



# Department of Law

Department Overview  
House Finance February 24, 2023

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**TREG TAYLOR, ATTORNEY GENERAL**

**CORI MILLS, DEPUTY ATTORNEY GENERAL,  
CIVIL DIVISION**

**JOHN SKIDMORE, DEPUTY ATTORNEY GENERAL,  
CRIMINAL DIVISION**

# Department of Law MANAGEMENT TEAM

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Deputy Attorney General  
John Skidmore  
Criminal Division



Attorney General  
Treg Taylor



Deputy Attorney General  
Cori Mills  
Civil Division



Director  
Angie Kemp  
Criminal Division



Director  
Amber LeBlanc  
Administrative Services Division



Director  
Stacie Kraly  
Civil Division

The Alaska Department of Law provides legal services to state government and prosecutes crime for the protection and benefit of Alaska's citizens.

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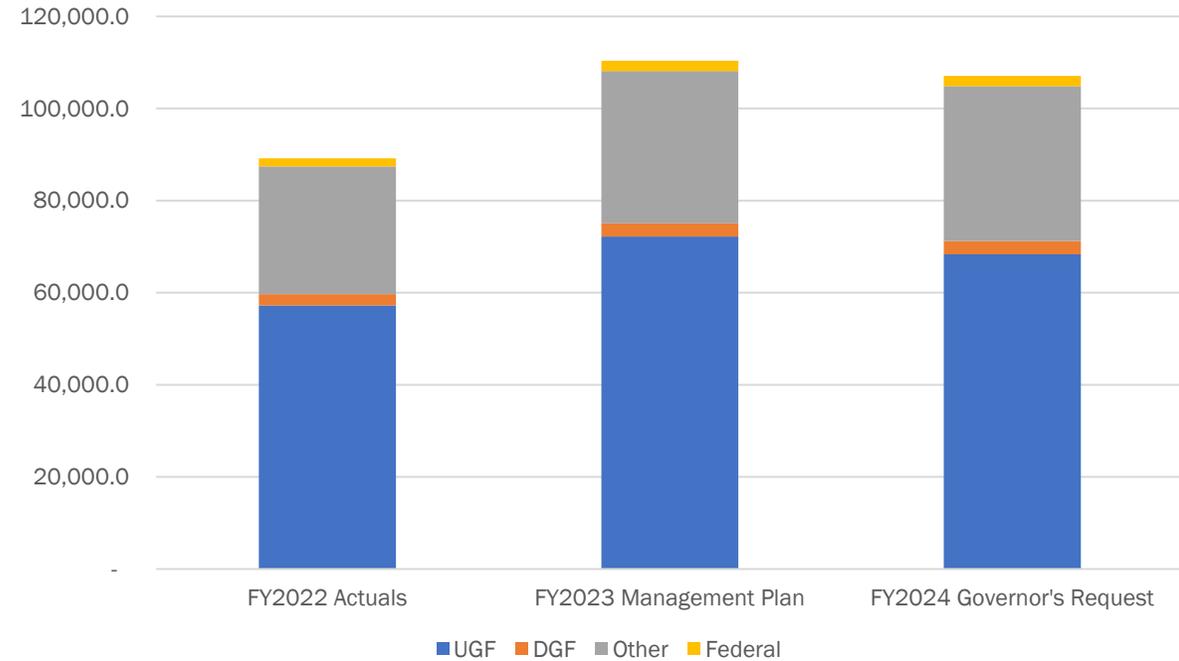
**MISSION** DEPARTMENT OF LAW

# Operating Budget Comparison

## DEPARTMENT OF LAW

### FY2022 – FY2024

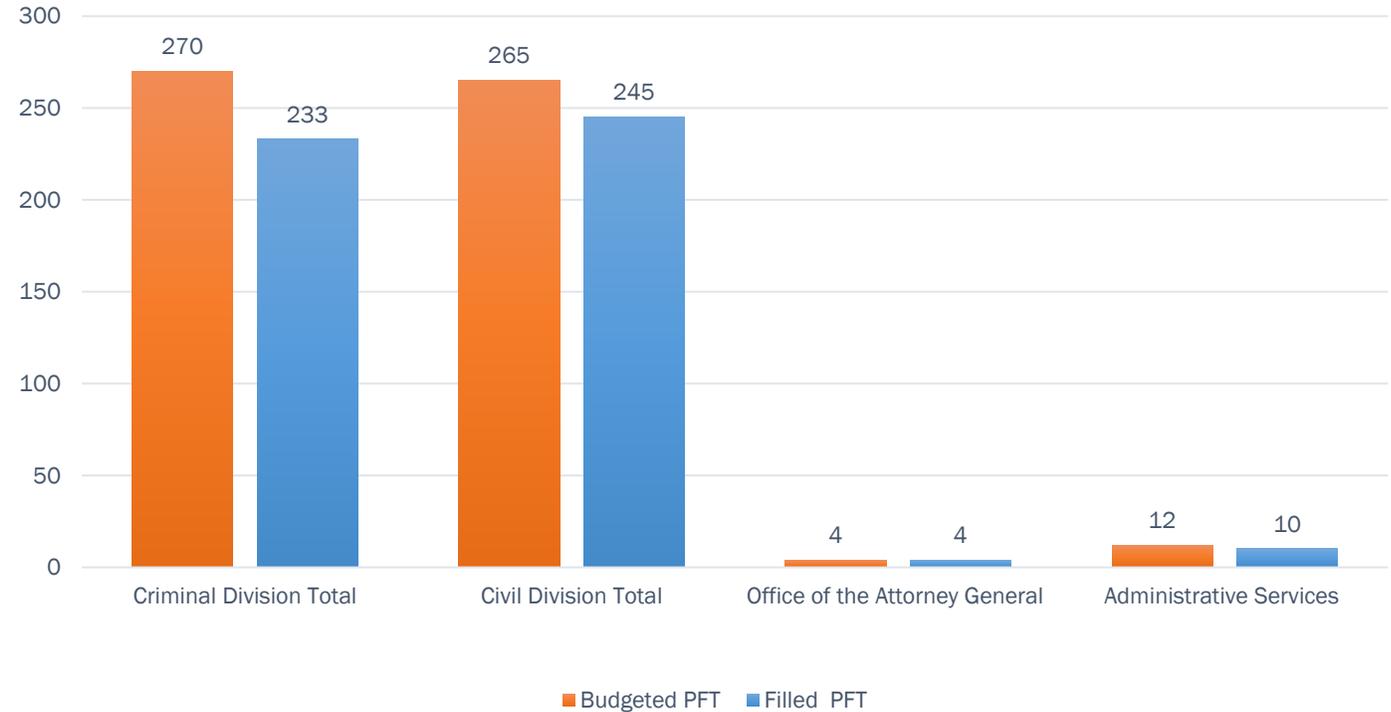
(amounts shown in thousands)



	FY2022 Actuals	FY2023 Management Plan	FY2024 Governor's Request
UGF	57,247.1	72,170.6	68,331.8
DGF	2,430.1	2,873.2	2,900.5
Other	27,728.2	33,089.8	33,613.9
Federal	1,751.2	2,217.7	2,244.9
<b>Total</b>	<b>89,156.6</b>	<b>110,351.3</b>	<b>107,091.1</b>

# FY2023 Management Plan Budgeted vs. Filled Permanent Full Time (PFT) Positions by Division

Data as of 1/15/2023

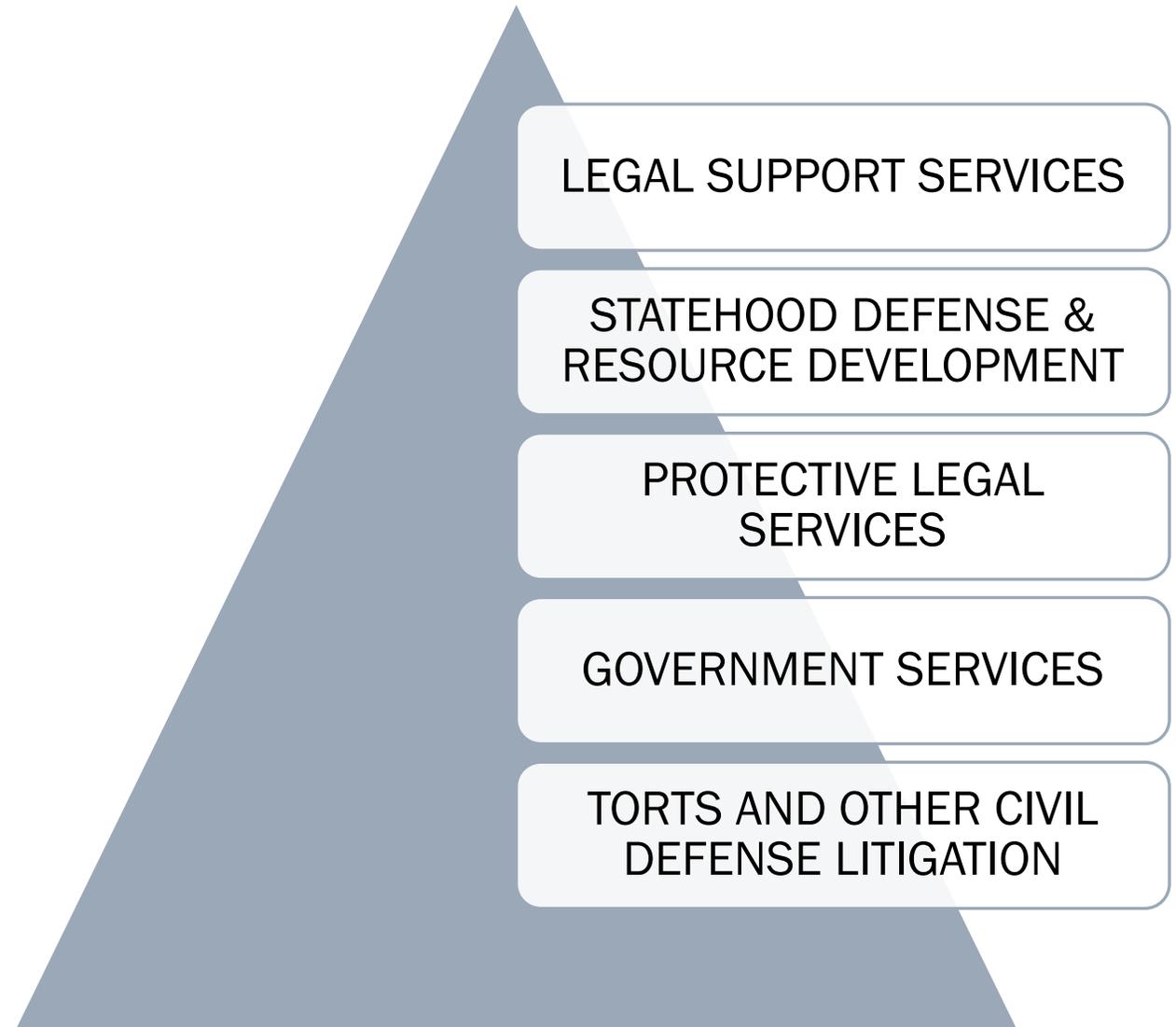


To protect Alaskans' safety and financial well-being, foster conditions for responsible development of our natural resources, protect the fiscal integrity of the State, and promote good governance.

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## CORE SERVICES CIVIL DIVISION

# Civil Division Proposed Restructuring

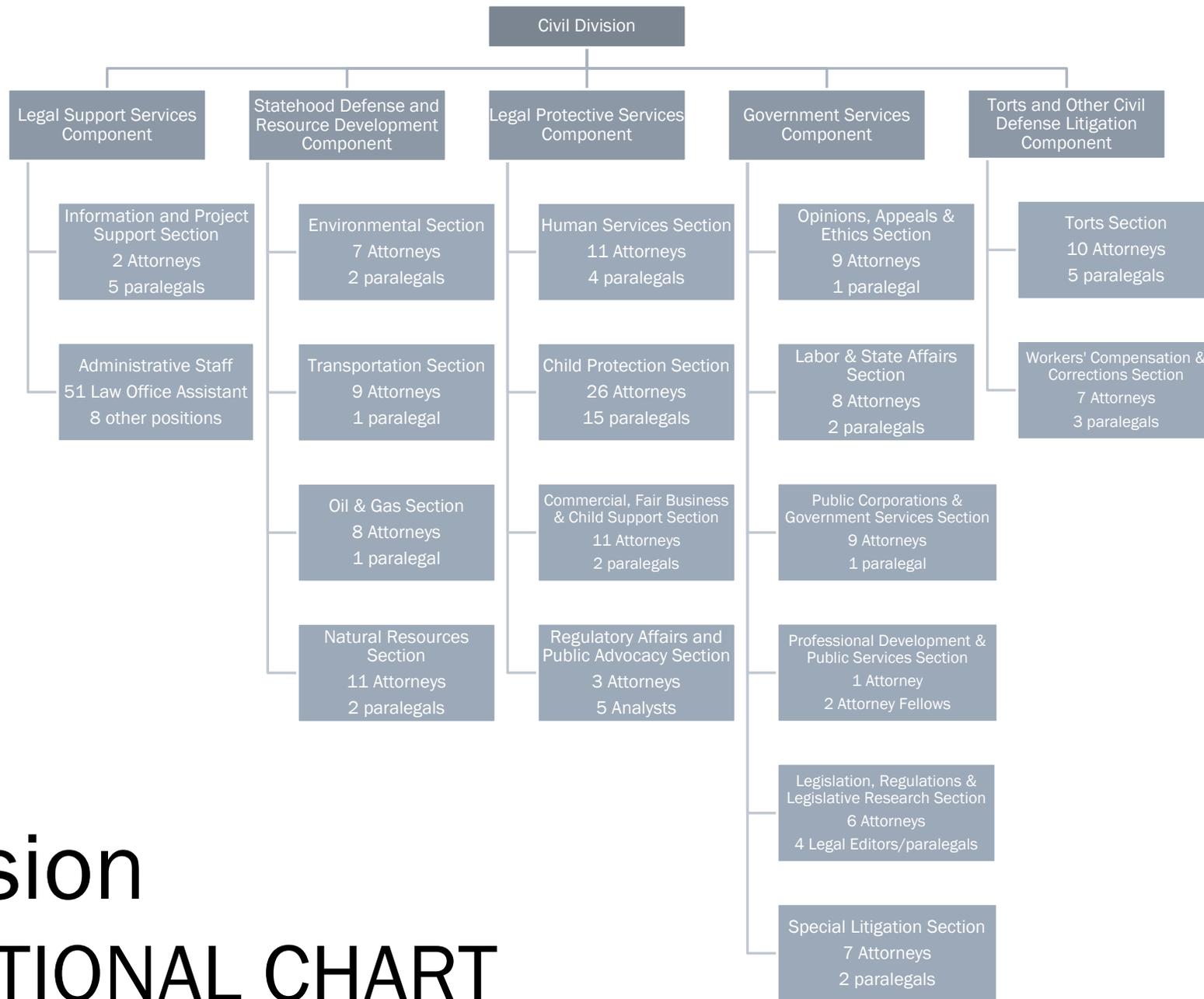


# Why the Change?

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The new budget components:

- improve tracking and management of the division's section and workloads
- reduce administrative burden on the Administrative Services Division
- are budget-neutral
- provide more flexibility in realigning resources to priority needs when necessary



# Civil Division

# ORGANIZATIONAL CHART

## Natural Resources



Anne Nelson

Department of Fish & Game

Represents state interests in statehood defense, natural resource management & development, fish & game management

## Oil & Gas



Mary Gramling

Department of Natural Resources

Department of Revenue

Ensures the state receives its appropriate share of Oil & Gas tax royalties

## Transportation



Max Garner

Dept. of Transportation & Public Facilities (DOT&PF)

Represents DOT&PF on construction & operation of public facilities & development projects

## Environmental



Jenn Currie

Represents the state's interest in clean water & air matters, hazardous waste discharge cases, and cleanup costs & recovery

# Statehood Defense & Resource Development

## Human Services



Alex Hildebrand

Department of Health

Department of Family & Community Services

Protection of vulnerable adults

## Child Protection

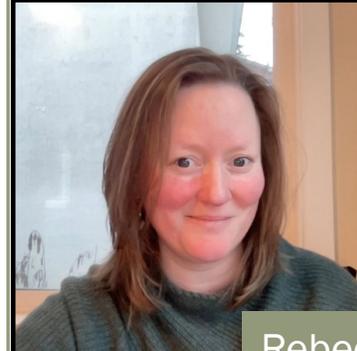


Carla Erickson

Office of Children's Services (OCS)

Child in Need of Aid (CINA)

## Commercial & Fair Business



Rebecca Hattan

Professional licensing

Public utilities

Alcohol and marijuana sales

Child support recovery

## Regulatory Affairs & Public Advocacy



Jeff Waller

Protects the Alaskan public interest in public utility and pipeline proceedings before the Regulatory Commission of Alaska

# Protective Legal Services

## Opinions, Appeals, & Ethics



Jessie Alloway

Defends the state in federal and state appellate courts, including Child in Need of Aid (CINA) appeals

## Public Corps. & Government Svcs.



Bill Milks

Represents unique state entities like public corporations, retirement systems, state health plans, and the Dept. of Education & Early Development

## Special Litigation



Margaret Paton-Walsh

Handles high-profile, expedited & complex litigation  
Constitutional challenges & elections matters  
Enforces Alaska antitrust laws

## Labor & State Affairs



Rachel Witty

Governor & Lt. Governor's offices  
Division of Elections  
Departments of: Administration, Labor & Workforce Dev.; Military & Vet. Affairs

# Government Services

## Legislation & Regulations



Rebecca Polizzotto

Oversees all legislative drafting, coordinates review of proposed & enacted legislation, oversees regulations projects for all state agencies

## Professional Dev. & Public Service



Jessica Leah

Oversees all internship, externship and fellowship programs. Works on recruitment efforts and training opportunities.

# Government Services

## Torts

Provides advice & defense to state agencies in tort suits



Mark Cucci

## Workers' Comp & Corrections

Defends the state as an employer in workers' compensation claims

Provides advice & defense to the Dept. of Corrections in civil suits

# Torts & Other Civil Defense Litigation

Information &  
Project Support



Alan Birnbaum

ProLaw & Admin

Advises agencies on the management, sharing, retention, and disclosure of information

Management, training, and maintenance of statewide data management and processing systems

# Legal Support Services

# State Fiscal Preservation

## EXAMPLES OF FY2022 REVENUE GENERATION AND PROTECTION

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### Human Services

- \$2,000.0 in awards for reimbursements for Medicaid Third-Party Liability (TPL)
- \$6.7 in annuity collections for TPL
- \$518.6 in Medicaid Estate/Trust recovery
- \$594.3 in Medicaid audit settlements and judgements
- \$333.5 in recovery of Medicaid expenditures from post-conviction litigation

### Natural Resources

- Collected \$1,400.0 in damages associated with sinking of Faulkner Walsh's barge *The Delta Chief*

(amounts shown in thousands)

# State Fiscal Preservation

## EXAMPLES OF FY2022 REVENUE GENERATION AND PROTECTION

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### Public Corporations & Government Services

- Obtained \$25,000.0 (less attorneys' fees) in Allianz/Alaska Permanent Fund Corporation securities fraud settlement
- Saved ~\$80,000.0-86,000.0 annually in dismissal of U.S. Department of Education Impact Aid action

### Regulatory Affairs and Public Advocacy

- \$6,200.0 in quantifiable consumer benefits in FY2022 for reduction in utilities costs
- An additional \$1,070.0 is anticipated in a pending case

### Environmental

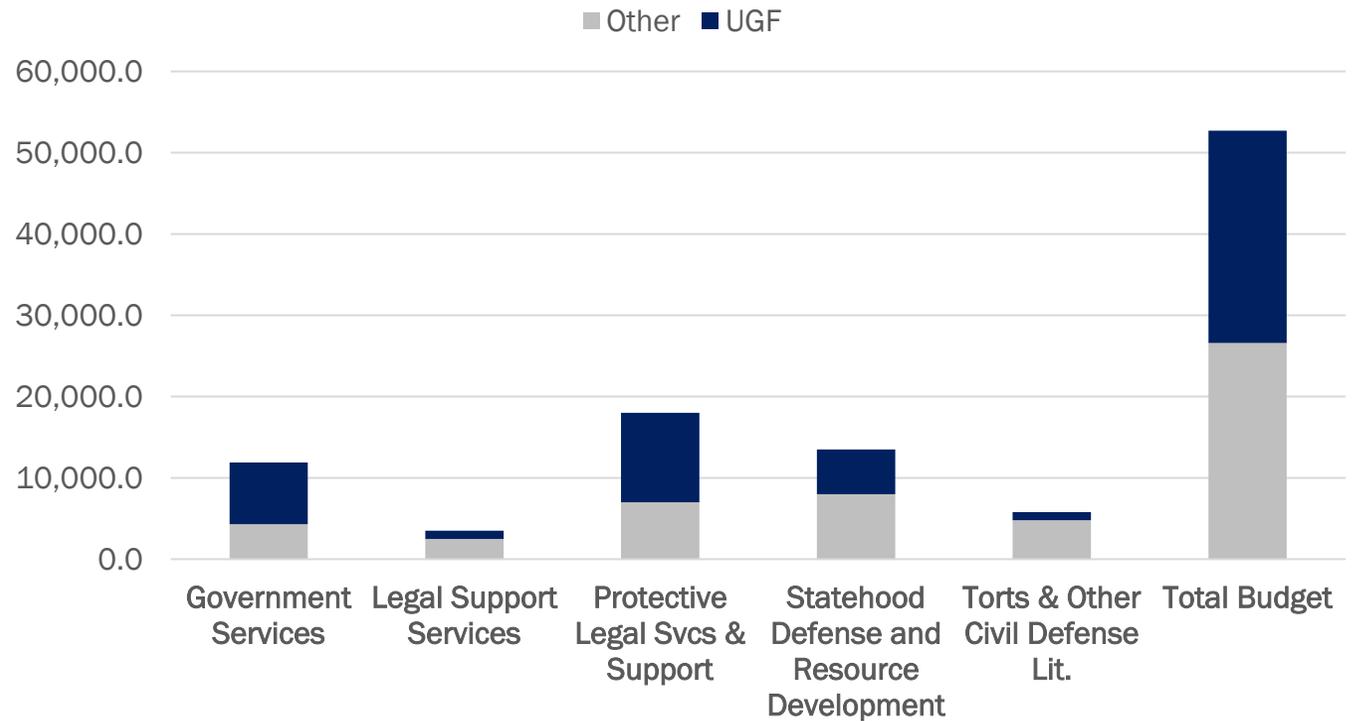
- \$1,800.0 in settlements and fines

(amounts shown in thousands)

# Civil Division's UGF vs Other Fund Sources

FY2024 Governor's  
Proposed Budget

(amounts shown in thousands)



# Primary General Fund Uses

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CIVIL DIVISION

## Child Protection



Photo by Michał Parzuchowski  
Courtesy of Unsplash

- Section fully staffed for the first time in several years
- In FY2022, the average caseload per attorney was 50-85 cases; variables include location and severity
- Attorneys continue to conduct most hearings via Zoom or telephone; initiatives move back to in-person hearings may strain existing resources
- While there continues to be some delay in permanency, the backlog created by the pandemic is decreasing

## Promoting Good Governance

Appeals & Ethics

Special Litigation

Legislation

Employment

Advising the Governor

Elections

\*formerly good governance

# Defending State's Management and Ownership Rights over Natural Resources

Photos courtesy of:  
Department of Law  
Natural Resources Section



Hatchery Net Pens



Chugach State Park



RS2477 Field Work



Independence Mine

# What is Statehood Defense?

Defending the rights and privileges promised to the Citizens of the State of Alaska upon the State's admission into the Union, especially concerning the use, conservation, and management of the State's lands, waters, and natural resources.

# Why Statehood Defense?

## Protect Alaska's Rights to Manage our Land, Waters, Fish, Wildlife

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### United States Constitution:

- Establishes a federal government of limited power
- 10<sup>th</sup> Amendment – Expressly reserves State rights
- Equal Footing Doctrine – State submerged lands, inland and tidal waters
- Anti-commandeering doctrine

### Statehood Act:

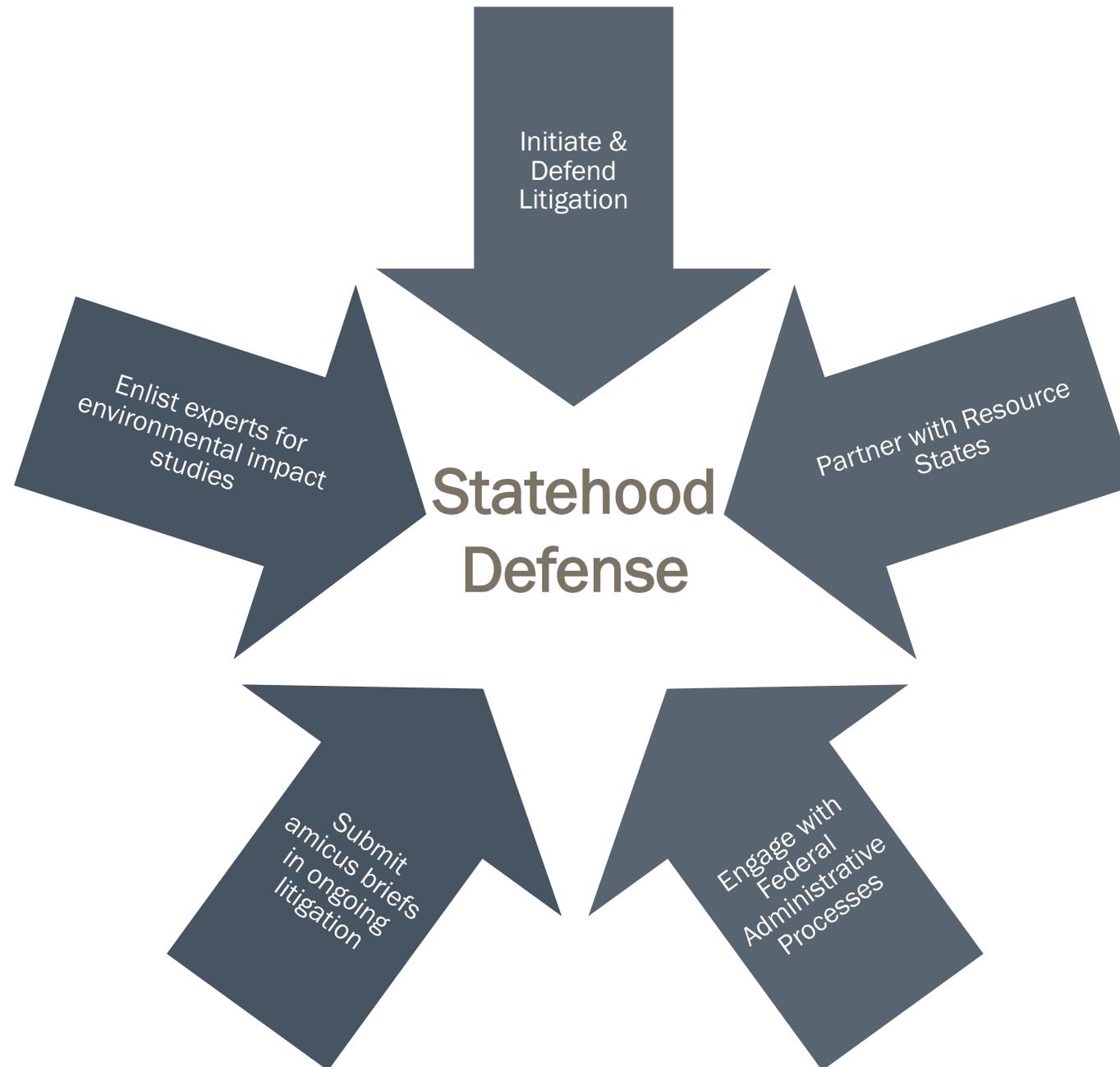
- State land selections
- State submerged lands
- Right to manage state lands, waters, fishery resources, mineral development, and wildlife

### Federal Submerged Lands Act:

- *State submerged lands – inland, tidal, and coastal waters*

### Alaska National Interest Lands Conservation Act (ANILCA):

- State land selections
- Management of state lands, waters, fish and wildlife confirmed
- *Sturgeon v. Frost* – limits the extent of federal lands in Conservation System Units



## Multi-Year Statehood Defense Funding

<u>Matter</u>	<u>Summary</u>	<u>Anticipated Costs</u>
Alaska Native Claims Settlement Act (ANCSA) 17(D)(1) Delay	Challenge to delays in revoking ANCSA Section 17(d)(1) withdrawals covering 28 million acres	\$300,000
Biden Oil & Gas Leasing Moratorium	Coalition of States challenging Biden administration moratorium on oil and gas leasing activities	\$94,000
Fortymile Rivers Quiet Titles	Assertion of State ownership to submerged lands underlying North Fork and Middle Fork, Fortymile River, AK	\$1,335,000
Greenhouse Gas (GHG) Social Costs	Coalition of States challenging Biden administration use of social costs modelling in GHG emission costs	\$94,000
Koyukuk River Quiet Titles	Assertion of State ownership to submerged lands underlying portions of the Koyukuk and the Bettles Rivers	\$1,335,000
Sackett Amicus Brief	Urge Supreme Court to adopt Scalia's test for waters of the U.S.	\$50,000
Texas v. Environmental Protections Agency (EPA)	Challenge to new Clean Air Act rules regarding passenger vehicles and trucks	\$94,000
Ringed Seal Delisting	Challenge to National Marine Fisheries Service 90-day finding regarding SOA's petition to delist ringed seal	\$400,000
Mulchatna family of rivers Quiet Titles	Continued actions to formally recognize strategic navigability for title waters	\$1,335,000
Mendenhall Lake Quiet Titles	Continued actions to formally recognize strategic navigability for title waters	\$1,335,000
Former Federal Site Cleanup	Compel cleanup of former defense and other federally contaminated sites on Alaska Native Claim Settlement Act lands	\$2,000,000
Environmental, Social, Governance (ESG) Investment Rule	Coalition of states challenging the Department of Labor's ESG rule	\$94,000
Kenai Refuge Rule	Challenge to federal rules that attempt to regulate the means and methods of hunting	\$150,000
National Park Service (NPS) Rule	Challenge to federal rules that attempt to regulate the means and methods of hunting	\$150,000
Waters of the United States (WOTUS) Definition	Challenge to new rule defining what waters, wetlands and even permafrost are covered under the Clean Water Act	\$150,000
Ice Seals Critical Habitat	Challenge to the expansive critical habitat designation for bearded and ringed seals	\$400,000
<b>Total</b>		<b>\$9,316,000</b>

# Anticipated Litigation

- Tongass Roadless Rule
- 404(c) EPA Veto
- PM 2.5 Plan for Fairbanks
- RS 2477
- Navigability
- Federal Management Plans
- Endangered Species Act

# FY2024 Governor Amended Proposed Budget Changes

## DEPARTMENT OF LAW CIVIL DIVISION

(amounts shown in thousands)

### **Add Attorney for Parental Rights in Education Advocate, +209.0 UGF, +1PFT**

- There are a number of education laws that protect parental rights in directing and guiding their child's education
- This position would assist parents in advocating for themselves and their students with schools and school districts

### **Add Attorney to Lead on Tribal Law Issues, +209.0 UGF, +1PFT**

- This Civil position would oversee and coordinate the myriad of civil issues that continue to arise, such as compacting (child welfare, education and potentially gaming), government to government consultation, sovereign immunity, regulatory actions by the federal government, etc
- This lead attorney would manage the larger picture, act as a liaison, and be the subject matter expert to consult, would ensure the department could adequately address these issues and start thinking more strategically and creatively about how to effectively partner with Tribes while also asserting the state's rights and sovereignty when needed

# FY2024 Governor's Proposed Budget Changes

## Administrative Services Division

(amounts shown in thousands)

### **Address Increasing Lease Costs, +250.0 UGF**

This increment is necessary to accommodate rate increases to State owned facilities Department of Law occupies.

The mission of the Criminal Division is to seek justice, promote public safety, and further public respect for government through prompt, effective, and compassionate prosecution of cases.

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# MISSION CRIMINAL DIVISION

# While we seek justice, we do not:

- Prosecute federal crimes
  - Prosecute municipal crimes
  - Investigate criminal conduct
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## MISSION CRIMINAL DIVISION

# The Duty of a Prosecutor

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done.

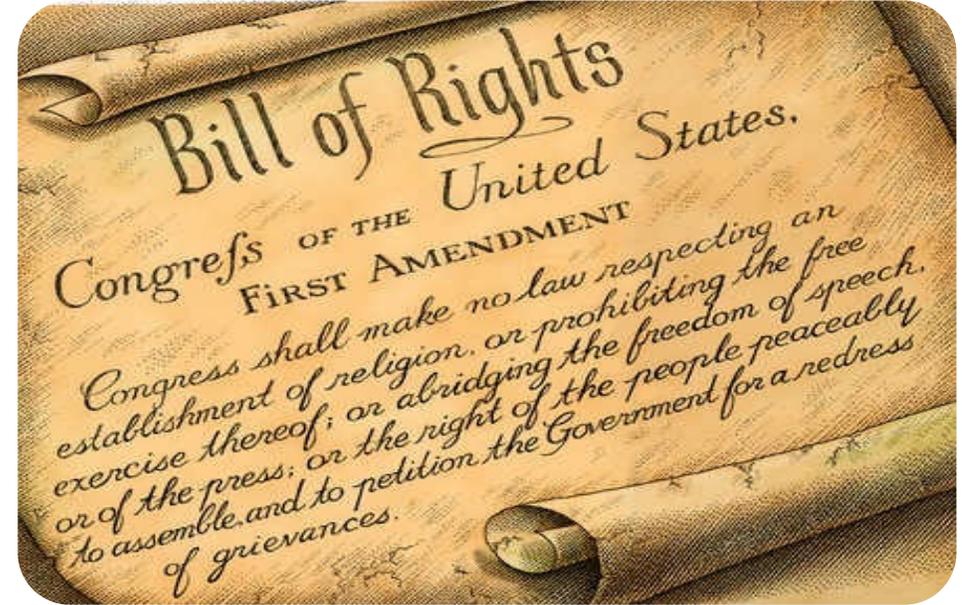
-Canons of professional ethics: Canon 5. American Bar Association (1908).

The prosecutor may prosecute with earnestness and vigor – indeed he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

-Justice George Southerland, *Berger v. United States*, 295 U.S. 78, 88 (1935).

Investigation assistance  
Formal referral  
Screening  
Pretrial litigation  
Pretrial resolution  
Trial  
Post-Trial Litigation

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It is the duty and obligation of the District Attorney to ensure that every citizen's constitutional rights are safeguarded at every step of the criminal prosecution.

# CORE SERVICES CRIMINAL DIVISION



**Nome**  
John Earthman

**Fairbanks**  
Joe Dallaire

**Bethel**  
Mark Clark

**Palmer**  
Melissa Howard

**Anchorage**  
Brittany Dunlop

**Kenai**  
Scot Leaders

**Kodiak**  
Gustaf Olson

**Juneau**  
Jessalyn Gillum

**Ketchikan**  
Alex Kramarczuk

**Appeals**  
Tamara DeLucia

**Special Prosecutions**  
Jenna Gruenstein

# Statewide Services

## Criminal Division

- 9 District Attorney offices
- 4 satellite offices (Utqiagvik, Kotzebue, Dillingham, Sitka)
- Criminal Appeals
- Special Prosecutions
- Central Office

# Recruitment & Retention

## Review of Criminal Division's Recruitment and Retention Challenges

### Applicant Shortage

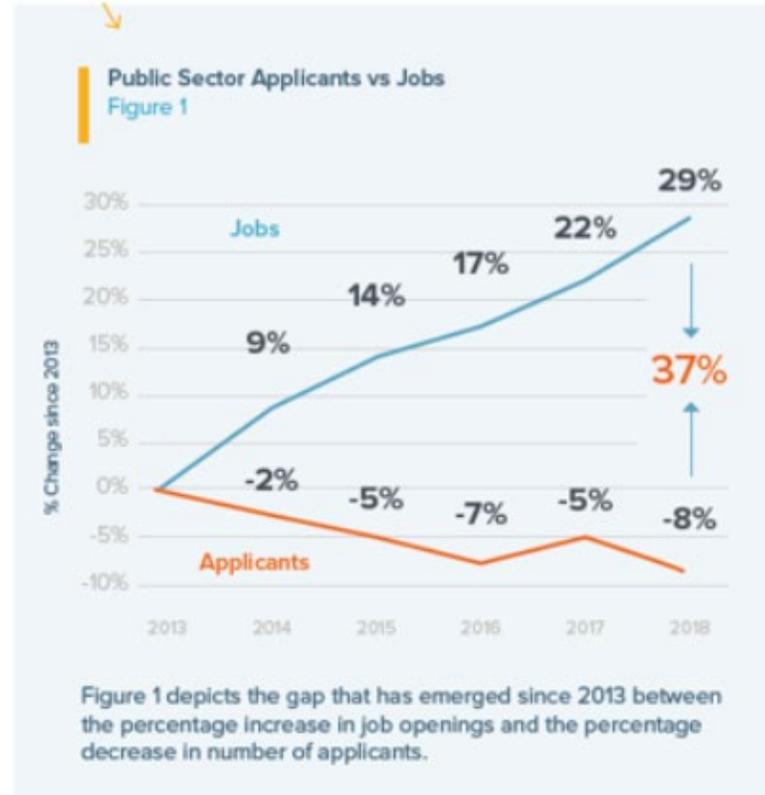
- Nationally
- Alaska specific

Turnover 22% - 37%

# FY2021 Department Of Law Budget Slide

## Recruitment and Retention *Applicant Shortage*

1/29/2020



- 10,000 Baby Boomers retiring per day = 11% of workforce per year. *(Washington Post)*
- 20% of Alaska state workers projected to retire in 1-5 years *(Alaska Department of Administration)*
- 11% of Alaska state workers eligible to retire in less than 1 year *(Alaska Department of Administration)*

( 14 )

# Recruitment and Retention

## *Applicant Shortage*

- 8% decrease in number of applicants looking for public sector jobs
- Average of 22% fewer applicants per job 2013-2018
- **“Legal has suffered the biggest impact** in applicants per job, with **a 64% decline in applications**. Legal jobs saw, on average, 33 fewer applicants per available job in 2018 compared to 2013.”  
*(NEOGOV Hiring Trends Report 2019)*
- 19% decrease in Alaska applicants over last five years  
*(Alaska Department of Administration)*
- 49 prosecutor positions recruited during 2019 with an average of less than 5 applicants per position.

*Fewer applicants*  
*Less experienced*  
*Longer recruitment periods*  
*Greater stress on current employees*

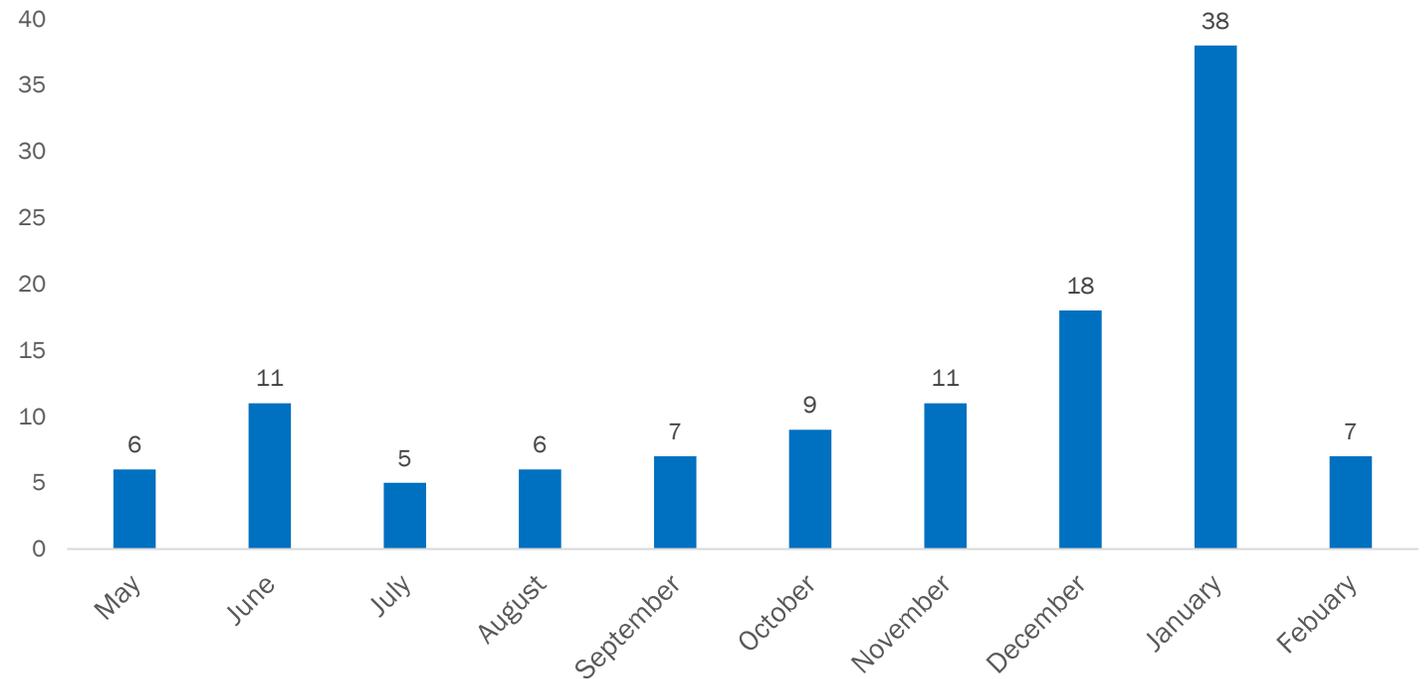
# Improvement In Applicant Numbers

Increases since November

Too early to conclude a lasting trend, but a significant improvement

# Guarded Optimism

Number of Applicants for Prosecutor Jobs 2022-2023



# Retention

Improving with efforts made.

- Salary increases
- Training provided
- Revamped website
- Social media presence
- Expanding posting locations
- Attending job fairs

## Positive trend, but still more work to do

Prosecutors in 2018	36.5% turned over (42 of 115)
Prosecutors in 2019	22.3% turned over (27 of 121)
Prosecutors in 2020	15.8% turned over (20 of 126)
Prosecutors in 2021	20.6% turned over (27 of 131)
Prosecutors in 2022	19.0% turned over (25 of 131)

### 2022

- 6 of 25 (24%) transferred to Civil Division;
- 2 of 25 (8%) transferred to Dept. of Admin. (Public Defender/Ofc. Of Public Advocacy)
- 3 of 25 Licensing issue

2022 - hired 31 attorneys– 13 of which had experience

- (including 6 former employees returning)

# FY2024 Governor's Proposed Budget Changes

## Criminal Division

(amounts shown in thousands)

### **Software and Storage for Audio/Visual Evidence in Criminal Cases, +400.0 UGF**

As state and local law enforcement expand their use of multimedia evidence collection and maintenance, the prosecutors and staff must also receive, review, and store the same evidence. This increment will allow the Criminal Division to process, review, and store digital evidence more efficiently.

### **One Time Request to Expand Internet Connectivity for Rural Prosecution Offices, +350.0 UGF**

With upgrades, the Criminal Division can transition several division rural community offices onto the division's cloud-based case management system, improve workflows within the cases, and eliminate the need to maintain local servers within those offices.

# FY2024 Governor Amended Proposed Budget Changes

## DEPARTMENT OF LAW CRIMINAL DIVISION

(amounts shown in thousands)

### Criminal Investigator for Election Fraud, Conflict Cases, and Rural Homicide/Felony Sex Offenses/Other Violent Crimes, +143.7 UGF, +1 Permanent Full Time (PFT)

- Full-time Investigator for election fraud and other matters handled by Special Prosecutions
- There are no dedicated investigators for elections fraud in Alaska
- Reports of potential election fraud are assigned to a law enforcement officer who must simultaneously handle other criminal investigations
- Having a dedicated investigator allows election fraud matters to be a primary focus for the investigator during the election season
- This investigator position can help fill another need in the Office of Special Prosecutions by providing investigative services to two other areas: conflict cases and major felonies from rural communities

# Thank you

**Legislative Liaison for Criminal Division**

Kaci Schroeder

907-465-3600

[kaci.schroeder@alaska.gov](mailto:kaci.schroeder@alaska.gov)

**Legislative Liaison for Civil Division**

Parker Patterson

907-465-3600

[parker.patterson@alaska.gov](mailto:parker.patterson@alaska.gov)

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ANY QUESTIONS?