

**Agenda**  
Eau Claire County  
Committee on Judiciary and Law Enforcement  
Thursday, November 01, 2018 – 4:00 PM  
Courthouse – Room 1273

1. Call to Order
2. Public Comment
3. Approve Minutes from October 04, 2018 Meeting – discussion/action Page 2
4. TRY Mediation 3<sup>rd</sup> Quarter Update – discussion Page 28
5. Criminal Justice Collaborating Council – discussion
  - a. General Updates
6. State Public Defender Compensation Rate Resolution 18-19/078 - discussion/action Page 36
7. Eau Claire County Sheriff's Office Updates – discussion
  - a. Jail Population Update
  - b. ICE & Federal Detainer Policies
8. 2019 County Budget – discussion/action Page 45
9. Set Future Meeting Date(s) – discussion/action
10. Set Future Agenda Item(s) – discussion/action
  - a. Protective Status Legislation – Sheriff's Office
  - b. Homelessness/Affordable Transitional Housing
11. Adjourn

Posted: 10/29/18

Copy: Committee Members  
Media

---

Note: Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through sign language, interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 715-839-4710 (FAX) 8391669 or (TDD) 715-839-4735 or by writing to the ADA Coordinator, Human Resources Department, Eau Claire County Courthouse, 721 Oxford Ave., Eau Claire, Wisconsin 54703

**Minutes**  
Eau Claire County  
Committee on Judiciary and Law Enforcement  
Thursday, October 04, 2018 – 4:00 PM  
Courthouse – Room 1273

**Members Present:** Brandon Buchanan, Sue Miller, Sandra McKinney, Gerald Wilkie, and Stella Pagonis\*

**Others Present:** Dave Riewestahl, Dianne Hughes, Joel Brettingen, Dena Clark, Norb Kirk, Amy Weiss, Cory Shalinske, Eric Huse

**Call to Order**

The meeting was called to order by Chairperson Sue Miller at 4:01 PM.

**Public Comment**

No public comment was made.

**Approve Minutes from September 06, 2018 & September 18, 2018 Meetings**

Supervisor Buchanan moved to approve the minutes from the September 06, 2018 & September 18, 2018 meetings. The minutes were adopted as published in the meeting materials via a 4-0 voice vote.

*\*Supervisor Pagonis arrived*

**Eau Claire Emergency Communications Center Overview**

Dena Clark, Communication Center Manager, gave a brief overview of the Communications Center. The center serves 14 agencies with a staff of 21 telecommunicators, 3 supervisors, and 1 manager. In 2017 there were 102,000 incidents, approximately 81,000 non-emergency calls and 23,000 911 calls. Communications Center staff perform a variety of tasks including logging warrants and stolen property, initiating weather alerts and the weather sirens, monitoring public space cameras throughout the city, and monitoring and assisting law enforcement officers. County share is 70% of the total budget. Turnover is a concern: the Center is currently 4 dispatchers short with 2 additional vacancies on the horizon.

**Criminal Justice Collaborating Council – Treatment Court Update**

Tiana Glenna was unable to attend the meeting. A written update was distributed at the meeting and is incorporated into these minutes. This item will be placed on the November meeting agenda.

**Eau Claire County Sheriff's Office Updates**

- a. Jail Population Update; Book and Release / Book and Hold; Electronic Monitoring
  - a. Lieutenant Riewestahl presented the attached Power Point and fielded general questions from the committee.
- b. 2019 Budget
  - a. Captain Brettingen addressed the attached handout and fielded questions from the committee. This will be discussed further at the November 1, 2018 meeting.
- c. Chart of Accounts
  - a. Norb Kirk, Finance Director, and Amy Weiss, Senior Accountant, were here to discuss the topic. The idea is to consolidate multiple accounts to simplify the budget and finances. Currently, many charges are divided among multiple accounts which causes confusion and difficulties. The process may take a year to fully right itself.

**Future Meeting Dates**

The committee will meet on Thursday, November 01, 2018 at 4:00 PM.

**Future Agenda Items**

- *Sheriff's Office*
  - *ECCJ Population Update*
  - *Protective Status Legislation*
  - *ICE & Federal Detainer Policies*
- *CJCC*
  - *Treatment Court Update*
- Homelessness/Affordable Transitional Housing
- State Public Defender's Office Pay Rate Resolution
- 2019 Budget General Discussion

**Adjourn**

The meeting was adjourned by Chairperson Miller at 6:17 PM.

Respectfully Submitted:

Eric Huse  
Committee Clerk

**JUDICIARY AND LAW COMMITTEE**

THURSDAY, OCTOBER 4, 2018

We continue to work with DHS on ensuring the treatment courts are effectively using funding and addressing the needs of the participants.

Current areas of focus:

- Re-allocation of TAD funding to support a treatment court supervisor
  - What different than previous? This person will have clinical skills that are needed for this oversight.
- Expand MH/Vet court coordinator to be able to manage AIM or Drug court participants
  - Reason – Co-occurring issues arising with MH and Substance use
- Work with DOJ and other funding sources to change grant funding language to allow for funds to be used for all courts not specific AIM/Drug.
  - Reason – more streamline uses of funding for all participants not just those in XXX court. Eau Claire in the past has created a court to fit the grant funds applied for. This practice has created 4 new courts in ECC which all serve the same criminal justice population with different needs. This practice has become intense in the budgeting area. We need to change this practice to be able to serve the need of the client not just XXX court. DOJ and our grant funders are open to this requested change.
- Triage / Screening

2019 areas of focus

- Treatment court Supervisor function
- Use of CCS for tx court participants
  - How will the new clinic serve our participants
- Review of treatment court organization
  - Judicial time
  - More of a streamline and have tracks that address needs not just an AIM/DRUG/MH court

---

**Capacity**

Court	*Capacity	Active
<b>Referrals</b>		<b>15</b>
<b>*Wait list</b>		<b>7</b>
AIM	20	18
DRUG	25	16
Mental Health	12	6
Veterans	5	2
<b>Total</b>	<b>62</b>	<b>42</b>

\*Waitlist = pending sentencing

\*\*capacity may vary

---

**TAD / TAP grant applications**

Applications for TAD and TAP are due for renewal and submission. DHS is actively working on this process

---

**Trainings**

CJCC has secured an all treatment court team training scheduled for November 9<sup>th</sup>. This training will be facilitated by the Department of Justice and focus on a re-boot of our treatment court foundational understanding.

Continued training will be scheduled for 2019

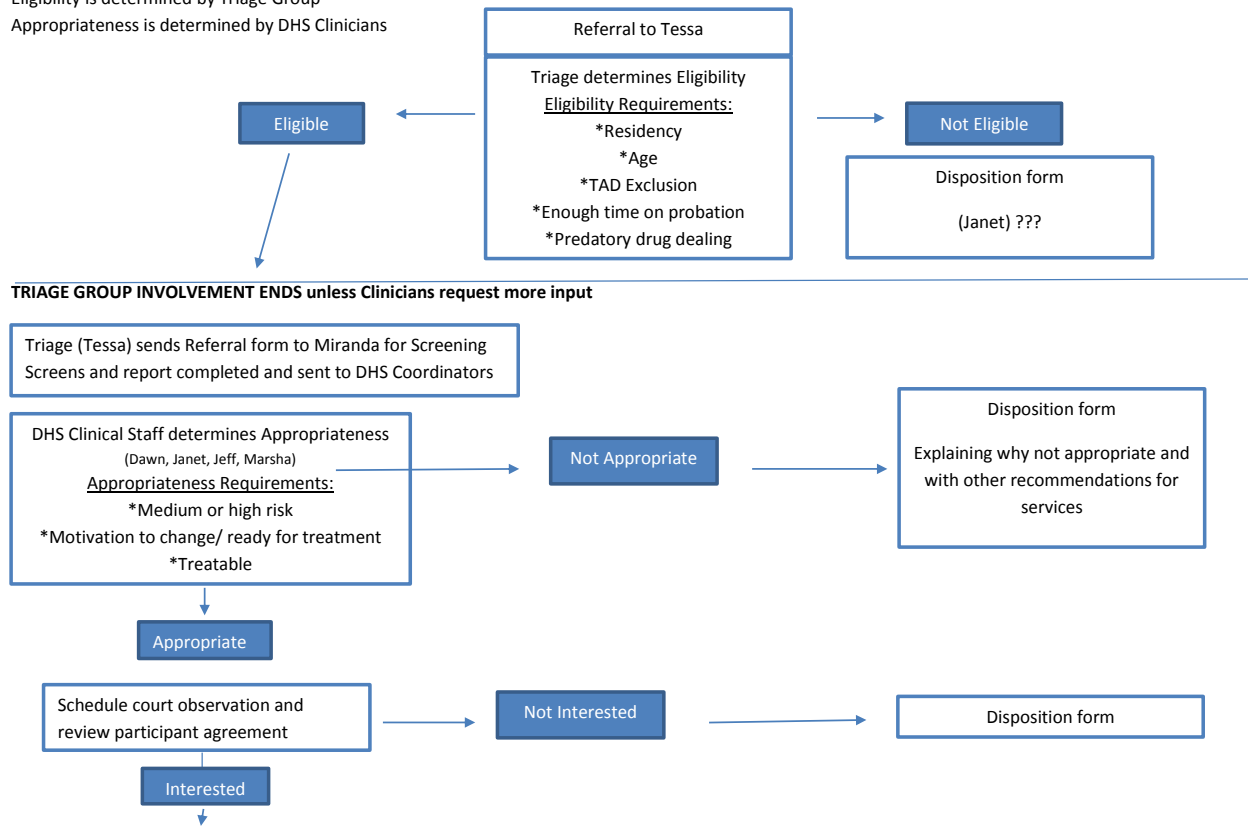
**Triage**

Screening process continues to evolve with the use of a centralized screener. The flow chart below identifies the current process.

Triage will determine eligibility based on mandatory requirements. Once through that process they are then sent to the screener to determine risk and level of need.

**TRIAGE Process Flow**

Eligibility is determined by Triage Group  
 Appropriateness is determined by DHS Clinicians





## Eau Claire County – Criminal Justice Collaborating Council

### Staff Activity Report

August 2018

I. CJCC overview	Status
<b>Criminal Justice Collaborating Council (CJCC)</b>	<b>August 2018</b> <ul style="list-style-type: none"> <li>• Staff compiled tracker of criminal justice-related bills throughout the 2018 legislative session.</li> <li>• Reach out to Dr. Patchin to see about a collaborative research project to review system effectiveness.</li> <li>• Look to 2019 strategic planning session need</li> <li>• Continue to work at state level on EBDM and Pretrial</li> <li>• Staff and stakeholders work on the State EBDM diversions standard training curriculum</li> <li>• Gary King appointed to Pretrial legislative study committee – first meeting to be held on August 16<sup>th</sup>.</li> <li>• Asked to present with DOJ on Pretrial at the Legislative study committee. Topic to focus on the pretrial pilot project.</li> </ul>
II. Major Justice Initiatives/Strategic Priorities	Status
<b>Jail Population Committee (June 19, 2018)</b>	<b>August 2018</b> <ul style="list-style-type: none"> <li>• The Jail Population Committee has continued to meet to evaluate data on likely contributing factors to the population increase and monitor implementation of recommendations.</li> </ul>
<b>Stepping up – CJ/Mental health interception</b>	<b>August 2018</b> <ul style="list-style-type: none"> <li>• Actively completing mapping session on <ul style="list-style-type: none"> <li>○ Create action plan to adjust gaps</li> </ul> </li> <li>• Began discussion on Mental Health Flag at the point of contact with Law Enforcement</li> <li>• Review function of stabilization units</li> </ul>
<b>State EBDM</b>	<b>August 2018</b>



	<ul style="list-style-type: none"> <li>• DOJ sponsored Pretrial Essential Elements training – training focused on establishing the foundational elements of what a highly functioning pretrial system is</li> <li>• Diversion Standard training to be held in three session beginning in September. Team of 7 from Each county will be able to attend these trainings. Trainings will focus on review and foundation of what diversion from the criminal justice system is. Staff and stakeholders are scheduled to present during these trainings.</li> <li>• Pretrial Legislative study Committee – first meeting to be held on August 16<sup>th</sup>.</li> </ul>
<p><b>Jail Transitions Group</b></p> <p>JAG EBDM Jail Reentry Pilot Sites Project (2016) Grant</p>	<p><b>August 2018</b></p> <ul style="list-style-type: none"> <li>• Report from Jamie Kurth</li> <li>• DOJ grant</li> <li>▪ September 2018- Hire Becky Full time</li> </ul>
<p><b>Community Transition Center (CTC)</b></p>	<p><b>August 2018</b></p> <ul style="list-style-type: none"> <li>• Change language in information sheet to clients which reflects the new language that talks about intake times and when to arrive given a release on a Friday.             <ul style="list-style-type: none"> <li>○ Please note the new bond intake times of 11am-2pm everyday ☺</li> </ul> </li> <li>• Creating additional handouts for COMPAS assessor to provide clients informing of what CTC is/is not.</li> <li>• Just a reminder that the bond violation process was updated a few months ago- at the 2<sup>nd</sup> violation CTC staff can intervene more – with options such as assessments to determine intervention services which may be needed to mitigate new criminal activity or violations.</li> <li>• COMPAS Assessor attending intake court Monday-Friday.</li> </ul> <p><b>September 2018</b></p> <p>MRT training – replace T4C with MRT</p> <p>Review operations of CTC to better align with needs – updates/changes</p>

<p><b>Data Integration</b></p>	<p><b>August 2018</b></p> <ul style="list-style-type: none"> <li>• Power BI is now available</li> <li>• Transitioning “old” online reports to archive and creating new POWER BI dashboards</li> <li>• Creation of new interactive data reports             <ul style="list-style-type: none"> <li>○ Currently working on CTC – 5 yr. review</li> <li>○ Bail Jumping charges in 2017/2018</li> <li>○ Pretrial baseline data</li> <li>○ Meth - review of charges</li> </ul> </li> </ul>
<p><b>Treatment Court oversight</b></p>	<p><b>August 2018</b></p> <ul style="list-style-type: none"> <li>• Screening process for triage – Modify TAP funding to fund a ½ time screener for all tx court referrals             <ul style="list-style-type: none"> <li>○ First screening completed on 8.13.18 as a trial run – hope to have process fully operational by end of August</li> </ul> </li> <li>• Treatment court supervisor needed – modify funding from TAD to support full time treatment court supervisor who will work directly with Jeff and Tiana on the day to day operations of the treatment courts.             <ul style="list-style-type: none"> <li>○ Current TAD treatment \$\$ not being fully expended</li> <li>○ Hope the screening process will further identify true placement needs of the clients to ensure we have appropriate treatment providers</li> </ul> </li> <li>• Operational Reboot training provided by DOJ – tentatively scheduled for November 9, 2018             <ul style="list-style-type: none"> <li>○ ALL treatment court team members MUST attend</li> </ul> </li> <li>• 2019 – NDCI training request for full operational reboot training</li> <li>• Request use of TAD funding in 2019 to send new Judges to NADCP</li> <li>• Treatment Court Picnic –</li> <li>• September 13<sup>th</sup> - ECCTC presentation to UW EC on understanding how the courts run and work with CJ systems</li> </ul> <p><b>September 2018</b></p> <ul style="list-style-type: none"> <li>• <b>TAD and TAP grants Due</b></li> <li>• <b>Changes = Triage and screening process change</b></li> </ul>

III. Cross System Initiatives	Status
<p><b>Overdose Fatality Review Grant Opportunity</b></p>	<p><b>August 2018</b></p> <ul style="list-style-type: none"> <li>• Submission of LOS to Denise Wirth – Grant due August 31<sup>st</sup> <ul style="list-style-type: none"> <li>○ Support for data collection</li> <li>○ Selected sites will receive grant funding, training, and support to develop an overdose fatality review partnership within their county or tribe. The general idea behind all review programs, drug overdose related or otherwise, is to identify missed opportunities for action that could have prevented the harm from occurring. Thus, the primary goal is the development and revision of policies that seek to address the social problem - in this case, overdose fatalities. Reviews are multi-disciplinary and collaborative</li> </ul> </li> </ul>

# Eau Claire County Jail



Presenter: LT Dave Riewestahl



# Areas of Discussion

- Overview of Jail
  - Secure Jail: Layout
- Jail: Who's Here & Why
- Inmate Classification
- Decision to “Ship Out”
- Out of County Housing
- Huber Center
- Electronic Monitoring (EM)

# Overview

## Eau Claire County Jail - 418 bed facility

Secure Jail - opened in 2012

- 258 total beds

Huber Center - opened in 1999

- 160 total beds
- Dormitory style housing with only three holding cells
- Built of light weight materials
- Housing medium to high risk inmates is not feasible because it is not designed for this type of inmate and a redesign is not possible due to building materials

# Secure Jail: Layout

- 258 Secure Beds (three housing pods)

- Medium: 108 Beds (57 cells)
- Maximum: 110 Beds (58 cells)
- Special Needs: 40 Beds (all single beds)
  - 49 total cells: 1 safety cell, 2 medical cells, 6 “condo” cells (bed, toilet, shower, TV)
- Booking: 22 Beds, 1 safety cell

- One “shelled pod”

- Design TBD

*\* Booking and 9 cells in Special Needs are not counted as beds per DOC as they are transitional housing cells*

# Secure Jail: Since 2012

- The Sheriff's Office has reviewed our operation and we have a high need for additional Correctional Staff.
- Major concerns as it relates to Methamphetamine and mental health in our communities.
- Average Daily Population
  - 2012: 143
  - 2017: 215
  - 2018: 237 (year to date)
- Bookings
  - 2012: 4040
  - 2017: 4914



**+94 Inmates**



**+874 Bookings**



# Jail: Who's Here & Why

Length of Stay (Release - Intake)	YTD	%
< 2 days	2627	53.49%
2 - 10 days	1110	22.60%
10 - 20 days	223	4.54%
20 - 30 days	122	2.48%
> 30 days	829	16.88%

Booking Type (< 2 Days)	Total	%
EC Warrant	281	10.70%
Federal Sent/Hold	4	0.15%
Felony Pre-Trial	475	18.08%
Hub Transfer/Other Agency	2	0.08%
Huber Sentence	10	0.38%
Misd Pre-Trial	636	24.21%
Other County Warrant	239	9.10%
Out of State Warrant	6	0.23%
PO Hold	270	10.28%
PO w/Warrant	9	0.34%
Pre-trial w/other hold type	38	1.45%
Pre-trial w/PO Hold	95	3.62%
Print and Release	155	5.90%
Responsible Party	369	14.05%
Secure Sentence	5	0.19%

Booking Type (2-10 Days)	Total	%
EC Warrant	91	8.20%
Federal Sent/Hold	3	0.27%
Felony Pre-Trial	164	14.77%
Hub Transfer/Other Agency	1	0.09%
Huber Sentence	70	6.31%
Misd Pre-Trial	67	6.04%
Other County Warrant	50	4.50%
Out of State Warrant	14	1.26%
PO Hold	388	34.95%
PO w/Warrant	20	1.80%
Pre-trial w/other hold type	35	3.15%
Pre-trial w/PO Hold	162	14.59%
Print and Release	1	0.09%
Responsible Party	0	0.00%
Secure Sentence	28	2.52%

# Inmate Classification

- State Requirement (DOC 350.21)

Individual

Gender

Charge Risk

Behavior Risk

Needs Risk

- Identifies a medical or mental health concern requiring follow-up by secondary assessors

Arrestee

Male

Female

Maximum

Medium

Minimum

Maximum

Medium

Minimum

AB

HB

MB

GP

# Decision to “Ship Out”

- Secure Maximum Capacity: 258 inmates
- Secure Operational Capacity: 206 inmates (80%)
  - Meet classification standards (gender, charge, behavior)
  - Room for new bookings which sometimes exceeds 20+ in 24 hrs
- Decision Point to Ship: 220 inmates (85%)

**19 Since 2016 - ADP has been OVER 80% capacity**

# Out of County Housing

Month	Chippewa County (\$43/day)	Dunn County (\$47/day)		
January	\$5,977.00	\$7,285.00		
February	\$7,525.00	\$3,337.00		
March	\$18,533.00	\$10,011.00	1st Quarter:	\$52,668.00
April	\$16,254.00	\$7,802.00	2nd Quarter:	\$56,611.00
May	\$11,653.00	\$8,037.00	3rd Quarter:	\$13,025.00
June	\$6,708.00	\$6,157.00	4th Quarter:	0
July	\$3,956.00	\$3,102.00		
August	\$3,053.00	\$2,914.00		
September				
October				
November				
December				
<b>Total by county</b>	<b>\$73,659.00</b>	<b>\$48,645.00</b>		
<b>Grand Total:</b>	<b>\$122,304.00</b>			

In 2018: We have utilized one block in Huber as an “honor dorm” for minimum classified inmates. This has provided a cost savings (by not shipping out) of \$176,130.00 dollars

# Huber Center

- EBDM practices in the past eight years has reduced the lower risk offenders in jail
- Average Daily Population (ADP)
  - 2008 = 96
  - 2017 = 56
- This is the intended results of EBDM...however a side effect is the reduction in eligible individuals for Electronic Monitoring.
- The Judges are the ones who “grant” Huber on the offenders Judgement of Conviction. Sheriff’s Office can suspend it for violations.

# Electronic Monitoring (EM)

- EM is not an evidence based practice.
- National Institute of Corrections shows that EM without programming does nothing for recidivism or re-offenses.
- When EM failures occur this generally results in a new offense and the individual being housed in the secure jail.
- Inmates in our secure jail do not fit the criteria for EM and alternatively we have CTC to monitor the higher risk offenders released on bond.

# EM Selection Criteria

- Screening for EM is a set standard to protect the liability of the County and Community
- Automatic Disqualifiers:
  - Serving a violent felony conviction
  - Serving child support sentence (at the request of Child Support)
  - Serving felony drug conviction
  - Serving sex offense conviction
  - Placement on SORP registry
  - Felony domestic violence convictions (current or past)
  - Multiple felony OWI convictions

# Moving Forward

- The criminal justice system is overseen by CJCC who guides the decision on who is in jail.
- It is the Sheriff's responsibility to manage those who are brought to jail in accordance to DOC Codes and State Statutes.
- CJCC believes that Huber is needed.
  - 2013 Huber Review Committee
- If we were a “business” we would ask you to consider a reallocation of the current EM position to our booking desk. This reallocation would suspend EM and benefit our department by:
  - Increase in Huber revenue
  - Assist our office in an area of high need.



# Discussion

Sheriff's Office Budget Concerns at of 10/04/18

1. \$55,000 from operations (supplies and services)
2. \$30,800 moved from capital to operations for rifle upgrades/repairs (money not added to budget before cuts)
3. \$9,375 moved from capital to operations for handgun replacements (money not added to budget before cuts)
4. \$118,000 eliminated from capital for Body Scanner in the jail
5. \$156,000 eliminated from capital for Mail Scanner in the jail
6. \$12,500 eliminated from capital for cameras, deputy equipment, and signage/posts/barriers/ropes for screening project
7. Body screener for second floor changed to metal detections, which is OK but not best practice.
8. Sheriff's Department priority positions not funded. This includes Full-time Administrative Associate, Detective, Civilian Sergeant. These positions were needed just to operate at an efficient and effective level with the growing crime rate, METH issues, jail population, and increases in open records requests-mostly due to squad car videos.
9. The Courthouse Screening project staffing recommendations were not followed. The addition of this large operation, without adding adequate staff, not only reduces the effectiveness of the screening, but puts additional workload and backfill responsibilities on the department. This creates greater liability and actually increases the amount of time staff from other divisions will be needed to assist on the second floor. There will NOT be an armed/sworn person at the screening area at all times under the current recommendations.
10. \$60,000 removed from the Lock-n-load contract. The department had reduced Special Deputy salary line item by \$25,000 to move toward the contracted service. With the reduction in the contract amount, and the \$25,000 not being restored, the transport budget will not be able to be met.

## CHART OF ACCOUNTS

## SHERIFF'S OFFICE

<u>Program Area</u>	<u>Transfer to Division</u>	<u>Position Titles</u>
Response to Crime & Community Caretaking	Field Services	Patrol Deputy Field Services Sergeants Field Services Lieutenant Field Services Captain
Detention of Inmates – Secure Detention of Inmates – Huber Detention of Inmates – EM	Security Services	Correctional Officers Huber Officer Classification Officer Electronic Monitoring Officer Security Services (Jail) Sergeants Security Services Lieutenant Security Services Captain
Courthouse Security	Security Services	Bailiffs
Civil Process	Field Services	Process Servers
Investigative Investigative – Drug Unit	Field Services Field Services	Detectives Detectives
Traffic Control & Enforcement	Field Services	Patrol Deputy
	Administrative Services	Sheriff Administrative Services Div Mgr Computer Support Technician Administrative Specialist Administrative Associate

## TRY MEDIATION

### EAU CLAIRE COUNTY CASE LOAD REPORT 3rd QUARTER 2018

<b>MEDIATION CASELOAD:</b>	
<b>Eau Claire County:</b>	
Family Cases	58
Small Claims	112
Parent Coordinator	1
Family Assessment	1
Financial	0
Other/Voluntary	2
<b>Eau Claire County Total:</b>	<b>174</b>

<b>PARENT EDUCATION:</b>	<b>Classes Offered</b>	<b>Attendees</b>
July	2	35
August	2	40
September	2	34
<b>3rd Quarter Total</b>	<b>6</b>	<b>109</b>

## 2018 CASELOAD SUMMARY (CASES OPENED)

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
<b>Eau Claire County:</b>					
Family Cases	58	70	58		186
Small Claims	165	109	112		386
Parent Coordinator	1	0	1		2
Family Assessment		0			0
Financial	1	0			1
Other/Voluntary	1	5	2		8
<b>Eau Claire County Total:</b>	<b>226</b>	<b>184</b>	<b>173</b>		<b>583</b>
<b>Other Counties:</b>					
Buffalo County	10	4	4		18
Chippewa County	34	52	45		131
Dunn County	23	19	18		60
Pepin County	3	4	2		9
Other Counties		1			
<b>Other Counties Total:</b>	<b>70</b>	<b>80</b>	<b>69</b>		<b>219</b>
<b>ALL COUNTIES TOTAL:</b>	<b>296</b>	<b>264</b>	<b>242</b>		<b>802</b>

## 2018 CASES CLOSED

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
<b>Eau Claire County:</b>					
Family Cases	59	73	80		212
Small Claims	148	127	112		387
Parent Coordinator		0	0		
Family Assessment		0	0		
Financial		0	0		
Other/Voluntary	4	5	2		11
<b>Eau Claire County Total:</b>	<b>211</b>	<b>205</b>	<b>194</b>		<b>610</b>
<b>Other Counties:</b>					
Buffalo County	11	7	5		23
Chippewa County	33	52	60		145
Dunn County	24	25	27		76
Pepin County	4	6	2		12
Other Counties					
<b>Other Counties Total:</b>	<b>72</b>	<b>90</b>			<b>256</b>
<b>ALL COUNTIES TOTAL:</b>	<b>283</b>	<b>295</b>			<b>866</b>

## 2018 SMALL CLAIMS

	<b>Cases</b>	<b>Resolved</b>	<b>No Agreement</b>	<b>No Show/Other</b>
January	83	45	30	8
February	40	29	8	3
March	42	25	15	2
<b>1st Quarter Total:</b>	<b>165</b>	<b>75</b>	<b>53</b>	<b>13</b>
April	35	23	11	1
May	46	30	16	0
June	28	14	10	4
<b>2nd Quarter Total:</b>	<b>109</b>	<b>67</b>	<b>37</b>	<b>5</b>
July	54	18	22	4
August	29	9	17	3
September	29	16	12	1
<b>3rd Quarter Total:</b>	<b>112</b>	<b>43</b>	<b>51</b>	<b>8</b>
October				
November				
December				
<b>4th Quarter Total:</b>				
<b>Year-to-date Total:</b>	<b>386</b>	<b>142</b>	<b>141</b>	<b>26</b>

## SMALL CLAIMS 3rd QUARTER COMPARISON

<b>2018</b>	<b>Cases</b>	<b>Resolved</b>	<b>No Agreement</b>	<b>No Show/Other</b>
July	54	23	27	4
August	29	9	17	3
September	29	16	12	1
<b>3rd Quarter Total</b>	<b>112</b>	<b>48</b>	<b>56</b>	<b>8</b>
<b>2017</b>				
July	29	20	6	3
August	59	32	23	4
September	33	11	21	1
<b>3rd Quarter Total</b>	<b>121</b>	<b>63</b>	<b>50</b>	<b>8</b>



## 2018 PARENTING CLASSES

	Classes Offered	Attendees	2017 Comparison
January	2	26	34
February	2	29	37
March	2	36	29
<b>1st Quarter Total:</b>	<b>6</b>	<b>91</b>	<b>100</b>
April	2	27	29
May	2	27	24
June	2	31	27
<b>2nd Quarter Total:</b>	<b>6</b>	<b>85</b>	<b>80</b>
July	2	35	41
August	2	40	34
September	2	34	25
<b>3rd Quarter Total:</b>		<b>109</b>	<b>100</b>
October			
November			
December			
<b>4th Quarter Total:</b>			
<b>Year-to-date Total:</b>	<b>18</b>	<b>285</b>	<b>280</b>

**TRY MEDIATION, INC.**  
**Profit & Loss Budget vs. Actual**  
**July through September 2018**

	Jul - Sep 18	Budget	\$ Over Budget
<b>Ordinary Income/Expense</b>			
<b>Income</b>			
<b>Inkind Rent/County Revenue</b>	750.00	750.00	0.00
<b>County - Revenue</b>			
County - Buffalo	750.00	750.00	0.00
County - Chippewa	6,249.99	6,249.99	0.00
County - Eau Claire	33,404.76	33,404.76	0.00
County - Pepin	1,050.00	1,050.00	0.00
County Dunn	4,249.98	4,250.01	-0.03
<b>Total County - Revenue</b>	45,704.73	45,704.76	-0.03
<b>Intake Fees</b>	50.00		
<b>Interest Income</b>	49.60	75.00	-25.40
<b>Mediation Fees</b>			
Mediation Fees - Buffalo	450.00	351.00	99.00
Mediation Fees - Chippewa	1,095.00	234.00	861.00
Mediation Fees - Dunn	250.00	129.00	121.00
Mediation Fees - Eau Claire	2,380.00	1,734.00	646.00
Mediation Fees - Pepin	125.00	45.00	80.00
<b>Total Mediation Fees</b>	4,300.00	2,493.00	1,807.00
<b>Other Income</b>			
Refunds and Miscellaneous	120.00		
<b>Total Other Income</b>	120.00		
<b>Parent Education</b>	3,865.00	3,750.00	115.00
<b>Total Revenue</b>	54,089.33	52,022.76	2,066.57
<b>Total Income</b>	54,839.33	52,772.76	2,066.57
<b>Gross Profit</b>	54,839.33	52,772.76	2,066.57
<b>Expense</b>			
Advertising/Public Information	0.00	0.00	0.00
Assistant's compensation	7,802.11	7,642.11	160.00
Bank Service Fee	0.00	16.20	-16.20
Client Refunds	60.00	75.00	-15.00
Credit Card Fees	329.39	405.00	-75.61
Director's compensation	12,913.67	12,913.70	-0.03
Equipment and Furniture(expense)	841.76	573.00	268.76
FICA - Employer's Share	2,638.94	2,673.43	-34.49
In-Kind Rent Expense-E.C.	750.00	750.00	0.00
Insurance - Liability	0.00	0.00	0.00

**TRY MEDIATION, INC.**  
**Profit & Loss Budget vs. Actual**  
**July through September 2018**

	Jul - Sep 18	Budget	\$ Over Budget
Insurance - Malpractice	0.00	0.00	0.00
Insurance - Workman's Comp.	0.00	0.00	0.00
Mediator Training	0.00	312.00	-312.00
Medicare Tax -Employer's Share	617.17	625.12	-7.95
<b>Membership Dues</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
Miscellaneous Expense	0.00	300.00	-300.00
Postage	354.00	300.00	54.00
Printed Material	0.00	300.00	-300.00
Professional Fees	2,000.00	2,000.00	0.00
Recognition	0.00	0.00	0.00
<b>Salaries -</b>			
Salaries-Dunn	5,265.00	4,576.94	688.06
Salaries - Chippewa	910.00	1,076.94	-166.94
Salaries - Eau Claire	11,173.05	11,688.62	-515.57
<b>Total Salaries -</b>	<b>17,348.05</b>	<b>17,342.50</b>	<b>5.55</b>
<b>SEP Retirement</b>			
Health Insurance Reimbursement	4,500.00	4,500.00	0.00
SEP Retirement - Other	1,720.66	3,847.32	-2,126.66
<b>Total SEP Retirement</b>	<b>6,220.66</b>	<b>8,347.32</b>	<b>-2,126.66</b>
<b>State Unemployment</b>	<b>49.56</b>	<b>70.00</b>	<b>-20.44</b>
<b>Supplies</b>	<b>1,270.53</b>	<b>306.00</b>	<b>964.53</b>
<b>Telephone</b>	<b>0.00</b>	<b>300.00</b>	<b>-300.00</b>
<b>Travel and Conference</b>	<b>777.55</b>	<b>883.42</b>	<b>-105.87</b>
<b>Total Expense</b>	<b>53,973.39</b>	<b>56,134.80</b>	<b>-2,161.41</b>
<b>Net Ordinary Income</b>	<b>865.94</b>	<b>-3,362.04</b>	<b>4,227.98</b>
<b>Net Income</b>	<b>865.94</b>	<b>-3,362.04</b>	<b>4,227.98</b>

**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.

2  
3 - **RESOLUTION URGING THE STATE OF WISCONSIN TO INCREASE**  
4 **COMPENSATION FOR DEFENSE**  
5 **COUNSEL ASSIGNED BY THE STATE PUBLIC DEFENDER -**  
6

7 WHEREAS, both the United States Constitution and the Wisconsin State Constitution  
8 provide that persons accused of a crime have the right to counsel. In Wisconsin the Office of the  
9 State Public Defender, SPD, provides counsel to those persons meeting income eligibility guidelines  
10 for services. Where SPD is unable to provide representation, due to conflict or other reasons, the  
11 SPD appoints private attorneys to provide representation. Almost 40% of all SPD cases are  
12 appointed to private attorneys; and  
13

14 WHEREAS, the compensation rate for private bar appointed attorneys in Wisconsin has not  
15 been increased since 1995 and currently stands at \$40.00 per hour. It is the lowest in the nation,  
16 failing to even cover an appointed attorney's overhead costs. As a result, private attorneys are  
17 increasingly declining to accept SPD appointments, which is creating an increasing burden on the  
18 courts and Wisconsin Counties. Costs to counties are increasing as circuit court judges are being  
19 forced to appoint counsel at county expense and accused persons are being held in jail longer  
20 pending appointment of counsel. These delays also lead to inefficiency for courts and law  
21 enforcement agencies, and additional delay for obtaining justice for victims; and,  
22

23 WHEREAS, in May of 2018 the Wisconsin Supreme Court authorized an increase in the  
24 hourly rate from \$70.00/hr. to \$100.00/hr. for attorney's appointed by the county, this increase to go  
25 into effect on January 1, 2020; and,  
26

27 WHEREAS, the increase authorized to private attorneys, at county expense, may cost Eau  
28 Claire County approximately \$116,000 annually depending on case load, and complexity; and,  
29

30 WHEREAS, the disparity created between the two rates, SPD \$40.00/hr, County \$100.00/hr.,  
31 will cause private attorneys to refuse SPD cases, and  
32

33 WHEREAS, other counties in Wisconsin are passing resolutions similar to this one,  
34 including, Dunn, Barron, Burnett and La Crosse; and  
35

36 NOW THEREFORE BE IT RESOLVED that the Eau Claire County Board of  
37 Supervisors does hereby urge the State of Wisconsin to provide sufficient resources to the Office  
38 of the Public Defender to ensure the criminal justice system operates effectively and efficiently,  
39 including increasing the rate of reimbursement for private attorneys appointed by the Public  
40 Defender to a market rate that will ensure prompt appointment of counsel and that cases are  
41 handled in a timely and efficient manner, by at minimum, increasing the hourly rate paid to SPD  
42 appointed private attorney's to the same amount as those recently authorized by the Wisconsin  
43 Supreme Court.  
44  
45  
46  
47  
48

BE IT FURTHER RESOLVED

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Committee on Judiciary and Law

**yk**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ORDINANC/18-19/078

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

## Sheriff's Office 2019 Budget Recommendations

<u>Project</u>	<u>\$ Amount Requested</u>	<u>Proposed Funding Source</u>	<u>Administrator's Recommendation</u>	<u>Finance &amp; Budget Recommendation</u>
Department wide Supplies & Services	\$2,854,537	Levy	\$55,000 reduction at Department's discretion	Add back \$51,000
Rifle Replacement	\$30,800	Capital	Transferred to Operating	Concur with Administrator
Body Scanner for Jail	\$118,000	Capital	Not funded	Funding restored in Capital Budget
Lock & Load Contract/Prisoner Transports	\$120,000	Levy	Reduced to \$60,000	Funding restored to \$120,000
Personnel Request/Administrative Specialist	\$61,226	Levy	Reduced to .5 FTE/\$20,218	Concur with Administrator
Handgun Replacement	\$9,375	Capital	Transferred to Operating	Concur with Administrator
Personnel Request/Detective	\$89,996	Levy	Not funded	Concur with Administrator
Personnel Request/Civilian Sergeant	\$111,797	Levy	Not funded	Concur with Administrator
Additional mental health services for Jail inmates (20 hrs/week added to contract)	\$49,216	Levy	Not funded	Concur with Administrator
Mail Scanner for Jail	\$156,445	Capital	Not funded	Concur with Administrator
Huber Revenue Increase to reflect changes in EM Program				\$20,000 addition
<u>COURTHOUSE SECURITY PROJECT</u>				
Personnel Requests/2 Bailiff Positions	\$197,082	Levy	Reduced to one FTE beginning March 1/\$16,424 savings	Concur with Administrator
Security Contract with Per Mar	\$85,000	Operating	Reduced \$42,500 to reflect July 1 start date/\$42,500	Concur with Administrator
Courthouse Security Project Miscellaneous Equipment & Supplies	\$12,500	Capital	Not funded	Moved to operating @\$11,100
Full Body Scanner	\$118,000	Capital	Replaced with metal detector for \$40,000	Concur with Administrator

Footnote: Sheriff's Office is listing items related to the Courthouse Security Project separately. As discussed, personnel not likely to be hired and trained until approximately July 1, 2019.