

State of Alaska
FY2004 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, 2002, over 28,000 cases (including 7,500 felony, 21,000 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.

2. The Criminal Division provides assistance to victims and witnesses of crimes such as preparation for testimony in court, 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 FY2003 – 2004

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 FY1994-2002, 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 an increased level of federal funding for heightened efforts in the area of alcohol interdiction.

Major BRU Accomplishments in 2002

Major accomplishments are reflected in the performance measures.

Key Performance Measures for FY2004

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 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 1,218 FY 2001 - 1,127 FY 2002 - 1,237

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.

Measure:

Number of felony drug case prosecutions;

Sec 94 (b) (2) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 692 FY 2001 - 653 FY 2002 - 625

Measure:

Number of misdemeanor domestic violence assault prosecutions;
Sec 94 (b) (3) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 2,208 FY 2001 - 2,185 FY 2002 - 2,126

Measure:

Number of felony property prosecutions;
Sec 94 (b) (4) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 1,185 FY 2001 - 1,105 FY 2002 - 1,203

Measure:

Number of felony drunk driving prosecutions;
Sec 94 (b) (5) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 239 FY 2001 - 221 FY 2002 - 280

Measure:

Number of misdemeanor drunk driving prosecutions;
Sec 94 (b) (6) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 3,264 FY 2001 - 3,127 FY 2002 - 3,345

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 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 1,650* FY 2001 - 1,630 ** FY 2002 - 1,800***

Measure:

Number of misdemeanor cases in which charges that were initially accepted for prosecution are later reduced.

Sec 94 (b) (8) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 1,750* FY 2001 - 1,750** FY 2002 - 1,750 ***

Background and Strategies:

The following footnotes apply to Sec. 94 (b) 7-8:

*Estimates based on 97% of felonies and 98% of misdemeanors resolved.

**Estimates based on 97% of felonies and 95% of misdemeanors resolved.

***Estimates based on 72% of felonies and 88% of misdemeanors resolved.

Measure:

Number of new criminal cases reviewed for prosecution;
Sec 95 (b) (1) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 371 FY 2001 - 249 FY 200 - 248

Measure:

Number of criminal cases resolved;
Sec 95 (b) (2) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 313 FY 2001 - 195 FY 2002 - 192

As of 10/07/2002

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 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 338 FY 2001 - 314 FY 2002 - 297

Measure:

Number of appeals and petitions resolved;
Sec 95 (b) (4) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 313 FY 2001 - 227 FY 2002 - 130

As of 10/08/2002

Measure:

Average cost per criminal case reviewed;
Sec 95 (b) (5) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - \$3,760 FY 2001 - \$4,490 FY 2002 - \$4,564

Measure:

Average cost per appeal or petition opened.
Sec 95 (b) (6) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - \$3,185 FY 2001 - \$3,598 FY 2002 - \$3,849

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

	FY2002 Actuals				FY2003 Authorized				FY2004 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>												
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
First Judicial District	1,244.0	0.0	0.0	1,244.0	1,261.8	0.0	0.0	1,261.8	1,356.2	0.0	0.0	1,356.2
Second Judicial District	864.3	0.0	0.0	864.3	882.4	0.0	0.0	882.4	901.2	0.0	0.0	901.2
Third Judicial: Anchorage	3,180.1	0.0	320.0	3,500.1	3,384.8	0.0	403.2	3,788.0	3,486.4	0.0	348.2	3,834.6
Third JD: Outside Anchorage	2,425.8	0.0	93.1	2,518.9	2,465.4	0.0	1.6	2,467.0	2,458.3	0.0	117.5	2,575.8
Fourth Judicial District	2,876.2	0.0	102.6	2,978.8	2,843.1	0.0	301.9	3,145.0	3,085.0	0.0	303.7	3,388.7
Criminal Justice Litigation	1,497.0	0.0	212.5	1,709.5	1,553.2	0.0	208.7	1,761.9	1,271.3	0.0	209.8	1,481.1
Criminal Appeals/Special Lit	1,369.0	338.3	567.7	2,275.0	1,588.9	488.4	751.8	2,829.1	1,581.4	495.5	758.4	2,835.3
Totals	13,456.4	338.3	1,295.9	15,090.6	13,979.6	488.4	1,667.2	16,135.2	14,139.8	495.5	1,737.6	16,372.9

Criminal Division

Proposed Changes in Levels of Service for FY2004

The Fairbanks district attorney office needs \$60,000 in additional general funds to complete funding for newly leased space in that location. \$134,000 in general funds transferred from DOTPF is also reflected in the FY 2004 budget as part of the lease cost funding.

Criminal Division

Summary of BRU Budget Changes by Component

From FY2003 Authorized to FY2004 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2003 Authorized	13,979.6	488.4	1,667.2	16,135.2
Adjustments which will continue current level of service:				
-First Judicial District	94.4	0.0	0.0	94.4
-Second Judicial District	18.8	0.0	0.0	18.8
-Third Judicial: Anchorage	101.6	0.0	-55.0	46.6
-Third JD: Outside Anchorage	-7.1	0.0	58.9	51.8
-Fourth Judicial District	241.9	0.0	1.8	243.7
-Criminal Justice Litigation	-281.9	0.0	1.1	-280.8
-Criminal Appeals/Special Lit	-7.5	7.1	6.6	6.2
Proposed budget increases:				
-Third JD: Outside Anchorage	0.0	0.0	57.0	57.0
FY2004 Governor	14,139.8	495.5	1,737.6	16,372.9