



Department of Law

Department Overview
House Finance February 24, 2023

TREG TAYLOR, ATTORNEY GENERAL

CORI MILLS, DEPUTY ATTORNEY GENERAL,
CIVIL DIVISION

JOHN SKIDMORE, DEPUTY ATTORNEY GENERAL,
CRIMINAL DIVISION

Department of Law MANAGEMENT TEAM



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.

MISSION

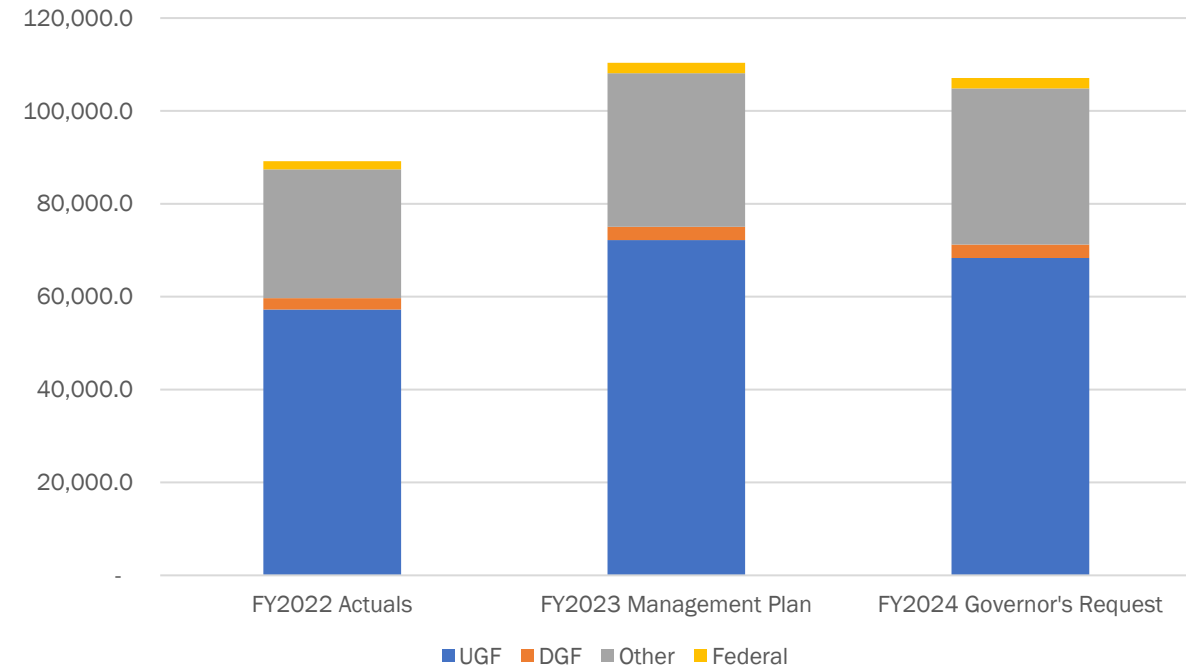
DEPARTMENT OF LAW

Operating Budget Comparison

DEPARTMENT OF LAW

FY2022 – FY2024

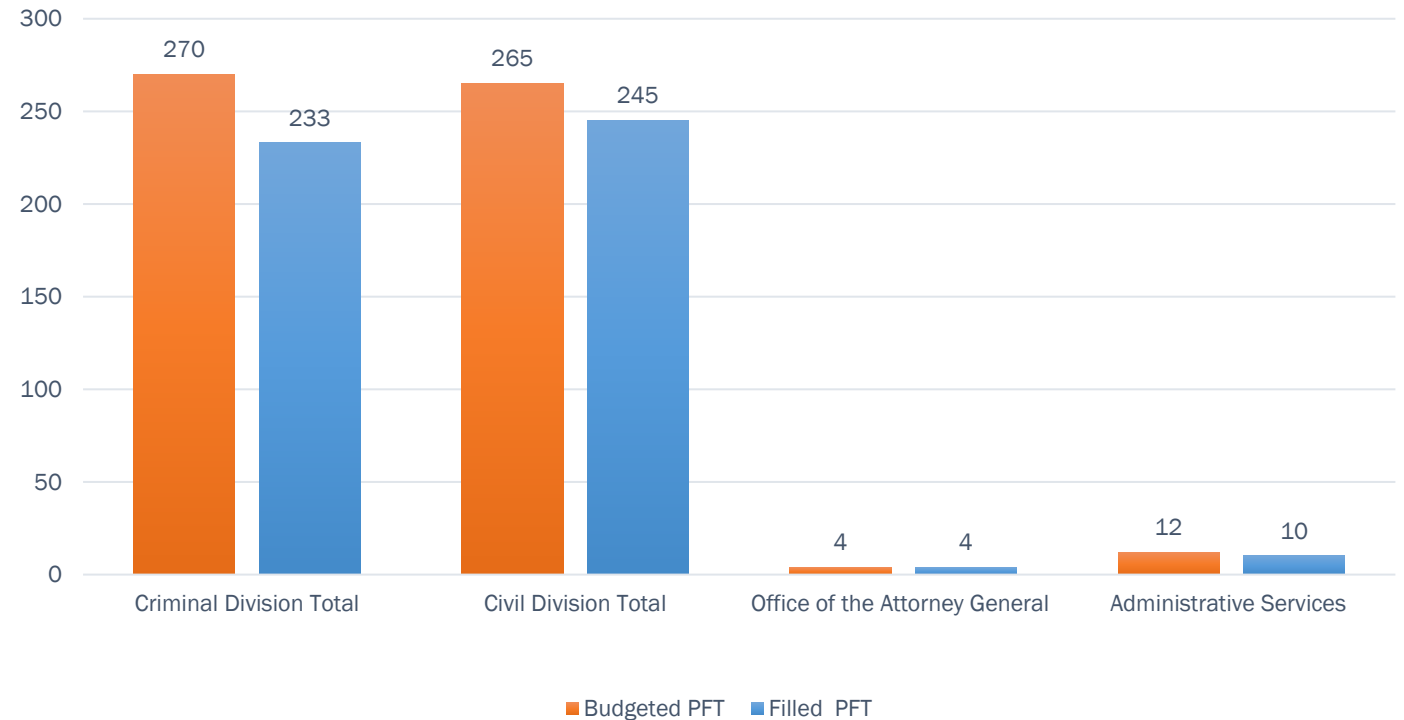
(amounts shown in thousands)



	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
Total	89,156.6	110,351.3	107,091.1

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

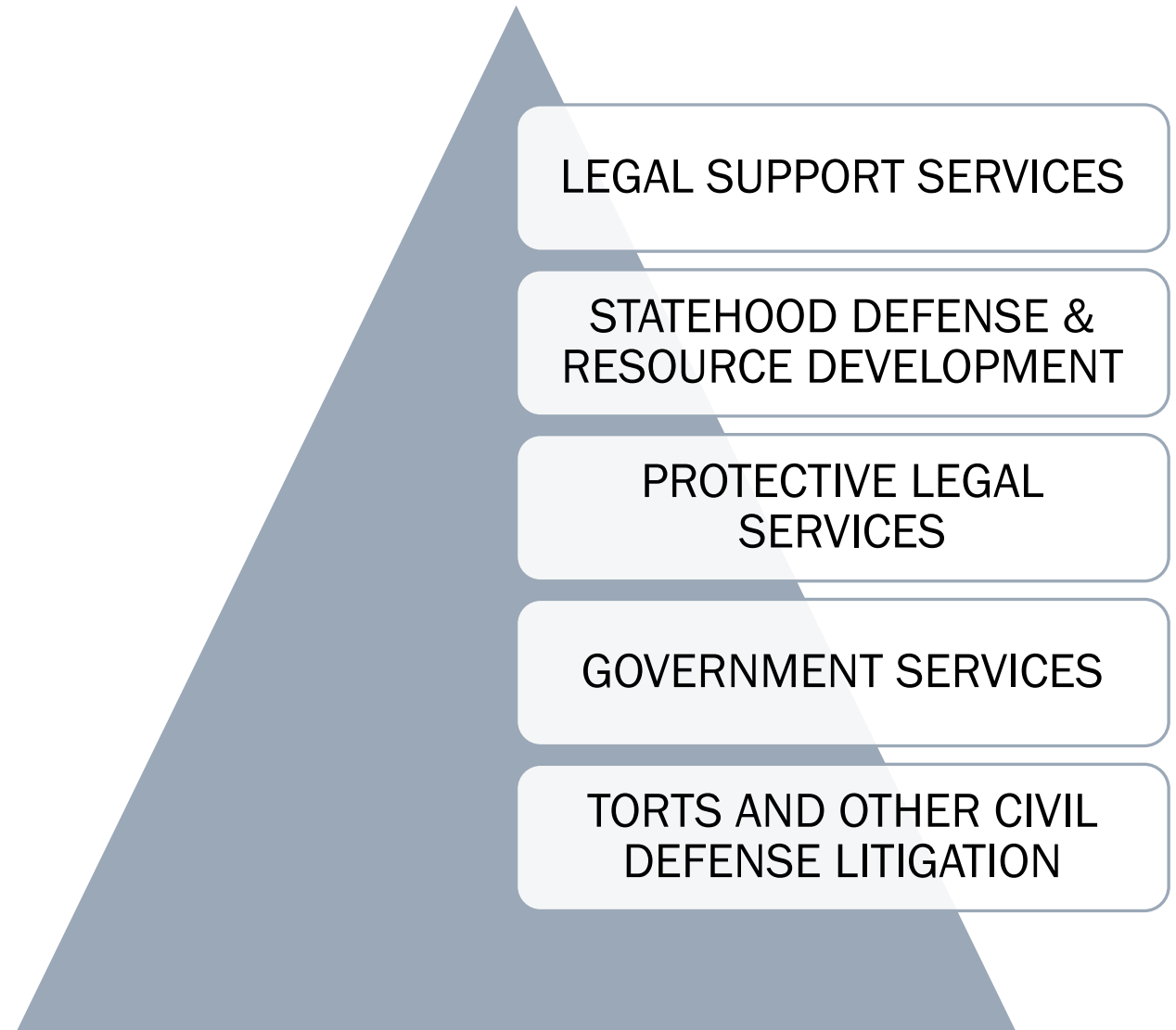
Data as of 1/15/2023



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.

CORE SERVICES CIVIL DIVISION

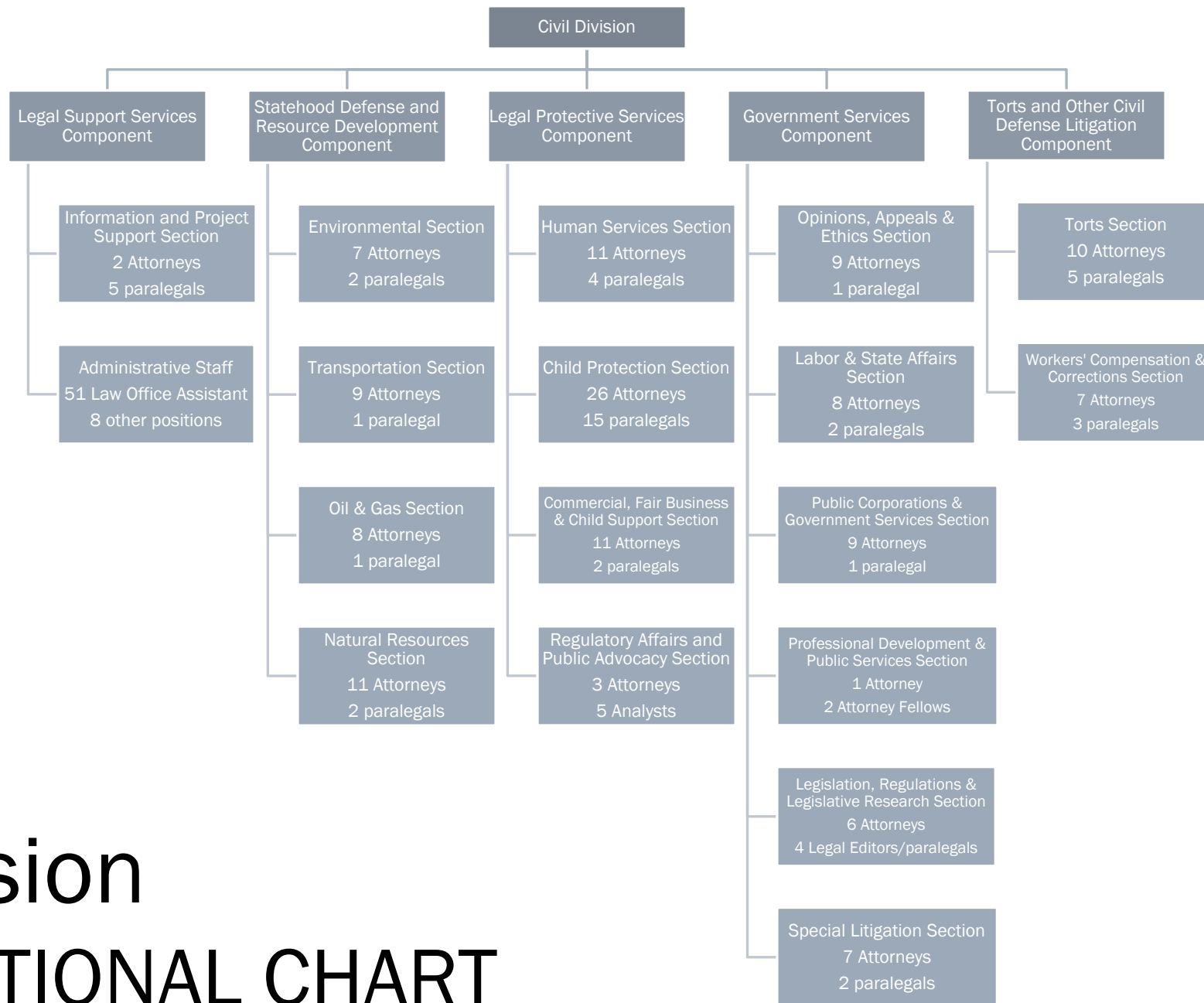
Civil Division Proposed Restructuring



Why the Change?

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



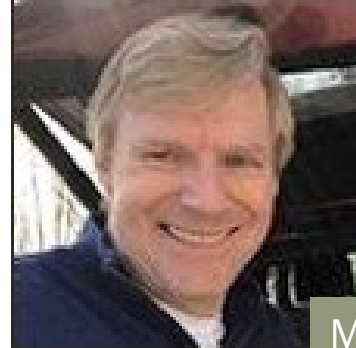
Mary Gramling

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

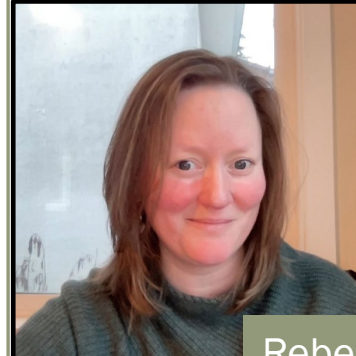


Carla Erickson

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

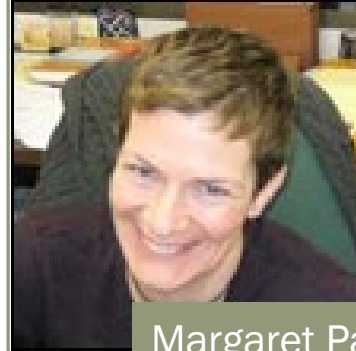
Public Corps. & Government Svcs.



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



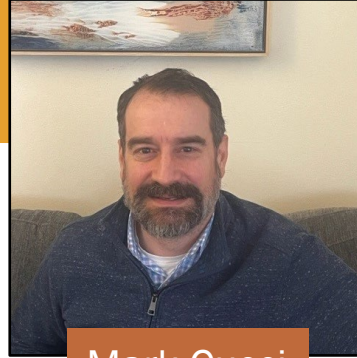
Jessica Leeah

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

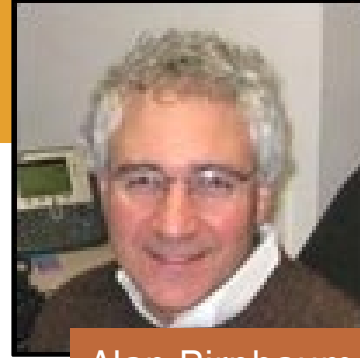
Workers' Comp & Corrections

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

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

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

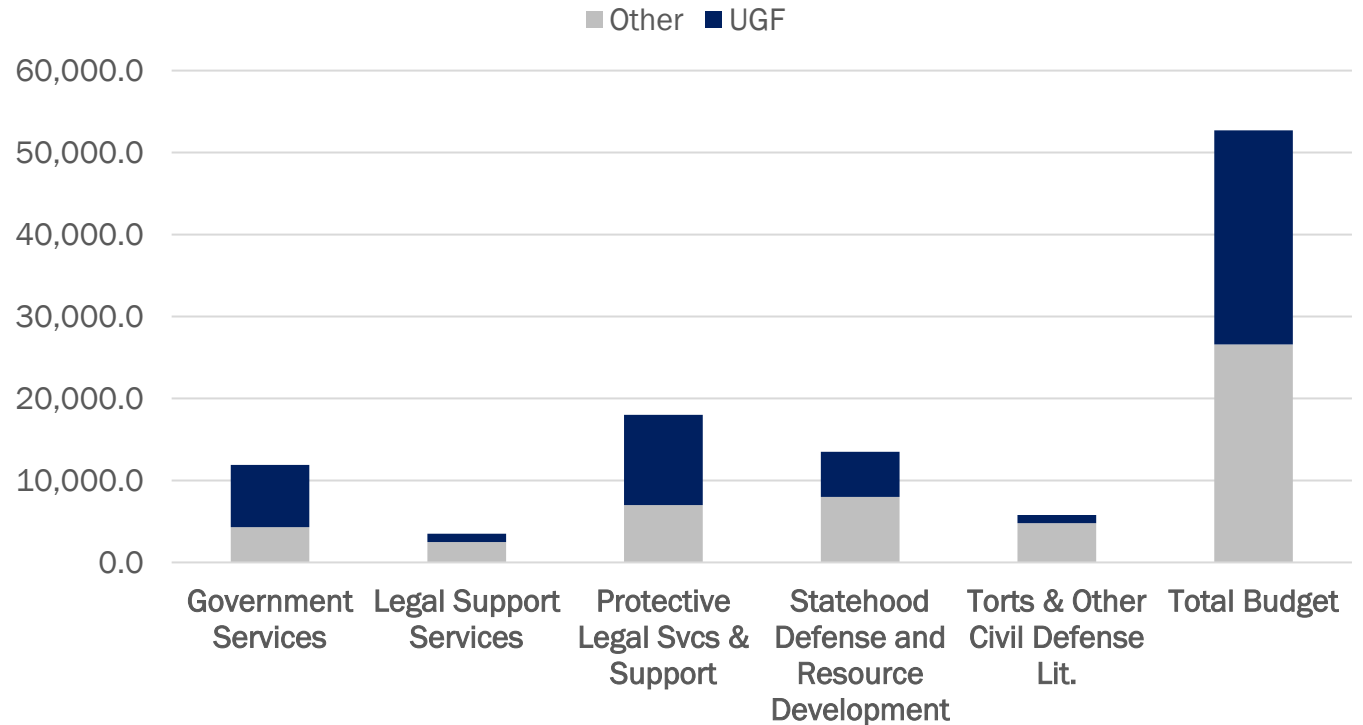
- \$1,800.0 in settlements and fines

(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

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

*formerly good governance

Appeals & Ethics

Special Litigation

Legislation

Employment

Advising the Governor

Elections

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

United States Constitution:

- Establishes a federal government of limited power
- 10th 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
Total		\$9,316,000

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.

MISSION CRIMINAL DIVISION

While we seek justice, we do not:

- Prosecute federal crimes
 - Prosecute municipal crimes
 - Investigate criminal conduct
-

MISSION CRIMINAL DIVISION

The Duty of a Prosecutor

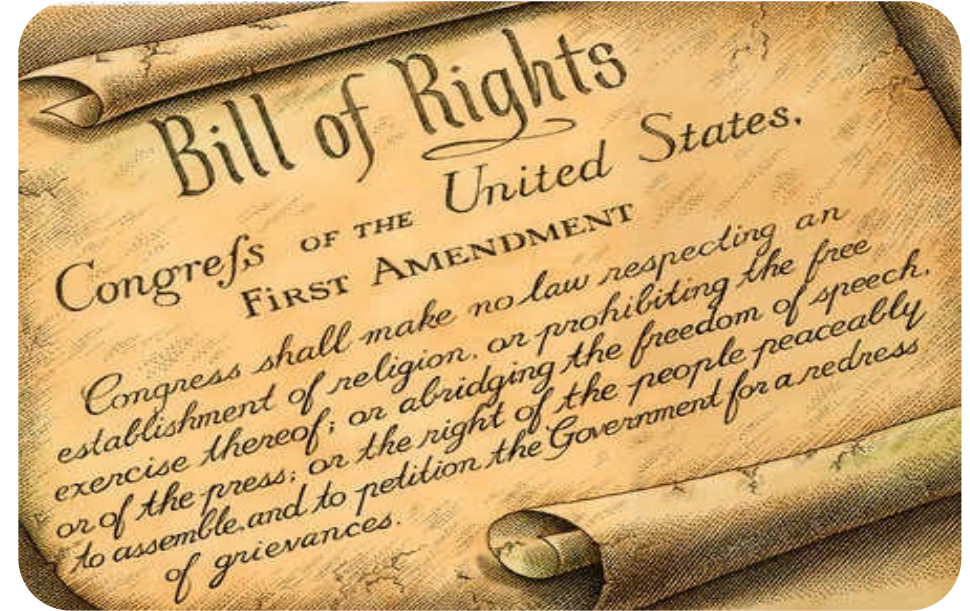
The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done.

-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



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

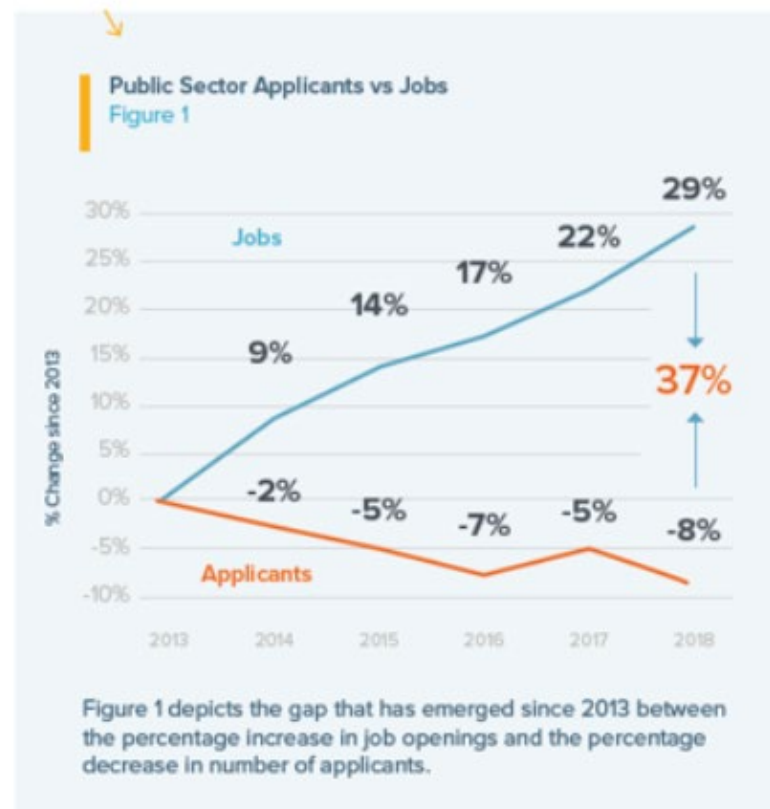
Applicant Shortage

- Nationally
- Alaska specific

Turnover 22% - 37%

FY2021 Department Of Law Budget Slide

Recruitment and Retention *Applicant Shortage*



- 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)*

FY2021 Department Of Law Budget Slide

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*

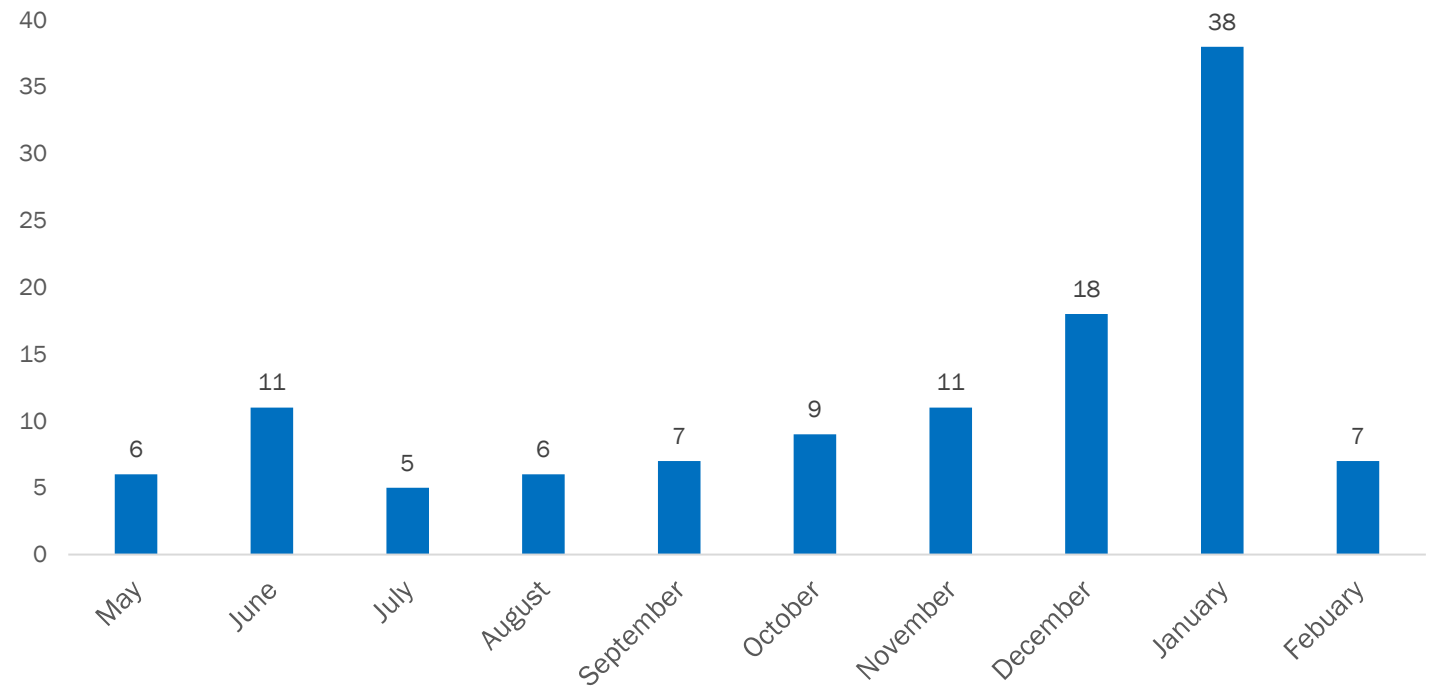
Improvement In Applicant Numbers

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

Legislative Liaison for Civil Division

Parker Patterson

907-465-3600

parker.patterson@alaska.gov

ANY QUESTIONS?