

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: April 21, 2023

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

From: District Attorney John T. Chisholm

Subject: District Attorney's Office 2022 Annual Report

File Type: Informational Report

This informational report provides a report on how the District Attorney's Office set and achieved its 2022 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.

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

MISSION

The District Attorney's Office's 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 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 Constitution of the United States and the State of Wisconsin, state and federal law, the Supreme Court Rules and code of ethics which govern attorneys and non-legal assistants; the District Attorney's mission, and the fundamental precepts of justice that the office has sworn to uphold.

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

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

Objectives:

Promoting public safety

Our view of public safety requires us to dedicate 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 bodily security.

In 2022, the District Attorney's Homicide Unit, which handles homicide and related offenses (such as witness intimidation) and offenders, received 223 separate referrals for prosecution, involving 313 suspects. With additional resources provided by funds from the American Rescue Plan Act (ARPA), we were able to add an additional state-funded attorney staff position to the unit. ARPA funds are limited term and will expire in 2024.

Consequently, we have asked the state to create an additional homicide prosecutor in Milwaukee County as part of the state's 2023-2025 biennium budget.

The District Attorney's Violent Crimes - Gun Unit focuses on non-fatal shooting events, and related crimes and offenders. In 2022, law enforcement referred 558 cases, involving 692 suspects, to the Gun Unit. This followed a trend of increased gun violence in the community. Over the past three years, the District Attorney's Office has applied for and received two grants for additional Gun Unit prosecutors: the Project Safe Neighborhoods (PSN) 2019 award funded two prosecutors through January of 2022; PSN 2020 will fund one prosecutor through September of 2023. PSN 2019 have been, and the PSN 2020 position will be, lost as the grant funding is exhausted; therefore we have asked the state to create an additional prosecutor position, dedicated to firearm violence, as part of the 2023-2025 biennium budget.

Similarly, over the past several years we have applied for and received grant funding to expand victim services in our Gun Unit. In 2019, we applied for and received a grant through the 2018 PSN program to fund a community victim witness specialist (CVW), who would provide comprehensive services to victims of firearm violence in Milwaukee. The grant envisioned that the position would provide services to over 600 victims. In fact, through the life of the grant, the CVW provided over 4,000 services to over 1,000 victims. The CVW program has been so successful, that we have received a second grant to fund the CVW position through September of 2024, and another grant was awarded to fund a second CVW position through September of 2023.

Domestic violence has a significant impact on safety within the community, and over the past several years, domestic violence referrals have generally comprised about one-third of the referrals the office has received for criminal prosecution. At the same time, the extreme nature of the violence is increasing: data from the Homicide Review Commission reveal that the number of homicides involving domestic and intimate partner violence quadrupled between 2018 and 2021 (2018, 9 homicides; 2021, 36 homicides); in the same period, non-fatal shootings involving domestic violence and intimate partner violence saw a similar increase (2018: 20 non-fatal shooting events; 2021: 85). To help address that continuing threat, the District Attorney's Office has added additional prosecutors to the Domestic Violence Unit and asked the state to create two new domestic violence prosecutor positions as part of its 2023-2025 biennium budget.

As noted above, the attorneys who prosecute referrals are state-funded resources. County resources support the prosecutions in a variety of ways, but primarily in the provision of services to our victims and witnesses. In 2022, the District Attorney's Office Criminal Division received over 24,000 referrals for criminal prosecution. In total, over 16,000 victims were referred in those cases; another 1,678 were referred to the office as a result of delinquency proceedings in Children's Court. Between those new referrals and existing cases, our victim witness staff provided over 90,948 services to 36,144 unique individuals in 2022, alone. The demographic information of our victims is captured by investigating law enforcement agencies and recorded in the District Attorney's case management system as part of the referral for prosecution. We use the law enforcement

agency's designations for race and ethnicity (Asian, Black, Hispanic, Hispanic Black, Hispanic White; Indian, without differentiation between Native Americans and persons of South Asian or Pacific Island descent; unknown; and White), and we do not independently solicit or verify the information. According to the demographic information provided by law enforcement, over 75% of the people referred to the District Attorney's office as victims part of criminal prosecutions in 2022 were people of color. This holds true both of domestic violence victims and the victims served by the PSN 2018 CVW, many of whom were in the most depressed areas of the community, in areas which police noted had the highest instances of violent crime. Approximately 70% of the people referred to the office as victims in delinquency proceedings identified as individuals of color.

Focusing on public safety does not just involve adding prosecution and victim witness resources to areas of violent crime. It also involves dedicating resources to diverting individuals away from the criminal justice system when the activity which brings them into contact with law enforcement is driven by drug use, abuse, or addiction or by mental health needs. For over 15 years, the District Attorney's Office has done that through the Early Intervention Program (EIP).

The EIP represents a collaborative effort of the Milwaukee County Community Justice Council (CJC), as part of the National Institute of Corrections' Evidence-Based Decision Making Initiative (EBDMI), to align justice system policies and practices with "evidence-based practices" which have been demonstrated to be effective in changing offender behavior. The core principles of the system include active and genuine collaboration across the criminal justice system; system-wide application of the risk and need principles to ensure that offenders receive the interventions most likely to result in behavior change and decrease the likelihood of future criminal behavior; and utilization of outcome data to ensure the effectiveness of the intervention model.

The Milwaukee County EIP includes an array of services and strategies, to enable the criminal justice system to tailor responses to individuals based upon their assessed level of risk, criminogenic needs, and unique circumstances. The purpose of the programs is to maximize the opportunity to support and encourage prosocial attitudes and behavior among those who become involved in the justice system, while minimizing the potential negative consequences that may accrue to an individual involved in the system, such as social stigma, exposure to higher risk offenders, and loss of prosocial supports (family, employment, educational activities, etc.).

EIP is based on the principle that the delivery of swift services and interventions—which are commensurate with the possibility that an individual will continue criminal behavior ("level of re-offense risk") and the presence of risk factors that are indicators of criminal behavior ("criminogenic needs")—offers the greatest opportunity for public safety, and the most effective use of criminal justice dollars and resources, by reducing the costs of processing cases for those at lower risk to reoffend and instead investing those resources in those who pose the greatest risk to the community. The object is to reduce the long-term recidivism risk of individuals involved in the justice system, while at the same time ensuring public safety and the efficient allocation of limited criminal justice resources.

The program takes several forms:

- The **MILWAUKEE COUNTY DIVERSION PROGRAM**, offers those identified as a low risk for re-offense 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 diversion. Those who successfully complete the Diversion Agreement are not subject to criminal charges; those who do not are prosecuted for provable charges.
- The **MILWAUKEE COUNTY DEFERRED PROSECUTION (DPA) PROGRAM** permits those individuals who are charged with crimes and are identified as a moderate to high risk for re-offense, to have entry of the judgment of conviction deferred, subject to their participation in programs and services designed to reduce the likelihood of re-offense. Participants in DPAs plead guilty in court; the entry of the judgement of conviction is deferred; and the offender participates in programming as set forth in a court approved agreement. If an individual successfully completes the agreement, the charge is dismissed or reduced; if he or she is not, judgment of conviction is entered, and he/she will be sentenced by the court.
- The **MILWAUKEE COUNTY DRUG TREATMENT COURT (DTC)** is a combined effort of Court Administration, the District Attorney's Office, the Public Defender's Office, Milwaukee County Behavioral Health Division and Milwaukee County service providers. It is a 12-18 month comprehensive court-based treatment program for non-violent felony offenders who are at a high risk to reoffend and have an assessed diagnosis of substance abuse. Designed to coordinate effective and accountable substance abuse treatment with supportive services, DTC includes regular court appearances, alcohol and drug treatment, drug testing, and weekly appointments with a case manager. Program participants are given skills assessments; referrals for services such as vocational training, educational support, mental health counseling, "wraparound" services, and restorative justice programs; and are held accountable for progress through a four-phase system of graduated incentives, rewards and sanctions.
- The **MILWAUKEE COUNTY VETERANS TREATMENT COURT (VTC)** supports individuals who have served our country through the armed services, recognizing and addressing the challenges their service may present to veterans and their families. Through this program, veterans receive ready access to treatment programs offered by the Veterans Administration and other veterans service organizations.

The District Attorney's Office's participation in EIP has been supported, in part, by grants to the Milwaukee County court system by the MacArthur Foundation. MacArthur Foundation funding for two assistant district attorney positions ended in December of 2022. When that funding was exhausted, the state eliminated the two positions, reducing staffing in the District Attorney's Office by two. The District Attorney's Office nonetheless

continued the assignment of the two ADAs to EIP, and has requested that the state restore those positions in the 2023-2025 biennium budget. Currently, the MacArthur Foundation grant funds one FTE paralegal position in the District Attorney's Office. That funding will be exhausted in 2023 and is not expected to be renewed.

The District Attorney's role in public safety is, of course, only one of many. Police agencies investigate offenses, determining what evidence will be 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 determine whether offenders remain in custody while charges pending and what sentence an offender will receive upon conviction. These are matters outside of the District Attorney's control, but staff works 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 build trust in the system; and by trying to help 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 state-funded assistant district attorneys, four county-funded victim witness advocates, and a county-funded paralegal, are responsible for criminal referrals of highly complex child abuse and neglect cases in the Child Protection and Advocacy Unit (CPAU). This staff handles 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. The deputy district attorney who supervises the unit handles all homicides involving child abuse and neglect.

In the Children's Court Division, the District Attorney's Children in Need of Protection and 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 District Attorney'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 of attorney and support staff positions that can be used only for child welfare purposes. The office's involvement in these matters which—as with CPAU, involve the County's most vulnerable and at-risk citizens—is initiated when the Division of Milwaukee Child Protective Services (“DMCPS”) becomes involved with a family and makes a referral to our office. This is a large task: Milwaukee County handles approximately 1/3 of all child welfare cases in the State of Wisconsin. In 2022, alone, more than 2000 children were referred to the office as part of CHIPS actions.

Promoting Collective Efficacy

Through a combination of state general purpose revenue and federal, local, and private grants, the District Attorney's Office has assigned eight state-funded assistant district attorney positions as community prosecutors (CPs) in the Community Partnership Unit. As the unit 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. The CP program houses prosecutors and partners at police districts, to facilitate communication

among agencies and neighborhood groups at the district level, in order to facilitate the creation of intervention strategies which will reduce crime, prevent domestic violence and improve the quality of life in the community. It is a non-traditional model for the criminal justice process: it is pro-active, rather than reactive; and it works to abate nuisance activity before it escalates to criminal activity.

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, and to expand economic opportunities, principally for low- and moderate-income persons. They participate in community crime and safety meetings; provide personal, work, and home environment safety trainings at businesses, faith based organizations, and neighborhood association meetings; and take part in community engagement activities (such as National Night Out, domestic violence lit drops; and Drug Takeback events); and they participate in community initiatives (such as the District 4 FBO, which, since 2011, has brought organizations together to share their resources and to share information about community improvement activities).

One of the eight CP positions is a state general purpose revenue funded position; the remaining seven are grant funded. While we are fortunate that the grants have been renewed, grant funding is always tenuous. Consequently, given the importance of the importance of the positions to the community, we have asked the state to convert two of the CP positions to permanent, GPR funding as part of the 2023-2025 biennium budget.

Alignment to the Strategic Plan

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

1A

Like other agencies in County government, we recognize that justice requires that all people have the opportunity for economic stability and advancement. In July of 2022, the District Attorney's Office had approximately 160 full, part-time, or hourly county employees: approximately 80% identified as female: about 52% of them (approximately 42% of the staff as a whole) identified as non-white. As defined in the District Attorney's 2022 EEO report, ten of our county positions are designated as "official/administrator" or "First/Mid-level Manager." As of the time of the 2022 EEO , eight of the ten positions were filled by women; five, by staff who identified as non-white. Another 66 of our positions are identified as "Professionals" in EEO terms: that is, the position requires a college degree or comparable experience. Sixty of those are filled by women; 28 by staff who identify as non-white.

Our office hiring practice compares 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. Moreover, when pay is not equitable, the ability to create and maintain an inclusive culture across county government is crippled. In 2021, alone, the District

Attorney's Office lost 35 county staff members for resignation or retirement; in 2022, another 40 left the office, including 10 who—as part of our Victim Witness Division—were involved in directly providing services to crime victims in Milwaukee County. Many of our staff are in clerical staff positions, where—despite recent across the board raises—the pay is not sufficient to attract and retain staff or to adequately compensate existing staff for their commitment, qualifications, and experience. 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 2021 and 2022, we also experienced a turnover of almost 30% in our state-funded FTE attorney positions. We feel that it is essential that market-based pay equity and pay progression be fully funded on the state level for prosecutors.

For continuity of our operations and service, we prefer to promote from within, when possible, and eight of our current ten official/manager positions were filled by internal promotion. Nonetheless, the opportunity for advancement within the office is limited. This is an issue to staff, in terms of the opportunity for greater professional challenges, pay progression, and job satisfaction. It is an issue for the department in terms of recruitment and staff retention. Consequently, in the 2023 budget, we requested (but did not receive) supplemental funds to establish a professional development program for our staff.

2B

As exemplified by the EIP and the CP program, much of the District Attorney's work involves collaboration with other county agencies and community partners. District Attorney staff is part of the Milwaukee County Violence Response Public Health Safety Initiative (VR-PHAST), which coordinates a unified, multi-sector public health and public safety response to reduce the impact of firearm violence and homicides on individuals, families, and the community. We are active in the Criminal Justice Council (CJC), Pediatric Death Reviews, Overdose Fatality Reviews, Domestic Violence Near-Fatal Incident Reviews, Public Safety Reviews, and other collaborative initiatives. We are returning to the pre-pandemic practice of conducting the domestic violence unit's charging function at the Sojourner Family Peace Center, in order to better serve victims of domestic violence; we have partnered with Sojourner and with every law enforcement agency in Milwaukee County to implement the Lethality Assessment Program – Maryland Model (LAP), which has been identified by the U.S. Department of Justice as a best practice in intimate partner violence matters; and we participate in the Community Domestic Abuse Advocacy Program (CDAAP), unique because it joins law enforcement, domestic violence advocates, and prosecution in a combined effort to reduce domestic violence on a neighborhood level. At every level that our operations permit, we work with law enforcement, criminal justice, and community partners, to expand the vision of justice and to leverage resources to reach it.

3A

Public safety plays a role in health, both the health of an individual who may suffer an

injury as a crime victim and 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 the EIP initiatives, are a few of the ways the District Attorney's Office invests upstream to address public safety and the health of the community.

3B

This office provides constitutionally and state mandated services to the community, the cost of which far exceeds the County's yearly budget awards. Each year, the District Attorney's Office promotes the County's fiscal health by seeking out, private, Federal, and State grants to fund and support our services. Some of those grants fund state ADAs' salaries and benefits and have no tax levy impact. However, we currently have nine grants which provide substantial subsidies for the wages and fringe benefits of Milwaukee County employees working in our office. For the past three years, the subsidies have comprised over thirty-five percent (35%) of our operating budget. If this funding were to cease, the financial burden for essential services would shift to the County.

3C

To further break down barriers and access to our services, in 2022, the District Attorney's Office adopted a comprehensive "Language Access Policy & Plan" procedure relating to those victims and witnesses we serve who have limited proficiency in the English language (limited English proficiency, or "LEP"), to ensure timely and meaningful access to services for all individuals, regardless of national origin or primary language. The District Attorney's Office will take all reasonable steps to identify LEP individuals and to inform LEP persons that language assistance services are available, and will provide free access to language assistance services for all LEP victims and witnesses.

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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ATTACHMENTS:

N/A

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