

**State of Alaska**  
**FY2003 Governor's Operating Budget**

**Department of Law**  
**Criminal Division**  
**Budget Request Unit Budget Summary**

## Criminal Division Budget Request Unit

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### BRU Mission

The mission of the Criminal Division is to assure safe and healthy communities by prosecuting and convicting criminal offenders in urban and rural Alaska.

### BRU Services Provided

1. The Criminal Division prosecutes all violations of state criminal law committed by adults, and a large portion of the serious crimes committed by juveniles. Prosecution services protect the public by convicting criminals and placing them under appropriate controls. Without these services, Alaskans would not be able to live in safe and healthy communities.

In the fiscal year ending June 30, 2001, over 28,000 cases (including 7,300 felony, 20,000 misdemeanor, and 1,500 other cases) were sent to the Criminal Division by police or probation agencies. This is an increase of roughly 40 percent in felonies and 10 percent in misdemeanors in the 1990s.

The increase in felony cases is largely the result of an upswing in drug crimes and probation violations for drug offenders. The Criminal Division workload has also been affected by a large number of domestic violence assaults, which are among the most time-consuming and difficult misdemeanor cases to prosecute. Those cases increased over 20 percent over the last four years, most likely due to mandatory arrest statutes in the Domestic Violence and Prevention Act of 1996.

2. The Criminal Division provides assistance to victims and witnesses of crimes, such as travel and per diem expenses, court-mandated witness fees, and information about court procedures, domestic violence restraining orders and violent crime compensation procedures. Demands on the victim-witness assistants have increased substantially over the last several years as a result of victims' rights laws enacted in 1989 and 1991, the Victims' Rights Amendment to the Alaska Constitution approved by the voters in 1994, and the Domestic Violence Prevention and Victim Protection Act of 1996. Two-thirds of the Criminal Division travel budget is used to bring victims and witnesses to court.
3. The Criminal Division represents the state in all criminal appellate proceedings and state and federal post-conviction and habeas corpus proceedings. These post-trial procedures are constitutionally required; when convicted criminals file such actions there must be a response by the state. Without these functions, the efforts of criminal justice agencies to detect and punish crime through investigation, trial, and conviction would be nullified. In addition, the BRU also handles civil litigation challenging statutes related to criminal justice, such as sex offender registration, victims' rights, and physician-assisted suicide.
4. The Criminal Division provides basic legal services to the Departments of Corrections and Public Safety, consisting of verbal and written advice, representation in civil litigation and administrative proceedings, and assistance with drafting legislation, regulations, policies, and procedures. The division also provides advice to the legislature on criminal justice matters, and handles all appeals of administrative license revocations by the Division of Motor Vehicles in the Department of Administration.
5. The Criminal Division activities are carried out in fifteen offices across the state. Thirteen regional prosecution offices provide day-to-day criminal prosecution services, as set out in paragraphs 1. and 2. above. An office in Anchorage handles appellate matters in the Court of Appeals, the Alaska Supreme Court and the federal courts, as described in paragraph 3. An office in Juneau is responsible for representing criminal justice system agencies and providing legislative advice, as described in paragraph 4. In addition, the Anchorage offices also have special units for:
  - a. narcotics prosecution (funded by the Department of Public Safety with federal money)
  - b. environmental crime (funded by the Department of Environmental Conservation)
  - c. child support enforcement (funded by the Department of Revenue)
  - d. welfare fraud (funded by the Department of Health and Social Services with federal money)
  - e. Medicaid provider fraud (75% federally-funded with a required 25% general fund match)

- f. selected fish and game prosecution (funded by the Fish and Game Fund)
- g. white collar and other special prosecution (general fund)

## **BRU Goals and Strategies**

Goals and strategies appear at the component level.

### **Key BRU Issues for FY2002 – 2003**

Issue No. 1: How to Respond to Increased Enforcement of Child Abuse Laws

Child abuse cases (both sexual and physical abuse) are among the most difficult to prosecute. Although sexual abuse cases are routinely reported and prosecuted, it is believed that child physical abuse cases are not as well reported or investigated. Recent attention focused on child physical abuse cases is likely to result in an increase in the number of such cases sent to prosecution offices for review and prosecution.

Issue No. 2: How to Respond to Increased Enforcement of Domestic Violence Laws

The Domestic Violence Prevention and Victim Protection Act of 1996 requires arrests to be made in all cases of domestic violence. Even before this requirement became law, many police agencies voluntarily adopted mandatory arrest policies, and the number of domestic violence cases grew to over half of all misdemeanor assaults and a large percentage of all felony assaults and murders. In the year following enactment of the 1996 Act, the percentage of misdemeanor assaults related to domestic violence increased to 65 percent, or nearly two out of every three, and has remained at that level. In the last year the Criminal Division handled 3,000 cases of misdemeanor domestic violence, including assaults, harassment, violating domestic violence orders and destruction of property.

Issue No. 3: How to Respond to the High Volume Of Sexual Offenses

After several years of a relatively stable number of felony sexual offenses being sent to prosecutors for review, the number of these cases increased dramatically to over 700 in FY1993. Cases of rape of adult women increased 16 percent to over 300, while cases of abuse of children increased 21 percent to 400. Those numbers leveled off in FY1994-2000, but there are still nearly 600 felony sexual offenses being sent to Criminal Division offices for review each year. This high level of sexual crimes and the high level of domestic violence are reflected in a growing number of requests for safe housing, reported by the Network on Domestic Violence and Sexual Assault.

Issue No. 4: How to Respond to Other Demands for Criminal Division Legal Services

Along with heavy criminal caseloads, the Criminal Division is also called on to defend the legality of new laws. For example, there is a great deal of ongoing litigation over the legality of sex offender registration laws and the Criminal Division recently successfully defended the manslaughter statute as it relates to physician-assisted suicide. Laws relating to victim rights, such as the right not to be secretly recorded by defense attorneys, are being challenged in court. New laws relating to minors consuming alcohol are also being challenged. Criminal Division attorneys are handling all these lawsuits. Criminal Division attorneys have also upheld challenges to the concealed handgun regulations, and annually the division handles dozens of appeals from driver license revocations imposed by the Division of Motor Vehicles in the Department of Administration.

In addition, the Criminal Division is being called on more and more to perform other functions. For example, Criminal Division attorneys spend significant amounts of time providing training to other agencies. The State Trooper Academy in Sitka has several courses each year to train new trooper and police recruits, as well as separate classes for village public safety officers and experienced police officers. Each course contains a component for legal training in the criminal code and criminal procedure, which requires instruction by a trained prosecutor. The Anchorage Police Department conducts similar training for its own recruits. The Department of Corrections has training requirements for correctional officers and probation officers, which also require experience attorneys for instruction. Community groups, such as victim service agencies, often require attorney training as well. In addition, prosecutors and paralegals participate in multidisciplinary teams to combat child abuse, various task forces, and other groups whose goals are to improve the criminal justice system or deal with a particular community problem.

## Issue No. 5: How to Respond to Drug and Alcohol Offenses

The Criminal Division has participated in planning projects for drug courts, therapeutic courts, mental health courts, and other special programs with the court system, law enforcement, the Public Defender Agency, and the Department of Corrections.

Everyone recognizes that alcohol is at the root of a number of serious social problems in Alaska. The correlation between alcohol and crime is significant, and alcohol is implicated in an extremely high percentage of criminal and accidental deaths and injuries. In addition, many children are born with FAS or FAE because their mothers consumed alcohol during pregnancy. Experience has shown that the rate of crime can be decreased if alcohol availability is decreased. State law gives municipalities the option of banning or limiting alcohol in their communities, and many villages have voted for that local option. In areas that go completely dry (by banning possession of alcohol), the level of crime falls immediately and significantly, until bootleggers start to return alcohol to the region. Enforcement of local option laws is difficult, but the Criminal Division is actively working with the Alaska State Troopers and federal authorities to deal more aggressively with bootlegging, by increasing our alcohol interdiction efforts through the addition of prosecutors specifically assigned to those cases. An RSA with the Department of Public Safety funds a FY 2002 increased level of federal funding for heightened efforts in the area of alcohol interdiction.

### **Major BRU Accomplishments in 2001**

Major accomplishments are reflected in the performance measures.

### **Key Performance Measures for FY2003**

#### **Measure:**

The legislature intends to measure the success of the division in achieving its mission by considering, for each Criminal Division budget component the number of violent felony prosecutions;  
Sec 94 (b) (1) Ch 90 SLA 2001(HB 250)

#### **Alaska's Target & Progress:**

FY 2000 - 1,115            FY 2001 - 1,109

#### **Background and Strategies:**

The following background is applicable to all the Criminal Division performance measures that follow:

The workload for the Criminal Division is driven by factors largely beyond its control, such as the staffing levels and policies of local police agencies, staffing levels of defense attorneys, whether municipalities control alcohol, and the policies and practices of local courts and local defense attorneys. As such, the division is able to exercise very little control over attorney caseload ratios and no control whatsoever over the volume of work coming in at any given time. Thus available quantitative information often does not show the effectiveness and competency of the work. For example, it is very difficult to draw meaningful conclusions based on conviction rates. More convictions don't necessarily mean that attorneys are doing a better job. Instead it may mean any or a combination of the following: (1) crime is up, (2) the police are conducting better investigations, (3) new laws are more effective, (4) the division is understaffed and therefore plea-bargaining more, (5) the public defender agency is understaffed and they are pleading out more of their clients.

Because Alaska is one of a very few states that handles all types of criminal offenses at the state level, useful comparative data of attorney caseload is impossible to attain. For these reasons, knowing the number of cases handled is the best measure of the division's performance.

The number of cases handled by the Criminal Division as shown in its performance measures reflects a levelling of caseload, after several years of increasing workload. With the decrease in crime reported at the national level, it is hoped that the current flattening of Alaska prosecutor caseloads will follow that trend and also go down. However, a decrease in caseloads is not at all certain. Although crime may drop overall, this will allow the police to fully investigate crimes that could not be investigated adequately before, so the overall number of cases being sent to

prosecutors may not decrease at all. In addition, there have been occasions in the past when prosecutor caseload levelled off from one year to the next, only to resume its steady upward climb after a couple years. We will have to wait at least another year or two before we can have any confidence in predicting a long-term change at hand.

**Measure:**

Number of felony drug case prosecutions;  
Sec 94 (b) (2) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 691                      FY 2001 - 675

**Measure:**

Number of misdemeanor domestic violence assault prosecutions;  
Sec 94 (b) (3) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 2,200                      FY 2001 - 2,255

**Measure:**

Number of felony property prosecutions;  
Sec 94 (b) (4) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 1,179                      FY 2001 - 1,128

**Measure:**

Number of felony drunk driving prosecutions;  
Sec 94 (b) (5) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 235                      FY 2001 - 228

**Measure:**

Number of misdemeanor drunk driving prosecutions;  
Sec 94 (b) (6) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 3,267                      FY 2001 - 3,260

**Measure:**

Number of felony cases in which charges that were initially accepted for prosecution are later reduced; and  
Sec 94 (b) (7) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2001 - 1,581

**Background and Strategies:**

This measure was obtained using the following method of calculation method of calculation:

Of cases received in FY 2000, there were 3,749 persons whose cases were accepted for prosecution for a felony crime. Of those FY 2000 cases as of 10/23/2001, there were 3,532 felony defendants whose cases were resolved (94%). Of those cases resolved, 2,915 were convicted of some crime (83%). Of the cases that resulted in conviction, 1,581 were convicted of lesser charges than those which were accepted for prosecution (54%).

Final FY 2001 measures are not available because 20% of felony cases from that fiscal year are still outstanding.

**Measure:**

Number of misdemeanor cases in which charges that were initially accepted for prosecution are later reduced.  
Sec 94 (b) (8) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2001 - 1,639

**Background and Strategies:**

This measure was obtained using the following method of calculation:

Of cases received in FY 2000, there were 17,219 persons whose cases were accepted for prosecution for a misdemeanor crime or a violation. Of those FY 2000 cases, as of 10/23/01 there were 16,586 misdemeanor defendants whose cases were resolved (96%). Of those cases resolved, 12,941 were convicted of some crime (78%). Of the cases that resulted in conviction, 1,639 were convicted of lesser charges than those which were accepted for prosecution (13%).

Final FY 2001 measures are not available because 10% of misdemeanor cases are still outstanding at this time.

**Measure:**

Number of new criminal cases reviewed for prosecution;  
Sec 95 (b) (1) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 305                      FY 2001 - 243

**Measure:**

Number of criminal cases resolved;  
Sec 95 (b) (2) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 197                      FY 2001 - 163

**Background and Strategies:**

In this context, "resolved" takes the same meaning as "closed".

**Measure:**

Number of new appeals and petitions opened;  
Sec 95 (b) (3) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 335                      FY 2001 - 315

**Measure:**

Number of appeals and petitions resolved;  
Sec 95 (b) (4) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 149                      FY 2001 - 148

**Measure:**

Average cost per criminal case reviewed;  
Sec 95 (b) (5) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - \$3,760      FY 2001 - \$4,490

**Background and Strategies:**

Although the FY 2001 overall costs of special criminal prosecutions were less than those incurred in FY 2000, the per case cost rose because overall costs were spread over a smaller number of cases as is evident when comparing the numbers of new cases reviewed in Sec 95 (b) (1).

**Measure:**

Average cost per appeal or petition opened.  
Sec 95 (b) (6) Ch 90 SLA 2001(HB 250)

**Alaska's Target & Progress:**

FY 2000 - \$3,185      FY 2001 - \$3,598

**Background and Strategies:**

Per case costs for appeals and petitions opened will also vary as case numbers fluctuate.

**Criminal Division**  
**BRU Financial Summary by Component**

*All dollars in thousands*

	FY2001 Actuals				FY2002 Authorized				FY2003 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
<b><u>Formula Expenditures</u></b>	None.											
<b><u>Non-Formula Expenditures</u></b>												
First Judicial District	1,203.7	0.0	8.4	1,212.1	1,216.2	0.0	0.0	1,216.2	1,275.6	0.0	0.0	1,275.6
Second Judicial District	765.0	0.0	5.7	770.7	807.4	0.0	0.0	807.4	897.0	0.0	0.0	897.0
Third Judicial: Anchorage	3,067.9	0.0	374.8	3,442.7	3,457.6	0.0	594.0	4,051.6	3,503.9	0.0	403.2	3,907.1
Third JD: Outside Anchorage	2,355.0	0.0	36.2	2,391.2	2,218.7	0.0	0.0	2,218.7	2,488.3	0.0	1.6	2,489.9
Fourth Judicial District	2,759.6	0.0	19.0	2,778.6	2,803.0	0.0	300.0	3,103.0	2,956.2	0.0	301.9	3,258.1
Criminal Justice Litigation	1,416.2	0.0	228.2	1,644.4	1,612.0	0.0	206.8	1,818.8	1,587.2	0.0	188.7	1,775.9
Criminal Appeals/Special Lit	1,374.2	361.3	492.5	2,228.0	1,466.5	480.4	539.1	2,486.0	1,600.7	488.4	751.8	2,840.9
<b>Totals</b>	<b>12,941.6</b>	<b>361.3</b>	<b>1,164.8</b>	<b>14,467.7</b>	<b>13,581.4</b>	<b>480.4</b>	<b>1,639.9</b>	<b>15,701.7</b>	<b>14,308.9</b>	<b>488.4</b>	<b>1,647.2</b>	<b>16,444.5</b>

**Criminal Division**

**Proposed Changes in Levels of Service for FY2003**

The Anchorage District Attorney's Office lost one federally-funded narcotics prosecutor position, when the funding committee decided to relocate the position to the Mat-Su Valley, to deal with the growing amount of serious drug activity in that area. The Criminal Division believes that the number of drug prosecutors in the Anchorage area should not be decreased.

The 3<sup>rd</sup> Judicial-Anchorage component is requesting an increment to annualize costs and another to fully fund positions that were underfunded in the FY 2002 budget. The annualization increment is for \$168,400 to address full-year costs for new prosecutors in Anchorage to handle the increased drunk driving prosecutions as a result of the 0.08% DWI law and the changes to the "look-back" periods for repeat DWI and felony DWI. The full-funding increment is for \$33,300 for costs for the therapeutic court prosecutors. An annualization increment is requested in the 4th Judicial component for \$70,900 to provide full-year funding for the therapeutic court prosecutor for Bethel, which was funded for only six months in the FY 2002 budget.

Statutes mandate that the prosecution advise victims of the dates and times of all court proceedings. The prosecution must also notify witnesses of dates and times of proceedings where they must testify. A federal grant of \$25,000 has been received to partially fund the purchase of a program that will provide automatic notification of court events to victims and witnesses. The Criminal Justice Litigation component requests \$40,000 in general funds that would fund the annual operating costs.

Agency wide salary adjustments are also requested to fund the FY 2003 personal services cost increase in accordance with Ch 2 TSSLA 2000 (CSHB 3002(FIN)).

The Department of Law implemented a reclassification of its legal support positions in the final pay period of FY 2001. The study was undertaken for a number of reasons: primarily because recruitment of legal secretaries was becoming increasingly difficult – applicant pools were practically nonexistent in some locations – and retention was increasingly problematic – 46% of legal secretary positions turned over in FY 2000; additionally the class specifications for these positions had last been reviewed in 1969, long before the technology explosion; finally, the State had undertaken a study of the Secretary I&II positions in 1998 and collapsed them into the upper range of 11 – while Legal Secretary I's remained at range 10 (this latter set of circumstances resulted in a union grievance against the state). The Legal Secretary study commenced in February of 2000. The department appointed a temporary classification specialist to undertake the technical work. Each legal secretary position and office manager position in the department was separately reviewed. The study was completed in the late spring of FY 2001 and approved by the Division of Personnel in June. The reclassification called for higher salary ranges for nearly all positions involved in the study. The timing of the completion and approval of the study did not allow for inclusion in the FY 2002 budget request, however the department did make known the likely effects anticipated by the study to all affected parties, including the legislature. All Criminal Division components were affected by the implementation of this study, and as a result, this budget request includes an increment for this purpose in each component.

**Criminal Division**

**Summary of BRU Budget Changes by Component**

**From FY2002 Authorized to FY2003 Governor**

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2002 Authorized</b>	<b>13,581.4</b>	<b>480.4</b>	<b>1,639.9</b>	<b>15,701.7</b>
<b>Adjustments which will continue current level of service:</b>				

-First Judicial District	45.6	0.0	0.0	45.6
-Second Judicial District	75.0	0.0	0.0	75.0
-Third Judicial: Anchorage	-184.8	0.0	-192.7	-377.5
-Third JD: Outside Anchorage	246.7	0.0	1.6	248.3
-Fourth Judicial District	53.1	0.0	1.9	55.0
-Criminal Justice Litigation	-73.7	0.0	-18.1	-91.8
-Criminal Appeals/Special Lit	124.5	6.3	211.8	342.6
<b>Proposed budget decreases:</b>				
-Third Judicial: Anchorage	-6.5	0.0	0.0	-6.5
<b>Proposed budget increases:</b>				
-First Judicial District	13.8	0.0	0.0	13.8
-Second Judicial District	14.6	0.0	0.0	14.6
-Third Judicial: Anchorage	237.6	0.0	1.9	239.5
-Third JD: Outside Anchorage	22.9	0.0	0.0	22.9
-Fourth Judicial District	100.1	0.0	0.0	100.1
-Criminal Justice Litigation	48.9	0.0	0.0	48.9
-Criminal Appeals/Special Lit	9.7	1.7	0.9	12.3
<b>FY2003 Governor</b>	<b>14,308.9</b>	<b>488.4</b>	<b>1,647.2</b>	<b>16,444.5</b>