for all juveniles; (3) identifying and recommending programmatic changes to address the underlying causes of the disproportionate incarceration; and (4) creating a long term process and structure to monitor the system to assure these matters continue to be monitored and addressed in the future.

In light of the Juvenile Justice Commission's designation of supporting county disproportionate minority contact projects as the top priority for funding under the juvenile mentoring, truancy, and supervision initiative; the availability of Byrne funding for this purpose; and previous Committee support for a 0.5 FTE Dane County ADA project position to permit the reassignment of prosecutorial staff to this program purpose, the Committee could conclude that it would be desirable to reauthorize the position on a project basis through June 17, 2007.

Alternatively, if the Committee concludes that it does not wish to allocate juvenile mentoring, truancy, and supervision initiative Byrne funding to support a continuation of the 0.5 FTE Dane County ADA project position to permit the County to reassign senior prosecutorial staff to its current disproportionate minority contact project and that the available funding should be reserved for another purpose, the Committee could deny the extension of the position.

## **ALTERNATIVES**

1. Approve the Department of Administration's request to extend the authorization of a 0.5 FTE assistant district attorney project position in the Dane County District Attorney's Office, through June 17, 2007. *[This position would be funded with federal Edward Byrne Memorial Justice Assistance Grant Program monies under the District Attorneys' gifts and grants program revenue continuing appropriation.]*

2. Deny the request.

Prepared by: Paul Onsager