

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

January 31, 2011

1:05 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(S): DEPARTMENT OF LAW - CRIMINAL DIVISION

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

RICHARD SVOBODNY, Deputy Attorney General  
Central Office  
Criminal Division  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Presented the overview of the Department of Law, Criminal Division.

**ACTION NARRATIVE**

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**VICE CHAIR STEVE THOMPSON** called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Thompson, Holmes, Lynn, Keller, and Pruitt were present at the

call to order. Representative Gruenberg arrived as the meeting was in progress.

**Overview(s): Department of Law - Criminal Division**

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VICE CHAIR THOMPSON announced that the only order of business would be an overview by the Department of Law, Criminal Division.

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RICHARD SVOBODNY, Deputy Attorney General, Central Office, Criminal Division, Department of Law (DOL), explained that the mission of the Department of Law is to prosecute crimes and provide legal services to state government for the protection and benefit of Alaska's citizens. He stated that that mission is divided into four core services: protecting the safety and financial well being of Alaskans; fostering conditions for responsible development of natural resources; protecting the fiscal integrity of the state; and promoting good governance. He said the Criminal Division is primarily involved in the first of those four services, but has a hand in the other three, as well. Mr. Svobodny named the three divisions within the department: the Criminal Division, which has [121] lawyers and a budget of \$30.9 million; the Civil Division, which has 162 lawyers and a budget of \$49.9 million; and the Division of Administrative Services, which has one lawyer - the attorney general.

MR. SVOBODNY related that the Criminal Division is divided into 13 district attorneys' offices, located in Anchorage, Fairbanks, Juneau, Ketchikan, Barrow, Bethel, Dillingham, Kodiak, Kotzebue, Nome, Sitka, Kenai, and Palmer, with nine district attorneys serving those offices. Four of the offices are satellite offices: Sitka, which is supervised by the district attorney in Juneau; Barrow, which is supervised by the district attorney in Fairbanks; Kotzebue, which is supervised by the district attorney in Nome; and Dillingham, which is supervised by the district attorney in Anchorage. Until recently, he said, all those satellite offices were managed by one lawyer, one paralegal, and one office assistant. This year, he said, the governor's budget requests an increase in the number of lawyers covering Kotzebue by one, because that district attorney has a caseload of 844 cases. He said the number of caseloads range between 180 and 844.

MR. SVOBODNY relayed that on the previous Tuesday, at the request of the attorney general, a "snapshot" was taken of the cases currently in progress around the state, which was a reported 11 felony trials and 9 misdemeanor trials. He noted that a couple of those cases are high profile, including one sexual assault case. He stated that the department received 8,284 felony cases for review for prosecution, up from approximately 7,700 the prior year, and prosecuted 5,650 of those cases, which is roughly the same number of cases prosecuted in the prior year. He reported that the department received 23,500 misdemeanor cases, up from 23,200 the prior year, and prosecuted 19,800 of those cases.

MR. SVOBODNY highlighted that both the Municipality of Anchorage and the Municipality of Juneau have chosen to prosecute misdemeanor cases, and combined do approximately 9,000 cases annually. He said those municipalities take on some of the harder cases, for example, driving under the influence and assault and domestic violence cases - all cases aimed at ensuring public safety.

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MR. SVOBODNY said that in addition to the 13 district attorney's offices, the Criminal Division also has an Office of Special Prosecutions & Appeals, in which are the Appeals Unit, the Rural Prosecution Unit, and the Special Prosecutions Unit. He said the Appeals Unit represents the state when criminal matters are appealed. He listed the following sub-units within the Special Prosecutions Unit: White Collar Crime, Alcohol Interdiction, Environmental Crimes, Fish and Game, Medicaid [Provider] Fraud, Permanent Fund Dividend and Welfare Fraud, Cold Case, and Child Support Enforcement. He noted that there is only one attorney for each of those sub-units. Mr. Svobodny related that the Rural Prosecution Unit is designed to offer help to small offices taking on major cases, and to mentor citizens in the Bush areas. He stated that prosecution is generally an area where young lawyers are hired, and emphasized the importance of getting good training. He further remarked upon the length of combined experience of the three lawyers in the Special Prosecutions Unit.

MR. SVOBODNY said the Criminal Division operates its administrative functions in the Central Office. He named the following people who work in the Central Office [and Legal Services Section]: himself, Susan McLean, Anne Carpeneti. He

said there are two lawyers who represent the [Department] of Corrections. He said another lawyer represents the Department of Public Safety.

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MR. SVOBODNY turned to the issue of the effects of legislation that passed in 2010. He explained that last year, the governor devised a four-pronged approach to reducing domestic violence and sexual assault in the next 10 years, with a major part of that approach addressing how to prevent domestic violence and sexual assault, how to get appropriate treatment, and how to change the culture. He noted that last year's House Judiciary Standing Committee members did substantive work on many of the components of the issue. He further credited the committee for its work on three pieces of legislation, which addressed the following issues: bail, sexual assault and domestic violence, and post-conviction deoxyribonucleic acid (DNA) matters.

MR. SVOBODNY, with regard to the latter, said the legislature last year passed a process for people to seek post-conviction relief if there is sufficient evidence that those people did not commit the crimes and DNA could be used to exonerate them. He offered his understanding that, to date, no one has filed an application, either under the legislation's provisions or under that outlined by the courts prior to the enacting of the aforementioned bill.

MR. SVOBODNY, regarding the bail bill, said last year's bill was the first total review of the bail statutes since 1966. The bill made several changes, bringing Alaska's bail statutes to where federal statute was. He related a personal experience in court that illustrated that the bail bill has been working. Mr. Svobodny noted, though, that just prior to the passing of the bill, the state was sued by the Association of Defense Lawyers being represented by the American Civil Liberties Union, claiming that 13 provisions of the bail bill were unconstitutional and asking for injunctive relief. He highlighted some of those contested provisions, and he said the one provision that is still up in the air is one that requires a 20-day cooling off period following a sexual assault.

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MR. SVOBODNY stated that the other bill which has resulted in legal action was one that dealt with domestic violence and sexual assault. He said that bill has been attacked in one

specific area, AS 11.61.128, which used to address electronic distribution of indecent material to minors, but was expanded by the legislature to include distribution of indecent material to someone under 16 or to somebody the person doing the distributing thought was under 16. He explained the arguments for and against that legislation and described where in the process the department is.

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MR. SVOBODNY relayed that the governor has introduced changes regarding sexual assault legislation, which will be heard by the House Judiciary Standing Committee. He said the State of Alaska will need to comply with the Adam Walsh Child Protection and Safety Act of 2006, regarding sex offender registration, by July 27, 2011, or lose federal grant money. He said for the last three years he has addressed a letter to specific legislators, including the House Judiciary Standing Committee chairs, regarding this issue, so that an informed decision can be made.

MR. SVOBODNY stated that the final issue to be addressed is that of safety of prosecutors. He said the department is trying to find someone to audit all the facilities in the state.

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MR. SVOBODNY, in response to Representative Gruenberg, offered details regarding the Adam Walsh Child Protection and Safety Act of 2006. He reviewed the differences between that Act and the Alaska Sex Offender Registration Act. He said the Department of Public Safety has related that it would cost the state more to adhere to the Adam Walsh Child Protection and Safety Act of 2006 than to lose the federal grant monies given for following it. In response to a follow-up comment by Representative Gruenberg, he said he has, through his aforementioned letters, supplied the legislature with the details of the Act and the grant, but he would do so again.

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MR. SVOBODNY, in response to Representative Gruenberg, reiterated that an audit is necessary in order to better address the security of prosecutors. He added that lawyers are often threatened, as well. He agreed to supply any audit information to the legislature so that that body may better address the issue.

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**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:07 p.m.