

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 28, 2011

1:03 p.m.

MEMBERS PRESENT

Representative Steve Thompson, Vice Chair
Representative Wes Keller
Representative Bob Lynn
Representative Lance Pruitt
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Carl Gatto, Chair
Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

OVERVIEW: DEPARTMENT OF PUBLIC SAFETY

- HEARD

OVERVIEW: ALASKA COURT SYSTEM

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

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

POSITION STATEMENT: Presented the overview of the Department of Public Safety (DPS).

HANS BRINKE, Captain, Commander
Alaska Bureau of Highway Patrol
Division of Alaska State Troopers
Department of Public Safety (DPS)
Wasilla, Alaska

POSITION STATEMENT: Responded to a question during the overview of the Department of Public Safety (DPS).

DOUG WOOLIVER, Administrative Attorney
Administrative Staff
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: Presented the overview of the Alaska Court System (ACS).

ACTION NARRATIVE

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VICE CHAIR STEVE THOMPSON called the House Judiciary Standing Committee meeting to order at 1:03 p.m. Representatives Thompson, Holmes, Keller, and Pruitt were present at the call to order. Representatives Lynn and Gruenberg arrived as the meeting was in progress. Representative Gatto was excused.

Overview: Department of Public Safety

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VICE CHAIR THOMPSON announced that the first order of business would be an overview of the Department of Public Safety (DPS).

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JOSEPH A. MASTERS, Commissioner, Department of Public Safety (DPS) - noting that page 2 of his PowerPoint presentation listed the DPS's five divisions, and the one board and three councils that are administratively-housed within the DPS - relayed that the mission of the DPS is to ensure public safety and enforce fish and wildlife laws. The priorities of the DPS are law enforcement patrol and investigations, rural law enforcement, domestic violence (DV) and sexual assault programs, resource protection, and highway safety. The Division of Alaska State Troopers is the DPS's largest and most visible division and its mission is to preserve public peace, and protect life, property, and resources. In calendar year 2010, the Division of Alaska State Troopers responded to 133,401 service calls, an increase of about 9,000 service calls from 2009, with approximately 25-30 percent being criminal in nature; and investigated 18 homicides, 9 of which were DV related, 1 of which was sexual-assault related, 2 of which involved police officers from Hoonah, and

all but 1 of which have been solved and the perpetrators brought to justice.

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COMMISSIONER MASTERS relayed that the Division of Alaska State Troopers has 78 cold cases that its Alaska Bureau of Investigations (ABI) is tracking, with 20 of them currently being worked, and has solved 30 cold cases, with 11 of them resulting in arrests for the crime of murder in the first degree. Referring to page 3 of his PowerPoint presentation, he then listed a few high-profile murder cases that either have been or are in the process of being adjudicated. Up until last year, the DPS utilized federal funding for its cold case unit, and funding has since been made permanent in the DPS's "operating base budget." In calendar year 2010, the Division of Alaska State Troopers also dealt with 75 marijuana grow operations; 410 prescription drug abuse cases - up from 216 in 2009; only 11 methamphetamine laboratories - down from 80-90 per year prior to passage of the methamphetamine-precursor legislation; 234 alcohol importation arrests; 400 sexual assault and 363 sexual abuse of a minor cases - though increases from last year in the numbers of such cases might in part be the result of increased reporting; [63,099 prisoner transports, 8,302 arrest warrants, and 20,459 writs]; and 789 search and rescue operations, with 389 lives being saved.

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COMMISSIONER MASTERS explained that highway safety has been one of the DPS's prominent focuses, and so in an effort to decrease the number of vehicular accidents in Alaska and improve enforcement along the state's highway safety corridors, the DPS formed the Alaska Bureau of Highway Patrol within the Division of Alaska State Troopers, and has been working in partnership with the Department of Transportation & Public Facilities' (DOT&PF's) Alaska Highway Safety Office (AHSO), as well as with municipal agencies around the state, to institute components of Alaska's Strategic Highway Safety Plan. The DPS has also done a number of other things specific to highway safety. For example, the aforementioned Alaska Bureau of Highway Patrol, which is almost entirely federally funded via the AHSO, now has 27 dedicated troopers, with units in the Fairbanks, Soldotna, Matanuska-Susitna (MAT-SU), and Girdwood regions. As a result of such steps, as well as because of an increase in seatbelt usage, the number of highway fatalities and serious injuries on Alaska's highways has decreased, with only 57 fatalities in

calendar year 2010 and only about 30 percent of those involving a lack of seatbelt usage. He then relayed that the number of alcohol-related fatalities on Alaska's highways also decreased in calendar year 2010 - down to just 16, the lowest number seen since about 1977; this can be attributed to the DOT&PF and DPS's efforts regarding enforcement, education, and engineering, which he referred to as the "three Es."

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COMMISSIONER MASTERS explained that in an effort to recruit more troopers, Village Public Safety Officers (VPSOs), and other law enforcement officers from rural areas of the state, the DPS had its Division of Alaska State Troopers work in partnership with the DPS's Police Safety Academy over in Sitka, the Department of Education and Early Development (EED), and the Department of Labor & Workforce Development (DLWD) to start what he referred to as the law enforcement cadet core program, which is somewhat similar to a junior Reserve Officers' Training Corps (ROTC) program but is law-enforcement oriented. The hope is that in the long run, more youth will become interested in a career in law enforcement. Referring to page 4 of his PowerPoint presentation, he explained that in 2008, the DPS's VPSO program only had 47 filled VPSO positions, resulting in an absence of any law enforcement protection in lot of rural communities, but the administration has since committed to adding 15 new VPSO positions [per year for] 10 years, with 2010 and 2011 being the first two years. According to a study conducted by the University of Alaska's justice center, one of the biggest benefits of having a VPSO in a community was a 40 percent decrease in the number of assaults resulting in serious physical injury, a 250 percent increase in domestic violence (DV) convictions, and a 350 percent increase in the acceptance of sexual assault cases for prosecution.

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COMMISSIONER MASTERS went on to explain that the DPS had 70 VPSO positions filled in 2009, 83 VPSO positions filled in 2010 - though current funding allows for 86 VPSO positions to be filled - and the [FY 12] budget is going to provide for 101 VPSO positions. One of the biggest barriers to bringing VPSOs on board in rural communities has been a lack of housing, though the administration has been attempting to address that issue via Alaska Housing Finance Corporation (AHFC) funding. He indicated that the number of cases VPSOs worked over the last few years totaled about 6,000; these were cases that probably wouldn't

have been worked at all, if not for the VPSO's, because there just weren't enough state troopers to send out to the villages. He noted that the DPS's forthcoming budget is requesting funding for an additional three trooper positions that would specifically provide support to VPSOs and liaison with the communities and contracting nonprofit corporations; these troopers are expected to have a meaningful impact on the placement and retention of VPSOs. He also indicated that many of the new VPSOs either would be or are serving areas of the state that fall under the purview of the Association of Village Council Presidents (AVCP).

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COMMISSIONER MASTERS, referring to page 5 of his PowerPoint presentation, indicated that the Division of Alaska Wildlife Troopers is focused on the enforcement of Alaska's fish and game laws; preserving the public peace; and protecting life, property, and resources. For example, such troopers often address the issue of boating safety. In 2010, the division had 89,312 "resource user contacts" and [10,702] "boating safety contacts," and dealt with 11 recreational [boating] fatalities - down from 12 in 2009, 14 in 2008, and 17 in 2007. These large numbers of contacts have resulted in increased compliance rates and decreased violation rates; for example, in 2010, only 4.3 percent of contacts involved violations - down from about 8.5 percent [in 2008]. Boating safety issues are addressed jointly with the Department of Natural Resources' (DNR's) [Division of Parks & Outdoor Recreation], though generally it's the Division of Alaska Wildlife Troopers that makes the contacts and deals with enforcement. Still referring to page 5 of his PowerPoint presentation, he provided some information about the three situations listed involving the enforcement of Alaska's fish and game laws.

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COMMISSIONER MASTERS - referring to page 6 of his PowerPoint presentation, which addressed the Division of Fire and Life Safety - relayed that in 2010, there were 12 fatalities stemming from residential fires; 1,940 building inspections were completed; 1,356 [building] plans were reviewed; 11 jurisdictions were deferred due to insufficient staff within the division; and the division's Training and Education Bureau (TEB) was very active in its efforts to educate children about fire safety. Referring to page 7 of his PowerPoint presentation, he explained that the Division of Statewide Services is responsible

for maintaining the Alaska Public Safety Information Network (APSIN), Alaska's sex offender registry, and the Alaska Automated Fingerprint Identification System (AAFIS); is responsible for concealed handgun permits, [licensing of security guards and civilian process servers,] and registering sex offenders; and has been doing a lot to increase efficiencies and enhance its ability to interface with the other agencies and departments that utilize the aforementioned databases - for example, the scheduled re-design of the APSIN is nearing completion, and the extreme backlog of requested fingerprint/background checks has been dramatically reduced such that turnaround on such requests is now only 3-5 days rather than the 150 days that it used to take.

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COMMISSIONER MASTERS, referring to page 8 of his PowerPoint presentation, relayed that the Office of the Commissioner, in an effort to improve accountability and efficiencies within the department, computerized the complaint process, and established an Office of Professional Standards, which has two external investigators who are responsible for all internal investigations. Referring to page 9 of his PowerPoint presentation, he explained that construction of the new crime detection laboratory ("crime lab") is proceeding on schedule, with an anticipated move-in/start-up date of July/August 2012. [In 2010], 4756 cases were submitted to the crime lab, with 78 percent of those cases having a turnaround time of 30 days or less; there were 71 database hits; the crime lab's backlog [of deoxyribonucleic acid (DNA) samples for testing] was significantly reduced such that it now contains no cases older than 2009; and there is now only a 30-day turnaround time for Combined DNA Index System (CODIS) samples.

COMMISSIONER MASTERS, in response to a question, explained that it would be up to the AHSO to determine whether to continue the aforementioned federal funding of the 27 dedicated troopers within the Alaska Bureau of Highway Patrol; that the original funding request was submitted to the AHSO as a five-year project; and that future funding should still be possible through grants.

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HANS BRINKE, Captain, Commander, Alaska Bureau of Highway Patrol, Division of Alaska State Troopers, Department of Public Safety (DPS), added that the current federal funding through the

AHSO is anticipated to continue until 2013, and indicated that funding extensions should be possible after that.

COMMISSIONER MASTERS, in response to other questions, indicated that the base pay for VPSOs has increased from \$17/hour to \$21/hour; that if a VPSO also performs probation/parole-type services for the Department of Corrections (DOC), his/her base pay could increase to \$23-\$24/hour; that whenever the DPS asks the legislature for a cost-of-living adjustment (COLA) for troopers, the DPS also asks for a commensurate one for VPSOs; and that approximately 65-70 rural communities have a VPSO, though some of the larger rural communities have more than one VPSO.

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COMMISSIONER MASTERS, in response to comments and questions regarding the Alcoholic Beverage Control Board ("ABC Board"), clarified that the ABC Board was originally housed under the Department of Revenue (DOR); that the ABC Board was moved to the DPS during the Murkowski Administration; and that pending legislation proposing to move the ABC Board from the DPS to the Department of Commerce, Community & Economic Development (DCCED) was not introduced by the administration. In response to another question, he explained that village police officers (VPOs) get significantly less training than VPSOs - only about two weeks' worth of training; that what little training VPOs do get is conducted by the Division of Alaska State Troopers through a federal Department of Justice (DOJ) Bureau of Justice Assistance (BJA) grant; that VPOs are hired and funded by villages - sometimes only temporarily and/or only part-time - whereas VPSOs are hired and funded by nonprofit [corporations] under contract with the DPS; and that the turnover rate of VPOs, of which there are currently 105, is very high.

COMMISSIONER MASTERS, in response to further questions, relayed that the Division of Alaska State Troopers has 14 vacancies, and the Division of Alaska Wildlife Troopers has 7 vacancies; that the DPS is anticipating filling the bulk of those positions very soon; that each year, the DPS holds two "joint municipal academies," one "training class ... sponsored through the Alaska Police Standards Council (APSC) for municipal agencies," and one VPSO training academy; that the DPS has recently been experiencing higher retention rates for VPSOs, possibly for a number of reasons such as the aforementioned increases in wages, the focus on the program, training, and mentoring, and more trooper visits to communities; that it's the individual

nonprofit corporation hiring a VPSO that determines what the VPSO's wages, benefit package, and retirement plan will be; and that VPSOs are not members of any collective bargaining unit.

Overview: Alaska Court System

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VICE CHAIR THOMPSON announced that the final order of business would be an overview of the Alaska Court System (ACS).

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DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), explained that the ACS is just one of the three parts of the judicial branch of government; that its funding constitutes less than 1.5 percent of the budget; that it has its own internal administration; and that it's different than most court systems around the country in that it's a unified court system - one of only eight wherein there is just one court entity - and one of only five that gets its funding exclusively through the legislature. The position of administrative director is provided for in the Alaska State Constitution, and he/she is hired directly by the Alaska Supreme Court. Alaska has four judicial districts: the First Judicial District encompasses Southeast Alaska; the Second Judicial District encompasses northern Northwestern Alaska; the Third Judicial District encompasses Southcentral Alaska; and the Fourth Judicial District encompasses Interior Alaska. There are four levels of court: the Alaska Supreme Court; the Alaska Court of Appeals; the Alaska Superior Court; and Alaska's district courts. The Alaska Supreme Court has five justices, and must hear appeals on all cases over which it has jurisdiction, except for appeals pertaining to criminal cases because those are handled exclusively by the Alaska Court of Appeals, which was established in 1980 specifically for the purpose of addressing the Alaska Supreme Court's criminal-case workload.

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MR. WOOLIVER explained that the Alaska Superior Court is Alaska's court of general jurisdiction, and has 40 superior court judges in 13 locations. The most common types of cases the Alaska Superior Court hears are felony criminal cases, civil cases addressing monetary amounts in excess of \$100,000, domestic relations cases, child in need of aid (CINA) cases,

juvenile justice cases, and cases involving real property. About one-third of the Alaska Superior Court's caseload pertains to children - custody cases, CINA cases, delinquency cases. Such cases engender a lot of complaints which, in turn, often engender reforms of Alaska's laws. Most such cases, however, are handled by Alaska's district courts; for example, in 2010, the Alaska Superior Court only handled about 21,000 [such] cases, whereas Alaska's district courts handled about 140,000 cases. Alaska's district courts are courts of limited jurisdiction, and they also hear misdemeanor cases, cases involving violations, small claims cases, and civil cases addressing monetary amounts not exceeding \$100,000. There are 21 district court judges in 9 locations, and 43 magistrates, which are a subclass of district court judge, in 36 locations. Magistrates - who are simply employees of the court system - hear cases involving violations, domestic violence (DV), and restraining orders, as well a lot of misdemeanor cases wherein the defendant has given his/her consent.

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MR. WOOLIVER explained that [in 2010,] between the Alaska Superior Court and Alaska's district courts, Alaska's trial courts had 162,000 cases - an increase of about 5 percent from 2009. Separately, the Alaska Superior Court experienced a 6 percent increase, and Alaska's district courts experienced a 4.7 percent increase, with [substantial] increases in felony filings, and cases involving domestic violence, sexual assault, and stalking contributing to those overall increases. The courts' workloads, although driven largely by the number of filings, are also driven by the amount of work associated with different types of cases. For example, a recent increase in the number of people who come to court seeking to resolve their cases without benefit of an attorney is having a big impact on the courts' workloads because such people tend to file a lot more motions, don't always stick to the legal issues that the courts are required to resolve, and routinely don't have all their paperwork in order. The courts, therefore, have to do a lot to make the process easier for unrepresented litigants, and one of the things the ACS has done is establish what he referred to as a "family law self-help center" that provides callers with information about how to proceed with a case in court. The ACS believes that one shouldn't have to have a lawyer to access Alaska's legal system.

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MR. WOOLIVER explained that the ACS, in an effort to reduce the recidivism rates of those offenders with substance-abuse problems or mental health problems, has established several therapeutic courts, and these have been very effective at reducing recidivism rates and providing a more humane and cost-effective way of dealing with what are often just minor offenses or non-violent misdemeanor crimes committed by people who are generally law abiding except when they abuse drugs/alcohol or stop taking their medication. He went on to explain that the ACS has a whole body of rules under which it operates - the Alaska Rules of Court; these rules, which govern how the courts work and establish how various types of cases must move through the system, can be and routinely are amended by the legislature, or by committees formed [within the ACS] to address specific provisions of the Alaska Rules of Court. Changes proposed by such committees must be approved by the Alaska Supreme Court, whereas changes proposed by the legislature must receive a two-thirds affirmative vote from both bodies.

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MR. WOOLIVER explained that in addition to specific court rule changes proposed by the legislature, legislation in general can affect the courts in any number of ways. For example, legislation can add new offenses to the criminal statutes, thereby increasing the number of cases that come before the courts; legislation can increase the penalties for certain offenses, thereby increasing the trial rate for some types of cases; and legislation can increase the courts' responsibilities, thereby requiring the courts to take additional steps. However, typically [the ACS] doesn't take a supporting or opposing position on legislation, unless it's legislation that the ACS has specifically asked for or it's legislation that specifically addresses [the ACS] and its internal operations. A few reasons for typically not taking a position on legislation are that the ACS recognizes that the legislature is the primary body that sets public policy; many of the bills that are passed will come before the court for interpretation or because they are challenged on constitutional grounds; and judges can disagree with regard to whether particular legislation should be supported or opposed. Generally, therefore, he simply provides the legislature with information about how particular pieces of proposed legislation might impact the courts.

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MR. WOOLIVER explained that the ACS also interacts with the executive branch in a couple of ways: one, in day-to-day interactions with the rest of the justice system - the Division of Motor Vehicles (DMV), the Department of Corrections (DOC), the Department of Law (DOL), the Department of Public Safety (DPS), the Public Defender Agency (PDA), the Office of Children's Services (OCS), the Office of Public Advocacy (OPA), and the Division of Juvenile Justice (DJJ), to name a few; and, two, formally, through its court rule committees [and other committees] which also have various representatives from the administration as members. To highlight the latter type of interaction, he then provided some information about a couple such committees - the "criminal justice working group" and the Multi-Agency Justice Integration Consortium (MAJIC) - and indicated that some of the problems these two groups have been seeking to resolve are those related to discovery, in particular, and to the transfer of information between criminal justice agencies, in general.

MR. WOOLIVER emphasized that the criminal justice system and the civil justice system are just that - systems composed of a lot of different but interrelated entities. This means that when laws are changed for one part of the system, it creates issues for all the other parts - those interrelated entities have no control over such changes but must deal with them nonetheless. For example, if the legislature provides the DPS with more funding for additional troopers, that will result in more cases being referred to the DOL's prosecutors, and in more cases going through the court system, and in more cases getting assigned to the PDA, and in more defendants going to the DOC. The ACS has to accept every case filed by the prosecutor, the PDA has to accept every case assigned to it by the court, and the DOC has to find a way to deal with every person delivered into its custody.

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MR. WOOLIVER explained that the Alaska Judicial Council (AJC) and the Commission on Judicial Conduct (CJC) - both constitutionally-created entities - are the other two parts of the judicial branch of government. The AJC accepts applications for judicial positions, interviews and reviews those applicants, and then sends a list of names to the governor, who then selects from that list his/her appointments to the bench. The AJC also reviews judges up for retention, and conducts numerous studies of the criminal justice system. The CJC enforces the code of

judicial conduct, and makes recommendations to the Alaska Supreme Court when violations occur.

MR. WOOLIVER, in response to questions, said that he isn't aware of any problems judges are having with regard to exercising their right of free speech; that forthcoming legislation introduced by the ACS through the House and Senate Rules Standing Committees is proposing to add two more [superior court] judges to the Third Judicial District's civil bench in order to address last year's increase in case filings; that he doesn't believe the Alaska Supreme Court has any interest in unifying Alaska's lower courts or sees any benefit to doing so; that he would research the issue of grants for therapeutic courts further; that court rule committee members - often considered to be experts on a particular subject - are appointed by the Alaska Supreme Court; that how often such committees meet varies a lot depending on the committee; that copies of the Alaska Rules of Court contain a listing of the various committees and their members; that he would research how many of the members of those committees work for the executive branch and how many work for the legislative branch; and that although crime rates are generally going down in most areas of the state, the number of case filings is frequently going up, though such might be due to increased efficiencies, staff, and enforcement.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:42 p.m.