

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

January 28, 2009

1:08 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**

Representative Kurt Olson

**COMMITTEE CALENDAR**

OVERVIEW(S): QUESTIONING OF THE ATTORNEY GENERAL REGARDING  
LEGISLATIVE SUBPOENAS

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

TALIS COLBERG, Attorney General  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions regarding  
legislative subpoenas.

MARGARET PATON-WALSH, Assistant Attorney General  
Labor and State Affairs Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions regarding legislative subpoenas.

**ACTION NARRATIVE**

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**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at 1:08 p.m. Representatives Ramras, Gatto, Lynn, Gruenberg, Holmes, and Dahlstrom were present at the call to order. Representative Coghill arrived as the meeting was in progress. Representative Olson was also in attendance.

OVERVIEW(S): QUESTIONING OF THE ATTORNEY GENERAL REGARDING LEGISLATIVE SUBPOENAS

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CHAIR RAMRAS indicated that as the only order of business, the committee would be seeking information from the attorney general regarding the legislative subpoenas that were issued last year.

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TALIS COLBERG, Attorney General, Department of Law (DOL), in response to comments, said that although [the DOL] feels that legislative subpoenas, when properly issued, do have force, the DOL was asserting what it believed to be legitimate legal questions about the particular subpoenas that were issued, not questions about the legislature's right to investigate or issue subpoenas. The seven employees' appeal was distinct, challenging the validity of the subpoenas they received, rather than the general authority of the legislature. During the court proceedings, however, another lawsuit was filed by a few legislators and was joined with the DOL's lawsuit, but the DOL never took the position asserted by those few legislators in their lawsuit. The DOL, he assured the committee, never ordered or directed people not to obey the subpoenas, but instead simply presented them with legal options.

ATTORNEY GENERAL COLBERG opined that what the DOL did was not extraordinary, unusual, or unprecedented, either in terms of court proceedings or legislative subpoenas. On the latter point, he noted that at one time, then Senator Jalmar Kerttula challenged the validity of a legislative subpoena and, although the Alaska Superior Court upheld that subpoena, the Alaska Supreme Court ultimately quashed it. In this case, he

reiterated, the DOL was not challenging the legislature's authority to conduct investigations or to issue subpoenas, but was instead challenging how the subpoenas in question were issued.

REPRESENTATIVE HOLMES offered her understanding that the Senate Judiciary Standing Committee authorized a number of subpoenas, half of which were served shortly thereafter though only a few were complied with; that the remaining subpoenas were not served because an agreement between the legislature and the administration was reached regarding the conditions under which the subjects of those subpoenas would cooperate without a subpoena; that when that agreement "broke down," those remaining subpoenas were issued; and that although a lawsuit was subsequently brought, it was not brought until after the dates listed on most of the subpoenas, particularly the first group of subpoenas. She indicated that she is questioning the correctness of the behavior of the subpoena recipients to simply ignore the subpoena date and wait several days to see whether the court concurred that they weren't required to honor the subpoenas.

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ATTORNEY GENERAL COLBERG clarified that none of the people that the DOL actually represented were scheduled to appear [before the Senate Judiciary Standing Committee] before the DOL filed its court action on their behalf, but acknowledged that those people who had retained [outside] counsel may have been. He went on to explain that when the concept of issuing subpoenas was first brought up, there was reference to possible criminal proceedings, and this reference alarmed his staff with regard to what the subpoenas might be issued for; this in turn brought about what he characterized as a nonbinding agreement. The subpoenas were challenged within two days of when the last one was issued, before any of the people the DOL represented were scheduled to appear.

ATTORNEY GENERAL COLBERG pointed out that after the ruling by the Alaska Superior Court, all seven of the people that were represented by the DOL agreed to appear and provide statements, and did so before the conclusion of the investigation.

CHAIR RAMRAS, after asking Attorney General Colberg who he worked for, remarked that it didn't feel to him as though Attorney General Colberg was working for Alaskans.

ATTORNEY GENERAL COLBERG replied that he works for several people at the same time - the people, the state of Alaska, the Alaska State Constitution, the departments, the State employees, and the governor - but that he'd advised the governor to seek outside legal counsel and so didn't represent her during the aforementioned proceedings.

CHAIR RAMRAS opined that at the time, it was quite unclear whether Attorney General Colberg was representing the citizens of Alaska, or the executive branch, or "the candidacy of the Republican party," or fourteen people, or seven people, or the four people whom Mr. Barnhill said would come before [the legislature] but whom three days later Attorney General Colberg said wouldn't.

ATTORNEY GENERAL COLBERG indicated that the DOL was representing the seven State of Alaska employees who'd been issued subpoenas.

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REPRESENTATIVE HOLMES relayed that she, too, was confused about who was being represented by the DOL. She asked whether the DOL specifically advised its clients not to testify. She referred to a letter written by Michael Barnhill, a senior assistant attorney general with the DOL, dated September 9, 2008, which in part read [original punctuation provided]:

The purpose of this letter is twofold: First, to explain why the Department of Law decided not to proceed with the depositions of the Department of Administration employees last week ....

REPRESENTATIVE HOLMES pointed out that Mr. Barnhill didn't use the phrase, "why my clients decided not to participate." She said that she is troubled by that phrasing in the letter.

ATTORNEY GENERAL COLBERG, in response to a question, relayed that ultimately the decision of whether to comply with the subpoenas was made by the individual employees themselves; that although he didn't recall the aforementioned letter, perhaps Mr. Barnhill had simply characterized the decision made by the employees as a departmental position; and that no one at the DOL was following direction by the national Republican Party or its campaign. He reiterated that the clients were simply given options.

CHAIR RAMRAS, in response to comments and a question, said he and other legislators felt that the attorney general had advised his clients to ignore the subpoenas, and characterized such advice as doing systemic damage to the rights of the legislature.

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ATTORNEY GENERAL COLBERG said that the DOL did not tell anyone to ignore a subpoena; instead the DOL merely made its clients aware of their constitutional rights and options.

CHAIR RAMRAS - referring to a letter dated September 16, 2008, written by Attorney General Colberg to Senator French - asked whether "all four of these people" decided at the same time to ignore the subpoenas, and, if not, why weren't four separate letters generated. Why did these four clients appear to act as a group rather than as individuals? Chair Ramras then referred to an e-mail written by Mr. Barnhill to Senator French dated September 13, 2008, and noted that it said in part [original punctuation provided]:

Each of these four individuals have confirmed that they wish to proceed with their deposition without service of a subpoena, and that they have elected to have representation from Law at their deposition. Law will provide that representation.

Their availability is as follows:

CHAIR RAMRAS pointed out that three days later, in the aforementioned letter written to Senator French dated September 16, 2008, Attorney General Colberg said in part, "Your committee has subpoenaed certain employees of the executive branch ...." He then read AS 24.25.010(b):

(b) A subpoena requiring the attendance of a witness before a standing or special committee of the legislature may be issued by the chairman of a committee when authorized to do so by a majority of the membership of the committee and with the concurrence of the president or the speaker, or with the concurrence of the house or the senate.

CHAIR RAMRAS noted that a majority of the membership of the Senate Judiciary Standing Committee voted to issue the subpoenas, that that order was signed by the Senate President,

and that the subpoenas were issued. He offered his understanding that it was after the aforementioned had occurred that those who were issued the subpoenas were advised not to comply.

ATTORNEY GENERAL COLBERG again reiterated that the DOL did not specifically advise its clients not to comply, adding that only one [position] letter was issued because all of the clients took the same position. He offered his belief that the lawsuit filed by the DOL outlines the five reasons why the legislature's subpoenas were thought to be infirm and therefore challenged.

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REPRESENTATIVE GRUENBERG asked whether the subpoenas had been issued as of September 16, 2008.

ATTORNEY GENERAL COLBERG said yes. In response to comments, he clarified that the subpoenas were issued by that date but had not yet been served.

REPRESENTATIVE GRUENBERG acknowledged that subpoenas are not effective until they are served. He then pointed out that in the aforementioned September 16, 2008, letter, Attorney General Colberg said in part [original punctuation provided]:

As state employees, our clients have taken an oath to uphold the Alaska Constitution and for that reason they respect the legislature's desire to carry out an investigation in support of its law-making powers. However, our clients are also loyal employees subject to the supervision of the Governor. Your subpoena places them in the difficult position of choosing either to support the Governor's decision to cooperate only with the Personnel Board investigation or to voluntarily comply with the subpoenas issued by the committee.

REPRESENTATIVE GRUENBERG opined that when issued a subpoena, as a matter of law, a state employee only has a duty to obey the law and comply with the subpoena regardless of his/her loyalty to the governor.

ATTORNEY GENERAL COLBERG concurred. In response to questions, he offered his belief that state employees have a right to assert executive privilege.

REPRESENTATIVE GRUENBERG asked Attorney General Colberg at what point was he going to decide whether to assert executive privilege.

ATTORNEY GENERAL COLBERG indicated that that decision would have been made by whichever attorney accompanied the DOL's clients to their hearings.

REPRESENTATIVE GRUENBERG expressed concern about the potential conflict between the legislature's constitutional right to investigate and conduct legislative activity, and the executive branch's right to conduct its activity in the form of executive privilege.

ATTORNEY GENERAL COLBERG, in response to a question, again reiterated that the DOL never made the argument that the legislature didn't have the authority to investigate, but was instead making the argument that the subpoenas themselves weren't properly issued. In response to other questions, he opined that the Alaska Superior Court was reluctant to address that issue, and offered his belief that there is room for more clearly defined rules regarding legislative investigations, particularly given that legislators, in conducting an investigation, are not bound by the same rules that a court of law would be.

REPRESENTATIVE GRUENBERG asked Attorney General Colberg to address that point in writing, adding that he is questioning whether perhaps there should be something set out in [statute] on that issue.

ATTORNEY GENERAL COLBERG agreed to do so.

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REPRESENTATIVE GRUENBERG referred to the last paragraph of a letter written by Attorney General Colberg to Senator Elton dated September 25, 2008, that read [original punctuation provided]: "Finally, as you noted in your letter, I did not respond to your questions concerning specific advice and conversations. As I hope you can appreciate, my obligations to my clients prevent me from disclosing such information." Representative Gruenberg offered his understanding that the attorney-client privilege set out in the Alaska Rules of Evidence has not been applied, per se, during the course of legislative hearings. He asked what such evidence rules should

be with regard to legislative hearings, and whether they should mirror the court rules.

ATTORNEY GENERAL COLBERG asserted that the attorney-client privilege applies during legislative proceedings.

REPRESENTATIVE GRUENBERG questioned, then, whether such rules should be set out in statute or elsewhere in writing.

ATTORNEY GENERAL COLBERG opined that such rules are already clear enough.

REPRESENTATIVE GRUENBERG disagreed, noting, for example, that it was not clear who Attorney General Colberg was representing or whether he could, consistent with the canons of ethics, represent clients with conflicting points of view, as seemed to be the case. Furthermore, he opined, the attorney-client privilege can not be asserted in situations with such a conflict and it's only asserted in a confidential setting.

ATTORNEY GENERAL COLBERG opined that regardless of who someone is being represented by, he/she is still entitled to attorney-client privilege.

REPRESENTATIVE GRUENBERG suggested that such rules should be set up, defining in some detail, for example, exactly what constitutes conflicts of interest within the attorney general's office, how they are determined, who determines them, and what the rights of appeal are. He added, "I think you were walking right up to the edge of the envelope in this one, maybe over."

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REPRESENTATIVE COGHILL said he is interested in having a clear process for situations in which the legislature is requiring information from the executive branch, and opined that any barrier to the legislature is unacceptable when it's requiring information well within its authority to obtain. He questioned whether the people who were issued subpoenas actually received them.

ATTORNEY GENERAL COLBERG said they did.

REPRESENTATIVE COGHILL surmised that the legislature hadn't followed the process set out in AS 24.25.030, which read:

Sec. 24.25.030. Disobeying subpoena or refusing to testify.

If a witness neglects or refuses to obey a subpoena, or neglects or refuses to testify or to produce upon reasonable notice any material and proper books, papers, or documents in the possession or under the control of the witness, the senate or house of representatives may by resolution entered on its journal commit the witness for contempt. If contempt is committed before a committee, the committee shall report the contempt to the senate or house of representatives, as the case may be, for such action as may be considered necessary.

REPRESENTATIVE COGHILL offered his understanding that that statute anticipates that the legislature will be in session whenever it issues a subpoena, in that if someone refuses to respond to a subpoena, the legislature can pass a resolution [committing the person to contempt]. In the situation that arose last year, the legislature was issuing subpoenas requiring two committees to act in concert - Legislative Council and the Senate Judiciary Standing Committee - and perhaps this created some confusion with regard to the nature of the subpoenas. He questioned whether the legislature should change statute to clarify the process that should be undertaken during the legislative interim, when passage of a resolution regarding contempt is [unlikely] to occur in a timely manner.

ATTORNEY GENERAL COLBERG explained that the refusal to comply was made in tandem with the assertion that the subpoenas were not properly issued because the legislature was not in session at the time. In response to a question, he offered his understanding that after "the seven people" agreed to comply, they sent statements instead of depositions, and that in general Mr. Branchflower was conducting his depositions in private.

REPRESENTATIVE COGHILL said he is questioning whether such [interviews] should be conducted in a public forum.

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CHAIR RAMRAS clarified that the recipients of the subpoenas were instructed to come before the full Senate Judiciary Standing Committee but were given the option of being deposed in private - with or without counsel as they saw fit. Furthermore, in some cases, in order to expedite matters, a written statement was accepted in lieu of deposition. He offered his understanding

that because the legislature was not in session [when the subpoena recipients refused to comply, the legislature was not able to have law enforcement compel the recipients to appear.

CHAIR RAMRAS said he is still dissatisfied with Attorney General Colberg's response to the question of who he was representing. Chair Ramras questioned why the attorney general and his staff didn't erect [firewalls], adding, "You got the governor, you got the people of Alaska, you have the legislative branch, you have these seven people or the four people or the eleven people, and I thought it was just sloppy."

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ATTORNEY GENERAL COLBERG replied that the DOL never attempted to represent the legislature in this matter, and had provided the governor with independent counsel - "we did not represent her."

CHAIR RAMRAS argued that initially the DOL did represent the governor.

ATTORNEY GENERAL COLBERG acknowledged that point, but indicated that outside counsel was sought for the governor fairly early on - "within a couple [of] weeks of when this got going." The DOL then represented the State employees who were being sought as witnesses in the investigation.

CHAIR RAMRAS asked Attorney General Colberg why he believes the subpoenas weren't properly issued.

ATTORNEY GENERAL COLBERG said:

We believe that the legislature did not expressly authorize the Legislative Council, Senator French, or the Senate Judiciary Committee to conduct an investigation during the interim between legislative sessions. We believe that the Legislative Council did not authorize the Senate Judiciary Committee to play a role in the investigation that ... [Mr. Branchflower was] conducting. We believe ... [that] if the Legislative Council granted any implied authority to the Senate Judiciary Committee to assume jurisdiction over the investigation that Mr. Branchflower was conducting, that grant constituted an invalid delegation of legislative power, in violation of the Uniform Rules of the legislature.

(Indisc.) believe that the subjects described in the subpoenas were outside the jurisdiction of the Senate Judiciary Committee, and that the Senate Judiciary Committee did not authorize Senator French to issue subpoenas to plaintiffs requiring that they bring any, quote, "any relevant material and proper books, papers, or documents," end of quote, when they appeared before that committee. Those were our specific reasons for filing the appeal.

CHAIR RAMRAS asked, "How'd that go for you."

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ATTORNEY GENERAL COLBERG acknowledged that at the superior court level, the judge determined that "this" was ultimately not justiciable. However, the DOL has since filed an appeal out of concern that it protect the subpoena recipients from any sanction that might be forthcoming. In response to a question, he indicated that there were five reasons he considered the subpoenas to be invalid. The first reason, he reiterated, was that the legislature did not expressly authorize Legislative Counsel, Senator French, or the Senate Judiciary Standing Committee to conduct an investigation during the interim between legislative sessions.

CHAIR RAMRAS pointed out, though, that [AS 24.25.010(b), text provided previously,] stipulates that a subpoena may be issued by any committee with concurrence of the body's presiding officer.

ATTORNEY GENERAL COLBERG offered his interpretation that that statute only applies when the legislature is in session, and that the whole legislature must approve issuance of a subpoena.

CHAIR RAMRAS disagreed with that interpretation.

ATTORNEY GENERAL COLBERG reiterated the second reason as being that Legislative Council did not authorize the Senate Judiciary Standing Committee to play any role in the investigation that Mr. Branchflower was conducting.

CHAIR RAMRAS pointed out that the legislature was in session when Legislative Council took its vote.

REPRESENTATIVE COGHILL noted that AS 24.25.010(c) read:

(c) A subpoena requiring the attendance of a witness before an interim committee established by either house of the legislature, or by both, may be issued by the chairman of a committee when authorized to do so by a majority of the membership of the committee and with the concurrence of the president or the speaker.

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MARGARET PATON-WALSH, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law (DOL), offered her belief that the language of the motion Legislative Council members voted on didn't mention either the House Judiciary Standing Committee or the Senate Judiciary Standing Committee.

CHAIR RAMRAS disagreed.

ATTORNEY GENERAL COLBERG reiterated the third reason as being that if Legislative Council granted any implied authority to the Senate Judiciary Standing Committee to assume jurisdiction over the investigation that Mr. Branchflower was conducting, that grant constituted an invalid delegation of legislative power, in violation of the Uniform Rules of the legislature.

MS. PATON-WALSH offered her belief that under the Uniform Rules of the Alaska State Legislature, the jurisdiction of the House Judiciary Standing Committee and the Senate Judiciary Standing Committee is limited to matters pertaining to the Department of Law, the Alaska Court System, and bills currently before the committee. She noted, though, that under the Uniform Rules, the House State Affairs Standing Committee and the Senate State Affairs Standing Committee do have jurisdiction over the Office of the Governor, the Department of Public Safety, and the Department of Administration.

MS. PATON-WALSH added: "These subpoenas and this investigation was constructed in violation of those rules, and we felt that that made the subpoenas questionable, and that's why we challenged them in court."

ATTORNEY GENERAL COLBERG reiterated the fourth reason as being that the subjects described in the subpoenas were outside the jurisdiction of the Senate Judiciary Standing Committee.

ATTORNEY GENERAL COLBERG reiterated the fifth reason as being that the Senate Judiciary Standing Committee did not authorize Senator French to issue subpoenas to plaintiffs requiring that they bring relevant material, proper books, papers, or documents when they appeared before the committee.

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REPRESENTATIVE HOLMES, in response to questions, read - from the July 28, 2008, Legislative Council meeting transcript - the original motion made during the Legislative Council meeting [original punctuation provided]:

Mr. Chair, I move the Legislative Council delegate their authority to the council chairman to solicit, award and expend Legislative Council funds in an amount not to exceed \$100,000 for the purpose of contracting for legal services to investigate the circumstances and events surrounding the termination of former Public Safety Commissioner Monegan and potential abuses of power and/or improper actions by members of the executive branch and prepare a report. Senator Hollis French will serve as the project director for the contract. It is the intent of the Legislative Council that the investigation be professional, unbiased, independent, objective and conducted at arms length from the political process. The report shall be submitted to the Legislative Council, Senate Judiciary committee, and the House Judiciary committee in a timely manner.

CHAIR RAMRAS indicated that [in the aforementioned transcript], Tam Cook, Director, Legislative Legal and Research Services, [was quoted as saying] in part [original punctuation provided]:

The first part goes to the issue of whether Leg. Council has the power to, I believe the motion will be to prepare a report. Leg. Council has the power to conduct investigations, including to issue subpoenas itself, and to compel the testimony of witnesses, and administer an oath, ....

REPRESENTATIVE COGHILL indicated that [in the aforementioned transcript], Senator Elton and Tam Cook [were quoted as saying] in part [original punctuation provided]:

Senator Elton: If in fact we strike the language, we put a period after council and we say the final report shall be submitted to the Legislative Council, does that in any way inhibit the ability of the Judiciary Chairs from issuing subpoenas to compel testimony from those who may prefer to give testimony under a subpoena?

Tam Cook: No. If I may, through the chair, if you are talking about subpoenas that might be issued in the course of preparing the report, versus any following up on any recommendation that results from the report, I don't see anything in the motion that prevents the investigator from requesting the assistance of a standing committee in issuing subpoenas if the investigator chooses to do so, and if the project director is in agreement.

REPRESENTATIVE COGHILL said it was understood at the time that the judiciary committees could be getting involved, given that the project director was the chair of the Senate Judiciary Standing Committee and that at issue were legal questions.

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REPRESENTATIVE GATTO questioned the choice of Mr. Branchflower as the investigator.

ATTORNEY GENERAL COLBERG said the DOL wasn't challenging the selection of Mr. Branchflower.

REPRESENTATIVE COGHILL indicated that his only interest is in improving the statutes pertaining to legislative investigations and subpoenas so as to address actions taken during the interim.

REPRESENTATIVE HOLMES relayed that as required by law, the Senate President was notified of the failure of the subpoena recipients to comply. She offered her understanding that the Alaska Supreme Court has affirmed the ruling by the Alaska Superior Court that the legislative subpoenas were valid.

ATTORNEY GENERAL COLBERG clarified that the Alaska Supreme Court has held [that question] in abeyance until June, and has only dismissed the suit brought by the legislators who challenged the whole process. After the Alaska Superior Court made its decision, all seven subpoena recipients complied; again, the lawsuit now maintained by the DOL against the legislature was

filed out of concern that the DOL protect those people from any sanctions the legislature might choose to impose, he added.

REPRESENTATIVE HOLMES asked what would ensure that the DOL complies with any future subpoenas.

ATTORNEY GENERAL COLBERG, after remarking that the aforementioned five reasons the DOL challenged the subpoenas outline what should be changed, suggested spelling out the rules and requirements for legislative investigations and subpoenas. He offered that the Personnel Board already has its rules in place, and said that the legislative process regarding investigations could be made clearer.

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CHAIR RAMRAS asked how much time and money has been spent by the DOL fighting the subpoenas.

ATTORNEY GENERAL COLBERG agreed to research that issue and provide the resulting information to the committee.

REPRESENTATIVE GRUENBERG said he would write Attorney General Colberg a letter asking him for written suggestions for possible rules and procedures regarding legislative investigations and subpoenas, and for a list of possible challenges the DOL might still raise should those suggestions be implemented. Representative Gruenberg acknowledged that Attorney General Colberg might wish to delay his written response until after the Alaska Supreme Court addresses the DOL's current lawsuit against the legislature.

REPRESENTATIVE COGHILL observed that issues regarding delegated authority, two committees working in concert, enforcement of subpoenas, committee jurisdiction, and possible criminal conduct still need to be addressed, perhaps via rule or statutory changes.

REPRESENTATIVE GRUENBERG asked Attorney General Colberg to consider the Alaska State Constitution, the Uniform Rules, and Mason's Manual of Legislative Procedure when responding to his request for suggested changes. What is needed is to have a procedure by which the legislature can conduct investigations, compel the production of evidence, and enforce the aforementioned regardless of whether the legislature is in session or has adjourned sine die.

ATTORNEY GENERAL COLBERG, in response to questions, explained that there were only two parties needing representation - the seven people who received subpoenas, and the governor - and suggested that perhaps there should be a mechanism in place such that should a similar situation occur, the governor would obtain independent counsel right away. He indicated that in the situation that occurred last year, the DOL never attempted to represent the people of the state.

REPRESENTATIVE HOLMES opined that the primary goal of the Department of Law is to represent the best interests of the state of Alaska, and that in the aforementioned situation, that did not occur. In response to a question, she agreed that the seven individuals were entitled to legal representation.

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REPRESENTATIVE DAHLSTROM, referring to the DOL's current lawsuit against the legislature, asked what a ruling in favor of the DOL would mean.

ATTORNEY GENERAL COLBERG surmised that such a ruling wouldn't undermine the legislature's ability to conduct an investigation, but would clarify how such an investigation should be conducted. Meanwhile, the legislature could establish clear rules for any future such investigation. In response to a question, he suggested that the legislature could bring the pending lawsuit to an end.

CHAIR RAMRAS asked Attorney General Colberg whether he would treat a similar situation in the future in the same fashion.

ATTORNEY GENERAL COLBERG indicated that he would.

CHAIR RAMRAS asked Attorney General Colberg if he would still have advised his clients to ignore the subpoenas.

ATTORNEY GENERAL COLBERG yet again reiterated that he never advised the subpoenaed recipients to ignore the subpoenas, adding that were something similar to happen again, he would still advise his clients of their options and leave the choice up to them, as was the case in this instance.

REPRESENTATIVE GATTO recalled that Legislative Council's motion didn't specify a conclusion date for the investigation.

CHAIR RAMRAS relayed that the conclusion date originated with him out of concern that the investigation not continue so long that it impact the national election.

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REPRESENTATIVE GRUENBERG asked Attorney General Colberg to also consider the Alaska Rules of Professional Conduct specific to conflicts of interest pertaining to government service, and to consider whether such rules should be set out either in statute or in regulation. Representative Gruenberg opined that such rules are important for potential clients, members of the executive branch, legislators, the general public, and the press, and so shouldn't be "hidden" away. Dealing with conflicts of interest within the DOL isn't an infrequent occurrence, he noted, and asked whether conflicts of interest are addressed via regulation.

ATTORNEY GENERAL COLBERG indicated that some such rules regarding regulatory and public affairs are located in what he called the "civil manual policy."

REPRESENTATIVE GRUENBERG asked that that information be provided to him as soon as possible.

CHAIR RAMRAS predicted that the committee would revisit the issue of legislative subpoenas again, and that legislation to remedy some of the perceived gaps is likely to come from the House Judiciary Standing Committee - remedy that will ensure that the executive branch comply with legislative subpoenas.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:01 p.m.