

**State of Alaska**  
**FY2022 Governor's Operating Budget**

**Department of Law**  
**Torts & Workers' Compensation**  
**Component Budget Summary**

**Component: Torts & Workers' Compensation**

**Contribution to Department's Mission**

The Torts and Workers' Compensation Section provides legal defense and advice in a wide range of tort lawsuits filed against state agencies and state employees, including personal injury, wrongful death, professional malpractice, property damage, and civil rights claims. It also provides advice and training to state agencies and represents the state as an employer before the Alaska Workers' Compensation Board (AWCB) and the Alaska Workers' Compensation Appeals Commission.

**Core Services**

- Attorneys in the Torts and Workers' Compensation section defend tort claims and civil rights claims for damages under 42 USC §1983 filed in state and federal trial and appellate courts.
- Attorneys in the section represent state agencies in workers' compensation claims filed by state employees where the State of Alaska is the employer. They advocate on behalf of the state at hearings before the AWCB and represent the state as the employer in appeals from board decisions taken to the Alaska Workers' Compensation Appeals Commission and to the Alaska Supreme Court.
- Attorneys in the section advise the Department of Corrections on legal matters and represent it in inmate post-conviction relief and administrative disciplinary appeals in state court and inmate civil rights claims under 42 USC §1983 filed in state and federal trial and appellate courts.
- Attorneys in the section provide advice and training to state agencies on risk management, workers' compensation, and liability issues and provide advice to state adjusters on workers' compensation issues.

**Major Component Accomplishments in 2020**

On behalf of the self-insured Division of Risk Management in the Department of Administration, the section pursues aggressive motion practice, trial, or negotiation to contain the ultimate costs of tort cases filed against the State of Alaska and its employees and of workers' compensation matters involving state employees. The section also pursues aggressive motion practice, trial or negotiation to contain costs associated with civil and administrative litigation filed by inmates against the Department of Corrections and its employees.

- Investigated and referred a workers' compensation case to the AWCB's fraud investigation unit, leading to a jury conviction of a former employee for defrauding the state out of more than \$250,000 in workers' compensation benefits and a two-year jail sentence. The fraud petition filed by the section with the AWCB is stayed pending appeal of the criminal felony fraud conviction and sentence.
- Defended the state as employer in numerous hearings before the AWCB and in appeals before the Alaska Workers' Compensation Appeals Commission, and participated in reemployment benefits hearings.
- Won an appeal in the Alaska Supreme Court affirming dismissal of an employee's claim for lifetime workers' compensation benefits.
- After years of briefing and remand from the Alaska Supreme Court, won dismissal of the third party allocation of fault claim against the state for alleged sexual assault of a minor. This case is on appeal for the third time to the Alaska Supreme Court.
- Won summary judgment and dismissal of a wrongful death lawsuit filed against the state on the grounds the Alaska State Troopers' conduct was entitled to qualified immunity. This case is on appeal to the Ninth Circuit Court of Appeals.
- Won an appeal in the Alaska Supreme Court affirming summary judgment and dismissal of an inmate's medical malpractice lawsuit against the state and its mental health providers.
- Won an appeal in the Ninth Circuit Court of Appeals affirming dismissal of a civil rights claim against an Alaska

State Trooper and two Assistant District Attorneys.

- Won an appeal to the Alaska Supreme Court affirming dismissal of an inmate's civil rights lawsuit against the state on the grounds the state appropriately restricted the inmate's visitation rights due to prison security concerns.
- Won summary judgment and dismissal of several medical and dental malpractice cases.
- The section briefed significant issues about the scope of discovery of confidential child protection, mental health, medical, and other records of third parties not directly involved in litigation, and protection of privacy interests.
- Prevailed on dispositive motions to dismiss or for summary judgment in a number of other cases, and obtained attorney fee awards as prevailing party. In addition, motions filed by the section assisted in settlement negotiations and in resolving cases on favorable terms. The section also succeeded in obtaining voluntary dismissal of numerous tort cases, in which the state paid nothing and each side assumed its own expenses.
- Provided training on civil law and liability to multiple training academies for correctional and probation officers, as well as to line supervisors and senior management at the Division of Juvenile Justice. The section also provided training for the state's independent workers' compensation adjusters.

### **Key Component Challenges**

One key component challenge stems from the Alaska standard for summary judgment. Summary judgment is a useful tool for concluding civil litigation short of trial. However, Alaska law precludes the grant of summary judgment if there are any material issues in dispute. The court may not evaluate the overwhelming weight of the evidence in support of the motion, nor may it make credibility judgments even when the plaintiff's assertions as to material facts are unsubstantiated. The result is that where the court denies summary judgment, the section must consider the substantial cost of taking the case to trial in determining whether a settlement might be a more economical use of state resources.

Another continuing key challenge involves defending lawsuits brought by unrepresented plaintiffs. Because these cases take more time, a disproportionate amount of the section's resources is channeled to defending these lawsuits.

The section continues to deal with a high volume of matters referred for legal assistance from the Third-Party Administrator for the workers' compensation program of the Division of Risk Management. Keeping up with the workers' compensation caseload will likely remain a challenge.

### **Significant Changes in Results to be Delivered in FY2022**

No significant changes are anticipated in the next fiscal year.

### **Statutory and Regulatory Authority**

AS 44.23.020

<b>Contact Information</b>
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Torts & Workers' Compensation Personal Services Information				
Authorized Positions			Personal Services Costs	
	<u>FY2021</u> <u>Management</u> <u>Plan</u>	<u>FY2022</u> <u>Governor</u>		
Full-time	33	34	Annual Salaries	2,824,420
Part-time	0	0	COLA	7,133
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	1,582,292
			<i>Less 4.32% Vacancy Factor</i>	(190,545)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>33</b>	<b>34</b>	<b>Total Personal Services</b>	<b>4,223,300</b>

Position Classification Summary					
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Associate Attorney I	1	0	1	0	2
Associate Attorney II	1	0	0	0	1
Attorney II	2	0	0	0	2
Attorney IV	5	0	2	0	7
Attorney V	6	1	0	0	7
Attorney VI	1	0	0	0	1
Law Office Assistant I	4	1	0	0	5
Law Office Assistant II	2	0	1	0	3
Paralegal II	5	1	0	0	6
<b>Totals</b>	<b>27</b>	<b>3</b>	<b>4</b>	<b>0</b>	<b>34</b>

**Component Detail All Funds**  
**Department of Law**

**Component:** Torts & Workers' Compensation (2719)  
**RDU:** Civil Division (35)

Non-Formula Component

	<b>FY2020 Actuals</b>	<b>FY2021 Conference Committee</b>	<b>FY2021 Authorized</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>	<b>FY2021 Management Plan vs FY2022 Governor</b>	
71000 Personal Services	3,289.8	3,998.5	3,998.5	4,063.5	4,223.3	159.8	3.9%
72000 Travel	25.6	17.2	17.2	17.2	17.2	0.0	0.0%
73000 Services	685.9	93.7	93.7	93.7	93.7	0.0	0.0%
74000 Commodities	38.1	33.6	33.6	33.6	33.6	0.0	0.0%
75000 Capital Outlay	13.2	0.0	0.0	0.0	0.0	0.0	0.0%
77000 Grants, Benefits	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
78000 Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
<b>Totals</b>	<b>4,052.6</b>	<b>4,143.0</b>	<b>4,143.0</b>	<b>4,208.0</b>	<b>4,367.8</b>	<b>159.8</b>	<b>3.8%</b>
<b>Fund Sources:</b>							
1004 Gen Fund (UGF)	0.1	0.0	0.0	0.0	0.0	0.0	0.0%
1007 I/A Rcpts (Other)	4,052.5	4,143.0	4,143.0	4,208.0	4,367.8	159.8	3.8%
<b>Unrestricted General (UGF)</b>	<b>0.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0%</b>
<b>Designated General (DGF)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0%</b>
<b>Other Funds</b>	<b>4,052.5</b>	<b>4,143.0</b>	<b>4,143.0</b>	<b>4,208.0</b>	<b>4,367.8</b>	<b>159.8</b>	<b>3.8%</b>
<b>Federal Funds</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0%</b>
<b>Positions:</b>							
Permanent Full Time	31	32	32	33	34	1	3.0%
Permanent Part Time	0	0	0	0	0	0	0.0%
Non Permanent	0	0	0	0	0	0	0.0%

**Change Record Detail - Multiple Scenarios with Descriptions**  
**Department of Law**

**Component:** Torts & Workers' Compensation (2719)  
**RDU:** Civil Division (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		NP
										PFT	PPT	
***** Changes From FY2021 Conference Committee To FY2021 Authorized *****												
<b>Conference Committee</b>												
1007 I/A Rcpts	ConfCom	4,143.0	3,998.5	17.2	93.7	33.6	0.0	0.0	0.0	32	0	0
		4,143.0										
	<b>Subtotal</b>	<b>4,143.0</b>	<b>3,998.5</b>	<b>17.2</b>	<b>93.7</b>	<b>33.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>32</b>	<b>0</b>	<b>0</b>
***** Changes From FY2021 Authorized To FY2021 Management Plan *****												
<b>Add Attorney IV (03-#024) to Address Torts Work</b>												
	PosAdj	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1	0	0
Add a full-time Attorney IV (03-#024), range 24, located in Anchorage to address increased demand for the Department of Corrections torts case work in the Civil Division.												
<b>Transfer from Opinions, Appeals and Ethics to Align with Anticipated Expenditures</b>												
1007 I/A Rcpts	Trin	65.0	65.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
Transfer authority from Opinions, Appeals and Ethics to Torts and Workers' Compensation to align with anticipated expenditures required for an adequate level of legal expertise needed within the office. The remaining authority in Opinions, Appeals and Ethics is sufficient to cover anticipated expenditures.												
	<b>Subtotal</b>	<b>4,208.0</b>	<b>4,063.5</b>	<b>17.2</b>	<b>93.7</b>	<b>33.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>33</b>	<b>0</b>	<b>0</b>
***** Changes From FY2021 Management Plan To FY2022 Governor *****												
<b>FY2022 Salary Adjustments</b>												
1007 I/A Rcpts	SalAdj	6.8	6.8	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
FY2022 1% COLA for ASE/General Government (GG/GP/GY/GZ): \$6.8												
<b>Transfer Associate Attorney II (03-0321) from Information and Project Support to Address Workload Demands</b>												
1007 I/A Rcpts	Trin	153.0	153.0	0.0	0.0	0.0	0.0	0.0	0.0	1	0	0
Transfer full-time Associate Attorney II (03-0321), range 19, located in Anchorage, to the Torts and Worker's Compensation component from the Information and Project Support component to accommodate workload demands. The remaining staff in Information and Project Support are sufficient to cover the anticipated workload.												
	<b>Totals</b>	<b>4,367.8</b>	<b>4,223.3</b>	<b>17.2</b>	<b>93.7</b>	<b>33.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>34</b>	<b>0</b>	<b>0</b>

**Line Item Detail (1676)**  
**Department of Law**  
**Travel**

**Component:** Torts & Workers' Compensation (2719)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
2000	Travel		25.6	17.2	17.2
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
<b>2000 Travel Detail Totals</b>			<b>25.6</b>	<b>17.2</b>	<b>17.2</b>
2000	In-State Employee Travel	Travel for attorneys to interview witnesses and attend court proceedings, as well as for necessary training for both attorneys and paraprofessionals. Includes travel for management purposes.	10.6	13.5	13.5
2001	In-State Non-Employee Travel	Travel costs for witnesses to testify in court.	0.1	1.0	1.0
2002	Out of State Employee Travel	Travel costs and expenses for out-of-state travel for conferences, training, etc.	7.5	1.7	1.7
2006	Other Travel Costs	Travel cost transfers.	7.4	1.0	1.0

**Line Item Detail (1676)**  
**Department of Law**  
**Services**

**Component:** Torts & Workers' Compensation (2719)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
3000	Services		685.9	93.7	93.7
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
<b>3000 Services Detail Totals</b>			<b>685.9</b>	<b>93.7</b>	<b>93.7</b>
3000	Education Services	Conferences, training and memberships.	0.6	0.1	0.1
3002	Legal and Judicial Services	Depositions, research costs, expert witness and consultant fees.	151.9	25.0	25.0
3006	Delivery Services	Freight, courier, postage, and transportation of trial exhibit materials.	1.2	1.3	1.3
3011	Other Services	Cost transfers and miscellaneous items within the services line (commissions, etc.).	532.2	67.3	67.3



**Line Item Detail (1676)**

**Department of Law  
Commodities**

**Component:** Torts & Workers' Compensation (2719)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
4000	Commodities		38.1	33.6	33.6
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
<b>4000 Commodities Detail Totals</b>			<b>38.1</b>	<b>33.6</b>	<b>33.6</b>
4000	Business	Reference materials and subscriptions, including statutes, software applications, non-capital desktop refresh, and miscellaneous office supplies.	0.1	1.0	1.0
4022	Commodity Transfer	Commodity cost transfers.	38.0	32.6	32.6

**Line Item Detail (1676)**

**Department of Law  
Capital Outlay**

**Component:** Torts & Workers' Compensation (2719)

<b>Line Number</b>	<b>Line Name</b>		<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
5000	Capital Outlay		13.2	0.0	0.0
<b>Object Class</b>	<b>Servicing Agency</b>	<b>Explanation</b>	<b>FY2020 Actuals</b>	<b>FY2021 Management Plan</b>	<b>FY2022 Governor</b>
<b>5000 Capital Outlay Detail Totals</b>			<b>13.2</b>	<b>0.0</b>	<b>0.0</b>
5009	Capital Outlay Transfer	Capital cost transfers.	13.2	0.0	0.0

**Revenue Detail (1681)**  
**Department of Law**

**Component:** Torts & Workers' Compensation (2719)

Revenue Type (OMB Fund Code) Revenue Source	Component	Comment	FY2020 Actuals	FY2021 Management Plan	FY2022 Governor
<b>5007 I/A Rcpts (1007 I/A Rcpts)</b>			<b>4,052.4</b>	<b>4,208.0</b>	<b>4,367.8</b>
5301 Inter-Agency Receipts			4,052.1	0.0	0.0
5301 Inter-Agency Receipts	Admin - Department-wide	RSA Administration, Risk Management - legal services regarding personal injury litigation. Program code: CV03214539.	0.0	3,678.0	3,837.8
5301 Inter-Agency Receipts	Correct - Department-wide	RSA Corrections, Department-wide - legal services. Program code: CV03214550.	0.0	475.0	475.0
5301 Inter-Agency Receipts	PubSaf - Department-wide	RSA Public Safety, Alaska Police Standards Council - legal services. Program code: CV03214560.	0.3	55.0	55.0

**Personal Services Expenditure Detail**  
**Department of Law**

**Scenario:** FY2022 Governor (17280)  
**Component:** Torts & Workers' Compensation (2719)  
**RDU:** Civil Division (35)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range / Step	Comp Months	Split / Count	Annual Salaries	COLA	Premium Pay	Annual Benefits	Total Costs	UGF Amount
03-?024	Attorney IV	FT	A	XE	Juneau	N05	24A / B	12.0		97,055	0	0	51,840	148,895	0
03-0030	Attorney IV	FT	A	XE	Juneau	N05	24D / E	12.0		107,080	0	0	55,265	162,345	0
03-0043	Attorney V	FT	A	XE	Anchorage	N00	25K / L	12.0		124,282	0	0	61,141	185,423	0
03-0089	Attorney VI	FT	A	XE	Anchorage	N00	26Q	12.0		153,075	0	0	70,347	223,422	0
03-0109	Associate Attorney I	FT	A	XE	Juneau	N05	17K / L	12.0		76,647	0	0	44,869	121,516	0
03-0127	Law Office Assistant I	FT	A	GP	Anchorage	200	11C / D	12.0		39,713	533	0	32,356	72,602	0
03-0132	Paralegal II	FT	A	GP	Fairbanks	203	16K	6.0	**	35,906	576	0	21,661	58,143	0
03-0143	Associate Attorney II	FT	A	XE	Anchorage	N00	19K	12.0		81,218	0	0	46,430	127,648	0
03-0201	Law Office Assistant I	FT	A	GP	Anchorage	200	11C / D	12.0		40,469	543	0	32,615	73,627	0
03-0204	Law Office Assistant I	FT	A	GP	Fairbanks	203	11A	6.0	**	19,386	354	0	16,017	35,757	0
03-0214	Paralegal II	FT	A	GG	Anchorage	200	16A / B	12.0		53,220	714	0	36,970	90,904	0
03-0218	Paralegal II	FT	A	GP	Anchorage	200	16J / K	12.0		68,699	922	0	42,258	111,879	0
03-0230	Attorney V	FT	A	XE	Anchorage	N00	25C / D	12.0		105,004	0	0	54,556	159,560	0
03-0238	Attorney II	FT	A	XE	Anchorage	N00	20E / F	12.0		81,393	0	0	46,490	127,883	0
03-0241	Attorney V	FT	A	XE	Anchorage	N00	25C / D	12.0		105,004	0	0	54,556	159,560	0
03-0248	Law Office Assistant II	FT	A	SS	Anchorage	600	13E / F	12.0		51,591	0	0	36,454	88,045	0
03-0255	Attorney IV	FT	A	XE	Anchorage	N00	24J	12.0		109,902	0	0	56,229	166,131	0
03-0286	Attorney IV	FT	A	XE	Anchorage	N00	24E / F	12.0		105,294	0	0	54,655	159,949	0
03-0287	Law Office Assistant II	FT	A	SS	Anchorage	600	13L / M	12.0		58,701	0	0	38,883	97,584	0
03-0297	Law Office Assistant I	FT	A	GP	Anchorage	200	11B / C	12.0		38,909	522	0	32,082	71,513	0
03-0300	Attorney IV	FT	A	XE	Anchorage	N00	24F / J	12.0		107,716	0	0	55,482	163,198	0
03-0315	Attorney V	FT	A	XE	Anchorage	N00	25O	12.0		138,626	0	0	66,041	204,667	0
03-0346	Paralegal II	FT	A	GP	Anchorage	200	16J	12.0		66,534	893	0	41,518	108,945	0
03-0347	Law Office Assistant I	FT	A	GP	Anchorage	200	11B / C	12.0		39,493	530	0	32,281	72,304	0
03-0364	Attorney V	FT	A	XE	Anchorage	N00	25J / K	12.0		118,771	0	0	59,258	178,029	0
03-0375	Attorney II	FT	A	XE	Anchorage	N00	20C / D	12.0		74,482	0	0	44,129	118,611	0
03-0376	Associate Attorney I	FT	A	XE	Anchorage	N00	17J / K	12.0		70,532	0	0	42,780	113,312	0
03-0384	Attorney IV	FT	A	XE	Anchorage	N00	24D / E	12.0		101,460	0	0	53,345	154,805	0
03-0397	Paralegal II	FT	A	GP	Anchorage	200	16E / F	12.0		60,694	814	0	39,523	101,031	0
03-0427	Paralegal II	FT	A	GP	Anchorage	200	16B / C	12.0		54,571	732	0	37,432	92,735	0
03-1038	Attorney V	FT	A	XE	Fairbanks	N03	25M / N	12.0		135,382	0	0	64,933	200,315	0
03-1047	Law Office Assistant II	FT	A	SS	Juneau	605	13C / D	12.0		50,723	0	0	36,157	86,880	0
03-1231	Attorney IV	FT	A	XE	Anchorage	N00	24F / J	12.0		109,758	0	0	56,180	165,938	0
06-0517	Attorney V	FT	A	XE	Anchorage	N00	25P	12.0		143,130	0	0	67,559	210,689	0

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column. [No valid job title] appearing in the Job Class Title indicates that the PCN has an invalid class code or invalid range for the class code effective date of this scenario.

**Personal Services Expenditure Detail**  
**Department of Law**

**Scenario:** FY2022 Governor (17280)  
**Component:** Torts & Workers' Compensation (2719)  
**RDU:** Civil Division (35)

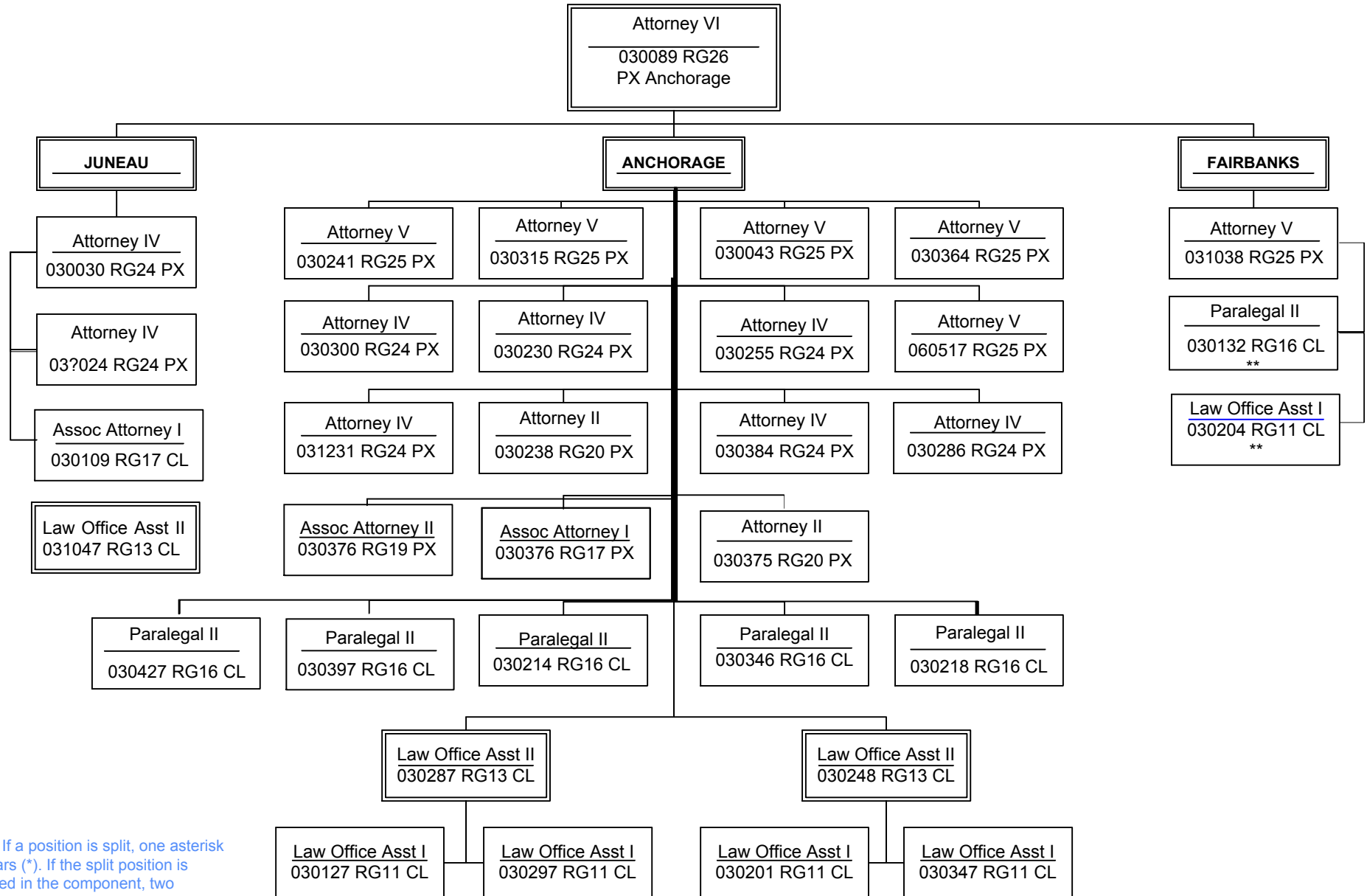
PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range / Step	Comp Months	Split / Count	Annual Salaries	COLA	Premium Pay	Annual Benefits	Total Costs	UGF Amount
		<b>Total Positions</b>	<b>New</b>	<b>Deleted</b>										<b>Total Salary Costs:</b>	2,824,420
														<b>Total COLA:</b>	7,133
	<b>Full Time Positions:</b>	34	0	0										<b>Total Premium Pay:</b>	0
	<b>Part Time Positions:</b>	0	0	0										<b>Total Benefits:</b>	1,582,292
	<b>Non Permanent Positions:</b>	0	0	0											
	<b>Positions in Component:</b>	34	0	0										<b>Total Pre-Vacancy:</b>	4,413,845
														<b>Minus Vacancy Adjustment of 4.32%:</b>	(190,545)
														<b>Total Post-Vacancy:</b>	4,223,300
	<b>Total Component Months:</b>	396.0												<b>Plus Lump Sum Premium Pay:</b>	0
														<b>Personal Services Line 100:</b>	4,223,300

<b>PCN Funding Sources:</b>	<b>Pre-Vacancy</b>	<b>Post-Vacancy</b>	<b>Percent</b>
1007 Interagency Receipts	4,413,845	4,223,300	100.00%
<b>Total PCN Funding:</b>	<b>4,413,845</b>	<b>4,223,300</b>	<b>100.00%</b>

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column. [No valid job title] appearing in the Job Class Title indicates that the PCN has an invalid class code or invalid range for the class code effective date of this scenario.

# CIVIL DIVISION

## Torts and Workers' Compensation



Note: If a position is split, one asterisk appears (\*). If the split position is counted in the component, two asterisks (\*\*) appear.