

## **Minutes**

Eau Claire County  
Committee on Judiciary and Law Enforcement  
Thursday, September 1, 2016 at 4:00 p.m.  
Courthouse – Room 1273

**Members Present:** Sue Miller, Jerry Wilkie, Doug Kranig, Brandon Buchanan, and Sandra McKinney.

**Other Present:** Alynia Froelich, Keith Zehms, Captain Joel Brettingen, Captain Dan Bresina, Lieutenant Pat Christianson, Sean Callister, Tiana Glenna, Diane Hughes, Detective Don Henning, Judge John Manydeeds, James Engel, and Ed Bond.

### **Call Meeting to Order**

The meeting was called to order by Committee Chair Sue Miller at 4:00 pm.

### **Approve Minutes from August 11<sup>th</sup>, 2016 meeting**

Motion made by Jerry Wilkie to approve the 08/11/16 minutes. Motion approved 5-0.

### **CJCC-**

#### **2017 Budget Update**

Tiana Glenna presents.

Discussion for additional addback for living wage increase.

Motion made by Jerry Wilkie to amend approval of previous Budget and include the additional \$9,000 addback. Motion approved 5-0.

#### **CJCC Mid-Year Review**

Materials previously provided.

Sean Callister presents.

#### **CTC monthly reports**

Materials previously provided.

#### **Community Service Reports**

Materials previously provided.

#### **Jail Monthly report**

Materials previously provided.

#### **DNA Surcharge**

Materials previously provided and Fact Sheet provided during meeting.

Keith Zehms presents.

Discussion.

Editorial changes to be made to the draft and represented to the Committee for approval.

#### **Follow-up on Pawnbroker's Ordinance**

Discussion.

Additional information requested.

**Protective Status for Correctional Officers**

Brandon Buchanan, and Captain Joel Brettingen presents.  
Materials provided during the meeting.

Discussion.

Additional information is requested.

**Future Agenda Item(s)**

Drug task force consultant report to be brought in front of the Committee.

Update regarding funeral director fees unpaid to county.

There will be editorial changes/additions to be made to the DNA Surcharge Resolution draft and represented to the Committee for approval.

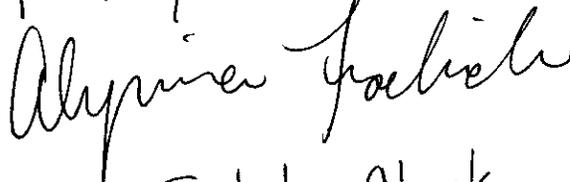
Follow-up with Committee after additional information is collected for the Pawnbroker Ordinance.

Follow-up with Committee after additional information is collected for the Protective Status for Correctional Officers issue.

**Adjourn**

The meeting was adjourned by Committee Chair Sue Miller at 5:39 pm.

Respectfully Submitted by,



Alynia Fraelich - Clerk

**FACT SHEET**

**TO FILE NO. 16-17/**

This Resolution requests a change in Wisconsin Statutes to allow circuit judges discretion regarding adding the DNA surcharge to each and every count in criminal judgments of conviction.

Wis. Stat. § 973.046(1r) mandates the addition of the DNA surcharge, as an item of court costs, for each and every count for which a defendant is convicted.

The surcharge is \$200 for misdemeanors and \$250 for felonies and the total court costs for each misdemeanor count are \$443 and for each felony count are \$518.

Proceeds of the DNA surcharges go to the State of Wisconsin DNA data bank and for training prosecutors in using DNA analysis.

Fiscal Impact:

Respectfully Submitted,

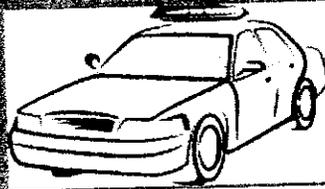
Keith R. Zehms  
Corporation Counsel

KRZ/yk

Ordinance/16-17.DNA Surcharge Fact

## Situation in which Assault Occurred

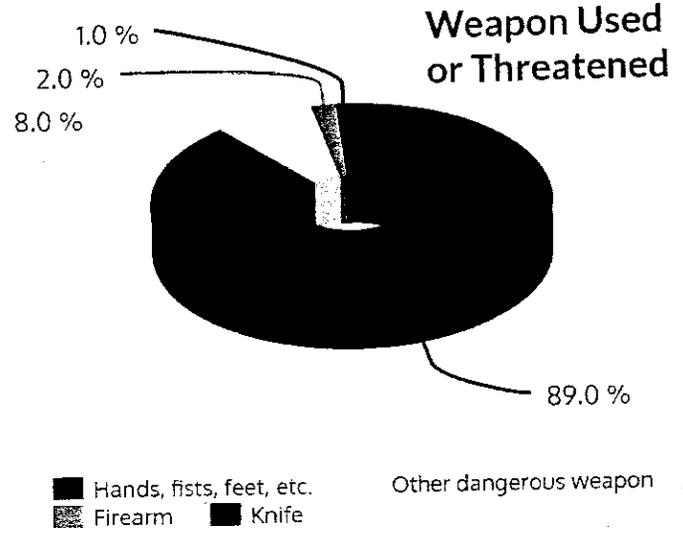
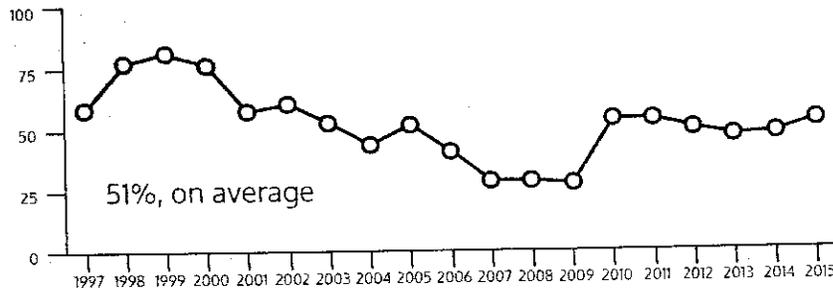
Responding to Disturbance Calls	2,597
Attempting Other Arrests	2,685
Handling, Transporting Prisoners, Etc.	2,231
All Other	1,767
Traffic Pursuits and Stops	1,259
Investigating Suspicious Persons, Etc.	964
Mentally Deranged Offender	376
Burglaries (In Progress or Pursuit)	305
Civil Disorder	96
Robberies (In Progress or Pursuit)	72
Ambush - No Warning	36



76% of assaults against officers were cleared exceptionally or by arrest

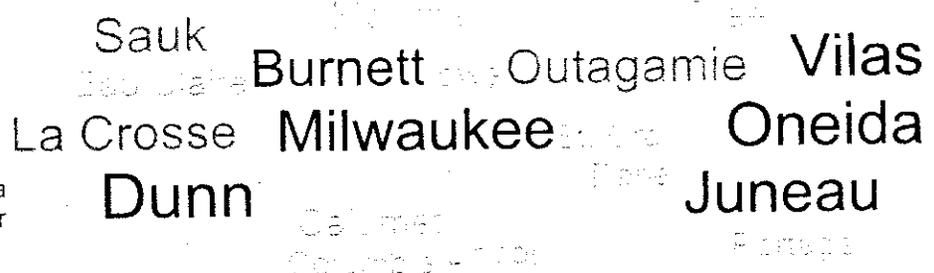


## % of Assaults Resulting in Injury

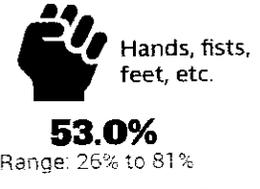


## Relative Number of Assaults Against Sworn Officers by County 2015

Based on the combined agencies within a county, a relative rate was calculated by dividing the number of assaults in 2015 by the number of part-time and full-time sworn officers. Larger word sizes and darker color indicates a higher rate.



## Assaults Resulting in Injury, By Weapon Type (Used or Threatened)



Data have been averaged across years (1997 through 2015)

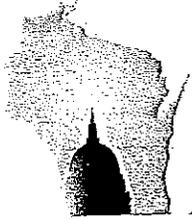
For information about officers who have been killed in the line of duty, please visit the Wisconsin Law Enforcement Memorial site at <http://www.wlem.com>

This report was developed by the Bureau of Justice Information and Analysis  
Division of Law Enforcement Services  
Wisconsin Department of Justice



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**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

**SCOTT WALKER**  
GOVERNOR

**MIKE HUEBSCH**  
SECRETARY

Office of the Secretary  
Post Office Box 7864  
Madison, WI 53707-7864  
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March 26, 2013

David Kaminski  
Badger State Sheriff's Association  
P.O. Box 394  
Bruce, WI 54819

Dear President Kaminski:

I am writing in response to your March 1, 2013 letter in which the Badger State Sheriff's Association ("BSSA") raised questions about 2011 WI Act 10 (Act 10) and the "protective occupation" status of County jail employees. Specifically, you asked me to "confirm if WI Act 10 requires a County to change, reclassify, or remove its jailers or corrections staff from the "protective occupation" status and reclassify them as general municipal employees."

As background, the term "protective occupation participant" is a longstanding definition used to administer Wisconsin Retirement System (WRS) benefits. The term is defined in statute at Wis. Stat. § 40.02(48). Protective occupation participants are in a separate retirement category, with a lower normal retirement age and different contribution rates than "general" and "executive" employees. Accordingly for many years prior to the enactment of Act 10, the Wisconsin Department of Employee Trust Funds (ETF) has made determinations as to whether or not an employee is a "protective occupation participant" for purposes of benefit administration under the WRS.

In administering the WRS program, the law requires that each employer, such as a County, notify ETF of the names of all employees categorized as protective occupation participants. Wis. Stat. § 40.06(1)(d). If an employee disagrees with the decision made by the employer, including a County employer, not to classify the employee as a protective occupation participant, then the employee may appeal that decision to the Employee Trust Funds Board (ETF Board). Wis. Stat. § 40.06(1)(e).

Whether an employee should be categorized by a municipal employer as a protective occupation participant is not a new issue. Municipalities, counties and employees have been wrestling with this definition for many years. Specifically, with respect to certain jail employees, administrative challenges have been brought to determine whether the employee's duties fall within the scope of "active law enforcement" and thereby meet the proper statutory definition. Wis. Stat. § 40.02(48)(a), (b) 3. In response to all of these issues, ETFB has developed a consistent set of criteria to determine how employees should be categorized. These criteria have been tested and reviewed in Wisconsin State Courts.

March 26, 2013

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With the above background in mind, your question about Act 10 can be more easily answered. The statute lists 22 classes of employees who may be defined as 'protective occupation participants' if they are engaged in active law enforcement or active fire suppression or prevention. This list includes the following five classes: police officers, firefighters, deputy sheriffs, county traffic police officers, and individuals employed by towns, villages, or cities as providers of police and fire protection services. Wis. Stat. § 40.02(48)(am) 9., 10., 13., 15., and 22.

In Act 10 the legislature identified these five specific classes of employees as "public safety employees" for purposes of collective bargaining. Wis. Stat. § 111.70(1)(mm). In essence, the legislature borrowed these ETFB statutory definitions which apply to WRS administration for the entirely separate and additional purpose of defining public safety employees for collective bargaining purposes. However, the fact that Act 10 borrowed these definitions used for collective bargaining purposes did not in any way change or alter the longstanding ETFB interpretation or application of Wis. Stat. § 40.02(48) for WRS purposes. Moreover, Act 10 did not create, change or alter the longstanding WRS law which requires that County employers notify DETF of the names of all employees categorized as protective occupation participants.

As noted above, the determination of whether an employee is or is not a protective occupation participant has been an issue that has been resolved by the ETFB for many years prior to the implementation of Act 10. Whether or not an employee is a "protective occupation participant" is a decision made by the municipal employer, based upon well-established criteria and subject to review by the ETFB. Therefore with respect to the WRS, we can find no legislative directive whereby Act 10 requires a County to change, reclassify, or remove its jailers or corrections staff from the "protective occupation" status and reclassify them as general municipal employees.

I trust that the above information answers your questions.

Sincerely,



Mike Huebsch  
Secretary



STATE OF WISCONSIN  
Department of Employee Trust Funds  
Robert J. Conlin  
SECRETARY

801 W Badger Road  
PO Box 7931  
Madison WI 53707-7931

1-877-533-5020 (toll free)  
Fax (608) 267-4549  
<http://etf.wi.gov>

March 11, 2013

David Kaminski, President  
Badger State Sheriffs' Association, Inc.  
P.O. Box 394  
Bruce, WI 54819

Dear Sheriff Kaminski:

Thank you and the Badger State Sheriffs' Association (BSSA) for the invitation to talk at the recent BSSA training conference in Madison. The Department of Employee Trust Funds (ETF) appreciates the opportunity to provide information to stakeholder groups, such as BSSA, about the Wisconsin Retirement System (WRS).

I am writing in response to your March 1, 2013 letter regarding county jailers and the determination of an employment category for purposes of the WRS. You asked "whether any provision in Wisconsin Statutes or within the ETF rules provides that it is improper, unlawful, or illegal for a County to classify a Jailer or Corrections Officer as a protective status employee?"

There are four WRS employment categories. The Protective Occupation under Social Security category includes only those employees whose principal duties (51% or more) meet all of the following requirements as specified in Wis. Stat. § 40.02 (48) (a):

1. Involvement in active law enforcement or active fire suppression or prevention,
2. Frequent exposure to a high degree of danger or peril, and
3. A high degree of physical conditioning.

Wis. Stat. § 40.02 (48) (am) enumerates specific occupations typically qualifying for protective occupation participation. Bearing the title of one of the occupations listed does not, however, automatically confer protective occupation participant status upon the employee. The employee's principal duties must also meet the "protective occupation participant" requirements defined in § 40.02 (48) (a), Wis. Stat.

It is the WRS employer's responsibility to determine if the employee performs duties that meet these requirements and to report the appropriate employment category to ETF. That responsibility applies regardless of whether the employee is a jailer, correction officer, or other classification. There is no prohibition against jailers or correction officers being reported in the WRS Protective Occupation under Social Security employment category, provided their duties meet the criteria in Wis. Stat. § 40.02(48)(a).

BSSA-County Jailers  
March 11, 2013  
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I hope this helps answer your question. Please do not hesitate to contact me at 608-266-1210 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Stohr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Matt Stohr, Administrator  
Retirement Services Division

cc: Dean C. Meyer, Executive Director, BSSA



# Badger State Sheriffs' Association, Inc.

An Association of Wisconsin Sheriffs  
Dean C. Meyer, Executive Director

President Sheriff David Kaminski  
1<sup>st</sup> Vice President Sheriff Brent Oleson  
2<sup>nd</sup> Vice President Sheriff Kim Gaffney  
Secretary Sheriff Todd Nehls  
Treasurer Sheriff John Gossage

TO: Wisconsin Sheriffs  
FROM: Sheriff David Kaminski, BSSA President  
Date: April 4, 2013  
REF: **ETF and DOA Responses To Jailer Protective Status Questions**

As most everyone knows, the Badger State Sheriffs' Association (BSSA) has been active in assisting individual County Sheriffs who have been attempting to work cooperatively with their County Boards or other County Committees on the issue of changing the retirement status of jail employees.

Since the passage of Wisconsin ACT 10, many Counties have been getting outside guidance and legal advice indicating that Wisconsin law now somehow requires individual Counties to change the retirement status of jail employees. In some instances, the legal advisers have gone as far as to state that such a change "is the law."

After learning of this information, I wrote to Mr. Matt Stohr, Administrator of the Wisconsin Department of Employee Trust Fund, and asked specifically if it was improper, unlawful, or illegal for Counties to classify jail employees in the "protective status" category. Mr. Stohr's response was that it was not (see the ETF letter attached).

I also wrote to DOA Secretary Michael Huebsch to specifically ask if there is any requirement associated with Wisconsin ACT 10 that now requires Counties to make such changes for their jail employees. Secretary Huebsch's response was clear, stating there is no such requirement as a result of WI ACT 10 (see the DOA letter attached).

The BSSA has always believed that the employment status and work responsibilities of all Wisconsin jail employees should be collectively determined by each individual County Sheriff in cooperation with their respective County Boards. Cooperation and collaboration is the key to effective management.

Far too often, jail staff and jail operations are viewed as low priority because they are "out-of-sight, out-of-mind." As you all know, your jail staff are working in a potentially dangerous and hazardous environment. Professional employees are essential to the safe and secure operations of every County Jail.

If you are a Sheriff who is attempting to work through forced changes as a result of incomplete or somewhat misleading advice, these two letters should help you to clear up any related confusion.

Dean C. Meyer, Executive Director      P.O. Box 394, Bruce, WI 54819  
Phone: 715-415-2412      FAX: 715-868-3327      E-mail: badgersheriff@brucetel.net