

HOUSE FINANCE COMMITTEE
February 3, 2011
1:34 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Reggie Joule
Representative Mark Neuman
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Chris Christensen, Deputy Administrative Director, Alaska Court System; Joseph A. Masters, Commissioner, Department of Public Safety.

PRESENT VIA TELECONFERENCE

Rhonda McLeod, Fiscal Officer, Alaska Court System.

SUMMARY

Budget Overviews:
Alaska Court System
Department of Public Safety

^BUDGET OVERVIEW: ALASKA COURT SYSTEM

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CHRIS CHRISTENSEN, DEPUTY ADMINISTRATIVE DIRECTOR, ALASKA COURT SYSTEM, provided the budget overview for the Alaska Court System. He shared that the judicial branch was unique to other government departments and that despite its small size the judicial branch directly served more residents than any other governmental entity. He discussed two judicial entities, the Judicial Conduct Commission and the Alaska Judicial Council. Both entities were created by the constitution and were independent of the Alaska Court System.

Mr. Christensen stated that employees working in budget and personnel constituted 99 percent of the judicial branch. There were four levels of court in Alaska: the Supreme Court, the court of criminal appeals, superior court, and district court. Additionally, the system contained the office of the administrative director. The system as a whole contained 777 permanent full-time and part-time employees (71 justices, 45 magistrates), and operated in 44 locations across the state. Downsizing due to low oil revenues had caused the closure of 15 rural locations.

Mr. Christensen relayed that the branch was responsible for its own human resources department. He expounded that Alaska had a unique judicial structure in a unified judiciary, which allowed for a more consistent, efficient and cost effective court system. He stated that funding for the system came exclusively from the legislature and that the position of the administrative director of the courts was created by the Alaska State Constitution.

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Mr. Christensen stated that for budgetary purposes there were three things that distinguished the system from entities in the executive branch. First, the court did not engage in discretionary functions; everything done by the court was mandated by statute or constitution. Second, the system was nearly completely reactive in nature; cases filed by outside entities initiated the work of the courts. Third, the court retained no discretion to refuse work once it had been initiated. Not only could the court not refuse work, but services were expected be provided in a timely manner; the "Speedy Trial Rule", which exists in both state and U.S. constitutions. He relayed that 70 percent of the

cases handled by the branch fell under the rule, and that the rule pertained to both criminal and civil cases. He informed the committee that at the time of statehood the legislature copied laws from the State of Oregon. One of which stated that judges would not be paid if they were behind in their caseloads. Judges were the only state employees that did not receive a paycheck if they could not swear under oath every two weeks that none of their cases were past due.

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Vice-chair Fairclough wondered if there were factors intrinsic of the system that caused judges to be ill prepared for their cases. She wondered if judges were being held to a difficult, near impossible standard.

Mr. Christensen responded that the state had been lucky to have had a successful partnership with the legislature, which had allowed the system to meet the terms set before it by the legislature. The rule had been challenged both in Alaska and nationally. He argued that the constitutionality of the rule could be argued either way. Currently, Anchorage was short 3 judges, which was causing some delay.

Vice-chair Fairclough asked if the caseload was different for courts that had enough judges to hear all cases. She referred to her experience observing the California system.

Mr. Christensen remarked that California was a state that had suffered financial problems for quite some time. He stressed the difficulty of comparing one court system to another, especially with Alaska's unique court structure.

Vice-chair Fairclough clarified that the question was one of caseload; was it standard, low, or high in Alaska.

Mr. Christensen did not believe that the caseload was low. He added that in some ways the state had a higher caseload than the national average.

Mr. Christensen continued that the primary driver of the amount cases was population. The number of police officers, the economy, and unfunded federal mandates also impacted caseloads. The branch received a 5 percent increase of cases last year (162,000 cases). The superior court caseload increased 6 percent in 2010, which included an

increase of approximately 9.5 percent in felony filings. There were 6,370 new felony filings in superior court last year. The number of felonies had actually declined but the filing rate had increased. This indicated that fewer crimes were being committed but a larger percentage of the offenders were being arrested. He offered that this was positive for society, but difficult for the justice system. Felonies took more time and money to process because more of the cases went to trial than any other kind of case. Additionally, many felony cases returned in future years due to probation violations. He opined that the statistics understated the amount of work felony cases caused for judges.

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Representative Gara wondered about the average number of misdemeanors.

Mr. Christensen responded that he would get the information to the committee.

Representative Gara asked whether the change categorizing what used to be misdemeanors to felonies had factored into the increased number of felonies.

Mr. Christensen answered that the change could be part of the reason. He thought that another cause could be inflation. Primarily, more officers on the streets had resulted in more arrests, which had increased the felony caseload.

Co-Chair Stoltze asked if a prosecutor with a first case involving a small property crime would pursue a felony charge.

Mr. Christensen responded that it would depend on the local district attorney. He suggested that the criminal division might be able to provide more detail.

Mr. Christensen stated that the system had seen an increase of over 10 percent in "child in need of aid" cases in the last year, as well as an 8 percent increase in probate cases. Domestic relations cases had increased 7.5 percent. The general civil caseload decreased by 6.4 percent. He reiterated that the overall caseload increase was 5 percent. There was a 2.5 percent increase in misdemeanor

filings, a 6.2 percent increase in minor offenses, a 10.5 increase in domestic violence restraining order applications, and a 19 percent increase in the general civil caseload. Small claims cases dropped 12 percent. The new case management system allowed for tracking caseload statistics year-round rather than compiling them at the end of the year. This allowed the system to track trends and redistribute resources accordingly. A review of the statistics for the first two quarters of the current fiscal year had revealed that the caseload should increase according to historic trends.

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Mr. Christensen advanced the discussion into current spending practices, accomplishments and challenges. He stated that costs to the system were primarily personnel related; 77 percent of the budget. He opined that on whole branch personnel was low-paid. Approximately 17 percent of the employees were a range 15 or below. Lower paid employees generally lead to higher turnover rates, which had traditionally occurred in rural areas. The branch employed the largest block of non-union employees outside of the university, which were represented by two unions. He stated that he was a firm believer that employees were the best judges of whether a union was needed to protect employee interests. He added that a union shop would be of more cost to the state. He noted that on July 1, 2011 executive branch union employees living in a number of communities would receive by contract an increased geographic differential. The court system had included an operating budget increment to extend to employees in those communities the same geographic differential increase.

Co-Chair Thomas asked who determined the cost differential.

Mr. Christensen replied that each union contract had a differential written into it, negotiated by the union. Pay for the state's non-union employees in all three branches was written in statute. By statute the Supreme Court could decide what to pay employees.

Mr. Christensen discussed projects the branch was implementing to improve efficiencies and decrease costs. Currently, the branch was running a 30 day hiring freeze, which was problematic as some cases had time restraints. Unanticipated expenses had made money very tight for FY

10, and the lower turnover rate was most likely due to economic downturn and the longevity increases that were approved by the legislature in the past. There was an incentive for employees to remain in positions, secure in the knowledge that they would receive a pay increase every two years.

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Mr. Christensen pointed out that the branch rarely made a supplemental request. He hailed the achievements of the recently installed "CourtView" system, which had increased efficiencies, made case details available online and had provided other states with electronic access to court records. Using capital funds the department had purchased software that would enable judges to enter the terms and conditions of bail into the case management system, which would make the conditions available to police officers on the street.

Mr. Christensen relayed that Alaska was the only state in the country that recorded hearings rather than using stenographers, saving over \$5 million in personnel costs. The software or hardware was replaced approximately every ten years. In an effort to reduce jury costs jury questionnaires were being electronically generated and transmitted to a private contractor who printed and mailed them to prospective jurors. He stressed that the courts worked diligently to save money wherever possible to minimize legislative budgetary requests.

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Mr. Christensen discussed two final issues. The first related to the rented Nome facility. In 2010 the building was surplus allowing the facility to be used rent-free. The building had deteriorated so extensively that it required over \$9 million in deferred maintenance. The courts had brought the case to the legislature only to be denied the budgetary request. The building will be put out to bid in May of 2011, which could force the court offices out, or increase the rent. The best case scenario would be that the branch had a year or two to resolve the issue. Second, the agency would like to add two superior court judges in Anchorage.

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Representative Gara asked about therapeutic courts. He understood that there was a shortage in substance abuse services necessary to make the therapeutic courts work.

Mr. Christensen responded that the therapeutic courts did work. He admitted that there were challenges to the program because of a lack of resources in certain communities. He said he would get back to the committee with further information.

Mr. Christensen noted that the court system was dedicated to finding alternative funding for experimental programs prior to requesting funds from the legislature. For example, the therapeutic courts were initially funded with federal grants, and only after statistical demonstration that the courts were effective was a request made to the legislature to replace disappearing grant funding.

Representative Wilson queried any unanticipated costs to the court system within the recent fiscal year.

Mr. Christensen replied that the unanticipated costs were related to a district judge in Anchorage who was on administrative leave, but was still receiving a paycheck.

Mr. Christensen clarified that most funding for the therapeutic courts was not spent by the court system. Most funds were passed through for treatment or to the Department of Law for prosecutors or public defenders. In 2010 the therapeutic courts were added to the judicial general fund resources received by the department, which would be helpful in tracking the funds.

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Vice-chair Fairclough asked about funding for the facility in Nome. She queried how many cases were currently running through the facility.

Mr. Christensen responded that he would get the detailed numbers to the committee. He stated that Nome was a superior court cite and processed fewer cases than the urban courts.

Vice-chair Fairclough requested further explanation of the magistrate education coordinator position.

Mr. Christensen responded that the branch had 45 magistrates, most of whom were not attorneys. Some, particularly in rural areas, had little experience with the law before becoming magistrates. The position of magistrate was very complicated and powerful, and the law was constantly changing. The educator position was necessary for updating and training magistrates in the law and in legal procedure.

Vice-chair Fairclough noted page 164 of the legislative operating budget book. She wondered how many full-time employees would be necessary to educate the 69 magistrates in her district.

Mr. Christensen responded that he would provide the information to the committee.

Representative Joule asked about the relationship between federal law and state law, specifically the Indian Child Welfare Act (ICWA). He commented that the Office of Children Services (OCS) had experienced trouble with the issue of judges being ignorant of ICWA.

Mr. Christensen answered that there was training of judges on an annual basis. He added that the training of judges was a constant challenge. He hoped that any instances of a judge seeming indifferent or inadequately trained in the law would be brought to the attention of administrators.

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Vice-chair Fairclough noted the request of \$129,000 for a permanent full-time contract and lease manager for the court. She wondered if the office currently handling those responsibilities would face a decrement.

Mr. Christensen answered that there had been a person employed in the position for 7 years and that the position had historically been funded by capital budget project funds.

Vice-chair Fairclough asked about \$181,000 to establish a district court in Hooper Bay. She wondered how many residents would fall under the district court jurisdiction. Mr. Christensen relayed that Hooper Bay was the most populous community in the 4th judicial district without a resident judicial officer. The population was approximately

1,200. There was a magistrate in Chevak, which had a population of 850, which served Cheval, Hooper Bay and Scammon Bay. He hoped that the magistrate in Chevak could move permanently to Hooper Bay in order to more efficiently provide resources to the residents in those communities.

Mr. Christensen relayed that there would be a lease increase cost of \$86,000 per year for a minimal facility. There would also be a \$94,000 personnel cost associated with an additional clerk of court in Hooper Bay.

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^BUDGET OVERVIEW: DEPARTMENT OF PUBLIC SAFETY

JOSEPH A. MASTERS, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, provided a PowerPoint presentation titled "Department of Public Safety Department Overview". He discussed the divisions, boards and councils of the department (slide 2):

Divisions:

- Administrative Services
- Statewide Services
- Fire & Life Safety
- Alaska State Troopers (AST)
- Alaska Wildlife Troopers (AWT)

Boards and Councils:

- Alcoholic Beverage Control Board (ABC)
- Council on Domestic Violence and Sexual Assault (CDVSA)
- Alaska Police Standards Council (APSC)
- Alaska Fire Standards Council (AFSC)

Mr. Masters discussed the structure of the Alaska State Troopers (slide 3):

- Detachments
- Bureau of Alcohol and Drug Enforcement
- Bureau of Investigations

- Bureau of Judicial Services
- Bureau of Highway Patrol
- Village Public Safety Officer Program

Mr. Master highlighted accomplishments within 2010:

- 133,401 calls for service
- 18 Homicides in 2010, 9 DV related, 1 SA related; all but one are solved, actively worked.
- 78 open cold cases, 30 cases have been solved, 11 have resulted in arrests for 1st Degree Murder, 20 are actively being worked.
- Jimmy Eacker: killer of Toni Lister was found guilty of Murder - First Degree by a Kenai jury in March 2010.
- Rita (Coville) Reth: killer of Scott Coville plead out to Murder in November 2010.
- Kenneth Dion: killer of Bonnie Craig is going to trial May 9th 2011.
- Marijuana grow operations, CY10 = 75. Prescription drug abuse cases increased from 216 in CY09 to 410 in CY10.
- Alcohol importation arrests CY10 = 234 arrests
- 400 Sexual Assaults and 363 Sexual Abuse of Minor cases (CY10)
- 63,099 Prisoner transports, 8,302 Arrest Warrants served or closed, 20,459 Writs served or closed
- 789 SARs, 389 Saves (CY10)

Mr. Masters stated that when the crime rate remained the same while the population increased it was an indication that the number of incidents had increased.

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Representative Gara asked in how many villages the department intended to place additional Village Public Safety Officers (VPSO).

Mr. Masters responded that the department hoped to establish 101 authorized positions in 2011.

Representative Gara understood that the department intended to increase the number of VPSOs 15 per year for the next ten years. He wondered if the increase could take less than 10 years.

Mr. Masters responded that the governor had stated that as long as the state had the funding to fill the positions, 15 VPSOs would be added annually. If the funding were

available then the positions could be filled more quickly. More positions could be added.

Co-Chair Thomas asked how many troopers were active in the City of Fairbanks.

Mr. Masters replied that he would provide the number to the committee.

Co-Chair Thomas pointed out that VPSOs were more cost effective to the state and wondered whether troopers could be replaced with VPSOs.

Representative Wilson commented that the city of Fairbanks and City of Nome had city police officers.

Co-Chair Thomas reiterated that it could be cost effective to the state to replace troopers with VPSOs when possible.

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Mr. Masters explained that funding for the VPSO positions was expected to rise significantly as the state lost federal funding. He added that the rule of thumb was that one trooper position equaled the cost of two VPSOs.

Representative Costello queried the difference in authority between a VPSO and state trooper.

Mr. Masters responded that the primary difference was that troopers operated more in a hub area and responded to higher level offenses and felonies. Village Public Safety Officers were locally based and concentrated more on lower level misdemeanor offenses.

Co-Chair Thomas noted that troopers could carry weapons and that VPSOs could not.

Representative Wilson requested a breakdown of how many state police and VPSOs were employed in each region of the state.

Mr. Masters responded that he would provide a list.

Representative Joule asked if VPSOs ever attempted to become troopers.

Mr. Masters replied that it was uncommon but did happen on occasion.

Vice-chair Fairclough wondered the movement from VPSO to trooper was not encouraged.

Mr. Masters answered that the department did encourage the move, but it could be difficult due to a variety of factors.

Vice-chair Fairclough wondered if educational opportunities or benefits packages would incentivize VPSOs advancement to trooper ranks.

Mr. Masters replied that he was unaware of any educational benefits offered to VPSOs.

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Mr. Masters continued to discuss highway safety (slide 3).

- 57 highway fatalities, 16 alcohol related (CY10)
- 4 Highway Safety Corridors -2 fatalities CY10, 1 alcohol related

Mr. Masters shared that surveys had shown that seatbelts were currently in greater use than in the past. The department had also seen a reduction in the number of fatalities involving alcohol.

Representative Neuman asked about moose collisions on state highways. He discussed different groups that were currently active in reducing incidences of moose collisions. He wondered if the Alaska State Troopers were working to reduce moose related accidents and promote education concerning the phenomenon.

Mr. Masters answered that in 2010 there were two fatalities involving collisions with wildlife. He understood that the Department of Transportation had been working on right-of-way and brush-back issues. He thought that part of the issue related to organizations exploring ways to work together on the issue. He replied that he did not know the department's current activity concerning the issue.

Representative Doogan understood that the 18 homicides listed on slide 3 had occurred in trooper jurisdiction.

Mr. Masters replied in the affirmative.

Representative Doogan also understood that half of the homicides were domestic violence related.

Mr. Masters replied yes. He added that domestic violence and sexual assault contributed to an inordinate amount of the major offenses in the state.

Representative Guttenberg queried how the state compared with the national standard concerning the level of troopers, city police, and VPSO per population.

Mr. Masters responded that there was no recommendation per population at the national level, and that the level of service was dictated by the needs of the different communities being served. He stressed that there was not a formula; each area was unique.

Representative Guttenberg understood how the areas being served in the state differed in need. He wondered if communities had offered feedback as to the level of service offered by the troopers and VPSOs.

Mr. Masters responded that the feedback was arriving from both communities wanting more service and from people complaining that there was too much law enforcement. He felt that adequate service was being provided in urban areas but that rural areas were being served inadequately. He pointed out to the committee that there were rural areas with no community based law enforcement. He reiterated that the governor had stated that he would provide up to 15 law enforcement officers, per year, to wanting communities.

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Vice-chair Fairclough understood that the Uniform Crime Reporting Code (UCR) took submissions in both electronic and paper form. She wondered which way the state submitted submissions.

Mr. Masters believed that DPS transmitted the information electronically to the Federal Bureau of Investigations (FBI).

Vice-chair Fairclough wondered if the classification codes had been aligned to ensure the indication of domestic violence and sexual assault in the electronic submittal of homicide cases to the FBI. She relayed that in her past experience electronic filing of the UCR was the only means of indicating the role of domestic violence in a homicide and that the indication was directly linked to the access of federal funds.

Mr. Masters replied that the UCR was limited because if there were multiple offenses in one offense, the single most egregious was submitted as the offense. If a homicide involved kidnapping and rape, the homicide would be the only offense listed for the jurisdiction. At the state level offense based crime reporting was being developed to maximize the collection of information by categorizing offenses by statute type rather than UCR code.

Vice-chair Fairclough understood the state was not aligned with the federal level codes that would allow for a secondary reporting feature. She believed this put state at a disadvantage.

Mr. Masters clarified that the department was working to alleviate the discrepancy.

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Mr. Master explained that the VPSO program began in 1979 and was initially designed as a joint collaboration between the state, the non-profit corporations that administer the program, and the communities that benefitted from the VPSO program. Mr. Masters moved on to discuss the specifics of the VPSO program (slide 4):

- As of November 2010 83 of 86 positions were filled
- 24 VPSO's are currently at Academy
- 40 percent reduction in the rate of serious injury from assault in communities with VPSO or VPO
- Prosecution for sexual assault is 3.5 times higher in communities with VPSO or VPO
- Governor's commitment to place VPSO's in all communities: 15 per year

- VPSO Alaska Housing Finance Corporation housing projects in Iguigig, Sleetmute, and Akiak were approved

Representative Joule wondered if all communities with VPSOs had cell phone coverage.

Mr. Masters replied that he did not know if all communities had cell phone capabilities. He believed that most communities had coverage.

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Mr. Masters continued to discuss the VPSO program (slide 4).

- Rural Grants - equipment, supplies and training
- Trooper support - village visits 4,113
- VPSO's investigated 6,020 incidents
- 173 DV and Assault arrests, 52 DUI arrests
- Cross department effort related to the Mt Edgecumbe High School - exposing students to the justice system - started out with 24 kids and is now at 20 - successful program that keeps kids interested
- Probation and parole
- 10 VPSO's attended DARE sponsored training
- Established regional VPSO support Trooper in Bethel - 3 additional positions projected for FY12

Mr. Masters stated that one additional funding request for FY 11 was for three troopers: one in Bethel, one in Fairbanks, and one in Kotzebue to oversee the VPSO programs in those areas. The troopers would work to identify applicants for the VPSO program, assist in background investigation, identify communities that were in need of VPSOs, and work with communities to determine the need and the duties of the VPSO in communities. The decision to place one position in Kotzebue had been made because that specific region had shown the greatest need for a VPSO.

Mr. Masters moved on to address the Alaska Wildlife Troopers (slide 5):

- 89,312 resource user contacts
- 4.3% violation to contact rate
- Boating Safety - 10,702 contacts

- Deaths: 2010 = 11 2009 = 12 2008 = 14 2007 = 17
- Cooperative Agreements with USFWS, NMFS-JEA, NPS
- Aircraft section participation in the Medallion Aviation Safety Program
- Lake Hood Hangar is complete

Recent Enforcement Success -

- **Illegal Guiding and Outfitting; Same Day Airborne; Sport Fish Guide Violations** - Kurt Lepping: 700 days jail, fined \$45,000, forfeited both Cessna 206 and Piper Super-cub used in commission of the violations.
- **Father, Son Plead Guilty to Big Game Guiding Violations in Brooks Range** - Michael H. Vanning Sr and Michael C. Vanning Jr. Each fined \$7,000, forfeited Piper Super-cub used in the commission of the violations.
- **Ninilchik Sport Fishing Guide's License Revoked and Jail imposed for illegal Acts** - Arthur C. Aho, halibut sport fishing guide, sentenced with 90 days in jail, fined \$5,000, 40 hours of community work service, and six years' probation.

Mr. Masters moved on to discuss FY 11 and FY 12 increments (slide 10 through 11):

FY 11

Alaska State Troopers

- Continue illegal drug and alcohol initiative, replace federal funds: \$656.5 GF
- Three new troopers for domestic violence and sexual assault investigations, additional domestic violence and sexual assault training capability, and increased sexual assault exam costs: \$725.0 GF
- Increased prisoner transportation costs: \$300.0 GF
- Five new troopers to enhance Alaska Bureau of Highway Patrol: \$1,206.8 CIP Rcpts

VPSO

- Contract for 15 new VPSO: \$1,261.5 GF
- VPSO cost-of-living adjustments and merit increases: \$223.8 GF

Council on Domestic Violence and Sexual Assault

- Support shelters with increased operating funds: \$381.9 GF
- Provide increased services to victims: \$325.0 GF
- Maintain shelter services, replace permanent fund dividend appropriations in lieu of dividends to criminals: \$651.4 GF

Laboratory Services

- Develop and purchase pediatric sexual assault evidence collection kits: \$12.3 GF

- Continue funding for DNA analyst for unknown sexual assault cases: \$92.8 GF

FY 12

Alaska State Troopers

- Three new troopers for VPSO support: \$1,056.2 GF, \$15.4 GFPR
- New investigator and criminal justice technician for internet crimes against children investigations: \$359.6 GF

VPSO

- Contract for 15 new VPSO: \$2,299.5 GF

Alaska Police Standards Council

- Fund training in new developments in sexual assault investigations and prosecutions, including child abuse cases and child forensic interview training: \$50.0 GFPR

Council on Domestic Violence and Sexual Assault

- Support shelters with increased operating funds: \$550.0 GF
- Year 2: Universal public marketing campaign: \$450.0 IAR (RSA from Governor's Office)
- Year 2: Victimization study, evaluation, planning: \$400.0 IAR (RSA from Governor's Office)
- Year 2: Pro bono attorney clearinghouse: \$60.0 IAR (RSA from Governor's Office)
- Continue legal advocacy program, replace federal earmark funds: \$697.4 GF
- Maintain shelter services, replace permanent fund dividend appropriations in lieu of dividends to criminals: \$1,001.9 GF

Representative Doogan asked whether the FY12 increments had been put forward by the governor.

Mr. Masters responded in the affirmative.

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ADJOURNMENT

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The meeting was adjourned at 3:31 PM.