

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 30, 2001  
8:04 a.m.

**COMMITTEE CALENDAR**

Overview: Public Defender's Office; Office of Public Advocacy

**TAPE**

01-9, SIDES A & B

**CALL TO ORDER**

CHAIRMAN JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:04 a.m.

**PRESENT**

Committee members present were Representatives Coghill, James, Hayes, Fate, Stevens, and Wilson. Representative Crawford was absent.

**SUMMARY OF INFORMATION**

BRANT MCGEE, Public Advocate, Office of Public Advocacy (OPA), gave a brief history of OPA, explaining that it was established by the legislature in 1984 because of dissatisfaction with the previous system handled through the courts. The first thing OPA did was to replace most of the lawyers because it was easier and less expensive to train a child development specialist to be an advocate than it was to train a lawyer to be a child development specialist.

MR. MCGEE said the division has 53 employees, 14 of whom are attorneys. The OPA also contracts with 78 private lawyers and has a pool of 214 more who are called upon occasionally. Eighty percent of OPA's budget goes into the private sector for attorney fees, witnesses, and travel expenses. Public guardian cases make up 55 percent of the caseload; guardian ad litem cases account for 25 percent; and criminal defense cases, 10 percent.

REPRESENTATIVE JAMES asked how often guardians ad litem meet face-to-face with Children in Need of Aid clients.

MR. MCGEE said they meet face-to-face very seldom, and that face-to-face meetings with adolescents or infants are rare. Representative James expressed concern that teens do not have an opportunity to discuss their feelings with a guardian ad litem (GAL).

REPRESENTATIVE FATE asked about the possibility of OPA using telecommunications for distance delivery of services, a direction the University of Alaska was taking.

MR. MCGEE said the quality of representation by teleconference was inferior and the court system had not yet been set up for videoconferencing.

REPRESENTATIVE FATE asked why, if face-to-face meeting with a GAL is not frequent, teleconferencing could not be done for remote sites.

REPRESENTATIVE JAMES said it might be better for the defendant to attend hearings in person. She stressed that there is a need for face-to-face interchange with the GAL.

MR. MCGEE gave a brief overview of the Court Appointed Special Advocate (CASA) program. He said he believes the Office of Public Advocacy is successful because of its very committed staff. Those people believe in what they are doing, and although the state hires them for 37.5 hours a week, most of them work more than 50 hours a week, he said. There are three areas of work -- guardian ad litem, indigent criminal, and public guardian for vulnerable adults. He said in Fiscal Year 2000, Child in Need of Aid cases increased by 23 percent, not due to an increased number of cases, but because cases are taking longer to resolve. In the first six months of fiscal year 2001, there was only a 1 percent increase, but the division spent \$300,000 more on litigation than it did in the same six months last year.

REPRESENTATIVE JAMES asked if there were any cases that could have been resolved another way.

MR. MCGEE said that many cases are settled before the case goes to court, but work still must be done to prepare the case for trial and filing deadlines must be met, even when it is probable that the case will be settled out of court.

REPRESENTATIVE COGHILL said the problem with court proceedings is that the family is the only party that doesn't speak the

language that is used in the courtroom. The family often does not understand what is happening to them and they feel left out of the process.

MR. MCGEE said that 20 percent of their cases are indigent criminal cases referred to OPA because the public defender's office has a conflict of interest with the client. The OPA likewise refers cases outside its office when there is a conflict of interest. For example, in Bethel, because it is a smaller community, many cases need to be transferred because one person could be the victim, the witness, and the perpetrator in three separate cases within a short span of time.

MR. MCGEE said that crime and child abuse do not feed OPA; alcohol feeds OPA. He said he challenged his staff to find one case in which alcohol was not a factor, and they couldn't come up with one. He said that if alcohol were not the factor that it is in Alaska, the state would need an OPA staff of just five people.

REPRESENTATIVE FATE said he had heard that drugs are endemic in the Bush. Mr. McGee said there is marijuana use and other drugs sometimes are involved, but alcohol is the big problem.

MR. MCGEE concluded by saying that OPA cannot control its caseload, as all cases come from a court order or appointment.

REPRESENTATIVES JAMES AND REPRESENTATIVE COGHILL each commented that their dealings with OPA had been very good ones.

BLAIR McCUNE, Deputy Director, Public Defender Agency, said he handles Children in Need of Aid (CINA) cases. He said he was present on behalf of Barbara Brink, director of the agency.

MR. McCUNE said that the public defender's office provides legal representation for indigent people in criminal cases. As with OPA, the agency does not have control over how many cases it handles. The courts refer them after screening the defendants and determining that they are indigent. There are 13 offices statewide.

MR. McCUNE said that in 1995, the court system adopted a rule requiring defendants using the public defender's office to reimburse the agency for services rendered. The rates vary from \$200 for a misdemeanor case to \$5,000 for a murder trial. At the end of a trial, the judge issues a judgment order. A recent

audit revealed there was \$7.8 million in outstanding orders with \$2.5 million collected thus far.

MR. McCUNE said that the public defender's office represents parents involved in a Child In Need of Aid case. He said the legislature passed legislation in 2000 that allows the public defender's office to become involved before the 48-hour probable cause hearing. This enables them to review medical, police, and social worker reports prior to the hearing. He said there are times when the public defender agrees there is probable cause and works with client to get the best placement for the child and a case plan for reunification. Mr. McCune said the key to reunification is treatment and visitation. Without visitation, the parents drift off. Public defenders work toward having the child live with family.

REPRESENTATIVE JAMES said that in her experience with 19 foster children, the most important factor in success was keeping the children in touch with their parents.

MR. McCUNE said the foster parent program is overloaded. Cook Inlet Native Corporation has relieved some of the load by setting up a visitation program. He noted that HB 375 set a timeline and strengthened the requirement for the state to show that a reasonable effort has been made to reunite families. This effort can include alcohol and drug treatment.

REPRESENTATIVE HAYES asked Mr. McCune to characterize the relationship between the public defender's office and the Division of Family and Youth Services (DFYS).

MR. McCUNE discussed the Balloon Project. He said it targeted children who as of November 1997 had been in state custody 15 of the previous 22 months. Thirty percent of those children have been returned to their homes.

REPRESENTATIVE COGHILL again asked Mr. McCune to characterize the agency's relationship with DFYS.

MR. McCUNE said the relationship is adversarial, but that they work "pretty well" together. He said that the Anchorage court system has a federally funded mediation program that works well for open adoptions. Open adoptions are those in which the court allows the natural parents to visit the adopted child.

REPRESENTATIVE COGHILL asked Mr. McCune to clarify that the 30 percent rate was only for Balloon Project children. Mr. McCune

confirmed that. He added that the overall percentage of reports of harm that lead to adoption of a child is very small compared with the percentage in the Balloon Project.

REPRESENTATIVE COGHILL asked about the power of probation officers. Mr. McCune said the public defender's office is not involved with the defendant after the conviction unless that person is arrested for a parole violation. He said that Anchorage has a pilot project, a therapeutic court. A person convicted of a crime involving alcohol or drug abuse is not sentenced immediately after conviction. Sentencing is delayed and the individual is required to appear in court once a week at the outset, then once every two weeks, etc. The delay allows the public defender's office to continue its involvement with the case.

MR. McCUNE concluded by saying he became a public defender in 1981 in Fairbanks, and has since served in Bethel and Anchorage. He said his people try to do a good job in helping those with whom they deal.

#### **ANNOUNCEMENTS**

There were no announcements.

#### **COMMITTEE ACTION**

The committee took no action.

#### **ADJOURNMENT**

REPRESENTATIVE COGHILL adjourned the meeting House State Affairs Standing Committee meeting at 9:49 a.m.

NOTE: The meeting was recorded and handwritten log notes were taken. A copy of the tape(s) and log notes may be obtained by contacting the House Records Office at State Capitol, Room 3, Juneau, Alaska 99801, (mailing address), (907) 465-2214, and after adjournment of the second session of the Twenty-Second Alaska State Legislature this information may be obtained by contacting the Legislative Reference Library at (907) 465-3808.