



SHERIFF EARNELL R. LUCAS

Communication to the Board of Supervisors

DATE: July 20, 2021

TO: Committee on Finance

FROM: Theodore Chisholm, Chief of Staff, Office of the Sheriff

RE: Expenditures of Overtime to Sustain Critical Public Safety Services

Amendment 1A042 of the 2021 Milwaukee County Adopted Budget, file 20-733, states that “the Office of Performance, Strategy, and Budget shall communicate to department heads and fiscal staff a new policy requiring departments to report to the County Board as soon as [their] overtime expenditures are projected to exceed either \$1 million or 100 percent of the department’s annual overtime appropriation.” Similarly, Milwaukee County Code of General Ordinances § 56.02 requires the reporting of a projected revenue shortfall exceeding \$75,000.

The Milwaukee County Office of Corporation Counsel has long advised that, as an independent constitutional officer, the Milwaukee County Sheriff exercises broad autonomy and discretion in expending those funds necessary to perform his or her duties. The sheriff’s duties encompass, among others, the operation of the Milwaukee County Jail, attendance upon the Milwaukee County Circuit Court, the service of court papers, and patrols of Milwaukee County’s expressway system. The Milwaukee County Board allocates funding annually for the positions required to perform these duties, as well as an overtime fund to cover expenditures that cannot be accommodated by personnel working assigned hours.

When the sheriff lacks sufficient staffing to fill all budgeted positions, he must still ensure that the duties of his office are properly performed. In such a situation, an increased reliance on overtime becomes inevitable, so as to ensure proper staff coverage and the performance of all required duties. So, too, does a “surplus” of funds tied, in the budget, to employee salaries, as the agency lacks the staffing required to expend all allocated funds. Likewise, under these circumstances, the Sheriff’s Office inevitably incurs a “deficit” in overtime expenditures, as overtime is expended in lieu of the salary-associated funds normally tied with the duties performed and relevant hours worked. This comes at a higher cost, as overtime is expended at a compensation rate of 1.5 times the employee’s hourly wage.

It is critically important for the accuracy of these deliberations to distinguish between “overtime deficits,” itself a somewhat imprecise term, and actual end-of-year budgetary deficits. The incurrence of an “overtime deficit” as described above does not inherently lead to an end-of-year budgetary deficit in which a county agency’s actual expenses exceed its allocated

expenditure authority. In the 2020 fiscal year, for example, even prior to the allocation of federal stimulus funds, the Sheriff's Office secured an end-of-year budgetary surplus despite spending over \$3 million in overtime above the overtime-specific budgetary allocation. So while there was an "overtime deficit" in 2020, there was most certainly not a budgetary deficit, and no adverse impact at all to the County's fiscal condition.

It is certainly true that an "overtime deficit" can contribute, alongside other revenue shortfalls or unexpected expenses, to an end-of-year deficit. In the present 2021 fiscal year, \$1,644,108 in savings tied to unfilled positions are projected, off-set by \$3,639,860 in projected overtime expenses and \$359,804 in projected revenue losses. The agency's most significant revenue losses encompass \$405,000 in funding, deriving from reductions in revenue in the following areas: sheriff sale fees, where an \$85,000 reduction is anticipated; process service fees, where a \$170,000 reduction is anticipated; and phone commissions, where a \$150,000 reduction is anticipated. Accordingly, current fiscal projections suggest that the agency is approaching an end-of-year deficit totaling \$976,858.

The agency's reliance on overtime in 2021 is not, as has been incorrectly postulated, the result of protest enforcement. Rather, it results from the fact that the Sheriff's Office cannot recruit and retain enough employees to fill essential positions because the positions in question have not been compensated competitively. Corrections officers at the Milwaukee County Jail make \$20.58 as a starting hourly wage compared to higher pay in nearby counties, including \$22.84 for Washington County corrections officers, \$23.38 in Waukesha County and \$21.15 in Kenosha County. While a very recent increase in deputy sheriff compensation will raise the deputy sheriff starting hourly wage from \$23.84 to \$25.29, allowing room for optimism as to increased deputy recruitment and retention, this still falls short of the starting salary of \$25.95 in Waukesha County and \$26.92 in Kenosha County.

Due in great part to the availability of better-paying jobs, in law enforcement and in other professions, turnover is high within the Sheriff's Office. At present, out of 261 corrections officer positions in the agency, only 182 are filled. Out of 273 positions in the classification of Deputy Sheriff 1, only 237 are filled. The 182 working corrections officers are responsible, across three shifts every single day, for operating more than twelve full-capacity housing units, the most active booking room of any jail in the State of Wisconsin, and intensive operational support functions including records management. The 237 available deputy sheriffs – only 199 of whom are available for duty due to various forms of leave – are responsible, also on three shifts working seven days a week, for patrolling over 150 miles of expressway, over 150 parks and parkways, securing Milwaukee Mitchell International Airport, and investigating crimes occurring within the agency's jurisdiction. Others within this classification are responsible for securing all county court facilities and serving civil process. Factoring in off-days and relief factors, these staffing levels are so low that the agency must routinely decide whether to fill vacant positions on each shift through overtime or simply allow them to sit vacant, risking insufficient staffing to resolve critical public safety emergencies.

Given the nature of the duties that corrections officers and deputy sheriffs perform, vacant positions on a given shift must often be filled, particularly during a summer that has witnessed measurable increases in violent crime impacting the Milwaukee County Parks and the expressway system, and an accordant rise in the jail population to over 850 persons in custody. Overtime must therefore be expended in significant quantities, usually in increments of eight hours (known as "doubles" when staff member working overtime must also work their assigned eight-hour shift that day, which occurs routinely) or four hours. When, at a given point in time, as

many as 20 out of 64 working corrections officers or 35 out of 149 working deputy sheriffs are assigned on overtime, and the same statistics hold true three shifts a day, seven days a week, 365 days a year, these expenses quickly add up.

Compounding this challenge, during times of high vacancy numbers, the use of overtime to fill vacant positions in the Court Services Division, which due to court operating hours utilizes a different schedule than the remainder of the agency, can require further overtime use in other divisions. For example, any second-shift Patrol Division or Airport Division personnel who are working overtime in the Court Services Division during the daytime are not available to be released from the Court Services Division until 4:30 pm, which means that first-shift Patrol and Airport personnel must also be extended at the Patrol and Airport Divisions until the Court Services Division releases all second-shift Patrol and Airport personnel working overtime to return to their home division to work their regular shift. This adds to the number of overtime positions (in addition to the number above) that are worked every day. These numbers also do not account for shortages due to required annual in-service training or monthly training for special teams (SWAT, MRT EOD, K-9, Maritime) to maintain proficiency in perishable skills required to handle high risk incidents.

As stated above, simply reducing the duties performed by Sheriff's Office personnel is not an option to curb the agency's overtime, given the demonstrable uptick in activity across the agency's areas of operation thus far in the 2021 fiscal year. But tight regulations on the expenditure of overtime, which can only be authorized by a supervisor to fill a vacant position on a shift, or in very limited circumstances when an emergency response or reporting assignment cannot end in conjunction with a shift, have been implemented. And creative approaches to staffing – including taking the calculated risk not to fill certain positions on certain shifts when activity levels may permit – have achieved marked success. As Figure A demonstrates, the agency's overtime expenditures in the 2021 fiscal year have declined significantly compared to expenses in the 2020 fiscal year. And ongoing collaborations with the First Judicial Administrative District and other partner agencies may lead to the increased use of technology to facilitate court appearances, thereby offering a potential reduction in the agency's overtime footprint associated with the courts.

Similarly, measures to enhance the quality of the agency's work environment, including by offering paths to promotion, specialty units, and other desirable assignments, are in place to encourage the retention of talented employees. But as incentives, these too easily fall short in the face of extreme hours in dynamic and often dangerous work environments, especially in a recovering economy where attractive job opportunities await talented law enforcement professionals.

Instead, the path to resolving the agency's heightened overtime expenditures leads down the road of simply addressing the underlying problem: the agency's longtime condition of extreme understaffing. The necessary response to this challenge, elucidated in the agency's 2022 budget request and in the prior reports to which this narrative is appended, will require an increase in compensation for agency employees.