

# **State of Alaska FY2007 Governor's Operating Budget**

**Department of Law**

## 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 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. The Attorney General works closely with the Governor and his immediate staff providing legal counsel and advice as the Governor addresses his priorities and conducts his affairs. The Attorney General serves as a trustee on both the Permanent Fund Board and the Exxon Valdez Trustee Council and represents the Department of Law on a number of interdepartmental efforts.

The Criminal Division protects the public by prosecuting all violations of state criminal law committed by adults and juveniles, and by placing them under appropriate controls. The Criminal Division also provides focused and specialized prosecution in a number of areas such as the newly created Statewide Sexual Assault and Domestic Violence Unit and the Rural Prosecution Unit. The Criminal Division provides assistance to victims and witnesses of crimes and ensures that victims are kept informed of important events in their cases and that their constitutional and statutory rights are protected. The Criminal Division supports the efforts of criminal justice agencies to detect and punish crime through investigation, trial, and conviction, by litigating all criminal appellate proceedings and state and federal post-conviction and habeas corpus proceedings. In addition, the Criminal Division also handles civil litigation challenging statutes related to criminal justice, such as sex offender registration, DNA databank, victims' rights, and physician-assisted suicide. The Criminal Division also provides general legal services to criminal justice agencies and efforts.

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; reviews regulations prepared by executive agencies; drafts legislation for introduction by the governor; and reviews all legislation before it is acted upon by the governor.

Activities of the Civil Division help protect the financial and natural resources of the state, defend Alaskans' access to the state's land and natural resources, and ensure that the laws and regulations that govern businesses, individuals, and government agencies are constitutional. The division takes action to protect children from abuse and neglect, enforce child support obligations, guarantee that state programs are administered fairly and that money owed to the state is collected, defend the state's interests relative to the federal government, and defend the state from unreasonable demands for payment of costs of lawsuits, personnel actions, and personal injuries. It protects the state's financial resources by advising agencies on decisions that might lead to financial claims, defending against unreasonable claims, and facilitating reasonable settlements or other appropriate resolution of issues.

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. These include budgeting, procurement, accounting, computer and network services, database administration, timekeeping and billing, and monitoring and forecasting departmental expenses.

End Results	Strategies to Achieve Results
<p><b>A: Improve Public Protection and Effectiveness of Legal Services</b></p> <p><u>Target #1:</u> Increase to 75% the number of cases on which the State prevailed on the merits at final resolution</p>	<p><b>A1: Improving Public Safety Against Serious Assault</b></p> <p><u>Target #1:</u> Reduce the rate of violent crime reported in Alaska by 1% per year.</p> <p><u>Measure #1:</u> Percent violent crimes per 100,000</p>

Measure #1: Percentage of cases on which the State prevailed on the merits at final resolution

population reported

**A2: Enhance the welfare of children**

Target #1: Reducing the number of children in foster care in Alaska by 5%

Measure #1: Percent change in the number of children in foster care in Alaska

Target #2: Increase the amount of support received by families through CSED by 1% each year

Measure #2: Percent change in total dollar amount of child support received by families through CSED each year

Target #3: Reduce the number of child sexual abuse cases by 5%

Measure #3: Percent change in the number of child sexual abuse cases reported each year

**A3: Enhance the protection of victims of crimes and delinquent acts**

Target #1: Reduce to zero the number of valid complaints from victims

Measure #1: The number of valid complaints from victims

**A4: Enhance Consumer Protection in Alaska**

Target #1: Increase effective consumer protection enforcement through successful resolution of consumer complaints, enforcement actions and consumer education  
Measure #1: Increase in the number of consumer complaints resolved, enforcement actions taken, and consumer education initiatives completed

**A5: Improve Agency Decision Making**

Target #1: 5% reduction per year in legal challenges to final agency decisions in which the state does not prevail

Measure #1: % reduction in legal challenges to agency decisions per year in which the state does not prevail

**FY2007 Resources Allocated to Achieve Results**

FY2007 Department Budget: \$64,169,100

**Personnel:**

Full time	531
Part time	9
<b>Total</b>	<b>540</b>

**Performance Measure Detail**

**A: Result - Improve Public Protection and Effectiveness of Legal Services**

**Target #1:** Increase to 75% the number of cases on which the State prevailed on the merits at final resolution

**Measure #1:** Percentage of cases on which the State prevailed on the merits at final resolution

### **A1: Strategy - Improving Public Safety Against Serious Assault**

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

**Measure #1:** Percent violent crimes per 100,000 population reported

### **A2: Strategy - Enhance the welfare of children**

**Target #1:** Reducing the number of children in foster care in Alaska by 5%

**Measure #1:** Percent change in the number of children in foster care in Alaska

**Target #2:** Increase the amount of support received by families through CSED by 1% each year

**Measure #2:** Percent change in total dollar amount of child support received by families through CSED each year

**Target #3:** Reduce the number of child sexual abuse cases by 5%

**Measure #3:** Percent change in the number of child sexual abuse cases reported each year

### **A3: Strategy - Enhance the protection of victims of crimes and delinquent acts**

**Target #1:** Reduce to zero the number of valid complaints from victims

**Measure #1:** The number of valid complaints from victims

### **A4: Strategy - Enhance Consumer Protection in Alaska**

**Target #1:** Increase effective consumer protection enforcement through successful resolution of consumer complaints, enforcement actions and consumer education

**Measure #1:** Increase in the number of consumer complaints resolved, enforcement actions taken, and consumer education initiatives completed

### **A5: Strategy - Improve Agency Decision Making**

**Target #1:** 5% reduction per year in legal challenges to final agency decisions in which the state does not prevail

**Measure #1:** % reduction in legal challenges to agency decisions per year in which the state does not prevail

## **Key Department Challenges**

### **STATEWIDE**

#### **RECRUITMENT AND RETENTION**

Attracting attorneys willing to serve the public as state prosecutors and assistant attorneys general in both urban and rural Alaska is a continuing challenge. The high caseload is only one of the factors that contributes to high attorney

turnover and makes private practice more attractive to both entry-level and especially, experienced attorneys. Attracting qualified attorneys to rural locations such as Bethel, Kotzebue and Barrow has long been a challenge; but we are also experiencing difficulties with recruiting and retaining attorneys in our urban locations. The primary reason for this serious problem is that the state's salaries for attorneys are not competitive with similar jobs in both the private and public sector. Law school graduates often have large student loans and cannot afford to take state legal positions when other public and private sector employers pay higher entry salaries. We are also losing experienced attorneys with many years of state service to jobs with higher pay in other public and private offices. These attorneys also leave because of the division's heavy caseloads. They can find more attractive, less stressful, jobs at higher pay in the private sector. The division needs to address this problem. We are working toward a solution that would involve increasing salaries but at this point, do not have enough information to propose a new salary scheme and request funding for it. The hiring and retention of qualified, skilled attorneys directly impacts the state's ability to achieve results in court.

## TECHNOLOGY UPGRADE

The Department has embarked upon a several-tiered project to enhance the organization and efficiency of legal work through the use of technology. In the spring of 2005, a consultant was hired to review off-the-shelf applications that are available to the legal community to improve timekeeping and billing, provide full-blown case management and document management as well as potentially replace and unify the beleaguered collections and restitution data bases. The consultant recommended the implementation of ProLaw to provide a unified solution. The project is well underway at this point but will create challenges as we go forward with implementation. At the same time, we are facing challenges from other branches of technology as we consider migrating to the state's selected provider for network operating systems, file and print, and email. This migration will be a significant undertaking for Law and will need to be well planned in order to be executed without disruption. The state is also undertaking a project to provide higher network security to agencies. At the same time we are looking at providing video communication between our major offices to increase effective communication between the offices.

## CRIMINAL DIVISION

### DRUG ENFORCEMENT

Law is requesting \$482,800 in general funds to replace funding reductions for drug prosecution. Ultimately, Law is expecting a reduction of as much as \$700,000 in funds passed from the Department of Public Safety to the Criminal Division for drug prosecution. Congress has been reducing its support for drug enforcement prosecution since 2005. Because federal funds carry forward between state fiscal years, the full effect of ratcheting down the funding will not be felt until state FY2008. These grant funds paid for three attorneys, a paralegal and a law office assistant in Anchorage, one attorney in Palmer and one in Fairbanks, plus overhead costs associated with those offices in all three locations. The version of the budget bill that passed Congress severely reduces funds for this program but the full effect of the reduction will not be known until as late as March of 2006. Law is particularly concerned about the shortfall coming at the same time when the use and manufacture of methamphetamine is on the rise in Alaska. Alaska is actively involved in the fight against illegal drugs. A potential funding reduction of \$700,000 in the Department of Law poses a clear threat to a successful fight. Continuing to prosecute drug crime is directly related to our mission statement and our goal to reduce violent crime in Alaska.

### RESPONDING TO CIVIL LITIGATION CHALLENGING CRIMINAL LAWS AND ATTACKING PRIOR CONVICTIONS

Along with heavy criminal caseloads, the Criminal Division is often called on to defend the legality of new laws and to respond to civil attacks on criminal convictions. 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 efforts and budget strain. For example, there is ongoing litigation over the legality of sex offender registration laws and the DNA databank. Criminal Division attorneys are handling all these lawsuits, although previous litigation of the sex offender registration law in the United States Supreme Court was handled by a private law firm under a special appropriation for that purpose. Laws relating to victim rights, such as the right not to be secretly recorded by defense attorneys, are being challenged in court and a private law firm under another special appropriation handled the trial which occurred in FY2005. A supplemental operating budget request of \$50,000 will be needed in FY2006 for the victims' rights case in order to allow the same law firm to handle the appeal of issues in which the court found the victim's rights laws unconstitutional. Defendants are also filing civil actions well after their convictions, when they have exhausted all of

their appellate efforts. Usually, the original trial attorney is no longer with the Department; often the law enforcement officers are retired or have left the state. These are resource intensive matters which are difficult to address along with already full caseloads.

## **CIVIL DIVISION**

### **OIL, GAS, & MINING**

#### *Gas pipeline-related issues*

Expediting the arrangements to construct a gasline to transport Alaska North Slope gas to market sits at the top of the FY2007 Department of Law "to do" list. The section has expended substantial resources performing legal work relating to complex and intensive negotiations, legal research and drafting contract provisions under the Stranded Gas Development Act. The known gas resource on Alaska's North Slope is huge. The potential gas resource on unexplored lands on the North Slope is much larger. Developing these resources is one of the most promising opportunities to strengthen and support Alaska's economic future.

The key to unlocking the North Slope gas resource is the construction of a pipeline to transport this gas to market. To expedite the construction of the needed gas transportation system, the state legislature enacted the Stranded Gas Development Act in its current form in 2003. The Stranded Gas Development Act provides an opportunity for the negotiation of fiscal contracts to tailor the state's fiscal terms (taxes and royalties) pertinent to North Slope gas development to enhance the likelihood of the construction of the needed transportation system.

Three potential project sponsors—(1) TransCanada Corporation, (2) the major North Slope producers (ConocoPhillips, BP, and ExxonMobil) and (3) Enbridge Inc.—have applied for fiscal contracts under the Stranded Gas Development Act. In preparing this budget the Department has assumed the state will successfully negotiate a fiscal contract with at least one of the applicants. Further the Department believes the contract will provide for state ownership of some portion of the project.

The section must also provide legal support to the Alaska Natural Gas Development Authority created by citizen's initiative in the November 2002 statewide election. This initiative is primarily focused on a proposed project to market Alaska's North Slope gas as LNG somewhere in the Pacific Rim. The challenge is to ensure that the efforts undertaken to promote this proposed project do not jeopardize the proposed Alaska Highway project.

### **OTHER KEY CHALLENGES FOR THE CIVIL DIVISION:**

#### **COLLECTIONS**

The primary challenge for the child support unit will be to accommodate a growing number of requests from the Child Support Services Division (CSSD) for assistance in more complex enforcement actions and a growing caseload of support modification requests. With CSSD's reorganization and rethinking of its mission and use of resources, the agency intends to place more emphasis on enforcement action, including the use of civil contempt, attachment of assets, fraudulent transfer actions, seek work orders, and criminal non-support. At the same time, actions to modify child support orders have become more complex, with an increase in the number of self-employed or voluntarily underemployed parents.

For the collections unit, the primary challenge will be to acquire a new database to efficiently increase money collected for the state and victims of crimes as well as expand the types of judgments the unit can collect. The FY2006 capital budget included an appropriation for this purpose. The division is currently working on the acquisition of the database.

#### **CHILD PROTECTION**

Statutory changes at the state and federal level have necessitated changes in how long children may remain in the child protection legal system. These changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest the child can be made legally eligible for placement in a permanent home more quickly. The changes also mandate additional court proceedings in order to ensure that the department is

quickly moving to achieve a permanent plan for the child. The accelerated schedules, additional hearings, and appropriate document preparation mean that each attorney has a significant caseload. Maintaining our existing resources for child protection is necessary in order for us to effectively manage this important responsibility. Adequate attorney resources are also necessary in order to help the Office of Children's Services meet certain goals for purposes of federal funding of foster care and administrative expenses involved in child protection. An audit conducted in 2003 reflected poor performance by both the Office of Children's Services and the Department of Law, caused in large part by the lack of sufficient staff. We anticipate with additional positions created in FY2005 and FY2006, we should be able to correct these deficiencies and enable the Office of Children's Services to maximize federal reimbursement.

#### CONSUMER PROTECTION AND ANTITRUST ENFORCEMENT

Alaska is a target state for many types of consumer fraud. Under the Consumer Protection Act (AS 45.50.471 et seq.), the Attorney General is authorized to investigate and bring enforcement actions against businesses that engage in unfair or deceptive trade practices. Given the current funding and staffing level and the large areas of enforcement the office is responsible for, the section is still forced to turn away many legitimate cases of consumer fraud. Enforcement activities are directed to situations affecting a large number of consumers or involving large dollar amounts, and often there are not enough resources for even those cases.

#### LABOR & STATE AFFAIRS

The section is experiencing a surge in the number of voter initiatives requiring review and, in many instances, involving litigation. Because of the statewide elections in 2006, the section anticipates an increased need for assistance to the Division of Elections and the Alaska Public Offices Commission, including an increase in election-related litigation. The new public employee benefits claims procedures are expected to increase the workload of the attorneys in the section because of shorter time frames to prepare and take a case to administrative hearing before the Office of Administrative Hearings.

#### NATURAL RESOURCES

The Natural Resources Section will continue to be involved in litigation concerning Alaska's right to charge nonresidents higher annual fees to participate in the state's commercial fisheries. Plaintiffs in the case are seeking millions of dollars in refunds and interest. The state will argue that the differential charged nonresidents was permissible and that no refund is due. The section continues to advise the Department of Natural Resources on permitting and access issues for large mines.

#### OIL, GAS AND MINING

##### *Other oil and gas pipeline-related matters*

The Oil, Gas, and Mining section expends substantial resources to monitor the Trans Alaska Pipeline System (TAPS) owners' compliance with the 1985 TAPS settlement agreement, and to monitor and participate where appropriate in state and federal regulatory oversight of the tariffs of all oil and gas pipelines operating in the state. This vigilance can earn the state millions of dollars in royalties and production taxes each year. Further, as production of oil and gas from current developments declines in Alaska, the state's participation in tariff regulation is becoming more and more important in encouraging additional producers to invest in exploration of new areas in the state.

During FY2007 the Oil, Gas & Mining section will prepare for and participate in a 4 to 5 week hearing at the FERC considering (in part) the state's and Anadarko's challenges to the TAPS 2005 FERC tariff.

#### OPINIONS AND APPEALS

The Opinions, Appeals and Ethics section is currently overseeing the work of the civil division on over 100 active appeals pending in state and federal court. At any given time, the section has between 90 and 110 civil appeals pending in the courts, about 25 of those being in the area of child abuse and neglect (CINA).

Ethics is another key challenge for the section. The section handles scores of ethics issues, investigations, opinions, and oral and written advice. These issues come up literally every day from all over state government. The section plans to provide more ethics training for state agencies now that an additional attorney has been added for ethics.

Better and more frequent training should reduce the number of ethics problems that arise and improve agency action and decision making on these issues.

Indian law issues continue to impact virtually every area of state government's responsibilities. The section is working to provide advice on a wide variety of issues including civil and criminal jurisdiction and authority, Indian gaming, waivers of sovereign immunity, Indian country, tribal status, the Indian Child Welfare Act, Public Law 280, and many more. We anticipate this area of law and legal services to be a continuing challenge for the division.

#### STATEHOOD DEFENSE

During FY2007, the Statehood Defense unit will continue working 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. The unit will continue representing the state in the quiet title action against the United States for the Coldfoot to Chandalar Lake (RST 9) and Caro to Coldfoot (RST 262) RS 2477 rights-of-way. Statehood Defense attorneys will work with the Department of Natural Resources (DNR) and the Alaska Department of Fish and Game (ADF&G) to file with the Bureau of Land Management (BLM) additional applications for recordable disclaimers of interest to navigable waters, and provide information to BLM that convince it to declare waterways navigable within the survey windows it is completing.

### **Significant Changes in Results to be Delivered in FY2007**

#### CRIMINAL DIVISION

The addition of the new Rural Prosecution Unit and Statewide Sexual Assault and Domestic Violence units will continue to be felt in FY 2007 at which time we expect to be fully staffed and making an impact with these two efforts. The intent of the Rural Prosecution Unit is to allow us to aggressively prosecute crime in rural Alaska, particularly alcohol fueled crime. We hope that with the increased prosecution efforts, we will ultimately reduce the level of crime in our rural communities. The second appropriation will allow us to place specialized teams of sexual assault/domestic violence prosecutors and paralegals in several offices across the state. We are also adding an attorney to look into "cold cases" and hope that focusing our efforts there and working with the cold case investigation unit in the Department of Public Safety will help to resolve cases that have languished.

Restoration of lost federal funding for drug enforcement will allow us to continue to aggressively prosecute drug crime. Without the restored funds, we will be forced to pull from other areas of funding and the prosecution effort will suffer as the focus on property crimes and misdemeanors drops in order to shore up drug prosecution.

Additionally, we hope that recent budget increases and the addition of new prosecutors in various locations around the state can keep pace with law enforcement and court system expansions. The Criminal Division will continue to track our prosecutorial progress in the performance measurement area of the budget.

#### CIVIL DIVISION

#### CHILD PROTECTION

In FY2005 and in FY2006, the Child Protection section obtained additional attorney positions to handle child protection cases statewide. The addition of these funds enabled the division to create attorney positions located in Kenai and Palmer. The Kenai and Palmer communities are very pleased to have the attorneys located in their communities. With the addition of these positions, we have been able to reduce caseloads to a more manageable level per full-time attorney. Most importantly, Alaskan children will benefit from moving to permanent home placements sooner because the legal work necessary in order to make them available for adoption will be completed more quickly. The reduction of cases will enhance the division's ability to increase compliance with federal requirements, thus increasing federal reimbursement to the Department of Health and Social Services, which in turn helps to fund child abuse and neglect (CINA) attorneys. Recruitment and retention of attorneys for CINA positions continues to be a major challenge and it is hoped that this problem will improve as caseload pressure on existing staff is relieved.

#### COLLECTIONS

The division goal is to acquire and implement the new collections database by summer 2006 and begin collecting other judgments, fines and costs, specifically the Correctional Facility Surcharge and Police Training Surcharge, owed to the State of Alaska that are not currently collected by the unit due to the limited database and limited staff. The division also hopes that the new collection database will allow for more efficient processing of restitution cases to collect restitution owed to victims.

#### COMMERCIAL AND FAIR BUSINESS

Beginning in FY2006, a new attorney position is being funded by the Division of Insurance to handle criminal prosecution of insurance fraud cases and to assist in the civil enforcement of the insurance laws. This position will increase the services provided to the Division of Insurance, particularly in the area of insurance fraud. As a result, we anticipate a significant increase in the number of criminal and civil enforcement actions filed and resolved through trial or settlement. The criminal and civil divisions will share this position.

Also in FY06, the Regulatory Commission of Alaska (RCA) is funding a second attorney position to assist in defending commission orders on appeal and representing the RCA in court as may be required and assist and advise the commission in drafting regulations and complete the legal review of regulations adopted by the commission. This addition to staff will increase the level of services provided to the commission and will enhance the commission's adjudication process.

#### LABOR AND STATE AFFAIRS

We are requesting an increment for \$176,400 to add funding to pay for a growing caseload in procurement/breach-of-contract law suits. The work associated with responding to these lawsuits is complex because it involves a large amount of discovery that can cost many thousands of dollars in copying charges. Additionally the work is very time consuming for both attorneys and paraprofessionals since it involves claims of breach where highly customized procurement is under dispute. We are seeking \$15,000 of the total amount to cover the cost of software licenses to purchase the capability to automate discovery by exploring the use of new copier technology that can create electronic versions of documents by scanning them using the copier. The caseload has grown by the equivalent of one attorney and the remainder of the request is to staff this growing and ongoing workload.

#### Oil AND GAS PIPELINE-RELATED ISSUES

Assuming the state successfully negotiates a Stranded Gas contract, the division anticipates there will be one or more legal challenges to the constitutionality of the Stranded Gas Development Act and the legality of the contract. In addition, there will be a very large amount of on-going legal work relating to the state's participation in financing the project and to the many commercial and technical matters that the state must deal with in such a huge enterprise including (1) assisting the Departments of Revenue and Natural Resources in crafting proposals for changes to the state's tax and royalty regimes in response to producer requests for greater fiscal certainty; (2) drafting legislative or regulatory language necessary to implement any changes to the state's fiscal regime or other state laws that will improve the viability of the project; and (3) assisting DNR and other agencies with their various permitting responsibilities related to the project.

In addition, if the successful applicant files an application for a certificate of public convenience and necessity with the Federal Energy Regulatory Commission, this section will be responsible for representing the state's interests in the project before that agency. Both in-house and outside counsel will be used in this endeavor. The enactment of federal legislation to accelerate development of Alaska's North Slope gas has increased significantly the demands placed on the Oil, Gas and Mining Section.

Assuming the state successfully negotiates a Stranded Gas contract and takes an ownership interest in the project, the department estimates the amount required for FY2005 and FY2006 outside counsel gasoline related legal work will deplete the \$9.0 million currently appropriated by the legislature and that additional appropriation will be needed and requested in the capital budget.

#### TORTS

Effective June 2004, AS 09.50.253 affords a certification process for common law claims against individually sued state employees for lawsuits brought pursuant to AS 09.50.250. The certification process allows an individually sued state employee to be dismissed from a lawsuit (and the state substituted as defendant) if the Attorney General certifies that the employee was acting within the scope of the employee's office or employment at the time of the incident out of which the claim arose. The certification process will play a larger role in the section's tort defense in FY 2007 because of the June 2004, effective date and the two-year statute of limitations for tort claims.

## Major Department Accomplishments in 2005

### CRIMINAL DIVISION:

#### Passage of Significant Criminal Legislation

The Criminal Division worked closely with the Governor's office and the legislature to pass significant criminal legislation in 2005. Chief among these was the legislation passed in response to the case of Blakely v. Washington. This was a United States Supreme Court Case issued in June of 2004 which struck down the State of Washington's presumptive sentencing scheme. Because Alaska's sentencing scheme mirrored Washington's in all significant aspects, the criminal justice system was in turmoil while operating without a constitutional sentencing law. Across the state, prosecutors were flooded with motions and appeals requesting sentence modifications pursuant to the Blakely case. Additionally, judges were making conflicting rulings on how the Blakely case affected Alaska. Working closely with the legislature and the Governor's office, SB 56, which rewrote Alaska's presumptive sentencing scheme to bring it in compliance with Blakely, was introduced on January 14, 2005, it had passed both houses by March 2 and was signed into law by the Governor on March 22, 2005.

There was additional criminal justice legislation that was passed during the 2005 session in which the criminal division provided testimony and assistance. Included was legislation which addressed violence on school grounds and victim's rights regarding jury trials and bail review hearings. Other bills increased penalties for identity theft crimes and indecent exposure to minors. Finally, an important loophole was closed in our juvenile delinquency system so that crimes committed by a juvenile that are not discovered or reported until he or she has become an adult can still be prosecuted.

#### Receipt of Federal Appropriations to Enhance Prosecution Efforts

Both the Governor and the Attorney General have made priorities of enhancing our prosecution efforts in rural Alaska and in domestic violence and sexual assault. In support of these priorities, the Department of Law requested, and was awarded two special federal appropriations from the Department of Justice to fund these efforts. The programs will be implemented in FY2006. One will support a "Rural Prosecution Unit" which will be located in the Office of Special Prosecutions and Appeals (OSPA). The intent of the unit is to allow us to aggressively prosecute crime in rural Alaska, particularly alcohol fueled crime. We hope that with the increased prosecution efforts, we will ultimately reduce the level of crime in our rural communities. The second appropriation will allow us to place specialized teams of sexual assault/domestic violence prosecutors and paralegals in several offices across the state. These cases will then receive the prosecutorial expertise and resource commitment that is necessary to insure consistent vigorous prosecution and appropriate attention to victim's rights and needs.

### CIVIL DIVISION:

**Child Protection:** The division prosecuted approximately 2,000 ongoing Child In Need of Aid cases, moving toward the goal of achieving permanency for children, whether it be reunification with their family or other permanent placement, such as adoption or guardianship.

**Collections and Support:** The division collected over \$4.7 million in FY2005, an increase of over \$500,000 from FY2004. These collections included 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 \$1.5 million in restitution

**Commercial and Fair Business:** The division successfully litigated on behalf of the Division of Investments eight cases

involving defaulted loans and obtained judgments totally \$1,212,009. It also successfully prosecuted and negotiated settlements in a longstanding corporate income tax case that resulted in payment of \$7 million in taxes to the state.

**Consumer Protection and Antitrust Enforcement:** Processed 369 consumer complaints, of those, 53 were successfully mediated resulting in either direct or indirect assistance to consumers or referral to other appropriate state and federal agencies. Participated in five multistate antitrust matters involving pharmaceutical companies that resulted in favorable settlements for Alaska including \$280,000 in receipts for consumer protection/antitrust enforcement efforts as well as restitution to affected consumers or state agencies.

**Environmental cleanup:** In FY2005, the component recovered over \$1,100,000 for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$81,235,000 for a total benefit to the state of over \$82,000,000. To accomplish this, the component expended only \$1,344,000.

**Natural Resources:** The division represented CFEC & ADF&G in the Alaska Supreme Court and superior court regarding the state's nonresident commercial fishing fees.

**Oil and Gas:** The division participated in complex and intensive negotiations with the TransCanada Corporation and the major North Slope producers under the Stranded Gas Development Act. The section engaged in drafting detailed contract provisions and analyzing constitutional and other state law issues relevant to the contracts. The division resolved a Loss reopener against a North Slope producer for approximately \$4 million, and also negotiated with the same producer a partial resolution to a Destination Value reopener worth approximately \$30 million.

**Opinions, Appeals and Ethics:** The division provided legal advice on over 100 ethics issues, rendered several Ethics opinions and memoranda of advise on topics such as outside employment, post-state employment, gifts, and contracts, investigated and resolved several ethics complaints, and is continuing work on several pending investigations and issues.

**Regulatory Affairs Public Advocacy:** During FY2005, the division, on behalf of the Attorney General filed comments or briefs in three dockets and prefiled direct testimony in sixteen dockets: seven electric utility rate cases, a statewide refuse utility rate case, a statewide natural gas utility case, a statewide natural gas pipeline utility rate case seven local exchange carrier telecommunications rate cases, including depreciation study testimony, and one each water and sewer utility rate cases.

**Statehood Defense:** State's attorneys completed briefing and oral argument before the United States Supreme Court on the issue of title to the submerged lands in Glacier Bay National Park. The state also filed a new lawsuit against the United States challenging the manner in which the federal agencies applied the Federal Reserved Water Rights doctrine in federal subsistence regulations. Additionally, the state continued to file new applications with the Bureau of Land Management for recordable disclaimers of interest (RDI) for lands underlying navigable waters and has received a number of RDIs from BLM. The state has now filed a total of 13 applications to BLM for 31 waterbodies.

**Statehood Defense:** The state filed a new quiet title action against the United States to quiet title to two RS 2477 rights-of-way in northern Alaska.

## ADMINISTRATION AND SUPPORT

### Fiscal

Created an Excel spreadsheet macro program that electronically interfaces with victim restitution data provided by the Civil Division Collections and Support unit. The macro means that data between restitution on deposit and restitution owed can be matched more quickly and victims of crime who are owed restitution can be paid more quickly. A recognition award was presented to the employee responsible for creating the macro by the Attorney General.

### Contracting & Supply Procurement

Undertook the procurement of outside legal counsel and expert witnesses to assist the state in new and ongoing litigation and administrative disputes including: the gas line negotiations; oil and gas royalty reopeners; the Gravina

Island Access Project; the Knik Arm Bridge & Toll Authority; and the reserved waters dispute with the federal government. In addition, formal RFP's to secure bond counsel for both the Alaska Student Loan Corporation and the Alaska Housing Finance Corporation were issued.

Technology Initiative

Over the last decade private law firms, corporate general counsel, and many government law departments have taken advantage of a myriad of law office automation tools to increase efficiency and productivity within their respective organizations. While the Department of Law has availed itself of several such tools in the past, we have found our agency falling further and further behind the curve in terms of the technical resources we can bring to bear in meeting our basic mission and supplying the Legislature and others with meaningful productivity measurements and analysis.

In FY2005 several such areas were identified as needing immediate attention:

- 1.) Replacement of our out-dated and poorly performing timekeeping and billing system.
- 2.) Installation of a full-featured case management system with a case-based calendaring module and case-diary feature as well as conflict checking and contact management functions.
- 3.) Installation of a document management system.
- 4.) Replacement of our existing collections databases with a single collections "system" that addresses both the needs of our legal staff as well as those accounting functions inherent in this business process.

With the assistance of CTG, the department completed a strategic planning effort to develop a realistic time table and approach to addressing each of the areas listed above taking into account critical mission priorities, existing infrastructure and support resources, major business processes and funding availability. We identified and recommended needed changes to existing infrastructure including: current desktop PC configuration, network design and operating systems and the number/expertise of support personnel. Priority has been given to implementing currently available off-the-shelf solutions in FY2006.

Information Technology

Received a recognition award from the Conference of Western Attorneys General for the most ADA compliant website. The award was presented to the employee responsible for website design and development by the Attorney General.

Deployed BlackBerry Enterprise Server to provide wireless connectivity to the department email and calendaring system. This solution has proved to be extremely valuable to upper management personnel by extending the functionality of the email/calendaring/contacts systems to their mobile hand-held devices.

Deployed WestKM, which is now available department wide, and ProLaw to a limited number of users. WestKM is more sophisticated legal research tool than was available previously by Thomson Elite, electronic legal research is available to all users on the web, rather than through dial-up.

**Prioritization of Agency Programs**

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

<b>Contact Information</b>	
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**Department Budget Summary by RDU**

*All dollars shown in thousands*

	<b>FY2005 Actuals</b>				<b>FY2006 Management Plan</b>				<b>FY2007 Governor</b>			
	<b>General Funds</b>	<b>Federal Funds</b>	<b>Other Funds</b>	<b>Total Funds</b>	<b>General Funds</b>	<b>Federal Funds</b>	<b>Other Funds</b>	<b>Total Funds</b>	<b>General Funds</b>	<b>Federal Funds</b>	<b>Other Funds</b>	<b>Total Funds</b>
<b><u>Formula Expenditures</u></b>												
None.												
<b><u>Non-Formula Expenditures</u></b>												
Criminal Division	16,672.1	541.7	2,272.4	19,486.2	18,699.5	2,527.1	2,352.3	23,578.9	20,079.0	2,629.9	2,116.9	24,825.8
Civil Division	16,841.1	0.0	19,030.7	35,871.8	21,750.8	0.0	20,562.2	42,313.0	16,229.7	0.0	20,639.3	36,869.0
Administration and Support	1,834.4	0.0	924.2	2,758.6	2,065.3	106.3	1,043.6	3,215.2	1,466.9	110.7	896.7	2,474.3
<b>Totals</b>	<b>35,347.6</b>	<b>541.7</b>	<b>22,227.3</b>	<b>58,116.6</b>	<b>42,515.6</b>	<b>2,633.4</b>	<b>23,958.1</b>	<b>69,107.1</b>	<b>37,775.6</b>	<b>2,740.6</b>	<b>23,652.9</b>	<b>64,169.1</b>

### Funding Source Summary

*All dollars in thousands*

Funding Sources	FY2005 Actuals	FY2006 Management Plan	FY2007 Governor
1002 Federal Receipts	541.7	2,633.4	2,740.6
1003 General Fund Match	145.9	175.4	182.9
1004 General Fund Receipts	34,796.5	41,826.0	37,055.7
1005 General Fund/Program Receipts	281.8	441.0	460.1
1007 Inter-Agency Receipts	18,081.9	18,505.7	19,167.7
1018 Exxon Valdez Oil Spill Settlement	489.5	892.9	
1037 General Fund / Mental Health	123.4	73.2	76.9
1055 Inter-agency/Oil & Hazardous Waste	508.1	532.3	532.3
1066 Public School Fund	49.1		
1092 Mental Health Trust Authority Authorized Receipts		12.5	
1105 Alaska Permanent Fund Corporation Receipts	1,477.0	1,477.0	1,477.0
1108 Statutory Designated Program Receipts	507.5	887.0	909.0
1114 Exxon Valdez Oil Spill Restoration Fund	26.5	130.4	
1134 Fish and Game Criminal Fines and Penalties	120.6	141.9	141.9
1141 RCA Receipts	967.1	1,378.4	1,425.0
<b>Totals</b>	<b>58,116.6</b>	<b>69,107.1</b>	<b>64,169.1</b>

### Position Summary

Funding Sources	FY2006 Management Plan	FY2007 Governor
Permanent Full Time	528	531
Permanent Part Time	11	9
Non Permanent	0	0
<b>Totals</b>	<b>539</b>	<b>540</b>

**FY2007 Capital Budget Request**

<b>Project Title</b>	<b>General Funds</b>	<b>Federal Funds</b>	<b>Other Funds</b>	<b>Total Funds</b>
Law Office Security Improvements	260,000	0	0	260,000
<b>Department Total</b>	<b>260,000</b>	<b>0</b>	<b>0</b>	<b>260,000</b>

*This is an appropriation level summary only. For allocations and the full project details see the capital budget.*

### Summary of Department Budget Changes by RDU

From FY2006 Management Plan to FY2007 Governor

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2006 Management Plan</b>	<b>42,515.6</b>	<b>2,633.4</b>	<b>23,958.1</b>	<b>69,107.1</b>
<b>Adjustments which will continue current level of service:</b>				
-Criminal Division	1,350.6	99.7	-387.3	1,063.0
-Civil Division	-6,414.0	0.0	-304.3	-6,718.3
-Administration and Support	72.6	4.3	43.5	120.4
<b>Proposed budget decreases:</b>				
-Criminal Division	0.0	0.0	-12.5	-12.5
<b>Proposed budget increases:</b>				
-Criminal Division	28.9	3.1	164.4	196.4
-Civil Division	220.8	0.0	144.5	365.3
-Administration and Support	1.1	0.1	46.5	47.7
<b>FY2007 Governor</b>	<b>37,775.6</b>	<b>2,740.6</b>	<b>23,652.9</b>	<b>64,169.1</b>