

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: April 8, 2024

To: Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

From: District Attorney John T. Chisholm

Subject: District Attorney 2023 Annual Report

File Type: Informational Report

This informational report provides a report on how the District Attorney's Office set and achieved its 2023 goals.

POLICY

This report aligns to Chapter 108: Achieving Racial Equity & Health.

Milwaukee County Code of General Ordinances:	Chapter 108: Achieving Racial Equity & Health
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BACKGROUND

[File 22-104](#) amends Chapter 108 to require that “annually, by April 30 of each year or sooner, each Milwaukee County department leader and/or their designee(s) shall provide a written and oral report outlining their year-end results to a Milwaukee County Board of Supervisors committee. The reports shall, at a minimum:

- (a) Indicate the year-end goals the department set in the prior year
- (b) Share the rationale and relevance of the department's performance metrics (i.e. explaining why they are “SMART” goals (specific, measurable, achievable, realistic, timely, and extending) and how they align to the county's racial equity strategy, if applicable)
- (c) Report the department's year-end results relating to the goals it had set, and
- (d) Provide a thorough analysis clearly articulating why goals were significantly exceeded, met, or not met.
- (e) Explain the department's progress in creating a departmental-level strategic plan that aligns to the countywide strategic plan and provide an update about future plans to revise and enhance the departmental-level plan in the year ahead.”

ALIGNMENT TO STRATEGIC PLAN

1A: Reflect the full diversity of the County at every level of County government

- 1B: Create and nurture an inclusive culture across County government
- 1C: Increase the number of County contracts awarded to minority and women-owned businesses
- 2A: Determine what, where, and how we deliver services to advance health equity
- 2B: Break down silos across County government to maximize access to and quality of services offered
- 2C: Apply a racial equity lens to all decisions
- 3A: Invest “upstream” to address root causes of health disparities
- 3B: Enhance the County’s fiscal health and sustainability
- 3C: Dismantle barriers to diverse and inclusive communities

BODY

The District Attorney’s Office provides, and must provide, services equitably to all individuals, regardless of race, ethnicity, ethnic origin, gender, gender identity, or sexual orientation. To do otherwise would violate the constitutions of the United States and the State of Wisconsin, state and federal law, Wisconsin Supreme Court Rules and the code of ethics which govern attorneys and non-legal assistants; the District Attorney’s mission, the fundamental precepts of justice that the office has sworn to uphold, and the County’s strategic vision. Our goal, objectives, and practices align with points 1A, 2B, 2C, 3A, and 3B of the County’s Strategic Plan.

The District Attorney’s Office mission is to,

- Promote public peace and safety by just and vigorous prosecution;
- Seek and do impartial justice by ensuring that the guilty are punished and the innocent go free;
- Protect the health and welfare of children who are victims of child abuse and neglect;
- Safeguard the rule of law; and
- Promote participation in law enforcement by treating all persons who come in contact with the criminal justice system with fairness, dignity, and respect.

The District Attorney’s goal is to help create a safe and just community in which children have the stability and resources to learn and grow; neighborhoods can flourish; and residents and culture can thrive. Our objectives include promoting public safety, protecting children who are victims of abuse and neglect, and promoting collective efficacy.

Promoting public safety

Our view of public safety requires that we dedicate the most resources to the greatest threat: to those offenders and offenses who have been demonstrated to be the most significant threat to health and safety, specifically in areas of homicide, non-fatal shootings, domestic violence, and other crimes against safety and bodily security.

The District Attorney’s Homicide Unit handles homicides and related crimes (such as witness intimidation) and offenders. It is staffed by assistant district attorneys (ADAs),

who are state employees, and non-legal support staff, who are county employees. In 2023, the unit received 243 referrals for prosecution, involving 340 suspects: an increase of over 30% over 2021 (2021: 182 referrals; 248 suspects). With resources provided by funds from the state's American Rescue Plan Act (ARPA) grant in 2022, we were able to add an additional prosecutor to the unit. Because ARPA funds will expire at the end of 2024, we asked the state to create a permanent general-purpose revenue (GPR) funded position for the unit in the state's 2023-2025 biennium budget. The legislature did not do so, so we anticipate that prosecution resources in the unit may contract in 2025.

The Violent Crimes - Gun Unit focuses on non-fatal shootings and related crimes and offenders. In 2023, the unit received 731 referrals involving 877 suspects, which continues a trend of increased gun violence in the community. Over the past several years, the DA's Office has applied for and received three grants for additional Gun Unit prosecutors: Project Safe Neighborhoods (PSN) 2019 and 2020 awards have funded prosecutors through mid 2024; PSN 2022 will fund a prosecutor through approximately March of 2025. If additional funding is not provided, that PSN position will be lost when grant funding is exhausted. We asked the legislature to permanently fund the PSN ADA in the state's 2023-2025 biennium budget. It did not do so.

Similarly, we have applied for and received grants to expand victim services in our Gun Unit. In 2019, we received a PSN 2018 grant award to fund a community victim witness specialist (CVW) who provides comprehensive services to victims of firearm violence in Milwaukee. We initially projected that the CVW would provide services to over 600 victims. In fact, the CVW provided services to over 1,000 victims. The program was so successful that the grant was renewed through September of 2024, and we anticipate an additional award will fund the CVW through most of 2025.

Domestic violence is a significant public safety issue, and domestic violence referrals generally comprise about one-third of the referrals the office receives for criminal prosecution. Data from the Violence Response Public Health and Safety Team (VR-PHAST) and the Homicide Review Commission reflects that the extreme nature of the violence is increasing: between 2018 and 2023, the number of homicides involving domestic and intimate partner violence almost tripled (2018, 9 homicides; 2023, 25), and the number of non-fatal shootings involving domestic and intimate partner violence more than doubled (2018: 20; 2023: 57). The office added additional ADAs to the Domestic Violence unit to help address the threat, and, because the additional positions will be lost when ARPA funding expires, we asked the legislature to create two new domestic violence prosecutor positions as part of the 2023-2025 state budget. It did not do so. However, in 2023, we received a one-year grant award from the Sojourner Family Peace Center (SFPC) to fund a victim advocate and an ADA who focus on the highest risk domestic violence victims.

As noted above, attorneys who prosecute referrals are state-funded. County resources support the prosecutions in a variety of ways, particularly in providing constitutionally and statutorily mandated services to victims and witnesses. These services are essential to keeping victims and witnesses engaged in the court process, which leads to better case

outcomes and increased public safety. In 2023, DA's Office Criminal Division received almost 30,000 criminal referrals for prosecution, an increase of 22 percent over 2022. In total, almost 19,000 victims were referred in those cases; over 1200 were referred in delinquency proceedings in Children's Court. Between those new referrals and existing cases, our victim witness staff provided over 102,000 services to 39,442 unique individuals in 2023.

Investigating law enforcement agencies capture demographic data of victims and transmit that information to the DA's Office as part of the referral for prosecution. We use the police agency's designations for race and ethnicity, and we do not independently solicit or verify the information. In 2023, of the individuals whose race and ethnicity were reported to us by law enforcement, over 65% of victims in criminal prosecutions, and over 56% of victims in delinquency proceedings, were identified as people of color.

Focusing on public safety involves more than adding prosecution and victim advocacy resources to areas of violent crime. It also involves dedicating resources to diverting people out of the criminal justice system when the activity which brings them into police contact is driven by drug use, abuse, or addiction, or mental health needs. For over 10 years, the DA's Office has done that through the Early Intervention Program (EIP).

EIP is an effort of the Milwaukee County Community Justice Council (CJC) to align justice system policies with evidence-based practices that have been shown to be effective in changing offender behavior. The core principles include active collaboration across the criminal justice system; system-wide application of risk and need principles to ensure that offenders receive the interventions that are most likely to change behavior change and decrease the likelihood of future criminal conduct; and utilization of outcome data to ensure the effectiveness of the intervention model. The goal is to maximize the opportunity to support and encourage prosocial attitudes and behavior among offenders, while minimizing potential negative consequences that may be associated with involvement in the system, such as social stigma, exposure to higher risk offenders, and the loss of prosocial support structure). EIP is based on the principle that swift access to services offers the greatest opportunity to increase public safety and the most effective use of criminal justice resources by reducing the costs of processing cases for those at lower risk to reoffend and investing resources in those who pose the greatest risk to the community. To evaluate the savings, JusticePoint tracks the number of "jail days" and "prison days" saved as a result of successfully completed agreements.

EI programming takes several forms:

- The **DIVERSION PROGRAM** offers those identified as low risk to reoffend the opportunity to be diverted out of the justice system through a Diversion Agreement. Diversion requires that the individual meet specific program expectations and remain crime free for the term of the agreement. Those who successfully complete the Diversion Agreement are not subject to criminal charges; those who do not are prosecuted for provable charges.

JusticePoint records that 230 diversion agreements were closed in 2023: 29 agreements were revoked because the offender did not complete the

programming; but 201 individuals successfully completed the programming, resulting in 16,305 saved jail days.

- The **DEFERRED PROSECUTION (DPA) PROGRAM** permits charged defendants who are identified as moderate to high risk for re-offense to have entry of the judgment of conviction deferred, subject to participation in programs and services designed to reduce the likelihood of re-offense. DPA participants plead guilty in court, and the entry of the judgment of conviction is deferred pending the defendant's participation in programming outlined in the court approved agreement. If the defendant successfully completes the conditions, the charge is reduced or dismissed; if he/she does not, the conviction is entered, and the offender is sentenced.

According to JusticePoint, 280 defendants were active in DPA programming in 2023, including 67 new agreements signed in the year. JusticePoint reports that 112 defendants successfully completed their DPAs in 2023, resulting in 16,184 saved jail days.

- The **DRUG TREATMENT COURT (DTC)** program is a combined effort of court administration, the DA's Office, the Public Defender's Office, Milwaukee County Behavioral Health Division, and Milwaukee County service providers. It is a 12-to-18-month comprehensive court-based treatment program for non-violent felony offenders who are at a high risk to reoffend and who have an assessed diagnosis of substance use disorder. DTC requires regular court appearances, AODA treatment, drug testing, and weekly appointments with a case manager. Participants receive skills assessments and service referrals (vocational, educational, mental health, and wraparound services, and restorative justice programming) and are held accountable through a four-phase system of graduated incentives, rewards, and sanctions.

Justice Point reports that 106 defendants participated in DTC agreements in 2023, and that 25 successfully completed their programing, resulting in 3685 jail days and 3,445 prison days saved.

- The **VETERANS TREATMENT COURT (VTC)** program supports those who have served in the armed forces and recognizes and addresses the challenges their service may present to them and their families. Through this program, veterans receive ready access to treatment programs offered by the Veterans Administration and other veterans service organizations.

Historically, our participation in EIP has been supported in part by grants to the Milwaukee County court system by the MacArthur Foundation which funded two ADAs and one paralegal. MacArthur funding for the paralegal position was exhausted in 2023. When MacArthur Foundation funding for two assistant district attorney positions ended in December of 2022, the state eliminated the positions, reducing staffing in the DA's Office by two ADA positions. Because of the importance of the program, the office continued assigning ADAs to the EIP and absorbed the loss of the positions in other units, reducing

capacity in other areas. We requested the restoration of the EIP positions in the 2023-2025 state budget, but the legislature did not recreate them.

The District Attorney's role in public safety, of course, is only one of many. Police agencies investigate offenses, determining what evidence is available for use in court; testimony must come in through witnesses who appear when subpoenaed; jurors determine verdicts of guilty or not guilty; and courts decide what an offender's bond will be and what sentence an offender will receive upon conviction. These are matters outside of our office's control, but staff work to improve outcomes by assisting law enforcement in investigations and with legal process; by working with victims and witnesses to help keep them engaged and to build trust in the system, and to try to inform the court's use of discretion.

Protecting the health and welfare of children who are victims of child abuse and neglect

Working together, three prosecutors, four victim advocates, and a paralegal are responsible for criminal referrals of highly complex child abuse and neglect cases in the Child Protection and Advocacy Unit (CPAU). These staff members handle criminal prosecutions involving the County's most vulnerable victims: children who have suffered significant abuse—including abusive head trauma and inflicted burn injuries—and severe child neglect, including child malnutrition and serial torture.

In the Children's Court Division, the Child in Need of Protection or Services (CHIPS) and Termination of Parental Rights (TPR) teams represent the interests of the community in all child welfare cases in Milwaukee County. A contract between the DA's Office and the State of Wisconsin covers the cost of the entire TPR unit, but the contract requires the State and County to match that cost through the payroll costs of attorney and support staff positions which must be dedicated to child welfare matters. The office receives child welfare referrals—which, as with CPAU, involve the County's most vulnerable and at-risk citizens—from the Division of Milwaukee Child Protective Services (DMCPS) after DMCPS becomes involved with a family. The CHIPS and TPR teams provide an enormous service: Milwaukee County handles approximately one-third of all child welfare cases in the State of Wisconsin.

Promoting Collective Efficacy

Through a combination of state funding and federal, local, and private grants, the DA's Office has assigned eight prosecutors as community prosecutors (CPs) in the Community Partnership Unit. As the unit's name suggests, these attorneys work collaboratively with other government agencies, law enforcement, businesses, community groups, and the faith-based community to improve public safety and develop viable urban communities. Prosecutors housed at police districts facilitate communication among police and neighborhood groups at the district level, to create and pursue intervention strategies which will reduce crime, prevent domestic violence, , and improve quality of life. It is a pro-active non-traditional model for the criminal justice process.

The role of the CP is both to help prevent crime from occurring and to prosecute the most chronic or problematic offenders. CPs work with community partners to identify local issues, to provide people with suitable housing and living environments, abate nuisance

activity before it escalates to criminal activity, and to expand economic opportunities, principally for low- and moderate-income persons. CPs participate in community crime and safety meetings; provide personal, work, and home environment safety trainings at businesses, faith-based organizations, and neighborhood association meetings; take part in community engagement activities; and participate in community initiatives.

Alignment to the Strategic Plan

Our goals, objectives, strategies, and practices align with points 1A, 2B, 2C, 3A, and 3B of the County's Strategic Plan.

1A – Reflect the full diversity of the County at every level of county government

Like other agencies in County government, we recognize that justice requires that all people have the opportunity for economic stability and advancement. As of December 31, 2023, the District Attorney's Office had 167 full, part-time, or hourly county staff members: 81% identified as female, 49% of whom (approximately 40% of the staff as a whole) identified as non-white. As defined in the District Attorney's 2022 EEO report, 10 of our county staff positions are designated as "official/administrator" or "first/mid-level managers." As of December 31, 2023, 9 of those positions were filled, 7 by women, and 4 by staff who identified as non-white. Another 68 of our positions are "professionals" in EEO terms. 62 of those are filled by women; 29 by staff who identify as non-white.

Our office hiring practices compare favorably with the U.S. Census report for Milwaukee County as a whole. But that satisfies only one portion of the vision of equity: pay equity is another; and the ability to create and maintain an inclusive culture across county government is crippled when pay is not equitable. In 2023, 36 staff left the office, including 9 victim advocates. While we have been fortunate to attract new hires, it requires significant time before new staff can replace the experience lost through the attrition; and several of our new hires themselves have moved on to better paying positions. Dismantling barriers and creating equity requires that employees be appropriately and fairly compensated for the services they provide, commensurate with their experience, qualification, and market rates. In 2023, and continuing into 2024, the office has pursued discretionary pay advancements for our staff as our budget permits.

For continuity of operations and service and to improve hiring and retention, we promote from within, when possible; and 7 of the 9 official/manager positions have been filled by internal promotion. Nonetheless, the opportunity for advancement within the office is limited, which is an issue in terms of the potential for greater professional challenges, pay progression, and job satisfaction, which poses issues for recruitment and staff retention. In the department's 2024 budget, we requested (but did not receive) supplemental funds to establish a professional development program for our staff.

2B - Break down silos across Milwaukee County government to maximize access and quality of services offered

As demonstrated by the programs described above, much of the District Attorney's Office's work involves collaboration with other county agencies and community partners.

DA staff participates in VR-PHAST, which coordinates a unified, multi-sector public health and public safety response to reduce the impact of firearm violence on individuals, families, and the community. We are active in the CJC, Pediatric Death Reviews, Domestic Violence Near-Fatal Reviews, and Public Safety Reviews. The Domestic Violence unit reviews cases at the SFPC in order to better serve victims; we have partnered with Sojourner and with every law enforcement agency in Milwaukee County to implement the Lethality Assessment Program – Maryland Model (LAP); and we participate in the Community Domestic Abuse Advocacy Program, which joins law enforcement, advocates, and prosecution in an effort to reduce domestic violence on a neighborhood level. At every point that our operations permit, we partner with law enforcement, criminal justice partners, and community agencies, to expand the vision of justice and to leverage resources to reach it.

2C – Apply a racial equity lens to all decisions

To break down barriers and access to our services, the District Attorney's Office has adopted a comprehensive "Language Access Policy & Plan" relating to the victims and witnesses who have limited proficiency in English (limited English proficiency, or "LEP"). This ensures timely and meaningful access to services for all individuals, regardless of national origin or primary language. The DA's Office takes all reasonable steps to identify LEP victims and witnesses, informs them that language assistance services are available, and provides free access to language assistance services.

3A - Invest "upstream" to address root causes of health disparities

Public safety plays a role in health, both in the health of an individual who may suffer injury and trauma as a crime victim, and in the health of a neighborhood, in its ability to sustain a vibrant culture. The proactive work of the CP program, the best-practices in domestic violence, and the evidence-based practices and decision-making in EIP are a few of the ways the District Attorney invests upstream to address public safety and the health of the community.

3B – Enhance Milwaukee County's fiscal health and sustainability

The costs of the constitutionally and state mandated services the District Attorney's Office provides to the community far exceed the County's yearly budget awards. Each year, the DA's Office has promoted the County's fiscal health by securing private, federal, and state grants to fund and support our services. Some fund ADAs' personnel costs and have no tax levy impact, but we currently receive funds from four grants and two statutory reimbursement programs which provide substantial subsidies for the personnel costs of our county staff. For the past three years, those subsidies have comprised approximately 35% of our operating budget. Although we continue to seek grant opportunities, we project a reduction in grant funding in 2025, which has the potential to significantly impact our operations, particularly the provision of services to victims and witnesses.

2024/2025 GOALS AND PROJECTIONS

The District Attorney's Office will continue to support the community and the County's strategic mission in 2024, 2025 and the years that follow. However, we project that

decreases in grant revenue may substantially affect operational capacity.

The District Attorney's Office currently has 45 authorized non-supervisory victim advocate positions. Only 6 are fully tax levy funded: the remainder are underwritten in whole or part by grants from the Victims Of Crimes Act (VOCA), PSN, the SFPC, the County's ARPA grant, or the state's statutory CH. 950 reimbursement program. In 2025, we anticipate the loss of at least 11 advocate positions due to loss of grant funding.

A VOCA grant currently provides funding for 8 victim advocate positions. Two changes to the 2024-2025 VOCA grant (grant term 10/01/2024-09/30/2025, with continuation funding through 09/30/2026) will result in the loss of funding for at least 5 of them. First, the 2024-2025 VOCA grant will be a competitive grant with the focus shifted more to services provided by community service groups. It is therefore less likely that we will receive any VOCA funding for 2025-2026. Second, any award we receive will be capped at \$250,000, which is sufficient only to fund 3 positions. The SFPC grant is a one-year award, and there currently is no supplemental funding to continue that position into 2025. In addition, the County ARPA grant, which funds 5 advocate positions, will terminate in December of 2024. As a result, if tax levy funding does not replace the expiring grant funds, in 2025, the DA's Office will lose between 11 and 14 of advocate positions. That loss--of between approximately one-quarter and one third of our advocates--will necessarily affect the quality and quantity of the services victims in Milwaukee County receive.

In addition, the State ARPA grant currently funds 12.5 ADA positions in our office. That funding will terminate on December 31, 2024. If no new funding source is identified, the office will lose almost 10% of its prosecutors. That loss will have a significant impact on court operations, the court backlog in Milwaukee County, and public safety; and it may impact our ability to continue staffing programs such as EIP and the CPU.

FISCAL EFFECT

The report is informational only and there is no fiscal impact.

VIRTUAL MEETING INVITES

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PREPARED BY:

Karen Loebel, Deputy District Attorney

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cc: Kelly Bablitch, Chief of Staff, Milwaukee County Board of Supervisors
Janelle M. Jensen, Legislative Services Division Manager, Office of the County Clerk