

State of Alaska
FY2010 Governor's Operating Budget

Department of Law
Criminal Division
Results Delivery Unit Budget Summary

Criminal Division Results Delivery Unit

Contribution to Department's 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, by upholding those convictions on appeal, and by providing legal services that support the efforts of criminal justice agencies.

Core Services

- The Criminal Division protects the public by prosecuting violations of state criminal law committed by adults, and a large portion of the serious crimes committed by juveniles, by placing them under appropriate controls.
- The Criminal Division provides focused and specialized prosecution in the following areas: narcotics prosecution, environmental crime, child support enforcement, welfare fraud, Medicaid provider fraud, selected fish and game prosecution, alcohol interdiction in rural Alaska, prosecution of "cold case" homicides, domestic violence and sexual assault, white collar and other special prosecution, and permanent fund dividend fraud.
- The Criminal Division provides assistance to victims and witnesses of crimes such as preparation for testimony in court, travel arrangements and per diem expenses, court-mandated witness fees, and information about court procedures, domestic violence restraining orders and violent crime compensation procedures.
- The Criminal Division supports the efforts of criminal justice agencies to detect and punish crime through investigation, trial, and conviction, and 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 provides general legal services to the Departments of Corrections and Public Safety relating to their criminal justice activities. These legal services consist of verbal and written advice, representation in civil litigation and administrative proceedings, and assistance with drafting legislation, regulations, policies, and procedures. The Criminal Division also provides advice to the legislature on criminal justice matters.

End Result	Strategies to Achieve End Result
<p>A: Improve Public Safety Against Serious Assault</p> <p><u>Target #1:</u> Reduce the number of violent felony crimes reported in Alaska by 5%.</p> <p><u>Status #1:</u> The number of violent crimes increased by over 8%.</p>	<p>A1: Improving Public Safety & Enhancing the Protection of Victims of Crimes - Increase the prosecution of violent felonies</p> <p><u>Target #1:</u> 50% of violent felony crimes accepted for prosecution that the state prevailed at final resolution.</p> <p><u>Status #1:</u> In 2007, the State prevailed on 78% of crimes accepted for prosecution and exceeds our target however, the percentage continues to trend downward.</p> <p><u>Target #2:</u> 25% of violent felony crimes accepted for prosecution are resolved with a felony conviction that has not been reduced to a lower level felony or dismissed.</p> <p><u>Status #2:</u> 11% of violent felony crimes accepted for prosecution were resolved with a conviction that was not reduced to a lower level felony.</p> <p>A2: Improving Public Safety and Enhancing the Protection of Victims of Crimes - Increase the prosecution of misdemeanor domestic violence (DV)</p>

	<p>assaults</p> <p><u>Target #1:</u> 70% of misdemeanor domestic violence assaults accepted for prosecution are convicted of a class A misdemeanor, rather than a lesser offense or dismissal.</p> <p><u>Status #1:</u> 53% of misdemeanor domestic violence assaults accepted for prosecution resulted in a conviction of a class A misdemeanor, continuing the downward trend of the last 6 years.</p>
End Result	Strategies to Achieve End Result
<p>B: Enhance the Welfare of Children</p> <p><u>Target #1:</u> Reduce the number of reports of child sexual abuse by 5%.</p> <p><u>Status #1:</u> Data is not readily available to monitor this end result.</p>	<p>B1: Enhancing the Welfare of Children - Increase the prosecution of crimes involving sexual abuse of children</p> <p><u>Target #1:</u> 75% of crimes of sexual abuse of children accepted for felony prosecution that are resolved with a felony conviction (rather than a misdemeanor conviction or dismissal).</p> <p><u>Status #1:</u> 41% of crimes of sexual abuse of children were resolved with a felony conviction, continuing the downward trend of the previous years.</p> <p><u>Target #2:</u> 40% of crimes of sexual abuse of children accepted for felony prosecution are resolved with a felony conviction that has not been reduced to a lower level felony or dismissed.</p> <p><u>Status #2:</u> In 2007, 14% of the crimes of sexual abuse of children accepted for felony prosecution were resolved with a felony conviction, but many are still pending.</p>
End Result	Strategies to Achieve End Result
<p>C: Enhance the Protection of Victims of Crimes and Delinquent Acts</p> <p><u>Target #1:</u> Reduce to zero the number of substantiated complaints from victims of crimes and delinquent acts submitted to the Office of Victims Rights, the Attorney General's Office, the Commissioner of Health and Social Services, or the Office of the Governor.</p> <p><u>Status #1:</u> Data is not readily available to monitor this end result.</p>	<p>C1: Enhancing the Protection of Victims of Crimes - Increase the prosecution of property felonies</p> <p><u>Target #1:</u> 40% of property felony crimes accepted for prosecution are resolved with a felony conviction rather than a misdemeanor conviction or dismissal.</p> <p><u>Status #1:</u> 31% of property felony crimes accepted for prosecution were resolved with a felony conviction. This rate is consistent with the previous two years.</p> <p><u>Target #2:</u> 35% of property felony crimes accepted for prosecution that are resolved with a felony conviction have not been reduced or dismissed.</p> <p><u>Status #2:</u> In 2007, 26% of property felony crimes accepted for prosecution were resolved with a felony conviction that was not reduced.</p> <p>C2: Enhancing the Protection of Victims of Crimes - Increase and improve responsiveness to victims</p> <p><u>Target #1:</u> Increase training on general victim-related</p>

	<p>issues, such as victim sensitivity, so that all paralegal assistants who have regular direct contact with victims attend one multi-day training course each year.</p> <p>Status #1: The number of paralegal assistants who have been provided yearly training in general victim-related issues grew to 30, an increase of 4 over the prior year and continues the positive trend.</p> <p>Target #2: Increase the training in specialized victim-related issues, such as domestic violence or sexual assault prosecution, so that all paralegal assistants who have regular direct contact with victims attend one multi-day training course every other year.</p> <p>Status #2: Ten paralegal assistants with regular direct contact with victims were provided biannual training in specialized victim-related issues.</p>
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FY2010 Resources Allocated to Achieve Results

<p>FY2010 Results Delivery Unit Budget: \$28,951,800</p>	<p>Personnel:</p> <table style="width: 100%;"> <tr> <td>Full time</td> <td style="text-align: right;">237</td> </tr> <tr> <td>Part time</td> <td style="text-align: right;">1</td> </tr> <tr> <td>Total</td> <td style="text-align: right; border-top: 1px solid black;">238</td> </tr> </table>	Full time	237	Part time	1	Total	238
Full time	237						
Part time	1						
Total	238						

Performance

A: Result - Improve Public Safety Against Serious Assault

Target #1: Reduce the number of violent felony crimes reported in Alaska by 5%.

Status #1: The number of violent crimes increased by over 8%.

Year	YTD Total	Target
2007	2,645	2,332
2006	2,449	0

A1: Strategy - Improving Public Safety & Enhancing the Protection of Victims of Crimes - Increase the prosecution of violent felonies

Target #1: 50% of violent felony crimes accepted for prosecution that the state prevailed at final resolution.

Status #1: In 2007, the State prevailed on 78% of crimes accepted for prosecution and exceeds our target however, the percentage continues to trend downward.

Violent Felony Convictions

Year	YTD Total	Target	Variance
2007	78%	50%	28%
2006	83%	50%	33%
2005	84%	50%	34%
2004	85%	50%	35%
2003	85%	50%	35%

Methodology: Information is by calendar year.

Analysis of results and challenges: At the end of each calendar year there are cases that are still pending. For the calendar years 2005, 2006 and 2007, the percent of cases that were still pending were 15.8%, 17.5% and 19.1%, respectively.

Target #2: 25% of violent felony crimes accepted for prosecution are resolved with a felony conviction that has not been reduced to a lower level felony or dismissed.

Status #2: 11% of violent felony crimes accepted for prosecution were resolved with a conviction that was not reduced to a lower level felony.

Unreduced Felony Convictions

Year	YTD Total	Target	Variance
2007	11%	25%	14%
2006	14%	25%	11%
2005	15%	25%	10%
2004	19%	25%	6%
2003	23%	25%	2%
2002	21%	25%	4%

Methodology: Information is by calendar year. Statistics are based on the date the case was received in the prosecutor's office, and the most recent data from which these calculations are meaningful is for cases received in calendar year 2005.

Analysis of results and challenges: At the end of each calendar year there are cases that are still pending. For the calendar years 2005, 2006 and 2007, the percent of cases that were still pending were 15.8%, 17.5% and 19.1%, respectively.

A2: Strategy - Improving Public Safety and Enhancing the Protection of Victims of Crimes - Increase the prosecution of misdemeanor domestic violence (DV) assaults

Target #1: 70% of misdemeanor domestic violence assaults accepted for prosecution are convicted of a class A misdemeanor, rather than a lesser offense or dismissal.

Status #1: 53% of misdemeanor domestic violence assaults accepted for prosecution resulted in a conviction of a class A misdemeanor, continuing the downward trend of the last 6 years.

Year	YTD Total	Target	Variance
2007	53%	70%	17%
2006	55%	70%	15%
2005	56%	70%	14%
2004	60%	70%	10%
2003	64%	70%	6%
2002	66%	70%	4%

Methodology: Information is by calendar year. Statistics are based on the date the case was received in the prosecutor's office, and the most recent data from which these calculations are meaningful is for cases received in calendar year 2005.

Analysis of results and challenges: At the end of both 2006 and 2007, 4% of cases were still pending.

B: Result - Enhance the Welfare of Children

Target #1: Reduce the number of reports of child sexual abuse by 5%.

Status #1: Data is not readily available to monitor this end result.

B1: Strategy - Enhancing the Welfare of Children - Increase the prosecution of crimes involving sexual abuse of children

Target #1: 75% of crimes of sexual abuse of children accepted for felony prosecution that are resolved with a felony conviction (rather than a misdemeanor conviction or dismissal).

Status #1: 41% of crimes of sexual abuse of children were resolved with a felony conviction, continuing the downward trend of the previous years.

Percent of Child Sexual Abuse Cases Resolved With a Felony Conviction

Year	YTD Total	Target	Variance
2007	41%	75%	34%
2006	45%	75%	30%
2005	49%	75%	26%
2004	60%	75%	15%
2003	65%	75%	10%
2002	70%	75%	5%

Methodology: Information is by calendar year. Statistics are based on the date the case was received in the prosecutor's office, and the most recent data from which these calculations are meaningful is for cases received in calendar year 2005.

Analysis of results and challenges: At the end of 2006, 24% of cases were still pending. At the end of 2007, 36% of cases were still pending.

Target #2: 40% of crimes of sexual abuse of children accepted for felony prosecution are resolved with a felony conviction that has not been reduced to a lower level felony or dismissed.

Status #2: In 2007, 14% of the crimes of sexual abuse of children accepted for felony prosecution were resolved with a felony conviction, but many are still pending.

Child Sexual Abuse Felony Conviction (Unreduced)

Year	YTD Total	Target	Variance
2007	14%	40%	26%
2006	17%	40%	27%
2005	15%	40%	25%
2004	32%	40%	8%
2003	27%	40%	13%
2002	28%	40%	12%

Methodology: Information is by calendar year. Statistics are based on the date the case was received in the prosecutor's office, and the most recent data from which these calculations are meaningful is for cases received in calendar year 2005.

Analysis of results and challenges: At the end of 2007, 36% of cases were still pending.

C: Result - Enhance the Protection of Victims of Crimes and Delinquent Acts

Target #1: Reduce to zero the number of substantiated complaints from victims of crimes and delinquent acts submitted to the Office of Victims Rights, the Attorney General's Office, the Commissioner of Health and Social Services, or the Office of the Governor.

Status #1: Data is not readily available to monitor this end result.

C1: Strategy - Enhancing the Protection of Victims of Crimes - Increase the prosecution of property felonies

Target #1: 40% of property felony crimes accepted for prosecution are resolved with a felony conviction rather than a misdemeanor conviction or dismissal.

Status #1: 31% of property felony crimes accepted for prosecution were resolved with a felony conviction. This rate is consistent with the previous two years.

Felony Property Crimes

Year	YTD Total	Target	Variance
2007	31%	40%	9%
2006	30%	40%	10%
2005	31%	40%	9%
2004	37%	40%	3%
2003	32%	40%	8%
2002	39%	40%	1%

Methodology: Information is by calendar year. Statistics are based on the date the case was received in the prosecutor's office, and the most recent data from which these calculations are meaningful is for cases received in calendar year 2005.

Target #2: 35% of property felony crimes accepted for prosecution that are resolved with a felony conviction have not been reduced or dismissed.

Status #2: In 2007, 26% of property felony crimes accepted for prosecution were resolved with a felony conviction that was not reduced.

Year	YTD Total	Target	Variance
2007	26%	35%	9%
2006	25%	35%	10%
2005	0	0	0
2004	32%	35%	3%
2003	27%	35%	8%
2002	33%	35%	2%

Methodology: Information is by calendar year. Statistics are based on the date the case was received in the prosecutor's office, and the most recent data from which these calculations are meaningful is for cases received in calendar year 2004.

C2: Strategy - Enhancing the Protection of Victims of Crimes - Increase and improve responsiveness to victims

Target #1: Increase training on general victim-related issues, such as victim sensitivity, so that all paralegal assistants who have regular direct contact with victims attend one multi-day training course each year.

Status #1: The number of paralegal assistants who have been provided yearly training in general victim-related issues grew to 30, an increase of 4 over the prior year and continues the positive trend.

Paralegal Training in General Victim Issues

Year	YTD Total
2007	30
2006	26
2005	23
2004	14

Target #2: Increase the training in specialized victim-related issues, such as domestic violence or sexual assault prosecution, so that all paralegal assistants who have regular direct contact with victims attend one multi-day training course every other year.

Status #2: Ten paralegal assistants with regular direct contact with victims were provided biannual training in specialized victim-related issues.

Paralegal Assistants Specialized Yearly Training

Year	YTD Total
2007	10
2006	13
2005	8

Methodology: In 2005, all paralegals also attended 10 monthly teleconferences that included topics on: Special characteristics of victims of domestic violence and sexual assault and victims responses to acute crisis. Alaska Tribal presented training on: domestic violence and the recovering victim, children who are in-home and witness domestic violence, and effects of domestic violence on children. The Violent Crimes Compensation Board presented training on how to help crime victims. The Sexual Assault Response Team provided training on healing from trauma.

Key RDU Challenges

Attracting attorneys willing to serve the public as state prosecutors 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. Anecdotally, an email survey the Department of Law was asked to participate in by Washington state, our District Attorney's (DA) starting salaries were lower than 10 of the 13 responding states. In those same states, the highest salary that an Alaska DA can make (at step M after 20 years) was lower than 7 of the responding state's highest salary.

The large caseload each prosecutor carries is a problem across the state. While some locations are worse than others, the number of prosecutors statewide is fewer than the judicial bench. On average, prosecutors are outnumbered 1.2 to 1 by judges and magistrates.

The Kenai DA's office is facing the situation of having more judges/magistrates than there are prosecuting attorneys. In addition, the in-progress expansion of the court house will soon make it possible for more trials to be scheduled than there are DA's to attend court. Kenai's case load has increased from a new referral level of 3,414 cases in 2005 to 4,222 new cases referred in 2007.

The Bethel District Attorney's Office presently has 6 attorneys and services an area of 56 villages, an area that is larger than many states. The attorneys in this office sometimes cannot appear in court because the number of judges in the region is greater than the number of Assistant District Attorneys (ADA). There are more courtrooms in operation than ADA's to staff them. According to *Crimes in the United State 2006*, the annual FBI compilation of crime statistics, Alaska has a rate of sexual assault of 76 per 100,000. This is over twice the national average. Forty-eight percent of these sexual assaults are handled by C Detachment, Division of the Alaska State Troopers located in Bethel. In

2005, the number of reported rapes in Bethel was the same as Anchorage. These types of cases are the most time consuming, complicated and have the greatest emotional toll on victims, their families and the prosecutors who appear with them in court.

TECHNOLOGY UPGRADE

The Criminal Section's case management system, CRIMES, was implemented ten years ago and needs to be upgraded. The Case Management System has reached a critical point as both the software and hardware have become seriously out of date. After a review of the Pro Law case management system, the Division decided to upgrade CRIMES in part because of needed functionality not available in Pro Law. The Department received \$200,000 to upgrade the software as well as migrate it from Oracle to Microsoft SQL and replace the existing servers that are over eight years old. Although staff turnover has delayed this project, we anticipate it will be in full swing in FY 2010.

Significant Changes in Results to be Delivered in FY2010

No changes in results delivered.

Major RDU Accomplishments in 2008

Trial Advocacy Training: In 2007 the division provided the first ever Trial Advocacy Training in Alaska for 25 of our newest attorneys. In 2008 the division followed up that training with a Trial Advocacy Training II course for the same 25 people. The week long training was provided by instructors from the National Advocacy Center and took place in Fairbanks. Funding was provided by a grant the division requested and was awarded from the U.S. Department of Justice.

Sexual Assault Case Training: The division provided a three day training for all attorneys and paralegals employed in district attorney's offices across the state. The focus of the training was on handling sexual assault cases. Funding was provided through a grant from the U.S. Department of Justice, Office on Violence Against Women.

Passage of Significant Criminal Legislation: The Criminal Division, Office of the Governor, and the Legislature worked cooperatively in making changes to criminal law in order to better protect the public. SB 265 was an omnibus bill which made several small changes to the criminal law in order to make a big leap in crime prevention. The law makes bootlegging a class C felony for smaller amounts of alcohol if the defendant has two or more convictions for bootlegging in the preceding 15 years; adopts mandatory minimum terms for bootlegging that are similar to the mandatory minimum terms for drunk driving and refusal; creates a new crime of criminally negligent burning in the first degree, a class C felony, if the defendant has two or more convictions of criminally negligent burning or arson in the preceding 10 years and the former crime becomes criminally negligent burning in the second degree, a class A misdemeanor; clarifies that a judicial officer may issue a search warrant for evidence located both within and outside the state; allows a judicial officer to issue a search warrant based on telephonic testimony; makes changes in the treatment of persons found incompetent to be tried for a crime and requires notice to prosecutors before release of incompetent persons; and requires a sex offender or child kidnapper to be current with his or her sex offender registration obligations before receiving a permanent fund dividend.

HB 307 raises what otherwise would be misdemeanor injury assault to third degree assault (class C felony) if the defendant has been convicted on two or more prior occasions in the preceding 10 years of crimes against a person and raises animal cruelty to a class C felony if the defendant has been convicted of animal cruelty on two occasions in the preceding 10 years.

Division Policy Manual Updated: Through a grant provided by the U.S. Department of Justice, the Criminal Division District Attorneys and Office Chiefs were able to convene in Fairbanks for two days to discuss, revise, and update the division's policy manual. Several key policies were revised and new policies created. A revised manual was distributed to every attorney in the division.

Osborne Appeal Accepted by the U.S. Supreme Court: The United States Supreme Court granted the State of Alaska's petition for a writ of certiorari in the Osborne case and briefing has begun. This case was heard twice in

the Alaska Court of Appeals and twice has had hearings before the trial court on the issue of post conviction relief. Osborne, not prevailing in state court, filed a 1983 action in federal court where the federal judge summarily ordered post conviction DNA testing. Alaska appealed to the Ninth Circuit Court of Appeals. The Ninth Circuit Court ruled in favor of Mr. Osborne. Their decision implicated multiple issues of national concern which compelled Alaska to seek certiorari.

Security Updates - The Sitka District Attorney's Office was remodeled to better fit the needs, and provide better security, of the prosecutor and staff. A contract has been signed to do the same for the Dillingham office.

Contact Information
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**Criminal Division
RDU Financial Summary by Component**

All dollars shown in thousands

	FY2008 Actuals				FY2009 Management Plan				FY2010 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
Formula Expenditures None.												
Non-Formula Expenditures												
First Judicial District	1,772.6	0.0	30.0	1,802.6	1,751.2	0.0	171.5	1,922.7	1,713.0	0.0	174.7	1,887.7
Second Judicial District	1,290.4	103.2	0.0	1,393.6	1,467.1	236.3	0.0	1,703.4	1,511.5	117.4	0.0	1,628.9
Third Judicial: Anchorage	5,212.2	254.8	420.9	5,887.9	6,163.5	428.2	120.0	6,711.7	6,721.3	437.2	123.9	7,282.4
Third JD: Outside Anchorage	3,902.1	480.2	249.7	4,632.0	4,066.6	721.1	59.2	4,846.9	4,207.4	739.8	59.2	5,006.4
Fourth Judicial District	4,275.4	0.0	280.7	4,556.1	4,740.1	410.0	242.9	5,393.0	4,899.1	14.5	248.8	5,162.4
Criminal Justice Litigation	1,406.5	0.0	489.7	1,896.2	1,625.1	0.0	398.8	2,023.9	1,911.1	0.0	432.2	2,343.3
Criminal Appeals/Special Lit	2,876.0	1,377.5	710.6	4,964.1	3,098.0	2,133.2	762.7	5,993.9	3,065.3	1,792.4	783.0	5,640.7
Totals	20,735.2	2,215.7	2,181.6	25,132.5	22,911.6	3,928.8	1,755.1	28,595.5	24,028.7	3,101.3	1,821.8	28,951.8

Criminal Division
Summary of RDU Budget Changes by Component
From FY2009 Management Plan to FY2010 Governor

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2009 Management Plan	22,911.6	3,928.8	1,755.1	28,595.5
Adjustments which will continue current level of service:				
-First Judicial District	-38.2	0.0	3.2	-35.0
-Second Judicial District	44.4	-118.9	0.0	-74.5
-Third Judicial: Anchorage	206.6	9.0	3.9	219.5
-Third JD: Outside Anchorage	140.8	18.7	0.0	159.5
-Fourth Judicial District	159.0	-395.5	5.9	-230.6
-Criminal Justice Litigation	286.0	0.0	8.4	294.4
-Criminal Appeals/Special Lit	-32.7	-340.8	20.3	-353.2
Proposed budget increases:				
-Third Judicial: Anchorage	351.2	0.0	0.0	351.2
-Criminal Justice Litigation	0.0	0.0	25.0	25.0
FY2010 Governor	24,028.7	3,101.3	1,821.8	28,951.8