

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 26, 2009

1:35 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Lesil McGuire (via teleconference)

COMMITTEE CALENDAR

OVERVIEW(S): DEPARTMENT OF PUBLIC SAFETY

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

JOSEPH A. MASTERS, Commissioner
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: As appointed commissioner of the Department of Public Safety, presented the department's overview.

AUDIE HOLLOWAY, Colonel, Director
Central Office
Division of Alaska State Troopers
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Responded to a question and provided comments during the overview of the Department of Public Safety.

SENATOR GENE THERRIAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Asked questions during the overview of the Department of Public Safety.

DAN SPENCER, Director
Central Office
Division of Administrative Services
Department of Public Safety (DPS)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the overview of the Department of Public Safety.

ORIN DYM, Crime Lab Supervisor
Scientific Crime Detection Laboratory
Office of the Commissioner
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during the overview by the Department of Public Safety.

ACTION NARRATIVE

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CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:35 p.m. Representatives Ramras, Dahlstrom, Coghill, Gatto, Lynn, and Holmes were present at the call to order. Representative Gruenberg arrived as the meeting was in progress. Senator McGuire (via teleconference) was also in attendance.

OVERVIEW(S): DEPARTMENT OF PUBLIC SAFETY

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CHAIR RAMRAS indicated that the only order of business would be the overview by the Department of Public Safety (DPS).

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JOSEPH A. MASTERS, Commissioner, Department of Public Safety (DPS), after providing the committee with a brief history of his experience in the field of law enforcement and answering questions specific to that experience, referred to a PowerPoint

presentation outlining aspects of the Department of Public Safety. Information on page 2 of the PowerPoint presentation highlights that the divisions within the DPS are the Division of Administrative Services, the Division of Statewide Services, the Division of Alaska State Troopers, the Division of Fire and Life Safety, and the Division of Alaska Wildlife Troopers. The DPS is also responsible for the Alaska Fire Standards Council, the Alcoholic Beverage Control Board ("ABC Board"), the Alaska Police Standards Council (APSC), and the Council on Domestic Violence and Sexual Assault (CDVSA).

COMMISSIONER MASTERS, referring to page 3 of the PowerPoint presentation, noted that in 2008, the Division of Alaska State Troopers was able to respond to 119,217 calls for service, about 10 percent of which resulted in criminal cases that were referred for prosecution. In 2008, the division was responsible for 13 homicide investigations, all of which have been closed as solved. In response to a question, he agreed to provide the committee with the percentage of those homicides that were domestic violence (DV) related. In answer to other questions, he indicated that the aforementioned responses to calls for service don't include actions taken by the "judicial services unit" but do include calls responded to by Village Public Safety Officers (VPSOs), and acknowledged that sometimes logistical difficulties can and have resulted in delays in VPSO responses in rural areas of the state.

REPRESENTATIVE GRUENBERG expressed interest in learning about any problems the DPS is experiencing - particularly problems with providing adequate service in rural areas.

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COMMISSIONER MASTERS, continuing with his presentation, relayed that the Division of Alaska State Troopers assists other law enforcement agencies with their ongoing homicide investigations; and that the division's "cold case unit" has 72 open cases, has closed 29 cases, and has four investigators. In general, although it appears that the number of marijuana grow operations and methamphetamine laboratories in Alaska is declining, that doesn't necessarily mean that the state's marijuana and methamphetamine problems are as well; furthermore, there appears to be an increase in cases involving heroin, OxyContin - and other prescription medications - and drug importation.

CHAIR RAMRAS expressed interest in learning more about the department's importation interdiction efforts, particularly

those related to the importation of drugs and alcohol into rural areas of the state.

COMMISSIONER MASTERS noted that in 2008, the Division of Alaska State Troopers' Alaska Bureau of Alcohol and Drug Enforcement ("ABADE") seized \$19 million worth of drugs, and that alcohol importation arrests have increased to 291 - an increase of over 30 percent from 2007.

CHAIR RAMRAS expressed interest in learning whether that increase in arrests is due to heightened enforcement efforts, or [recent] statutory changes.

COMMISSIONER MASTERS relayed that in 2008, the Division of Alaska State Troopers responded to 337 sexual assault cases and 375 sexual abuse of a minor cases. Such crimes, although not occurring as frequently as in past years, continue to be a problem throughout Alaska, particularly in the Bethel region.

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AUDIE HOLLOWAY, Colonel, Director, Central Office, Division of Alaska State Troopers, Department of Public Safety (DPS), in response to a question, offered his understanding that not all instances of sexual assault or sexual abuse of a minor are being addressed, and said he is reluctant to guess what percentage of such cases are.

CHAIR RAMRAS recalled that a former deputy attorney general with the Department of Law had once testified that for each sexual abuse of minor case that comes to light, there are 100 other instances of sexual abuse of a minor occurring. He relayed that the committee is very interested in doing what it can to assist the DPS in combating this "epidemic."

COMMISSIONER MASTERS, returning attention to his presentation, relayed that [67,750] prisoners required transportation, which is handled primarily by the judicial services unit and the Division of Alaska State Troopers. Recently the department has reallocated resources so as to create seven new court services officer (CSO) positions, and this should alleviate some of the workload concerns experienced by troopers in rural areas of the state. He explained that the division conducted 740 search and rescue (SAR) operations, resulting in 289 [saved lives]. In 2008, he relayed, there were 62 highway fatalities, 19 of which were alcohol-related, adding that this is a reduction from previous years. There are currently two designated highway

safety corridors in Alaska; he offered his understanding that the Department of Transportation & Public Facilities (DOT&PF) is in favor of designating three or four more highway areas as such as well but is concerned about a possible lack of dedicated enforcement resources.

COMMISSIONER MASTERS indicated that over the last several years, filling vacancies has been problematic for the department, and that the department's ability to provide adequate service is dependent upon having adequate staff, as is the department's ability to determine possible future staffing needs; currently, the Division of Alaska State Troopers has 22 positions vacant, the Division of Alaska Wildlife Troopers has 5 positions vacant, and there are 12 CSO positions vacant. He assured the committee that recruitment has been a top priority for both himself and the department, adding that he is hopeful that by fiscal year (FY) 2010, the department will have all its vacancies filled.

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COMMISSIONER MASTERS, referring to page 4 of the PowerPoint presentation, explained that the Village Public Safety Officer (VPSO) program continues to be a major priority for the department, surmising that a [recent] raise in the VPSO program's pay structure has been partially responsible for alleviating high turnover rates - helping with both retention and recruitment. The department is continuing to apply for and administer federal grants that support its efforts in rural areas of the state, particularly with the regard to equipment, supplies, and training. In addition to the pay structure, other issues that affect turnover rates in the VPSO program are support by the community and support by the Division of Alaska State Trooper, and the department is working to address the latter issue. Last year, the number of trooper [oversight] visits to communities served by VPSOs was 2,340. He indicated that funding in FY 2010 will allow for 60 VPSO positions to be filled, and that once the current students at the academy qualify to be VPSOs, 51 of those 60 positions will be filled.

COMMISSIONER MASTERS explained that after additional training with regard to domestic violence, [sexual assault,] and driving under the influence crimes was provided to VPSOs, the number of [DV and sexual assault] arrests in 2008 totaled 238 - an increase of 51 percent from the previous year - and the number of driving under the influence (DUI) arrests totaled 57 - an increase of 63 percent from the previous year. The department has also entered into a Reimbursable Services Agreement (RSA)

with the Department of Corrections (DOC) to administer probation and parole services, and this allows the DOC to release probationers and parolees back into their communities, under the supervision of VPSOs; funding associated with that RSA has been used to augment VPSO salaries. Furthermore, about 20 VPSOs have received Drug Abuse Resistance Education (D.A.R.E.) training, though this involved having to receive a waiver of some the D.A.R.E. program requirements.

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SENATOR GENE THERRIault, Alaska State Legislature, questioned what the [administrative funding] mechanism is for individual VPSO contracts.

COMMISSIONER MASTERS explained that such funding is presented as a budget line item to the DPS, and is then administered to the appropriate nonprofit corporation, of which there are 10.

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DAN SPENCER, Director, Central Office, Division of Administrative Services, Department of Public Safety (DPS), added that each of the contracts with those nonprofit corporations has an overhead rate, which is typically the federally recognized indirect rate for the particular nonprofit corporation. In response to another question, he indicated that in the past, the administrative costs constituted as much as 30 percent of the funding, and that efforts have been made to reduce that percentage.

COMMISSIONER MASTERS, in response to a question, added that once a VPSO is hired, he/she is put to work almost immediately and then enters into the academy and receives [further] training once the academy begins its yearly program. In response to other questions, he indicated that he would provide the committee with further statistics regarding academy turnover and completion rates for both VPSOs and troopers.

COMMISSIONER MASTERS, turning attention to page 5 of the PowerPoint presentation, relayed that in 2008, the Division of Alaska Wildlife Troopers had 58,584 resource user contacts, up from the previous year, and that the violation to contact rate was 8.5 percent, down from the previous year. Over the last couple of years, the division has addressed instances of recreational boater safety; the number of recreational boater deaths declined from 17 in 2007, to 12 in 2008, and this can be

attributed to combined efforts by the DPS, the U.S. Coast Guard, and the Department of Natural Resources (DNR). He offered his hope that that number will continue to decline as division contacts increase. The division is continuing cooperative relationships with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS); an ongoing joint enforcement agreement between the department and the NMFS has allowed the department to continue patrols of fisheries it might not otherwise be able to conduct.

COMMISSIONER MASTERS, in response to a question, relayed that the department concentrates on state violations, whereas the NMFS and the USFWS concentrate on federal violations; in the case of dual fisheries, the department is able to take care of state violations and alert the federal organizations of possible concurrent federal violations. In response to other questions, he indicated that the department's patrol vessels are primarily used for fisheries patrols, though they could be diverted for SAR efforts, and that those vessels generally have a fuel capacity that allows for continued operation for several weeks.

COMMISSIONER MASTERS explained that the Division of Alaska Wildlife Troopers will continue to focus on wild stock protection; that the area of computer forensics will be growing because more users are employing computers in the commission of their crimes; and that one challenge faced by the division pertains to the relative inexperience of its troopers. Although training and the passage of time can in part address that latter issue, the Division of Wildlife Troopers is also looking at ways to attract experienced personnel.

COMMISSIONER MASTERS, referring to page 6 of the PowerPoint presentation, relayed that the Division of Fire and Life Safety is commonly known as the office of the [state] fire marshal. There were 24 fire-related deaths in 2007 but only 19 in 2008. In 2008, the division conducted 1,543 inspections - a 143 percent increase from 2007 - found a compliance rate of 35 percent, and conducted 1024 "plan reviews." Currently there are 11 deferred jurisdictions that have the ability to conduct their own inspections and plan reviews under the direction and oversight of the division, and the division has recently instituted an audit program that allows for an audit every two years.

COMMISSIONER MASTERS relayed that the Division of Fire and Life Safety is creating an online plan review process - which should help speed up the existing plan review process - and will be

conducting the second annual Fire and Building Officials Forum in April 2009. He indicated that in 2008, the division unveiled an interactive, computerized, fire- safety game for kids, called Raven Island. He also indicated that within the division there is an "Office of Oil & Gas Systems and Facilities," and this office will be expanded so as to be able to do plan reviews and inspections for all [of the state's] pipelines.

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COMMISSIONER MASTERS, referring to page 7 of the PowerPoint presentation, relayed that the Division of Statewide Services maintains the Alaska Public Safety Information Network (APSIN), which is in it's final development stage, and is also concentrating on information technology development for use by troopers, particularly with regard to continuing the deployment of mobile data terminals, in-car video, and a records management system - which will be tied into the Alaska Law Enforcement Information Sharing System (ALEISS). The issues of digital network storage and migrating to these new technologies will be challenging for the division. He noted that there are currently 2,458 registered sex offenders listed online, though 107 of them are noncompliant.

COMMISSIONER MASTERS, in response to a question, offered his understanding that noncompliance with sex-offender registry requirements warrants an additional misdemeanor charge, and acknowledged that identifying, tracking, and following up on noncompliant sex offenders has been a challenge for the department, particularly given its current lack of resources. He then went on to explain that there are currently 7,802 active concealed handgun permits, and that last year the division processed 60,443 fingerprint cards - 26,877 of which are "criminal cards" - via the Automated Fingerprint Identification System (AFIS).

COMMISSIONER MASTERS, referring to page 8 of the PowerPoint presentation, offered that the Office of the Commissioner has purview over the Alaska Fire Standards Council; the Alcoholic Beverage Control Board ("ABC Board"); the Alaska Police Standards Council (APSC); the Council on Domestic Violence and Sexual Assault (CDVSA); and the Scientific Crime Detection Laboratory. Furthermore, the DPS is in the process of creating a new unit under the Office of the Commissioner called the Office of Professional Standards; this new unit will deal specifically with all internal investigations and complaints pertaining to any of the units/divisions/personnel of the DPS.

In response to questions, he acknowledged that the details of how the unit will function, what the complaint process will be, and what follow-up steps will be taken with complainants are still being developed. In response to a request, he indicated that he would provide the committee with that information once it is known.

COMMISSIONER MASTERS then relayed that the Alaska Police Standards Council (APSC) has been expanded by two members in order to incorporate "line officers," and will now accept VPSO training towards basic certification. Through the Alaska Fire Standards Council, training and certification has been offered to 6,100 career firefighters and volunteers [to date]. The Council on Domestic Violence and Sexual Assault (CDVSA) is currently funding 24 victim service programs across Alaska, and about 8,000 victims have been served; has funded 77 domestic violence and sexual assault training sessions for law enforcement, [victim] advocates, prosecutors, first responders, and court personnel, and focus on this type of training will continue for FY 2010; and is focusing on strategic planning so as to boost prevention activities at the local and state levels.

COMMISSIONER MASTERS relayed that the Alcoholic Beverage Control Board ("ABC Board") now has a new director, Shirley Gifford - a former chief of police of the Soldotna Police Department, and a former ABC Board member. Furthermore, the short-term non-permanent investigator position within the ABC Board has recently been upgraded to a permanent full time investigator position.

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COMMISSIONER MASTERS, referring to page 9 of the PowerPoint presentation, relayed that last year the Scientific Crime Detection Laboratory received 4,500 cases for analysis, and was able to complete analysis on 78 percent of those cases in 30 days or less; currently, however, there is a backlog of about 600 cases. The Scientific Crime Detection Laboratory is now again able to conduct fire debris analysis - arson analysis. These achievements are [partially] the result of all 10 laboratory vacancies having been filled; the lab is now fully staffed for the first time since 2002, though there will be some challenge training and certifying those new employees. The Combined DNA Index System (CODIS), however, has a samples backlog of 6,000, and so it may be July 2009 before the lab gets caught up with processing those samples. The Scientific Crime Detection Laboratory has successfully renewed its accreditation,

he relayed, and characterized the lab as one of the finest in the country. He acknowledged, however, that there are still challenges to be faced, such as those related to a lack of adequate space; for example, the lab was built in 1988 and designed to accommodate 23 scientists, but there are currently 40 scientists operating within it.

COMMISSIONER MASTERS, referring to page 10 of the PowerPoint presentation, said that deoxyribonucleic acid (DNA) [analysis] is the fastest advancing forensic science within the law enforcement community. New DNA analysis techniques, in addition to being more reliable and more detailed, have resulted in a 30 percent increase in the solving of property crimes, have helped solve "cold cases," and have helped exonerate the innocent.

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ORIN DYM, Crime Lab Supervisor, Scientific Crime Detection Laboratory, Office of the Commissioner, Department of Public Safety (DPS), added that the lab is trying very hard to stay up with advances in the field of DNA analysis, such as advances pertaining to y-STR, Mitochondrial DNA, and "low copy" DNA. He explained that y-STR is specific to males, and analysis of y-STR can be used when the material in a sample comes from both a male and a female or from more than one male; that analysis of Mitochondrial DNA can be used when "normal" DNA analysis is not possible - for example, when testing a hair that doesn't contain a root; and that low copy DNA is "low count" DNA. These types of advancing techniques open up new opportunities for solving old cases. He opined that as the Scientific Crime Detection Laboratory becomes more efficient, the more efficient law enforcement personnel can be at their jobs. Currently, however, the existing lab facility is not capable of supporting the analysis of low copy DNA or Mitochondrial DNA.

MR. DYM, in response to a question, explained that the Scientific Crime Detection Laboratory is currently processing all its samples in house. The outsourcing of samples was attempted last April but this resulted in 13 instances of sample contamination because outside vendors don't have the same high standards as the Scientific Crime Detection Laboratory.

COMMISSIONER MASTERS, on the issue of a proposed new Scientific Crime Detection Laboratory, relayed that the DPS is very close to reaching an agreement with the Municipality of Anchorage (MOA) regarding a land lease. Also, both the "scope" and the "design" of the proposed new facility are under third-party

review to determine whether the assumptions pertaining to the state's needs and the capability of the proposed lab are correct. He said he anticipates that that "validation" review will be completed by the end of January, and will then be provided to the legislature for review.

COMMISSIONER MASTERS, in response to a question about information provided on page 3 of the PowerPoint presentation, offered his belief that statutory changes made over the last few years have contributed to the reduction in methamphetamine laboratories in Alaska; however, importation of methamphetamine is still a problem.

COLONEL HOLLOWAY added that the Division of Alaska State Troopers is currently unable to devote as much time on interdiction efforts as it would like to because of a lack of personnel.

REPRESENTATIVE COGHILL - on the issue of increased DUI, domestic violence, and [sexual] assault arrests by VPSOs - expressed interest in learning whether those arrests are being overturned in court due to a lack of resources.

CHAIR RAMRAS asked whether any specific efforts are being made to address the issue of drug and alcohol importation into rural communities.

COMMISSIONER MASTERS said that the department is considering two initiatives to address that point, and one initiative involves the U.S. Postal Service in that a number of troopers have been "cross deputized" as U.S. postal inspectors, thus increasing their ability to interdict substances being imported via the U.S. Postal Service.

CHAIR RAMRAS encouraged the department to continue its interdiction efforts.

COMMISSIONER MASTERS, on the issue of problems the DPS is experiencing, said that having insufficient resources continues to be a problem, and that that very lack creates difficulty in determining what the exact size and scope of the problem really is. He predicted that once the aforementioned vacancies are filled, the department will have an increased ability to pinpoint exactly what more is needed to continue rectifying any remaining problem. He indicated that initiatives, particularly as they pertain to advancing technologies and information sharing, are being undertaken and will improve productivity, and

suggested that conducting a good, quality, needs assessment of the DPS in the near future could be of benefit.

2:55:27 PM

COMMISSIONER MASTERS, in response to a question, explained that all of the department's "commission" positions - such as trooper positions and CSO positions - have been exempted from the governor's recently-announced hiring freeze. In response to other questions, he surmised that the number of VPSOs seeking advancement is a very small, and that stationing troopers in Alaska's rural villages would cost considerably more than making use of VPSOs and only transporting troopers out to the villages several times a month as oversight is needed. In response to a further question, he explained that once a trooper is assigned to a location, he/she is generally required to stay there for three or four years, and so turnover in that regard is very small.

CHAIR RAMRAS asked what percentage of DPS personnel seek employment with other law enforcement agencies, and why they do so.

COMMISSIONER MASTERS offered his belief that the number of troopers going to work for other law enforcement agencies has decreased over the last couple of years, and the department is doing things internally to further reduce such turnover. He offered to provide the committee with more information on that point. In response to another question, he said that if DNA [analysis] is to continue and continue to improve, a new Scientific Crime Detection Laboratory is needed. He mentioned that cases from the Anchorage Police Department (APD) account for more than 60 percent of the lab's volume, and therefore the APD has a vested interest in the lab's ability to provide services and in the type of services the lab can provide. The aforementioned validation review will answer some questions such as whether the proposed laboratory design is reasonable.

CHAIR RAMRAS asked whether, if the state institutes a death penalty, any mandatory post-conviction DNA testing would place an additional burden on the Scientific Crime Detection Laboratory.

MR. DYM said he would anticipate that there wouldn't be more than 12 [requests for post-conviction DNA testing per year], and therefore wouldn't place a burden on the lab.

CHAIR RAMRAS asked whether the department would favor mandatory post-conviction DNA testing if a death penalty were imposed.

COMMISSIONER MASTERS asked to delay answering that question until he's had a chance to conduct further research.

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REPRESENTATIVE GRUENBERG asked why the legislature should support an upgraded or expanded Scientific Crime Detection Laboratory.

COMMISSIONER MASTERS indicated that in addition to improving future DNA analyses, the current facility doesn't have adequate space, either for analysis purposes or for the storage of evidence.

REPRESENTATIVE DAHLSTROM asked why the Bethel region is experiencing high volumes of sexual assault crimes and sexual abuse of a minor crimes.

COMMISSIONER MASTERS surmised that there are likely many different factors contributing to the higher volumes; for example, there could be more reporting of such crimes in that region, and the fact that Bethel is "damp" while a number of surrounding villages are "dry" could be a factor as well.

CHAIR RAMRAS expressed appreciation for the department's efforts with regard to capturing sexual predators. He then asked what the DPS's top three priorities are.

COMMISSIONER MASTERS answered that the department's top three priorities include improving the service it provides - which means filling vacancies, putting resources where most needed, and taking advantage of advances in technology; obtaining adequate facilities and equipment; and continuing to work with other agencies and fostering relationships with them so as to be more effective.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:10 p.m.