

**ALASKA STATE LEGISLATURE
JOINT MEETING
SENATE JUDICIARY STANDING COMMITTEE
SENATE HEALTH AND SOCIAL SERVICES COMMITTEE**

March 23, 2009

1:33 p.m.

MEMBERS PRESENT

SENATE JUDICIARY

Senator Hollis French, Chair, via teleconference
Senator Bill Wielechowski, Vice Chair
Senator Gene Therriault

SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

Senator Bettye Davis, Chair
Senator Joe Paskvan, Vice Chair
Senator Joe Thomas
Senator Fred Dyson, via teleconference

MEMBERS ABSENT

SENATE JUDICIARY

Senator Lesil McGuire

SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

Senator Johnny Ellis

COMMITTEE CALENDAR

Presentations: Alaska Internet Crimes Against Children Task Force

HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

DEREK DEGRAAF, Sergeant
Alaska State Troopers

Department of Public Safety
Anchorage AK

POSITION STATEMENT: Presented overviews on the Alaska Internet Crimes Against Children Task Force on behalf of Detective Sergeant Tidler with the Anchorage Police Department, and from the perspective of an Alaska State Trooper.

RON TIDLER, Detective Sergeant
Cyber Crimes Unit
Anchorage Police Department
Municipality of Anchorage
Anchorage AK

POSITION STATEMENT: Provided information related to the Alaska Internet Crimes Against Children Task Force via teleconference.

ACTION NARRATIVE

1:33:41 PM

CO-CHAIR BETTYE DAVIS called the joint meeting of the Senate Judiciary Standing Committee and the Senate Health and Social Services Standing Committee to order at 1:33 p.m. Present at the call to order were Senators Paskvan, Thomas, Wielechowski and Davis. Senator Therriault arrived soon thereafter. Senators French and Dyson attended via teleconference.

ALASKA INTERNET CRIMES AGAINST CHILDREN

1:35:25 PM

CO-CHAIR WIELECHOWSKI announced the business before the committees is to hear a presentation on Internet crimes against children.

DEREK DEGRAAF, Sergeant, Computer and Financial Crime Unit, Alaska State Troopers (AST), Department of Public Safety, introduced himself and explained that he is delivering the first presentation on behalf of Detective Sergeant Tidler who is with the Anchorage Police Department Cyber Crimes Unit.

SERGEANT DEGRAAF related that when the Alaska Internet Crimes Against Children Task Force (ICAC) was created in 2008 the initial funding included a \$300,000 18-month grant to APD. The funds were used to enlist other police departments and to provide money for equipment, training and prosecution. Prior to 2008, Alaska received minor funding as an affiliate of the Seattle ICAC Task Force. Currently every state in the nation has an ICAC task force, but Alaska has unique challenges due to its size and geography.

The Alaska ICAC partners with several federal agencies to provide services, investigations, and resource pooling particularly through the Project Safe Childhood Program. These agencies include Immigration and Customs Enforcement (ICE), the FBI, U.S. postal inspectors, and military investigators.

State affiliates include the Alaska Bureau of Investigation, which is part of the trooper division; the Department of Corrections; district attorney offices in various locations; the University of Alaska Anchorage and the University of Alaska Fairbanks; and police departments from Fairbanks, Kodiak, Sitka, Kenai, Soldotna, Unalaska and Juneau.

SERGEANT DEGRAAF displayed a three-page chart of 2008 statistics showing the documented complaints since the Alaska task force was created. The different types of cases that have been investigated include traveler; enticement; obscenity directed toward minors; child prostitution; and child pornography with the subcategories of manufacture, distribution, and possession. Year-to-date totals for each type of case are included. He highlighted the fact that possession of child pornography and distribution of child pornography represent a preponderance of cases worked in 2008.

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SENATOR THERRIAULT joined the meeting.

Page 2 data shows case dispositions and referrals for federal state and local prosecution. Also included is information on court actions including subpoenas or court orders and search warrants. In 2008 over 100 search warrants were served in the state for cases relating to ICAC-type crimes. Almost exclusively federal partners assisted local law enforcement with subpoenas for records from Internet providers such as GCI or ACS. These are required as part of an investigation.

Page 3 data shows the forensic computer examinations conducted on electronic media that has been seized. Last year technical support was rendered 53 times and 177 forensic exams were conducted. The chart also contains training statistics for local law enforcement and prosecutors as well as the number of community outreach presentations that were given. Finally, information is provided on task force probation officer activity which includes home visits and computer searches to determine whether known sex offenders are following their conditions of probation.

In 2008 several probation officers were trained to capture data from computers using software loaded on a thumb drive. They conducted 223 home visits and searched 26 computers looking at temporary Internet files and saved pictures. Alaska ICAC training began at the Microsoft campus in Seattle Washington using classroom experiences and webcams. He noted that in Alaska in particular the Internet has made the world much smaller, but it wasn't until 2005 that this state passed the first law related to computers, communication on computers, and the Internet. AS 11.41.452 - Online enticement of a minor and AS 11.61.128 - Electronic distribution of indecent material to minors were added to the statutes and became effective on 11/28/2005.

The training for prosecutors and investigators includes: prosecutorial training; team-based training programs for investigators, examiners, and prosecutors; and participation in mock trials. This last year APD trained one examiner, AST trained one investigator, and a DA prosecutor was trained using the team concept. This last year saw the first jury conviction under the Alaska on-line enticement statute. The suspect solicited minors under the age of 16 for sex and he electronically transmitted indecent images. The minors actually were undercover investigators with APD. On 12/8/08 an Anchorage jury found James Clifton Moore, age 42, guilty on two counts of online enticement of a minor and one count of electronic distribution of indecent material to a minor. Significantly, the judge publicly stated that the investigators and prosecutors followed and met the national ICAC guidelines.

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SENATOR THERRIAULT asked if that case related to the individual who flew to Alaska after conducting an online solicitation from out of state.

SERGEANT DEGROAF answered no, but he will talk about that case later in the presentation.

He highlighted that 70 percent of sexual solicitations occur on home computers; 22 percent occur at someone else's home; 4 percent occur on a school computer; and 3 percent are at the library. Obviously, he said, kids are most at risk at home using their own computers. 65 percent of these contacts took place in chat rooms and 24 percent in instant messaging programs such as AOL, ICQ, Yahoo, and MSN. These programs have online buddy locators and they allow file transfers as well as voice and video live chats. Most cellular telephones are smart phones that

have digital cameras and provide easy access to the Internet for sending and receiving photos and text messages. He emphasized that the proliferation of child pornography is one of the biggest issues facing Alaska law enforcement right now. Sexual information is being shared and Alaska residents have become involved.

SERGEANT DEGROAF described the dynamics of peer-to-peer investigations as complex. They begin with a properly trained investigator going online to identify in-state suspects who are actively sharing suspected child sexual exploitation images. The investigator records and downloads the images and then obtains a search warrant to identify the suspect from their Internet service provider (ISP). The suspect is put under surveillance to determine where they live and work and then search warrants are obtained for those locations. Multiple agencies work together to plan, prepare and execute these search warrants. Media evidence that is seized undergoes forensic examination. Once child pornography or child exploitation images are identified, the images are sent to the National Center for Missing and Exploited Children for identification. A district attorney or prosecutor is then consulted to determine the appropriate charges to bring after which the suspect is subject to arrest and prosecution.

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SENATOR THERRIAULT asked if the forensic program on the thumb drive can look at sites that were visited even if the temporary files had been deleted.

SERGEANT DEGROAF explained that a thumb drive examination might take 30 minutes and is designed as an on-scene preview. If the user is careful and the temporary files have been deleted some sites may be overlooked. A forensic computer examination is an exhaustive search that can take a week or two. Sophisticated forensic software is used and deleted material can be recovered.

He cited the peer-to-peer Peacock case study and the Harvey traveler case. Mr. Peacock pled guilty to one count of child pornography and was sentenced just last month. A federal jury convicted Mr. Harvey of aggravated sexual abuse, attempted manufacture of child pornography, and possession of child pornography. His sentencing is scheduled for next month.

SENATOR THERRIAULT questioned the decision to prosecute under federal law and asked if there is a loophole in the state law.

SERGEANT DEGROAF said no; it was preferable to handle the case through the U.S. attorney's office because the federal statutes are stronger in this area and the case officer was a federal agent. He explained that a current issue is teen use of mobile devices for "sexting" with people they don't know. Right now the number of trained personnel to address this issue is limited so their responses are more reactionary than proactive.

The U.S. attorney's office in Anchorage hosts the monthly ICAC task force meetings. Multiple agencies come together to do case review, to talk about things that were done right and wrong, to discuss industry trends, and to address requests for assistance. Pooling limited resources and using the task force approach has been significant in helping law enforcement respond to these crimes.

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A study by the APD cyber crimes unit showed that in January 2008 there were over 5,000 Internet protocol (IP) addresses in the state that had suspected images of child pornography in their file sharing software. By January 2009 that number had risen to over 11,000 IP addresses unique to Alaska. The Hernandez Study of convicted sex offenders puts that into perspective. It found that over 80 percent of persons who were arrested for possession of child pornography admitted to having committed an undisclosed sexual abuse of a minor. Typically the abuse involved more than one child

CO-CHAIR WIELECHOWSKI asked how it's known that over 11,000 IP addresses have collected child pornography. He clarified that he's looking at this from a privacy perspective. Although he's happy that the police know about these IP addresses, he's concerned that the police may be looking at everyone's IP addresses.

SERGEANT DEGROAF explained that these cases fall under the peer-to-peer technology. When this free software is installed a public folder is created on the computer and anyone in the world can look at what's in that folder when they are online. Law enforcement has developed software tools that allow it to look at the data that these folks are choosing to share with the online public.

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SENATOR THERRIAULT asked why 11,000 arrest warrants haven't been issued.

SERGEANT DEGRAAF deferred the question for several slides.

He pointed out that Alaska has the highest per-capita use of the Internet in the nation and is close to the highest for personal computer ownership. Utah has the highest number of pornography website subscribers and Alaska is second. Studies have shown that 69 percent of children that establish close online relationships live in small towns, rural areas, or suburbs. The mean age of the children who were considered was 14.78 years. 71 percent have online profiles on social network websites, 69 percent receive online messages from strangers, 64 percent post photos or videos of themselves, and 58 percent post information about where they live. Females are more likely to post personal photos or videos of themselves and nearly one in ten have posted their cell phone number online. 20 percent of teens report being bullied online and this figure is on the rise.

On average children/teens use the Internet about five hours per week. 80 percent use the Internet for homework, 70 percent to send email, 69 percent to play games, 50 percent to listen to music and 42 percent for chatting and instant messaging. With respect to online victimization, 1 in 3 is exposed to unwanted sexual material and 1 in 7 receives a sexual solicitation by a stranger. 45 million children between the ages of 10 and 17 years use the Internet, and 60 percent have received an email or instant message from someone they didn't know.

According to the U.S. attorney general's cyber crimes unit, 20 percent of children say that their parents do not supervise computer use, 52 percent say their parents moderately supervise their computer use, 71 percent say their parents stopped watching them after they reached age 14, and 62 percent of teens say their parents know little or nothing about the Internet or computers.

MySpace and Facebook are two popular social networking sites used by children/teens. Law enforcement gave presentations about MySpace use to random audiences in Anchorage, Mat-Su Valley and Bethel and found that audience members knew some of the children in the photos. These postings are potentially there forever with no expectation of privacy. A number of other social networking websites popular with Alaskan children judge compatibility and rate looks. Well over 2,000 teens in the Anchorage and Mat-Su area have registered on these sites. Some of the pictures that have been posted would be disheartening to a parent to see and offenders have free rein to look at the posted information, he said.

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SENATOR PASKVAN said if member's computers will be added to the 11,000 IP addresses that have accessed pornographic material if they were to visit the sites mentioned in the previous slide.

SERGEANT DEGROAF explained that those aren't pornographic sites; they're online social networking sites. The IP addresses that had child pornography were using file sharing software.

SENATOR PASKVAN asked if child pornography overlaps with those social networking sites.

SERGEANT DEGROAF said the numbers do not overlap. Child pornography images have been posted to those social networking sites, but the companies are mandated to report that. Alaska law enforcement has worked cases that have been sent from Yahoo, Flickr, and Photobucket all of which are places that post and host online photo albums.

SENATOR THERRIault asked how easy or difficult it would be to access those sites on his office computer.

SERGEANT DEGROAF explained that there is nothing illegal about accessing the site or creating and posting photos or profiles. Anyone can do that but the state web filter might disallow it.

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CO-CHAIR WIELECHOWSKI asked if any states have taken action to limit what is posted to these sites.

SERGEANT DEGROAF said the National Center for Missing and Exploited Children has been stonewalled in its efforts to get these sites to install filters that limit some of the material that's sent or received. Some companies tout strict requirements for users, but there is no way to police that.

According to the British-based Internet Watch Foundation, Internet-based child pornography is becoming more brutal and graphic. Sometimes images of infants are posted. More than half of the child pornography domains are located in the U.S. and Russia comes in second. Some Internet safety resources that are given to parents include: netsmartz411.org, webwisekids.com, ikeepsafe.org, wiredsafe.org, fbi.gov, childsafenet.org, and muni.org/apd.

To combat Internet crimes ICAC emphasizes education for parents and children, investigation, and training. These investigations should be of top priority to all agencies that are involved and there is continued need to focus efforts, pool resources and dedicate personnel, equipment and money to this effort. Current funding dedicated to this effort is inadequate and estimates are that less than 1 percent of the offenders are targeted. Increasing arrests alone won't solve the problem; education and parental involvement figure heavily in the long-term solution. He noted that ikeepsafe.org has a page specific to Alaska that contains the governor's cautionary message to parents about Internet risks.

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SERGEANT DEGRAAF said that in March 2009 the APD cyber crimes unit conducted a three-day peer-to-peer training for three Alaska State Troopers. This resulted in increased criminal investigations and he personally knows of five that were initiated on people living in Fairbanks, Kotzebue, Bethel, and Anchorage.

He said that Alaska has a compelling interest in safeguarding the physical and psychological well-being of its minors. These children are victimized and this continues when the act is memorialized in an image. The images are a permanent record and the child is re-victimized every time the photo is shared. Research shows that the use of children as subjects of pornographic material is harmful to the child's physiological, emotional, and mental health. The possession of child pornography drives the industry and production will decrease if those who possess the product are punished equally with those who produce it. Production of child pornography will decrease if there is a drop in demand and demand will decrease if the law punishes those who possess and view the product. The possession of child pornography inflames the desires of molesters and pedophiles. Preventing harm to children should be one of the most important interests of Alaskans.

SERGEANT DEGRAAF told members that Sergeant Tidler is online and could respond to questions.

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SENATOR PASKVAN asked if there is a standard for the number of investigators that is either based on population or department size.

DETECTIVE SERGEANT TIDLER, Cyber Crimes Unit, Anchorage Police Department, Municipality of Anchorage, speaking via teleconference, explained that it's a matter of how many investigators an individual department can dedicate to this task and in most cases the investigators from smaller departments fill multiple roles. They are trained in computer forensics so they do investigations in homicide, robbery, child abuse, and child pornography cases.

SENATOR PASKVAN asked if there is an effort on a national level to develop a standard number of investigators based on population or department size.

SERGEANT TIDLER replied he hasn't heard that, but basic investigation guidelines have been discussed and there is emphasis on pooling resources and sharing information. He referenced Senator Therriault's earlier question about why 11,000 arrest warrants haven't been issued and explained that it takes a great deal of time to do each investigation. For example, even though the Peacock case wasn't difficult and the suspect was compliant, travel was involved and it took time to investigate and process the evidence to come up with criminal charges.

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SENATOR PASKVAN referenced the case disposition statistics indicating 28 arrests in 2008 and asked the definition of unfounded and suspended cases. He further questioned why those numbers are so high relative to the total number of arrests.

SERGEANT TIDLER said he would give hypothetical examples. In a divorce setting if one spouse accuses the other of possession of child pornography, law enforcement needs to investigate the case. If there is a determination that there is no child pornography, the case becomes unfounded. A suspended case is one where all investigative leads have been exhausted and the suspect can't be charged. If an IT address had reported child sexual exploitation images but there were no images on the computer by the time a search warrant was executed, the case would be suspended. It could be reopened at a later date should additional evidence come available.

CHAIR WIELECHOWSKI thanked him for preparing the presentation and asked if he had closing comments.

SERGEANT TIDLER told the committee that he attended the presentation last year in Juneau with Investigator Waters. He

expressed appreciation for the legislative support for the task force, which is in its first year. Additional funding has been promised and they anticipate federal stimulus funds to enhance their response to these crimes against children.

CO-CHAIR WIELECHOWSKI said the presentation last year was very powerful and had quite an impact. He asked if stimulus money has been allocated to Alaska to help fight against Internet crimes against children and if the governor has accepted those funds.

SERGEANT TIDLER explained that as the primary task force for the state of Alaska, APD was able to apply directly for the funding. Although he doesn't believe that at this point it's up to state government to accept or deny the funds, he would defer to the APD financial manager.

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SENATOR THOMAS asked about the potential for recording and tracking all computer use for convicted sex offenders so that nothing could be erased.

SERGEANT TIDLER said he's sure it's possible but the individual could access another computer. What does help is that convicted sex offenders are required to register upon their release from prison and probation officers routinely check their homes. If their computer use is suspect the officer has the ability to do at least a cursory examination.

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SENATOR FRENCH, attending via teleconference, asked the degree to which there is an overlap between people who look at child pornography online and people who are child sex offenders.

SERGEANT TIDLER said statistics from the Hernandez Study showed that 85 percent of sex offenders who are caught in possession of child pornography have had contact offenses. He said he believes that an individual's psyche undergoes a change when they look at child pornography on an ongoing basis, to the extent that there becomes a desire or need to commit the offenses about which they are fanaticizing. "There is a definite correlation there," he said.

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SENATOR DYSON, speaking via teleconference, recalled APD asked for help several years ago to expedite administrative search warrants to get physical addresses of potential offenders from IP addresses. He asked if more help is needed.

SERGEANT TIDLER replied they do need more help. They still have to rely on their federal partners to get administrative subpoenas. There isn't a state law that allows state law enforcement to get information from companies that do business within the state but are located outside the state.

SENATOR DYSON asked him to pass along to Senator French the specifics of what more legislators can do to help.

SENATOR PASKVAN asked if the Alaska State Troopers also have a cyber crimes division.

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SERGEANT DEGROAF said his presentation will address that.

CHAIR WIELECHOWSKI commented on the segue and asked him to begin his presentation.

SERGEANT DEGROAF explained that the Alaska State Troopers has jurisdiction over the Alaska Bureau of Investigation (ABI). The computer and financial crime unit is within ABI and he and three investigators are tasked with investigating all financial and technology related crimes statewide.

The top issue for AST with respect to participation in the ICAC task force is the peer-to-peer file sharing programs such as LimeWire, BearShare and Phex. He displayed a Google Earth map showing villages and communities throughout the state that in the past year are known to have computers that have possessed and have shared child pornography images using free software. Each red dot represents a particular geographic area that contains a number of records within the area. He zeroed in on Anchorage to show the astonishing number of IP addresses that in the past year are known to have possessed and shared child pornography images. Fairbanks, Juneau and Kodiak also had a large numbers. The individuals can be identified once he obtains search warrants through the local Internet providers.

SENATOR THERRIAULT pointed out that he wouldn't be able to identify a particular individual if the file sharing was done at the library.

SERGEANT DEGROAF acknowledged that's true. Initially he only knows a geographic location, but once he serves the provider with a warrant he learns who is paying the bill for that particular IP address. If it's a coffee shop, the library, or a

school the lead is difficult to impossible to follow, but most of the cases they've worked recently have come back to a residence. That's because file sharing requires not only the software but also sufficient bandwidth to download and upload the data.

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SENATOR THERRIAULT asked if the bandwidth at most Wi-Fi hot spots is generally insufficient.

SERGEANT DEGRAAF replied most hot spots have sufficient bandwidth speed; it's just that the task force hasn't come across many of those cases yet. He believes they're out there.

[2:29:30 PM](#)

SENATOR THOMAS asked if he's saying that school computers aren't blocked from most if not all of these suspect sites.

SERGEANT DEGRAAF said he knows that schools and state government have filters that do a fairly good job of blocking contact with these networks, but they aren't foolproof.

SENATOR THOMAS asked about the potential for recording and tracking all computer use of convicted sex offenders or child pornographers so that nothing could be erased. He's been told that the offender might be using someone else's computer, but he has difficulty believing that a neighbor or even a friend of a sex offender or child pornographer would allow extended use of their personal computer use without knowing what the offender was doing.

SERGEANT DEGRAAF said he agrees, but it only takes a couple hundred dollars to buy a second computer so you'd be relying on an offender to have integrity and follow the rules for a tracking and recording device to work. Monitoring technology works for people convicted of a DUI who are required to blow into a breathalyzer in order to start their car because buying a second car to circumvent the check is too expensive for most people to consider. Buying a second computer to circumvent being monitored is not that difficult or expensive.

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SERGEANT DEGRAAF displayed a map indicating that Barrow also has some IP addresses that have recorded child pornography. It's a statewide problem and literally thousands of leads have come in, he said. Last year the Legislature funded long-term non-permanent positions for an investigator and a criminal justice

technician for CFCU, which has been helpful but their responsibilities are great. Not only does CFCU handle both types of crimes, it also has a mission to assist smaller police agencies. In fact, most police agencies in the state will send seized computers or cell phones that require forensic analysis to AST for processing. Police departments in Anchorage, Fairbanks and Juneau have someone to do this analysis, but most other agencies rely on the troopers to process evidence. AST also provides training and support to new recruits through the Public Safety Academy in Sitka Due to the nature of crimes against children and the case load, very few "white collar" or corruption crimes are worked, he said.

2:34:16 PM

Last year when AST joined the ICAC task force they co-located with Immigration and Customs Enforcement (ICE) agents and have received training in peer-to-peer investigations and forensics. Agents from the FBI and the U.S. Postal Inspection Service also will move in once their offices are ready. Since joining the task force AST has invested heavily in new software, forensic computers, cell phone analysis tools, and server storage for evidence. They have also conducted numerous multi-agency search warrants, given public education presentations, and partnered with small police departments to provide assistance and training.

SERGEANT DEGRAAF displayed a bar graph of the number of computer examinations the computer and financial crime unit has conducted between 2002 and 2008. In 2005 10 examinations were done and three years later over 70 were conducted. A subsequent graph of ICAC child pornography cases within ABI between January 2006 and March 2009 shows that there were over 25 cases in 2008. The number of cases in the first quarter of 2009 is nearly the same as the total cases in 2007. Between 2006 and 2008 there was a 400 percent increase in the number of child exploitation cases that were investigated. In Alaska the problem is growing exponentially. He cited examples from Palmer, Talkeetna, and Soldotna and said they ask themselves what cases are falling through the cracks.

SERGEANT DEGRAAF provided the following suggestions: provide ABI with more investigators and forensic computer examiners; separate the financial crime and computer crime unit; and provide a more directed response to rural residents because they aren't adequately represented by law enforcement.

SERGEANT DEGRAAF offered the following conclusions: AST believes that ICAC is very necessary; co-location of agencies is key; continued protection of Alaska's children with proactive investigation is imperative; more investigators are required; the disparity of law enforcement response to rural residents needs to change; and progress is being made.

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Co-CHAIR DAVIS asked if the shortage of investigators is due to a funding shortfall or a lack of trained individuals to take the positions.

SERGEANT DEGRAAF replied it's both.

Co-CHAIR DAVIS asked if they have requests in the current budget.

SERGEANT DEGRAAF replied he can't say specifically, but he does know they are trying to get funding to increase the number of investigators for both ICAC and sexual abuse of minors.

Co-CHAIR DAVIS asked if rural areas need more VPSOs or if they need officers of higher rank.

SERGEANT DEGRAAF said he can't comment on VPSOs but AST is trying to grow the Bureau of Investigation and that requires heavy investment in training and equipment in a central - probably urban - location.

SENATOR THERRIAULT tipped his hat to Senator French and said it was he who proposed to put this in statute in 2005. That legislation ran into trouble in Senate Finance and Senator French agreed to add his language to my bill that was in House Rules at the time, Senator Therriault explained. Shortly thereafter law enforcement was able to use Senator French's language to catch some of these guys.

CO-CHAIR WIELECHOWSKI thanked Sergeant DeGraaf for the presentation and for all the good work he is doing to protect the children of Alaska.

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There being no further business to come before the committee, Co-Chair Wielechowski adjourned the meeting at 2:43 pm.