

State of Alaska FY2005 Governor's Operating Budget

Department of Law

Contents

Department of Law	3
Mission	3
Core Services	3
End Results	3
Strategies to Achieve Results	3
Key Department Challenges	6
Significant Changes in Results to be Delivered in FY2005	8
Major Department Accomplishments in 2003	9
Prioritization of Agency Programs	10
Contact Information	10
Department Budget Summary by RDU	11
Funding Source Summary	12
Position Summary	12
Summary of Department Budget Changes by RDU	13

Department of Law

Mission

The mission of the Department of Law is to provide legal services to state government and to prosecute crime.

Core Services

The Department of Law's core services are reflected in its three divisions also known as results delivery units (RDUs):

The Criminal Division RDU protects the public by prosecuting all violations of state criminal law committed by adults, and a large portion of the serious crimes committed by juveniles, and by placing them under appropriate controls. The Criminal Division provides assistance to victims and witnesses of crimes and supports the efforts of criminal justice agencies to detect and punish crime through investigation, trial, and conviction; it also provides general legal services to the Departments of Corrections and Public Safety relating to their criminal justice activities. The Criminal Division has District Attorney offices in thirteen Alaskan communities.

The Civil Division RDU supports the Civil Division of the Department of Law. The Civil Division serves the interests of Alaska's citizens by providing legal counsel to the executive branch in all civil actions. The division defends and prosecutes all civil litigation to which the state is a party, and handles legal matters for and provides legal advice to the governor, executive branch agencies, and -- upon request -- the legislative and judicial branches. The Civil Division BRU includes components supporting 12 sections: (1) the Deputy Attorney General's Office; (2) Collections and Support; (3) Commercial and Fair Business Practices; (4) Environmental Law; (5) Human Services; (6) Labor and State Affairs; (7) Natural Resources; (8) Oil, Gas and Mining; (9) Opinions, Appeals and Ethics; (10) Torts and Workers' Compensation; (11) Transportation; and (12) Timekeeping and Support.

The Administration and Support Division RDU includes the Office of the Attorney General, the Legislation and Regulations Section and the Administrative Services Division. The Administration and Support Division RDU includes the Office of the Attorney General, the Legislation and Regulations Section and the Administrative Services Division. The Office of the Attorney General provides overall management of the Department of Law. The Attorney General, as the principal executive officer of the department, is responsible for both the legal and the administrative aspects of the department's operations. Within the Office of the Attorney General, the Legislation and Regulations Section drafts and edits legislation on behalf of the governor for introduction in the legislature, tracks and reviews all legislation for legal issues before the governor acts on it, and reviews virtually all regulations adopted by the executive branch for compliance with legal requirements. The Administrative Services Division provides the core administrative services that are essential to the day-to-day operation of the Department of Law and to managing the resources of the department.

End Results	Strategies to Achieve Results
<p>(1) Improve Public Protection</p> <p><u>Target:</u> Increase to 75% the number of cases on which the State prevailed on the merits at final resolution</p> <p><u>Measure:</u> Percentage of cases on which the State prevailed on the merits at final resolution</p> <p>(2) Increase Effectiveness of Legal Services</p> <p><u>Target:</u> Increase to 75% the number of cases on which the State prevailed on the merits at final resolution</p> <p><u>Measure:</u> Percentage of cases on which the State prevailed on the merits at final resolution</p> <p>(3) Efficiently Provide Highest Quality Legal Services to the State</p>	<p>(1) One: Improving Public Safety Against Serious Assault</p> <p><u>Target:</u> Reduce the rate of violent crime reported in Alaska by 1% per year.</p> <p><u>Measure:</u> Percent violent crimes per 100,000 population reported</p> <p>(2) Two: Enhance the welfare of children</p> <p><u>Target:</u> Reducing the number of children in foster care in Alaska by 5%</p> <p><u>Measure:</u> Percent change in the number of children in foster care in Alaska</p> <p><u>Target:</u> Increase the amount of support received by</p>

End Results	Strategies to Achieve Results
<p><u>Target:</u> Increase to 75% the percentage of state agencies responding that rank the quality of legal services provided as good to excellent</p> <p><u>Measure:</u> Percentage of state agencies responding that rank the quality of legal services provided as good to excellent</p>	<p>families through CSED by 1% each year</p> <p><u>Measure:</u> Percent change in total dollar amount of child support received by families through CSED each year</p> <p><u>Target:</u> Reduce the number of child sexual abuse cases by 5%</p> <p><u>Measure:</u> Percent change in the number of child sexual abuse cases reported each year</p> <p>(3) Three: Enhance the protection of victims of crimes and delinquent acts</p> <p><u>Target:</u> Reduce to zero the number of submitted complaints from victims</p> <p><u>Measure:</u> The number of submitted complaints from victims</p> <p>(4) Four: Increase Consumer Protection in Alaska</p> <p><u>Target:</u> 5% increase per year in successful resolution of consumer complaints and enforcement action</p> <p><u>Measure:</u> Percent change in number of consumer complaints resolved and enforcement actions taken</p> <p>(5) One: Improve Agency Decision Making</p> <p><u>Target:</u> 5% per year reduction in legal challenges to final agency decisions through:</p> <p><u>Measure:</u> Percent change in number of challenges to agency decisions per year</p> <p><u>Target:</u> Increase to 100% the number of requests for advice and regulation review delivered on time</p> <p><u>Measure:</u> Percent change in the number of responses to requests for advice and request for regulation review delivered on time</p> <p>(6) Two: Improve Prosecution and Defense of Civil Claims</p> <p><u>Target:</u> 5% improvement per year in percentage of cases in which the state obtains a fair resolution through:</p> <p><u>Measure:</u> Percent change in number of cases resolved in which the state obtains a fair outcome</p> <p>(7) One: Improve Civil Division Structure and Organization</p> <p><u>Target:</u> Implement all Conference of Western Attorneys General recommendations approved by the Attorney General.</p> <p><u>Measure:</u> Number of CWAG Recommendations Approved Implemented.</p>

FY2005 Resources Allocated to Achieve Results

FY2005 Department Budget: \$50,106,100	Personnel:	
	Full time	481
	Part time	9
	Total	490

Performance Measure Detail

(1) Result: Improve Public Protection

Target: Increase to 75% the number of cases on which the State prevailed on the merits at final resolution

Measure: Percentage of cases on which the State prevailed on the merits at final resolution

(2) Result: Increase Effectiveness of Legal Services

Target: Increase to 75% the number of cases on which the State prevailed on the merits at final resolution

Measure: Percentage of cases on which the State prevailed on the merits at final resolution

(3) Result: Efficiently Provide Highest Quality Legal Services to the State

Target: Increase to 75% the percentage of state agencies responding that rank the quality of legal services provided as good to excellent

Measure: Percentage of state agencies responding that rank the quality of legal services provided as good to excellent

(1) Strategy: One: Improving Public Safety Against Serious Assault

Target: Reduce the rate of violent crime reported in Alaska by 1% per year.

Measure: Percent violent crimes per 100,000 population reported

(2) Strategy: Two: Enhance the welfare of children

Target: Reducing the number of children in foster care in Alaska by 5%

Measure: Percent change in the number of children in foster care in Alaska

Target: Increase the amount of support received by families through CSED by 1% each year

Measure: Percent change in total dollar amount of child support received by families through CSED each year

Target: Reduce the number of child sexual abuse cases by 5%

Measure: Percent change in the number of child sexual abuse cases reported each year

(3) Strategy: Three: Enhance the protection of victims of crimes and delinquent acts

Target: Reduce to zero the number of submitted complaints from victims

Measure: The number of submitted complaints from victims

(4) Strategy: Four: Increase Consumer Protection in Alaska

Target: 5% increase per year in successful resolution of consumer complaints and enforcement action

Measure: Percent change in number of consumer complaints resolved and enforcement actions taken

(5) Strategy: One: Improve Agency Decision Making

Target: 5% per year reduction in legal challenges to final agency decisions through:

Measure: Percent change in number of challenges to agency decisions per year

Target: Increase to 100% the number of requests for advice and regulation review delivered on time

Measure: Percent change in the number of responses to requests for advice and request for regulation review delivered on time

(6) Strategy: Two: Improve Prosecution and Defense of Civil Claims

Target: 5% improvement per year in percentage of cases in which the state obtains a fair resolution through:

Measure: Percent change in number of cases resolved in which the state obtains a fair outcome

(7) Strategy: One: Improve Civil Division Structure and Organization

Target: Implement all Conference of Western Attorneys General recommendations approved by the Attorney General.

Measure: Number of CWAG Recommendations Approved Implemented.

Key Department Challenges

CRIMINAL DIVISION:

RESPONDING TO AN INCREASING FELONY CASELOAD.

There has been an increase of 60% in felonies and 10% in misdemeanors in the last decade sent to the Criminal Division for prosecution. Appellate cases saw an increase of 45%. Yet there was only a 10% increase in general fund attorney staff. This case overload has had the inevitable effect of resulting in a higher percentage of cases being plea-bargained to lower charges. For FY 2004, the results of this case overload will continue to worsen. The Governor's FY 2005 budget includes increases that would allow the addition of a total of six positions - both prosecutors and appellate attorneys - that will bring much needed caseload relief to the Criminal Division.

ATTRACTING AND RETAINING STATE PROSECUTORS

The Criminal Division faces a challenge, currently and long term, to attract attorneys willing to serve the public as state prosecutors, in both urban and rural Alaska. The high caseload discussed above is only one of the factors that contributes to high attorney turnover and makes private practice more attractive to most entry-level and, especially, experienced attorneys. Attracting qualified attorneys to rural locations is also a long term challenge.

RESPONDING TO CIVIL LITIGATION CHALLENGING CRIMINAL LAWS

Along with heavy criminal caseloads, the Criminal Division is often called on to defend the legality of new laws. Although much of this litigation occurs within the context of a specific criminal prosecution, other litigation is often filed as class action lawsuits, requiring significant unbudgeted efforts. For example, there is ongoing litigation over the legality of sex offender registration laws and the DNA databank.

CIVIL DIVISION:

PROTECTING ALASKAN CHILDREN AND RESPONDING TO JUVENILE DELINQUENCY CASES

The Division continues to be extremely concerned about child protection workloads. Statutory changes at the state and federal level have reduced the amount of time that children may remain in the child protection legal system. These changes have accelerated the pace of these cases so that if reunification with the family is not in the child's best interest, the child can more quickly be legally eligible for placement in a permanent home. The changes also mandate additional court proceedings to ensure a more timely permanent plan for the child. The accelerated schedules, additional hearings, and accompanying document preparation have greatly expanded attorney workloads. Also, trial attorneys currently must handle about half of the appeals in child abuse and neglect cases because we have only one appellate attorney devoted to CINA appeals. If we are to effectively manage these important responsibilities, we must significantly add to our current attorney positions for child protection work. We need additional attorneys also to help the Office of Children's Services meet certain goals for purposes of federal funding. Further, our work for the Division of Juvenile Justice is seriously limited due to understaffing; additional attorneys are needed to achieve the division's goal of protecting the public and rehabilitating juveniles. We also need added paraprofessional support to assist our Fairbanks Human Services section.

ADVOCATING PUBLIC INTEREST IN REGULATORY MATTERS

Executive Order 111 transferred the public advocacy function of the Regulatory Commission of Alaska (RCA) to the attorney general. The attorney general is tasked with advocating on behalf of the public interest in regulatory matters before the RCA. In the current and upcoming fiscal year, this new authority will require the attorney general to develop standards and procedures to enhance the effectiveness of our advocacy efforts. Challenges include maintaining adequate funding for the public advocacy function and developing expertise in the areas of finance, economics and engineering.

PROTECTING ALASKAN CONSUMERS AND ENFORCING ANTITRUST LAWS

Alaska is a target state for many types of consumer fraud. Under the Consumer Protection Act, the attorney general is authorized to investigate and bring enforcement action against businesses that engage in unfair or deceptive trade practices. Because of our limited funding and staffing, and because the office has enforcement authority over the entire state, we are forced to turn away many legitimate cases of consumer fraud. We direct our enforcement activities to fraud affecting a large number of consumers or involving large dollar amounts, and often we do not have sufficient resources even for those cases.

DEVELOPING GAS PIPELINE FISCAL TERMS / PROTECTING AND ENHANCING OIL & GAS REVENUES

During FY 2005, the Oil, Gas, & Mining section will be engaged in highly complex litigation and negotiations over the Trans-Alaskan Pipeline (TAPS) tariffs. The existing TAPS intrastate tariff methodology was successfully challenged by certain shippers before the Regulatory Commission of Alaska, and is on appeal to the superior court. Uncertainty over the tariff has prompted the TAPS owners and the state to try to negotiate a mutually acceptable replacement tariff methodology. The section will also play an integral role in negotiating and drafting the fiscal terms of a gas pipeline project under the Alaska Stranded Gas Development Act. Negotiations under the Act raise numerous complex legal issues with respect to providing fiscal certainty for project sponsors, and changes to the state's taxes on North Slope gas production.

DEFENDING STATE'S RIGHTS

During FY 2005, the Statehood Defense unit will continue to represent the state in *Alaska v. United States*, Original No. 128, before the United States Supreme Court to quiet title to the submerged lands underlying the marine waters of the

Tongass National Forest and Glacier Bay National Park. The attorneys also will work to protect and ensure access to state and private lands and on public waters across Alaska through assertions of RS 2477 rights-of-way, ANILCA access rights, and ownership of navigable waters. They will continue to work with the Department of Natural Resources and the Department of Fish and Game to file with the Bureau of Land Management (BLM) additional applications for recordable disclaimers of interest for submerged lands.

The Statehood Defense unit also will participate in the ongoing federal rulemaking relating to application of the national Roadless Rule to Alaska's Tongass and Chugach National Forests. The attorneys will continue to closely monitor the federal subsistence program, prepare state comments, and challenge actions by the Federal Subsistence Board when necessary. They also will continue to work on tribal sovereignty issues that impact state interests.

PLANNING ACCESS DEVELOPMENT – ROADS & BRIDGES

In the coming year, the transportation section will assist with implementation of the Department of Transportation's plans relating to development of bridges to Gravina Island, access to Juneau, an extension of Abbot Loop Road in Anchorage, a Knik Arm Bridge, and resource development roads.

Significant Changes in Results to be Delivered in FY2005

CRIMINAL DIVISION

If funds are approved to add the six additional prosecution and appellate positions sought by the Attorney General in the Governor's FY 2005 operating budget, the following targeted results could be achieved:

- 55% of violent felony referrals accepted for prosecution will be resolved with a felony conviction (rather than a misdemeanor conviction)
- 25% of violent felony crimes accepted for prosecution will be resolved with a felony conviction that has not been reduced
- 67% of misdemeanor DV assaults accepted for prosecution will be convicted of a class A misdemeanor, rather than a lesser offense

CIVIL DIVISION

If funds are approved to add the additional staff resources sought by the Attorney General in the Governor's FY 2005 operating budget, the following targeted results could be achieved:

- Improve public protection by enhancing the welfare of children in Alaska. Overall, our goal is to reduce the number of children in foster care in Alaska by five percent per year. Three attorneys and one paralegal are requested to handle Anchorage, Fairbanks and Bethel cases to achieve our goals of ensuring permanency plans for Alaska's children in a timely fashion and reducing the number of children in state foster care by five percent per year. We also need funding for one additional attorney to handle appeals in child neglect and delinquency cases, primarily cases from Fairbanks, Bethel, Barrow and Southeast. With an additional position, the division will again be able to handle approximately 17 percent of the Anchorage and Kenai delinquency cases, representing generally the most serious offenses.
- Improve agency decision making through the addition of an attorney position focussed on improved services in the areas of Indian law and advice and training in ethics for state government. Two additional attorneys working employment and labor law are requested to respond to the steady increases in the frequency and complexity of lawsuits and other disputes involving labor and employment issues. This request also supports our goal of avoiding costly employment litigation by increasing our responsiveness to agencies' requests for legal advice and guidance to resolve labor and employment disputes when they arise.

ATTORNEY GENERAL'S OFFICE

If funds are approved to add an additional attorney needed for the Legislation and Regulations the following targeted results could be achieved:

- 100% on-time response to requests for legislative review/drafting or regulation review/drafting measured by the percentage of responses delivered within a mutually agreed time period.
- The additional staff resources will also mean that we will be able to increase public awareness of agency regulation adoption process by holding one informational meeting for the public per year.

Major Department Accomplishments in 2003

CRIMINAL DIVISION:

- In the fiscal year ending June 30, 2003, over 31,000 cases (including 8,500 felony, 22,000 misdemeanor, and 1,000 other cases) were handled by the Criminal Division—an all-time record.
- The United States Supreme Court reversed the Ninth Circuit Court of Appeals, and upheld Alaska's Sex Offender Registration law against a constitutional challenge, although further litigation continues. The Department of Public Safety's popular sex offender internet website was placed back in operation.

CIVIL DIVISION:

- Child Protection: In 2003, the division continued to participate in the interagency effort (Balloon Project) to reduce the backlog of children who remain in foster care longer than state and federal laws permit. As of June 30, 2003, 96 percent of the children in long-term foster care were in a permanent placement, and in five percent of the cases, we have completed the legal work to free the children for adoption.
- Collections and Support: The division collected over \$3.8 million in FY 2003 in criminal fines, cost of appointed counsel, cost of imprisonment, civil judgments owed to the State of Alaska, and victim restitution. Of this amount, the division collected and disbursed to victims over \$750,000 in restitution.
- Consumer Protection and Antitrust Enforcement: The division collected \$370,000 from three consumer protection cases.
- Environmental: In a case before the United States Supreme Court, the division defended, against the federal EPA, the right of the state to make decisions on the technology that a company must use to control emissions at the Red Dog Mine. The state's case was argued before the Supreme Court on October 8, 2003, and a decision is anticipated by June 2004.
- Statehood Defense: Attorneys in the Statehood Defense unit achieved a favorable settlement in the state's suit against the United States over applicability of the Forest Service's Roadless Rule to Alaska's National Forests.
- Statehood Defense: The state received the first recordable disclaimer of interest for submerged land in the nation, for the lands underlying the Black River in Interior Alaska. We filed five applications with the Bureau of Land Management for recordable disclaimers of interest for lands underlying navigable waters and plan to file more in the near future. After reviewing the state's brief in support of summary judgment on the issue of ownership of submerged lands underlying marine waters in the Tongass National Forest, the United States conceded that the state has title to most of the lands in question.
- Torts: The division prevailed at trial in a class action lawsuit arising out of the Miller's Reach fire in June 1999. Although the case was difficult, a unanimous jury concluded that the state was not negligent in fighting the fire. The division also prevailed on appeal in *Kiokun v State*, a case that challenged the state's duty to initiate a search and rescue. The Alaska Supreme Court reversed a multi-million dollar judgment against the Alaska State Troopers and

entered judgment in favor of the state.

Prioritization of Agency Programs

(Statutory Reference AS 37.07.050(a)(13))

The mission of the department of law is to provide legal services to state agencies and prosecute crime. In defining the priority order of services delivered (which may be a better description than programs), we looked to the mission statement and listed those services which most directly impact public protection first.

1. Public Protection
2. Deliver Effective Legal Services

Contact Information

Commissioner: Gregg D. Renkes
Phone: (907) 465-2133
Fax: (907) 465-2075
E-mail: gregg_renkes@law.state.ak.us

**Administrative
Services Director:** Kathryn Daughhetee
Phone: (907) 465-3673
Fax: (907) 465-5419
E-mail: kathryn_daughhetee@law.state.ak.us

Department Budget Summary by RDU

All dollars shown in thousands

	FY2003 Actuals				FY2004 Authorized				FY2005 Governor			
	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds
<u>Formula Expenditures</u>												
None.												
<u>Non-Formula Expenditures</u>												
Office of the Attorney General	339.8	0.0	0.0	339.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Criminal Division	14,334.4	351.0	1,171.0	15,856.4	14,432.7	499.3	1,741.7	16,673.7	15,630.4	640.7	1,819.3	18,090.4
Civil Division	16,788.0	0.0	16,106.8	32,894.8	11,929.2	0.0	16,167.5	28,096.7	12,512.2	0.0	16,726.9	29,239.1
Statehood Defense	1,030.7	0.0	29.6	1,060.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Oil and Gas Litigation & Legal	2,959.0	0.0	1,477.0	4,436.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Administration and Support	580.7	0.0	641.2	1,221.9	1,254.8	0.0	709.9	1,964.7	1,808.5	0.0	968.1	2,776.6
Agy-wide Unallocated Reduction	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Totals	36,032.6	351.0	19,425.6	55,809.2	27,616.7	499.3	18,619.1	46,735.1	29,951.1	640.7	19,514.3	50,106.1

Funding Source Summary

All dollars in thousands

Funding Sources	FY2003 Actuals	FY2004 Authorized	FY2005 Governor
1002 Federal Receipts	351.0	499.3	640.7
1003 General Fund Match	117.0	158.6	165.7
1004 General Fund Receipts	35,472.9	27,001.5	29,308.1
1005 General Fund/Program Receipts	378.9	392.8	410.5
1007 Inter-Agency Receipts	17,001.9	15,717.9	16,553.0
1029 Public Employees Retirement Fund	71.4		
1037 General Fund / Mental Health	63.8	63.8	66.8
1055 Inter-agency/Oil & Hazardous Waste	481.1	485.2	506.6
1066 Public School Fund	42.8		
1105 Alaska Permanent Fund Corporation Receipts	1,477.0	1,477.0	1,477.0
1108 Statutory Designated Program Receipts	281.0	808.9	842.5
1134 Fish and Game Criminal Fines and Penalties	70.4	130.1	135.2
Totals	55,809.2	46,735.1	50,106.1

Position Summary

Funding Sources	FY2004 Authorized	FY2005 Governor
Permanent Full Time	475	481
Permanent Part Time	13	9
Non Permanent	0	0
Totals	488	490

Summary of Department Budget Changes by RDU

From FY2004 Authorized to FY2005 Governor

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2004 Authorized	27,616.7	499.3	18,619.1	46,735.1
Adjustments which will continue current level of service:				
-Criminal Division	327.5	21.4	77.6	426.5
-Civil Division	-94.7	0.0	570.2	475.5
-Administration and Support	50.6	0.0	127.4	178.0
Proposed budget increases:				
-Criminal Division	870.2	120.0	0.0	990.2
-Civil Division	1,033.4	0.0	120.0	1,153.4
-Administration and Support	147.4	0.0	0.0	147.4
FY2005 Governor	29,951.1	640.7	19,514.3	50,106.1