

Department of Law

Mission

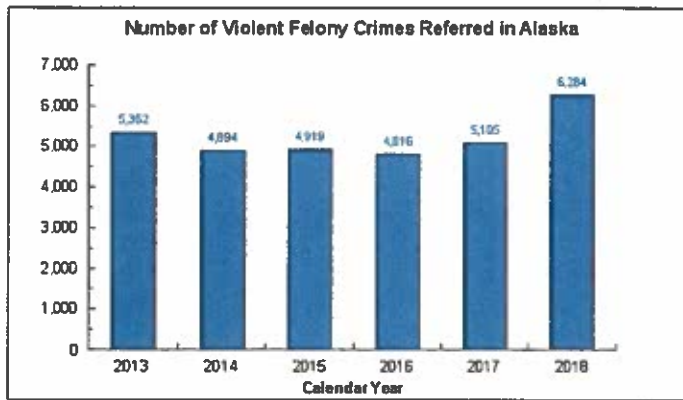
The mission of the Alaska Department of Law is to prosecute crime and provide legal services to state government for the protection and benefit of Alaska's citizens. AS 44.23

Core Services (in priority order)	UGF	DGF	Other	Fed	Total	PFT	PPT	NP	% GF
1 Protecting Alaskans	39,027.5	2,657.2	15,130.2	1,498.5	58,313.4	364	0	0	76.5%
2 Economic Opportunity and Resource Development	6,862.7	225.0	6,794.2	0.0	13,881.9	60	0	0	13.0%
3 State Fiscal Protection	1,843.7	0.0	5,252.1	0.0	7,095.8	43	0	0	3.4%
4 Governance	3,855.9	0.0	4,166.0	0.0	8,021.9	40	0	0	7.1%
FY2019 Management Plan	51,589.8	2,882.2	31,342.5	1,498.5	87,313.0	507	0	0	

Measures by Core Service

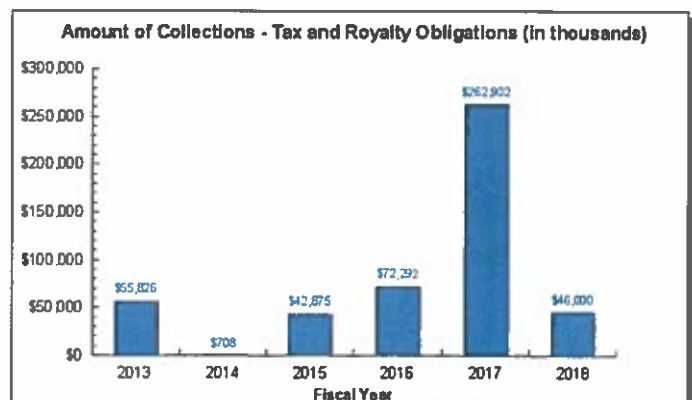
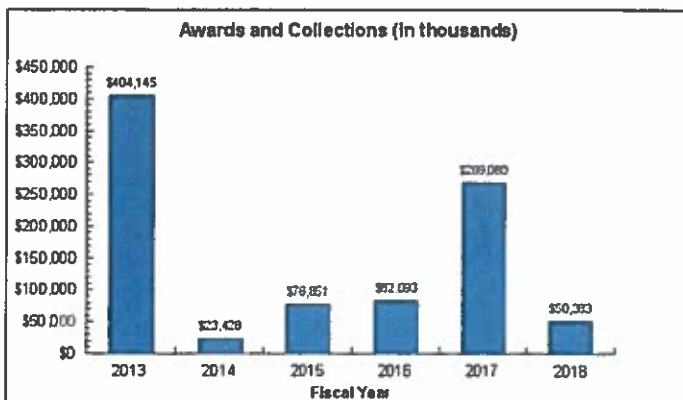
(Additional performance information is available on the web at <https://omb.alaska.gov/results>.)

1. Protecting Alaskans



2. Economic Opportunity and Resource Development

3. State Fiscal Protection



4. Governance



Major Department Accomplishments in 2018

Protecting the Safety and Physical and Financial Well-being of Alaskans

Criminal Division

In addition to the Criminal Division's core mission - the prosecution of state law violations - during FY2018, the Criminal Division focused on the following priorities:

Combating the Opioid Epidemic

Over the past five years, the Alaska per capita crime rate has continued to increase at an alarming rate. The total crime rate per 100,000 residents has increased by 25% from five years ago. During the same period, Alaska's violent crime rate has increased by 34% and the property crime rate has seen an increase of 22%. The opioid epidemic, which started in approximately 2014, is a significant driver of crime. The Attorney General's implementation of the Public Safety Action Plan (PSAP) in fiscal year 2018 was in direct response to both the opioid epidemic and crime trends. The PSAP tasks the state's various public safety agencies with evaluating the causes of the rise in crime and focuses state efforts in four main areas: (1) improving outcomes in the criminal justice system, (2) identifying public safety resource needs, (3) improving access to mental health and substance abuse treatment, and (4) addressing the opioid epidemic and drug trafficking in the state. Specifically, the Criminal Division has identified short-term efforts to improve public safety as well as potential future or long-term actions to build a stronger and safer Alaska.

One significant accomplishment of the PSAP is the federal government's designation of Alaska as a High Intensity Drug Trafficking Area (HIDTA). This designation allows the state to access significant federal dollars to combat drug trafficking and importation. The federal government appropriated approximately \$5 million dollars to Alaska as a direct result of the HIDTA designation, which will be used to fund initiatives designed to interrupt drug importation and manufacturing in Alaska. While the federal funds are not appropriated directly to the Criminal Division, the Attorney General holds a permanent seat on the HIDTA Executive Board, which is tasked with approving the statewide initiatives to address the drug epidemic.

With funding received during FY2018, the Criminal Division created a dedicated statewide drug prosecutor within the Office of Special Prosecutions. This dedicated prosecutor has statewide jurisdiction with the authority to handle drug distribution cases anywhere in the state. This prosecutor will also be designated a Special Assistant United States Attorney and thus can prosecute cases in both federal court and state court.

Aggressively Investigating and Prosecuting Medicaid Fraud

The Medicaid Fraud Control Unit (MFCU) is a unit within the Office of Special Prosecution that is jointly funded by the state and a federal grant. Under the current arrangement, the federal government pays for 75% of the unit's operating budget and the state pays the remaining 25%. In addition to the grant funding, the federal government also provides significant support through a variety of agencies, including the Office of Inspector General, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms. For FY2018, the total operating budget for this unit

was \$1,996,700, of which the federal grant paid 75% and the state's cost was 25%. Because the MFCU recouped more than \$2,700,000 in restitution and fines, nearly \$4 was recovered for every \$1 of state general funds spent on the program.

Civil Division

- **Child Protection.** In FY2018, the Alaska Supreme Court affirmed decisions made by the Office of Children's Services (in the Department of Health and Social Services) in 18 appeals, reversed one decision and four others were dismissed or voluntarily remanded.
- **Human Services.** Continued to advise DHSS on the implementation of CH 25 SLA 2016 (SB 74, Medicaid Reform), which is estimated to save the state millions of general fund dollars in the coming fiscal years. The section also handled hundreds of contested evidentiary hearings statewide related to guardianships, conservatorships and mental commitments.
- **Consumer Protection.** Participated in settlement of five major multi-state and three local consumer protection cases resulting in injunctive relief prohibiting conduct in violation of state consumer protection and antitrust statutes, and collected approximately \$2.2 million in payments to the state for costs, attorney's fees, consumer protection enforcement and education, and in restitution for consumers. The section also processed 499 consumer complaints, closing out 457 by an informal complaint process, launching of a formal investigation, or referral to other appropriate state and federal agencies. The section also registered 4,550 charitable organizations, 41 paid solicitors and 8 telemarketers, and collected more than \$186,000 in registration fees.
- **Regulatory Affairs and Public Advocacy.** The section's advocacy yielded approximately \$16 million in quantifiable consumer benefits in FY2018. This quantification is based on refunds issued or the difference between the amounts requested by utilities in their respective revenue requirement proposals and the amounts ultimately awarded to them by the Regulatory Commission of Alaska.

Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Alaska's Natural Resources

- **Natural Resources.** Section attorneys prosecuted and defended multiple actions involving the Tongass National Forest, including the Roadless Rule and the Tongass Land Management Plan. Supported the federal government, King Cove Corporation, and others in litigation to defend a land exchange.
- **Labor and State Affairs.** Assisted the Alaska Industrial Development and Export Authority (AIDEA) in negotiating and documenting a complex restructuring of its investment in the development of an oil processing facility for the Mustang oil field on the North Slope, which is intended to allow additional private investment into the field to sustain and expand oil production.
- **Environmental.** In FY2018, section attorneys recovered \$1,996,494 for state costs and penalties related to violations of state environmental laws.
- **Transportation.** Section attorneys are providing legal support for the Department of Transportation and Public Facilities land acquisition for highway and airport projects throughout Alaska, and in right-of-way acquisitions for major projects on the Parks, Glenn and Richardson Highways.

Protecting the Fiscal Integrity of the State

- **Torts and Workers' Compensation.** Defended the state (as an employer) in numerous workers' compensation matters before the Alaska Workers' Compensation Board and the Alaska Workers' Compensation Appeals Commission, and defended the state, its agencies, and its employees in numerous state and federal court tort cases.
- **Labor and State Affairs.** Provided extensive legal advice and representation to the Department of Administration, Division of Retirement and Benefits, in numerous health and benefits appeals and coverage issues under the state's health care plans, and on proposed state health and pension plan changes.

- Natural Resources. In FY2018, the section's work resulted in the collection of over \$46 million in additional tax payments, fire cost recoveries and attorney's fees.
- Transportation. Section attorneys defended multiple contractor claims filed against the Department of Transportation and Public Facilities. Included among the larger cases were claims arising from road construction and airport projects in the Central and Southeast regions, and a claim pertaining to the M/V Columbia.

Promoting and Defending Good Governance

- Labor and State Affairs. Advised the Division of Elections (DOE) during the 2018 Republican Primary for state house representative in House District 15 in Anchorage, after DOE discovered irregularities in absentee balloting and voting, and successfully assisted DOE in reviewing ballots, addressing potential legal concerns, and referring the matter to the Criminal Division for prosecution.
- Opinions, Appeals and Ethics. Promoted and enforced compliance with the Alaska Executive Branch Ethics Act by advising individuals and agencies on ethics questions, presenting ethics trainings, drafting ethics opinions and memoranda of advice, and investigating and resolving ethics complaints against former or current state employees.
- Legislation and Regulations. The section conducted legal review of nearly 1,350 pages of regulations during FY2018. Coordinated and drafted legislative bills on behalf of the administration for the 30th legislative session. Significant bills that passed include bills to improve the state's background check system for employment of police officers and persons who provide care to vulnerable citizens, to allow for emergency scheduling of dangerous drugs by regulation, and relating to the permanent fund and the funding structure for state government.
- Special Litigation. The section is representing the state in litigation challenging the Tax Credit Bond Act, which is new legislation enacted in 2018 (CH 33 SLA 2018, HB 331) to authorize the issuance of bonds to finance the repurchase of oil and gas tax credits.

Key Department Challenges

Criminal Division

In FY2014, the Criminal Division had 245 budgeted positions. In FY2015, significant reductions to personnel began and these cuts continued through FY2018, when the Criminal Division reached a low of 212 budgeted positions. With fewer staff, the Criminal Division must screen case referrals to focus on the most serious crimes (with an emphasis on sexual assault and other violent crimes) and taking fewer cases to trial. At the same time that the Criminal Division's budget was being reduced, the Criminal Division saw a dramatic increase in the number of felony prosecutions filed in court. Felony filings have increased by 18% between FY2017 and FY2018. While all types of felonies have increased, the largest increases have been in the more serious types of crime (i.e. felony assaults and robberies). In addition to an increase in the felony workload, the number of misdemeanors being filed has also increased. With such dramatic increases in workload, combined with staffing reductions, the Criminal Division has been forced to resolve cases short of trial and often at a lower level than originally charged. Increases in the number of cases that are resolved pre-trial (through either a plea agreement or a charge-bargain), often frustrates law enforcement and victims of crime. Further, it has dampened the morale of those in the criminal justice field and caused worry about the effect of unprosecuted crimes will have on communities.

The decrease in staffing has also caused employee burn out from working extra hours, forgoing time off due to the increased workload, and the increased burden on others when someone is out of the office. It has also become more difficult to provide assistance and support among offices when one office is short staffed due to vacancy or as the result of a large trial. It has been more difficult to fill vacancies.

In addition to staff reductions, trial costs continue to impact the Criminal Division's budget. The burden of proving a case beyond a reasonable doubt requires ensuring the attendance of witnesses to testify at trial. However, key

witnesses are not always local. Because court dates frequently change and cases can be resolved just prior to trial, the division must purchase full fare tickets for witnesses to ensure the ticket can be refunded if not used. Lodging, especially in summer months or in rural locations, can exceed \$200 per night. To keep costs to a minimum, witnesses are brought in and out of the trial site as quickly as possible. In other instances, prosecutors must simply attempt to prove their case without all of the witnesses to the crime who, if present, could have improved the outcome.

Civil Division

Protecting children, vulnerable adults and consumers is at the core of the Civil Division's mission to protect both the physical and financial well-being of Alaskans.

- **Child Protection.** Shrinking division resources and increasing caseloads on a statewide basis are presenting significant challenges for the section. Section attorneys now carry an average of 78 family cases each. The American Bar Association Standards for lawyers representing child welfare agencies recommend no more than 60 family cases per attorney. These high attorney caseloads and shrinking resources increase costs to the state and lead to longer stays in foster care for children who could otherwise find permanency in their "forever home".
- **Human Services.** Attorney caseloads continue to increase each year, without any increased resources to address them. Alaska has one of the fastest-growing aging populations in the nation. Some public assistance programs (e.g., Alaska Heating Assistance Program, Senior Benefits, general assistance) are facing reduced funding and may see increased hearings and/or legal challenges as individuals lose access to the programs.
- **Consumer Protection.** Alaska is a target state for many types of consumer fraud. Under the authority of the Consumer Protection Act (AS 45.50.471 et seq.), the state section investigates and brings enforcement action against businesses that engage in unfair or deceptive trade practices. Because of vacancies and current budget constraints, the department's consumer protection enforcement capacity has been significantly limited in the last few years. In FY2019 litigation of consumer protection complaints and enforcement of multi-state actions will be transferred from the Commercial and Fair Business section to the Special Litigation section, and a new attorney position will be filled so that the section can increase its enforcement function.

Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Natural Resources

- **Environmental Law.** Position reductions have resulted in a drop in cost recovery for Department of Environmental Conservation oversight and cleanup costs of spill response and contaminated sites. Reductions have also resulted in an inability to pursue cleanup of "lingering contaminated sites" where there is no responsible party undertaking a cleanup.
- **Natural Resources.** Protecting Alaska's sovereign right to manage fish and game and to exert its sovereignty over statehood entitlement lands and navigable waters against federal government encroachment will continue to be a key focus of and challenge for the section.

Protecting the Fiscal Integrity of the State

- **Labor and State Affairs.** In recent years, position reductions have strained the section's ability to meet its ongoing advisory and advocacy duties. This includes adequately defending the Department of Administration in appeals filed against the state's active and retiree health and benefits plans, assisting the Division of Retirement and Benefits with responses to questions about and any proposed changes to the various health and pension plans, and defending cases filed against the Workers' Compensation Benefits Guaranty Fund.
- **Natural Resources.** The section is pursuing hundreds of millions of dollars in past-due taxes, interest and penalties that are owed by oil and gas producers and other corporate taxpayers to the state. Defending the Department of Revenue in appeals from annual oil and gas property tax assessments continues to be a challenge with reduced staffing.

- Natural Resources. Defending the state's interests and goals from increasing restrictions under federal statutes and regulations as well as lawsuits from environmental groups to broaden the reach of federal laws continues to expand the section's caseload, and requires strategically selecting those cases for litigation that are most likely to achieve the state's goals.

Promoting and Defending Good Governance

- Information and Project Support. A key challenge for the section is advising and training personnel on protecting confidential and protected information for various agencies across the state. As programs are reduced or eliminated and staffing cuts pose a workload issue, it is a major challenge to provide guidance to state agencies on how to appropriately evaluate records and other materials for confidential or protected information prior to retention or disposal actions. Additionally, in the age of electronic communication, the number of responsive records has exponentially increased, resulting in a much heavier workload for this section and on agencies in reviewing records.
- Opinions, Appeals and Ethics. A key challenge for the section is to lend its expertise in appellate briefing and argument to all Civil Division sections, given the volume of appeals to which the state is a party. At any given time, the Civil Division has between 100 and 150 civil appeals pending, 25-30 of which are child protection cases involving child abuse and neglect. The section directly handles all of the child protection appeals statewide, as well as all appeals of civil commitments statewide. The section also directly handles appeals in cases that concern constitutional and legal issues of particular import.

Significant Changes in Results to be Delivered in FY2020

The department is continuously assessing how it can better provide legal services to state agencies and prosecute criminal activity in order to increase public safety. In light of the current environment, the department has made every effort to redirect and consolidate available resources in order to ensure efficiency while preserving effectiveness.

The budgetary challenges posed by the current fiscal environment continue to make prosecutorial services extremely difficult, as the Criminal Division is forced to prioritize felonies and higher-level misdemeanors over lesser crimes due to the lack of available funding. This results in a palpable sense of unease and fear within Alaskan communities, as public safety issues are resolved more slowly or not at all. The FY2019 budget included the addition of new positions in western Alaska and Anchorage, and the department anticipates that those offices will be able to handle cases more effectively in the coming years. It takes time to on-board new criminal attorneys, so increased effectiveness and a lowering of caseloads are likely to be seen in the next couple of years. However, even with the FY2019 additions, the number of cases will exceed the division's capacity to prosecute. In FY2020, the Criminal Division will seek to add additional resources throughout the state in an effort to respond to the rising crime trends and corresponding increases to prosecutors' caseloads.

Recent changes to the Civil Division include the diffusion of duties from the Collections and Support section to organizations both in and out of the department, which resulted in the dissolution of the Collections and Support section at the end of FY2017. Beginning in FY2018, the victim restitution work has been addressed by the Alaska Court System. The collection of monies owed to the State of Alaska is being handled by the new Shared Services Division in the Department of Administration, and the enforcement of child support orders (as a matter of assistance to the Child Support Services Division in the Department of Revenue) is being handled by the Department of Law's Commercial and Fair Business section. In early FY2019, the consumer protection function was transferred from the Commercial and Fair Business section to the Special Litigation section. This transfer was made so that the litigation resources of Special Litigation section, including a team of experienced litigators, can strengthen the consumer protection program and increase its enforcement capacity.

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