



## Access to Legal Services for Alaskans with Low Incomes

The picture of indigent access to legal services in Alaska is still colored primarily by inadequate funding for services in both its civil and criminal components. Since 1996 (see "Indigent Legal Services in Alaska," *Alaska Justice Forum*, Summer 1996), the caseload of the Public Defender Agency, which handles the bulk of indigent criminal representation throughout the state, has grown beyond the increase in its budget. Alaska Legal Services, which is still the primary source for civil legal aid for low income individuals in most parts of the state, now handles a much more restricted caseload, in part because of funding constraints. Like the previous *Forum* article, this article will look at the Alaska programs now providing legal aid to low-income clients—scope, staffing, and funding—and note the major changes of the past six years.

For civil legal aid, a patchwork of separate agencies has emerged beyond Alaska Legal Services. Most of these programs address a particular cluster of legal issues presented by a particular clientele, rather than the general legal needs of the low-income population. Most receive their funding from a variety of sources, including federal and state grants, private donations, and Native organizations.

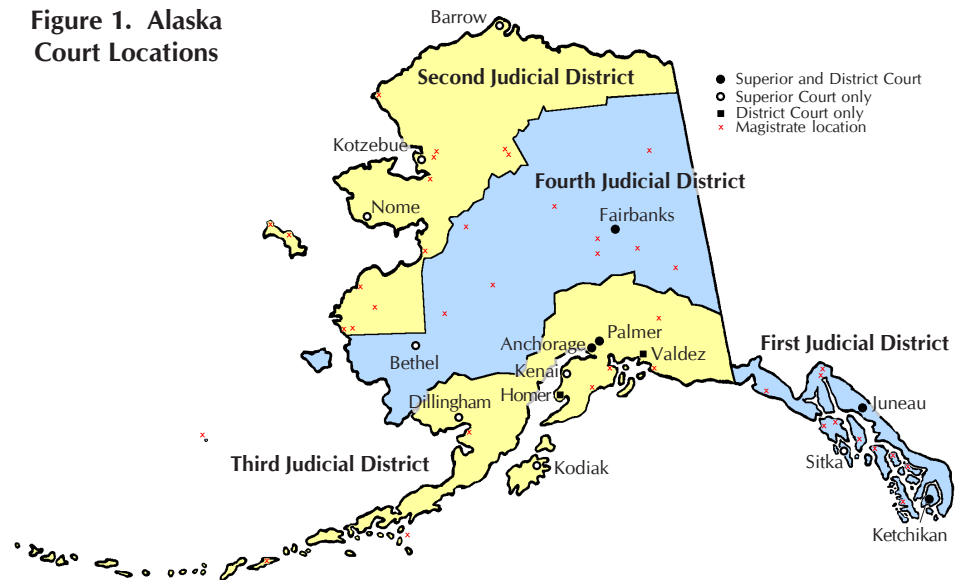
As was originally the case with Alaska Legal Services, a flow of federal money, usually precipitated by major legislation, buoys some of the programs. Money made possible by the Violence Against Women Act (VAWA), in particular, has greatly facilitated the work of the Alaska Network on Domestic Violence and Sexual Assault, and, to a lesser extent, has provided some funding for other programs, including Alaska Legal Services.

All of the agencies discussed in this article are short-staffed, with stretched budgets. Many rely heavily on placing cases on a pro bono basis. This has become a time-consuming task for administrators, as they

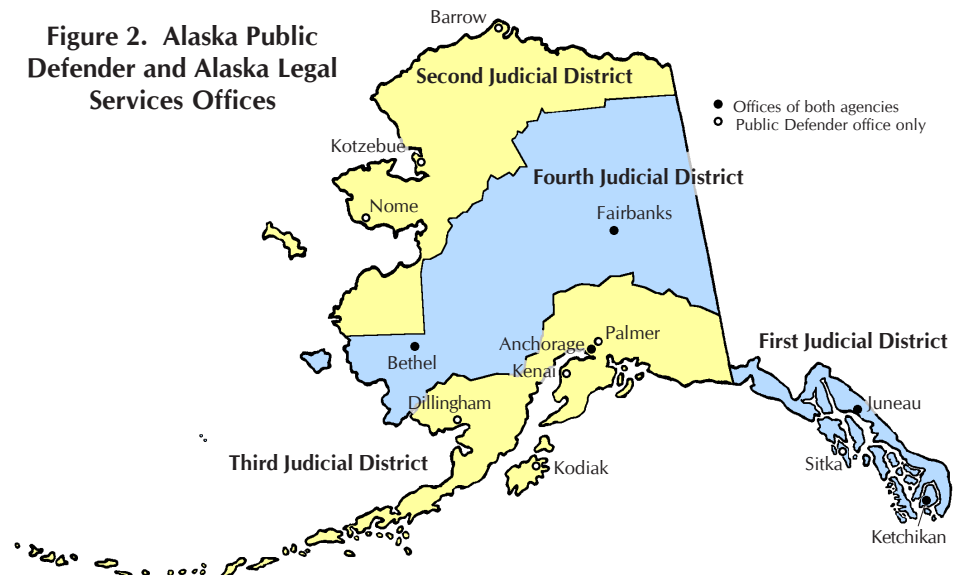
match attorney availability and expertise with individual cases. As always in Alaska, geography complicates placement: rural

*Please see Legal services, page 4*

**Figure 1. Alaska Court Locations**



**Figure 2. Alaska Public Defender and Alaska Legal Services Offices**



### HIGHLIGHTS INSIDE THIS ISSUE

- A look at indigent criminal defense nationwide (page 2).

# Indigent Criminal Defense: The National Picture

The decentralized and diverse arrangements for providing indigent criminal defense services in the individual states make it difficult to assemble and examine data in this area on a national basis. According to the Bureau of Justice Statistics, in 1999, the state government in 21 states provided 90 percent of the funding for indigent defense. In 11 of these, including Alaska, the state provided 100 percent of the funding. In the other 29 states funding came from differing combinations of state and county sources. In one state, Alabama, court fees funded indigent defense. (See map.)

The information available on the programs in the 21 states in which funding comes almost entirely through the state government permits some comparison among these states, although in 1999 they accounted for only 27 percent of the U.S. population.

These states provided defense representation through several different types of program. Most used a combination of three kinds of programs: a public defender office,

an assigned counsel program, and a contract attorney arrangement. (See box.) For example, in Alaska, the Public Defender Agency handles the majority of indigent criminal defense cases, with cases in which a conflict of interest exists being taken by the Office of Public Advocacy. Contract attorneys are also used in some cases. In 1999, 18 other states had state-funded public defender offices as a component of their indigent defense arrangements.

In nine of these states, including Alaska, the public defender office was placed within the executive branch, and in six, in the judicial branch. In two states the program was an independent government agency, and for another two it was an independent, non-profit agency.

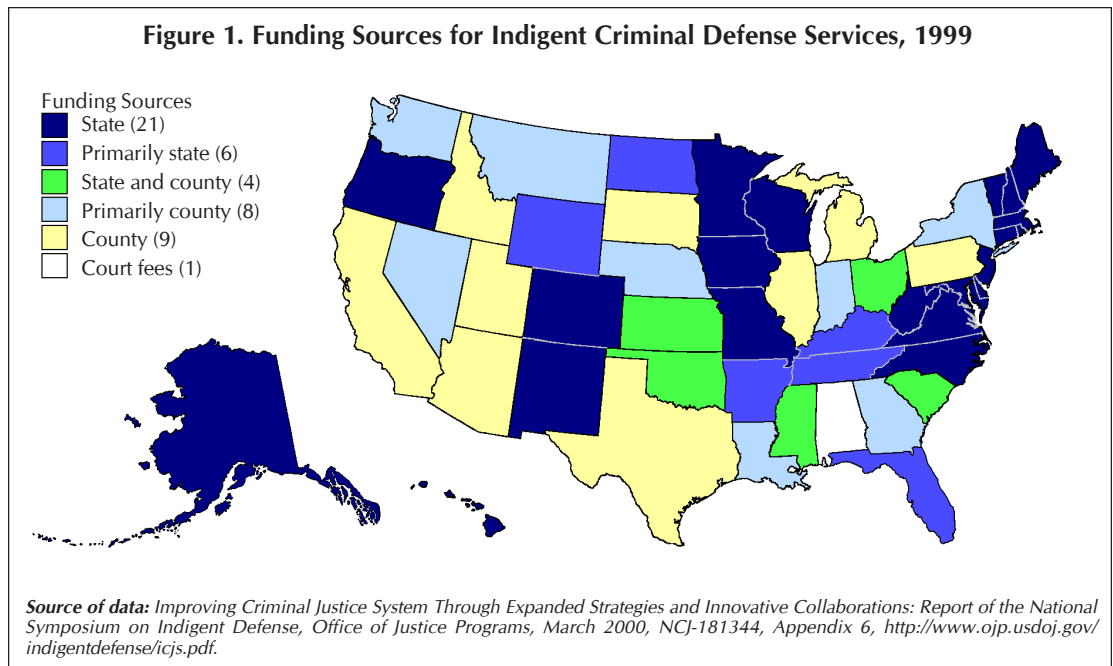
In 1999, the 21 states spent close to \$662 million, over two and a half times the \$251 million spent in 1982. Alaska spent more per capita than any other state (Table 1).

Most of the state-funded public defender programs handle a mixture of criminal and other types of cases (Table 2).

## New Approaches to Public Defense

Between 1999 and 2001, the Harvard School of Government hosted a series of meetings—The Executive Session on Public Defense (ESPD)—that brought together thirty practitioners and scholars of the justice system to examine the substantive policy issues presented by public defense. The group included public defenders from a variety of jurisdictions, a district attorney, a

**Figure 1. Funding Sources for Indigent Criminal Defense Services, 1999**



**Table 1. State-funded Indigent Criminal Defense Services, 1982 and 1999**

|                | 1999 resident population | Total state indigent defense expenditures |                      | 1999 total state indigent criminal defense operating expenditures per capita |
|----------------|--------------------------|---|----------------------|--|
|                |                          | 1982 (in 1999 dollars)                    | 1999                 |  |
| Alaska         | 619,500                  | \$6,084,323                               | \$11,460,400         | \$18.50  |
| Colorado       | 4,056,133                | 14,616,308                                | 31,394,830           | 7.74   |
| Connecticut    | 3,282,031                | 7,809,926                                 | 25,095,150           | 7.65   |
| Delaware       | 753,538                  | 3,190,692                                 | 7,306,700            | 9.70   |
| Hawaii         | 1,185,497                | 6,041,000                                 | 7,539,608            | 6.36   |
| Iowa           | 2,869,413                | 11,024,059                                | 30,720,729           | 10.71  |
| Maine          | 1,253,040                | 1,879,015                                 | 6,999,820            | 5.59   |
| Maryland       | 5,171,634                | 17,726,555                                | 39,286,313           | 7.60   |
| Massachusetts  | 6,175,169                | 22,597,134                                | 62,200,000           | 10.07  |
| Minnesota      | 4,775,508                | 17,979,266                                | 46,400,000           | 9.72   |
| Missouri       | 5,468,338                | 7,608,921                                 | 28,202,699           | 5.16   |
| New Hampshire  | 1,201,134                | 3,705,720                                 | 10,667,770           | 8.88   |
| New Jersey     | 8,143,412                | 33,970,538                                | 72,975,000           | 8.96   |
| New Mexico     | 1,739,844                | 6,872,523                                 | 22,895,400           | 13.16  |
| North Carolina | 7,650,789                | 18,992,970                                | 62,680,384           | 8.19   |
| Oregon         | 3,316,154                | 21,815,002                                | 32,564,390           | 9.82   |
| Rhode Island   | 990,819                  | 2,243,255                                 | 6,105,017            | 6.16   |
| Vermont        | 583,740                  | 3,233,254                                 | 5,829,246            | 9.99   |
| Virginia       | 6,872,912                | 15,147,913                                | 67,480,333           | 9.82   |
| West Virginia  | 1,806,928                | 5,094,557                                 | 22,454,009           | 12.43  |
| Wisconsin      | 5,250,446                | 23,042,445                                | 61,590,139           | 11.73  |
| <b>Total</b>   | <b>73,165,979</b>        | <b>\$250,675,376</b>                      | <b>\$661,847,937</b> |  |

*Source: Bureau of Justice Statistics*

police chief, and academic and government researchers. As part of its work, the group looked at new models of defense programs—those that have shifted from a strictly case-oriented focus toward a broader, more holistic approach to clients. These programs incorporate services traditionally regarded as social work as part of the work of the public defender's office. They provide assistance with housing, benefits, substance abuse and various other problems that are viewed as prolonging client involvement with the justice system. A number of communities throughout the country, including some with heavy public defender loads, such as in the Bronx, New York, have redesigned their offices along these lines.

There is still a dearth of evaluative research on these programs, which are fairly new, just as there is a scarcity of research on public defense in general. One anecdotal observation regularly made is that moving toward a more holistic approach involves a

## Types of Indigent Defense Services

Although terminology differs from place to place, three primary ways of providing indigent defense services have emerged throughout the country. States and localities use these either singly or in combination:

*Public defender.* A salaried staff of full-time or part-time attorneys that provide indigent criminal defense services through a public or private nonprofit organization, or as direct government-paid employees.

*Assigned counsel.* Appointment from

a list of private bar members who accept cases on a judge-by-judge, court-by-court, or case-by-case basis. This approach may include an administrative component and a set of rules and guidelines governing the appointment and processing of cases handled by the private bar members.

*Contract.* Nonsalaried private attorneys, bar associations, law firms, consortiums or groups of attorneys, or nonprofit corporations that contract with a funding source to provide representation.

change in office culture, through which the defense attorney becomes a member of a client's team as the legal problem is viewed as just one issue among a number that are

being addressed.

Papers that emerged from the ESPD are available through the Bureau of Justice Assistance.

*Some data in the preceding article came from BJS Special Report "State-Funded Indigent Defense Services, 1999", NCJ 188464.*

**Table 2. Cases Received by State-Funded Public Defender Programs, 1999**

|                         | Total          | Criminal <sup>a</sup> | Juvenile <sup>b</sup> | Civil <sup>c</sup> | Other <sup>d</sup> |
|-------------------------|----------------|-----------------------|-----------------------|--------------------|--------------------|
| Alaska <sup>e</sup>     | 29,983         | 15,853                | 658                   | 1,476              | 996                |
| Colorado                | 64,179         | 54,352                | 5,672                 | 0                  | 4,155              |
| Connecticut             | 56,327         | 50,265                | 5,947                 | 115                | 0                  |
| Delaware <sup>f</sup>   | 36,290         | 30,460                | 5,830                 | 0                  | 0                  |
| Hawaii                  | 39,870         | 35,778                | 3,846                 | 246                | 0                  |
| Iowa                    | 61,232         | 48,360                | 12,872                | 0                  | 0                  |
| Massachusetts           | 7,143          | 6,200                 | 918                   | 25                 | 0                  |
| Minnesota <sup>h</sup>  | 178,175        | 140,475               | 37,700                | —                  | 0                  |
| Missouri                | 73,738         | 68,200                | 4,629                 | 909                | 0                  |
| New Hampshire           | 15,552         | 8,812                 | 1,308                 | 11                 | 5,421              |
| New Jersey              | 96,752         | 58,165                | 15,000                | 16,012             | 7,575              |
| New Mexico <sup>g</sup> | 53,911         | —                     | —                     | —                  | —                  |
| North Carolina          | 48,375         | 36,839                | 1,858                 | 2,237              | 7,441              |
| Rhode Island            | 12,750         | 10,500                | 2,230                 | 20                 | 0                  |
| Vermont                 | 12,703         | 10,344                | 1,339                 | 107                | 913                |
| Virginia                | 51,375         | 41,019                | 10,356                | 0                  | 0                  |
| West Virginia           | 33,556         | 28,100                | 3,855                 | 1,235              | 366                |
| Wisconsin               | 124,171        | 82,649                | 30,810                | 4,235              | 6,477              |
| <b>Total</b>            | <b>996,082</b> | <b>726,371</b>        | <b>144,828</b>        | <b>26,628</b>      | <b>33,344</b>      |

Note: Maryland did not provide caseload information. Due to missing data, the breakdown by case types does not sum to the total.

— Information not provided or not known.

a Includes felony capital, felony noncapital, misdemeanors that carry a jail sentence, ordinance infraction, appeal, probation and revocation cases.

b Includes juvenile delinquency, delinquency appeals, juveniles proceeded against in criminal court, juvenile status offense, and juvenile transfer hearings.

c Includes mental commitment, state post-conviction or habeas corpus, and federal habeas corpus.

d Includes special proceedings, miscellaneous hearings, Megan's law, child abuse, child protection, post conviction probation and parole, and withdrawals.

e Total includes information for both the Alaska Public Defender Agency and the Office of Public Advocacy. Specific types include information only for the Alaska Public Defender Agency.

f Total includes conflict cases.

g Total excludes conflict cases.

h State post-conviction of habeas corpus cases were included with appeals under criminal cases.

i Information could not be broken down by case type.

Source: Bureau of Justice Statistics



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## Legal services

(continued from page 1)

cases are more difficult to place because of the scarcity of lawyers in the bush and the costs involved for travel. In addition, family law cases, which are the most common, can be difficult to place because they are often very time-consuming and unpleasant to handle.

Program administrators work with each other on a regular basis to place cases and to handle the client needs that involve the expertise of more than one agency. In particular, programs handling clients who lack U.S. citizenship stay in touch with the Immigration and Refugee Services Program of Catholic Social Services, which is the main repository of knowledge in the state on immigration law.

Across the spectrum of agencies providing legal assistance to the poor, there is an increasing articulation that legal needs are usually combined with need in many other

areas of life—housing, counseling, health. Some programs, such as the legal program at the Network on Domestic Violence and Sexual Assault, can put their clients in touch with a range of services that address these other needs. Other agencies provide referrals on a more informal basis. The Office of the Public Defender is working for funding for a social worker position—something that public defense programs in other states have incorporated.

There has also been an increasing recognition that not all clients with legal problems need actual legal representation. In many situations, instruction in procedures and court rules and guidance that does not involve the services of an attorney can be sufficient. Programs such as the court system's Alaska Family Law Self-Help program have been developed on this basis.

### The Extent of the Need

Because defendants in criminal cases

have the right to a court-appointed attorney if they cannot afford to hire private counsel, the caseloads of Offices of the Public Defender and Public Advocacy provide a measure of the need for legal assistance in the criminal arena for individuals without financial resources. (To a great extent, in fact, criminal prosecutions seem to involve almost predominantly low income individuals. Preliminary figures from a Judicial Council study of 1999 Alaska felony cases show that over 80 percent of the cases prosecuted were handled by the Public Defender Agency or the Office of Public Advocacy. This figure is comparable to national ones assembled by the Bureau of Justice Statistics.)

It is more difficult to estimate the breadth of the need for civil legal assistance for low income individuals. Census figures on the population with incomes below the federal poverty level provide one rough measure (Table 1). According to the 2000 Census, close to 58,000 Alaskans—9.4 percent of the state population—lived below this federal

**Table 1. Alaskans Below Poverty Line, 1999**

| Borough or census area                      | Total population | Population below federal poverty line |                             | Median income   |                 | Per capita income |
|---|------------------|---------------------------------------|-----------------------------|-----------------|-----------------|-------------------|
|   |                  | Number                                | Percent of total population | Household       | Family          |                   |
| Aleutians East Borough                      | 2,693            | 588                                   | 21.8 %                      | \$47,875        | \$50,625        | \$18,421          |
| Aleutians West Census Area                  | 5,403            | 642                                   | 11.9                        | \$61,406        | \$72,500        | \$24,037          |
| Anchorage Municipality                      | 254,273          | 18,682                                | 7.3                         | \$55,546        | \$63,682        | \$25,287          |
| Bethel Census Area                          | 15,693           | 3,234                                 | 20.6                        | \$35,701        | \$36,250        | \$12,603          |
| Bristol Bay Borough                         | 1,258            | 119                                   | 9.5                         | \$52,167        | \$59,868        | \$22,210          |
| Denali Borough                              | 1,787            | 141                                   | 7.9                         | \$53,654        | \$70,000        | \$26,251          |
| Dillingham Census Area                      | 4,880            | 1,045                                 | 21.4                        | \$43,079        | \$45,391        | \$16,021          |
| Fairbanks North Star Borough                | 79,754           | 6,206                                 | 7.8                         | \$49,076        | \$56,478        | \$21,553          |
| Haines Borough                              | 2,380            | 254                                   | 10.7                        | \$40,772        | \$50,580        | \$22,090          |
| Juneau Borough                              | 30,116           | 1,797                                 | 6.0                         | \$62,034        | \$70,284        | \$26,719          |
| Kenai Peninsula Borough                     | 48,412           | 4,861                                 | 10.0                        | \$46,397        | \$54,106        | \$20,949          |
| Ketchikan Gateway Borough                   | 13,823           | 900                                   | 6.5                         | \$51,344        | \$59,583        | \$23,994          |
| Kodiak Island Borough                       | 13,731           | 901                                   | 6.6                         | \$54,636        | \$58,834        | \$22,195          |
| Lake and Peninsula Borough                  | 1,810            | 342                                   | 18.9                        | \$36,442        | \$42,313        | \$15,361          |
| Matanuska-Susitna Borough                   | 58,321           | 6,419                                 | 11.0                        | \$51,221        | \$56,939        | \$21,105          |
| Nome Census Area                            | 9,002            | 1,569                                 | 17.4                        | \$41,250        | \$44,189        | \$15,476          |
| North Slope Borough                         | 7,315            | 663                                   | 9.1                         | \$63,173        | \$63,810        | \$20,540          |
| Northwest Arctic Borough                    | 7,158            | 1,243                                 | 17.4                        | \$45,976        | \$45,230        | \$15,286          |
| Prince of Wales-Outer Ketchikan Census Area | 6,107            | 736                                   | 12.1                        | \$40,636        | \$46,944        | \$18,395          |
| Sitka City & Borough                        | 8,551            | 668                                   | 7.8                         | \$51,901        | \$62,361        | \$23,622          |
| Skagway-Hoonah-Angoon Census Area           | 3,423            | 438                                   | 12.8                        | \$40,879        | \$47,946        | \$19,974          |
| Southeast Fairbanks Census Area             | 6,045            | 1,140                                 | 18.9                        | \$38,776        | \$48,208        | \$16,679          |
| Valdez-Cordova Census Area                  | 10,063           | 990                                   | 9.8                         | \$48,734        | \$60,497        | \$23,046          |
| Wade Hampton Census Area                    | 7,004            | 1,838                                 | 26.2                        | \$30,184        | \$29,867        | \$8,717           |
| Wrangell-Petersburg Census Area             | 6,649            | 525                                   | 7.9                         | \$46,434        | \$54,046        | \$23,494          |
| Yakutat City & Borough                      | 790              | 107                                   | 13.5                        | \$46,786        | \$51,875        | \$22,579          |
| Yukon-Koyukuk Census Area                   | 6,520            | 1,554                                 | 23.8                        | \$28,666        | \$33,832        | \$13,720          |
| <b>Entire state</b>                         | <b>612,961</b>   | <b>57,602</b>                         | <b>9.4 %</b>                | <b>\$51,571</b> | <b>\$59,036</b> | <b>\$22,660</b>   |

Source: U.S. Census Bureau, 2000 Census of Population & Housing

poverty line. The Anchorage census area has by far the highest number of individuals at this end of the economic scale—over 18,000 individuals, 7.3 percent of the area's population. In other, less densely populated census areas, such as Bethel, Wade Hampton and the Yukon-Koyukuk areas the number of individuals below the poverty level is lower but the percentage level is much higher—over 20 percent.

Current federal poverty threshold guidelines, as issued by the U.S. Department of Health and Human Services, are \$11,080 for an individual and \$22,630 for a family of four. The levels are set for the entire state; they are slightly higher than those for the rest of the country. As one of its criteria in assigning public counsel in criminal cases the court considers whether a defendant's income is below these federal guidelines, but the court is not limited to considering just these figures. Alaska Legal Services uses 125 percent of the federal poverty levels as its financial criterion for accepting clients.

#### Public Defender Agency and Office of Public Advocacy

The Public Defender Agency (PD) and the Office of Public Advocacy (OPA) provide indigent criminal defense under Alaska statute. The main responsibility is held by the Public Defender, with the Office of Public Advocacy taking the overflow and those cases in which there is a conflict of interest for the PD's office. The agencies provide representation in felony and misdemeanor cases; appeals; probation and parole revocations; extradition cases; post-conviction relief matters; child support prosecutions; mental health commitments; contempt proceedings, juvenile delinquency cases; and parents in child-in-need-of-aid matters.

The court system appoints public counsel to represent criminal defendants according to criteria outlined in Alaska Rules of Court 39 and 39.1. The criteria require the court to look at a defendant's entire financial picture in making the decision to assign the case to the PD. Certain presumptive criteria are also listed; for example, if a defendant has an income below the federal poverty threshold or is a welfare recipient, the assignment of public counsel is almost automatic. In general, court appointment of counsel takes place at a defendant's initial court appearance.

In FY 2002 the Public Defender opened just over 20,000 cases—8.5 percent more than in FY 1997 (Table 2). The number of felony cases and Child in Need of Aid (CINA) cases (representation of parents) increased the most among new cases—felonies by 15 percent and CINA cases by 58

**Table 2. Alaska Public Defender Agency: New Cases Filed, FY 1997-2002**

|                               | FY 1997       | FY 1998       | FY 1999       | FY 2000       | FY 2001       | FY 2002       | Total          |
|-------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|
| <b>Felony</b>                 | 3,137         | 3,198         | 3,159         | 3,191         | 3,200         | 3,609         | <b>19,494</b>  |
| <b>Misdemeanor</b>            |               |               |               |               |               |               |                |
| State                         | 8,568         | 8,526         | 7,972         | 8,247         | 8,523         | 9,083         | <b>50,919</b>  |
| City                          | 12            | 11            | 20            | 7             | 0             | 0             | <b>50</b>      |
| <b>Probation revocation</b>   |               |               |               |               |               |               |                |
| Felony                        | 1,267         | 1,453         | 1,410         | 1,599         | 1,634         | 1,675         | <b>9,038</b>   |
| Misdemeanor                   | 2,373         | 2,620         | 2,730         | 2,491         | 2,599         | 2,454         | <b>15,267</b>  |
| Juvenile                      | 171           | 131           | 160           | 198           | 217           | 205           | <b>1,082</b>   |
| <b>Juvenile</b>               | 651           | 679           | 658           | 678           | 535           | 602           | <b>3,803</b>   |
| <b>Child in Need of Aid</b>   | 608           | 840           | 1,003         | 953           | 925           | 961           | <b>5,290</b>   |
| <b>Sanity</b>                 | 924           | 1,053         | 1,050         | 994           | 914           | 617           | <b>5,552</b>   |
| <b>Sentence appeal</b>        |               |               |               |               |               |               |                |
| Felony                        | 54            | 37            | 32            | 31            | 26            | 46            | <b>226</b>     |
| Misdemeanor                   | 14            | 7             | 4             | 14            | 5             | 4             | <b>48</b>      |
| <b>Merit appeal</b>           |               |               |               |               |               |               |                |
| Felony                        | 109           | 102           | 131           | 81            | 77            | 76            | <b>576</b>     |
| Misdemeanor                   | 13            | 14            | 24            | 25            | 22            | 26            | <b>124</b>     |
| Other                         | 9             | 23            | 11            | 10            | 16            | 7             | <b>76</b>      |
| <b>Post-conviction relief</b> | 438           | 442           | 426           | 341           | 367           | 329           | <b>2,343</b>   |
| <b>Parole board</b>           | 103           | 180           | 200           | 382           | 296           | 306           | <b>1,467</b>   |
| <b>Special appointment</b>    | 12            | 20            | 12            | 44            | 55            | 31            | <b>174</b>     |
| <b>Total</b>                  | <b>18,463</b> | <b>19,336</b> | <b>19,002</b> | <b>19,286</b> | <b>19,411</b> | <b>20,031</b> | <b>115,529</b> |

Source: Alaska Public Defender Agency

percent. Cases involving public defender representation at felony probation revocation hearings and at parole hearings also increased dramatically, by 32 percent and 66 percent, respectively.

According to figures from the Division of Legislative Finance, the FY 2003 budget for the Public Defender Agency is \$10.7 million, with 88 percent, \$9.4 million, assigned to personnel. Total FY 1997 expenditures for the agency were \$8.9 million. The agency has 126 full-time and 6 part-time employees in 13 offices throughout the state. The professional legal staff includes 68 full-time attorneys, 3 part-time attorneys, 13 investigators, and 2 paralegals. Among these are several positions dedicated to the new therapeutic courts.

A legislative audit of the Office of the Public Defender completed in 1998 (audit control number 02-4530-00) concluded that the agency was very understaffed, both with regard to attorney positions and paraprofessional and clerical staff. Attorneys in particular were working a substantial number of uncompensated hours and had to devote too much time to tasks that might be better handled by non-professional employees. The staffing situation has not changed substantially since the audit.

The audit also found that the funding for components such as legal research resources and data banks was insufficient. At the time of the study, the computer system was de-

scribed as inadequate, with antiquated operating systems that did not permit efficient case management. A case management system that was designed in-house now permits each office to administer its caseload more efficiently, and efforts are being made to implement a statewide web-based system. The advent of email has also improved communication and case coordination among offices.

The Office of Public Advocacy carries a smaller portion of the indigent criminal defense responsibility. Of its approximately 11,000 cases annually, about 20 percent involve criminal representation. A system of contract attorneys is used to supplement agency personnel. For FY 2003, OPA has a budget of approximately \$10 million, with 39 percent devoted to personnel costs and 60 percent to contractual services. In FY 1997 total expenditures were \$7.6 million.

OPA also forms a significant part of the picture of civil legal representation throughout the state, and, in actuality, many of its clients in civil matters are indigent.

The agency provides *guardian ad litem* representation to abused and neglected children (recent changes in child protection laws affect its caseload), and it acts as the public guardian and conservator for citizens who the court has decided are unable to manage their own affairs.

## Legal services

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### Alaska Legal Services Corporation and the Pro Bono Programs

Despite a decline in staffing levels and restrictions on the scope of its work imposed by legislative and budgets constraints, the Alaska Legal Services Corporation continues to offer the widest civil legal representation to those with low incomes. Outside the main urban areas of the state, it is still almost the only source of civil legal assistance for the majority of the population. ALSC is a private, non-profit organization established in 1966 to provide legal representation to the indigent as one of a national network of offices under the Federal Legal Services Corporation. ALSC is administered by a board of directors and an executive director.

The agency operates offices in Anchorage, Fairbanks, Juneau, Ketchikan, Kotzebue, Bethel, Dillingham and Nome. It closed its Barrow office—after over thirty years of operation—in autumn 2002. The agency will continue to offer services to the North Slope region through a traveling attorney based in the Fairbanks office.

ALSC has approximately 42 full-time equivalent staff positions, with only 33 filled in autumn 2002. Revenue and in-kind support for the agency in 2002 totaled just over \$3 million. This figure includes several hundred thousand dollars of pro bono work by attorneys and paralegal and clerical volunteers. Cash revenue came from the federal Legal Services Corporation and various municipal, state and federal grants—over 20 separate sources. In Nome and Dillingham, the local Native non-profit corporations provided both financial support and office space.

In 2001 ALSC closed 2166 cases (201 of these were pro bono cases handled by the Alaska Pro Bono Program, Inc.) In autumn 2002, the agency had 1058 open cases statewide. The caseload has decreased significantly since 1995, when the agency closed a total 4,227 cases.

As the financial criterion for accepting clients, ALSC uses the federal poverty guidelines: an individual's income cannot exceed 125 percent of the poverty level.

Each ALSC office sets its case type priorities, but, in general, throughout the state the agency gives priority to family, housing, and health benefits cases. Within these broad categories, cases presenting urgent or particularly complex problems receive particular priority, such as imminent loss of shelter, severe child or spousal abuse not being addressed elsewhere, or denial of

parental access. The agency can also sometimes accept cases presenting other issues: income maintenance, consumer and finance issues, problems of the elderly, and Native entitlements. Table 3 shows the percentage breakdown by type of case for 2001.

Beyond the caseload restrictions imposed by the bare-bones staffing and revenue levels, ALSC is also constrained by federal law in the type of cases it can accept and the type of client it can serve. Federal legislation now prohibits legal services corporations from doing legal work for the incarcerated and imposes wide restrictions on serving illegal aliens. The agency also is prohibited from undertaking class action cases.

ALSC also administers a pro bono program that draws upon the contributions of attorneys throughout the state. The administrative history of this pro bono program is complex: originally housed exclusively at ALSC, as a result of various restrictions, it separated to become the Alaska Pro Bono Program, Inc. (APBP) and was able to handle a much wider range of type of case, including prisoners' rights and immigration cases. In the last year, however, the in-house pro bono component of ASLC has received funding for permitted types of cases on a subcontract from APBP involving IOLTA funds. (See below.) APBP itself now continues only on a very limited basis.

There is a statewide roster of over 900 attorneys who have indicated a willingness to accept pro bono cases. According to ALSC, however, only about 70 of these regularly take cases. The circle of those regularly accepting cases is limited in part because the cases which need to be placed require particular areas of expertise—in family, bankruptcy, or consumer law. In addition, certain types of family cases can be difficult to place since they are often extremely time-consuming. In addition, there is always the geographic factor: many cases arise in areas in which there are few lawyers available. Over three quarters of attorneys practicing in the state are in the Third District. Alaska Bar Association figures for autumn 2002 show only 28 attorneys for the entire Second District, which includes some of the poorest communities in the state.

As do most agencies involved in providing legal services to the indigent, ALSC regularly conducts clinics to facilitate pro se work in certain areas and makes written materials available.

### Alaska Network on Domestic Violence and Sexual Assault

The Legal Advocacy Program of the

**Table 3. Alaska Legal Services: Type of Case by Percentage, 2001**

N = 2166

|                   | Percent |
|-------------------|---------|
| Divorce           | 15.9 %  |
| Housing           | 15.6    |
| Custody           | 12.7    |
| Consumer          | 12.4    |
| Public benefits   | 11.3    |
| Wills/estates     | 6.5     |
| Child support     | 4.2     |
| Other family      | 3.8     |
| Miscellaneous     | 3.4     |
| Health            | 3.1     |
| Domestic violence | 2.7     |
| Native allotments | 2.1     |
| Torts             | 1.6     |
| Employment        | 1.4     |
| Adoption          | 1.3     |
| Individual rights | 1.9     |
| Licenses          | 0.6     |
| Indian/tribal law | 0.5     |

*Source: Alaska Legal Services Corporation*

Alaska Network on Domestic Violence and Sexual Assault also has a pro bono program—one that serves a particular clientele, those whose legal needs are set against a background of abuse. Most of the cases are family law related. The program, which is based in Sitka and serves clients statewide, has one attorney and a VISTA volunteer. The screening attorney, working with legal advocates from the Network's member programs throughout the state, places eligible cases. Attorney training is provided on domestic violence legal issues. Between June 1999 and October 2002 the program screened approximately 360 cases and placed about one third.

The program has no rigid financial clients for accepting clients, but rather looks at each individual's financial situation to determine the extent of the need. In general, the program also encourages clients to work with the legal advocate who referred the case to gain access to assistance for non-legal needs. The program also offers a statewide call-in hotline which is staffed by volunteer attorneys.

The budget for this legal program is \$140,000, with funding coming from the sources created by the federal Violence Against Women Act.

### Immigration and Refugee Program

The Immigration and Refugee Program at Catholic Social Services (CSS) is essentially the only program in the state for

noncitizens who need assistance with legal problems involving their status in the country. Most of the primary legal work of the agency involves representing its clients in situations involving the Immigration and Naturalization Service (INS). The Executive Office of Immigration Review (EOIR) administers the national system of immigration courts in which the cases are heard. Respondents (clients) in immigration hearings are not entitled to court-appointed counsel. Many represent themselves.

In autumn 2002 the Immigration and Refugee Program has approximately 2300 cases that are active or are considered incomplete. The program gives priority to clients in immediate danger of deportation and persecution in their countries of origin.

The annual budget for the program is approximately one-half million dollars. Funding sources include grants, donations, fund-raising events, the Archdiocese of Anchorage and IOLTA funds. The seven-member staff includes four attorneys, one paralegal, one refugee case manager and one administrative assistant. The program also place cases on a pro-bono basis, with a roster of 30–40 attorneys who commonly accept cases. The program also uses the volunteer services of interpreters and psychologists. Program staff attorneys offer legal education clinics in immigration law through the Alaska Bar Association and provide mentoring for those willing to take cases pro bono.

Since 1980 there have been over 25 pieces of federal legislation affecting immigration and naturalization, including increasingly restrictive acts passed in 1990 and 1996, as well as the legislation passed in the wake of the terrorist attacks of September 2001. Immigration regulations change very rapidly, with frequent rulings by the Department of Justice and the INS, and the overall thrust of the last several years has been to grant more power to the enforcement components of the INS.

Because of the complexity of immigration laws and the ways in which a client's status can be affected by involvement with other branches of the justice system (such as being charged with a crime) the CSS program attorneys try to work regularly with many of the other agencies discussed in this article.

### **The Disability Law Center**

The Disability Law Center forms another part of the legal aid picture in Alaska. The center, which has undergone several name changes since its establishment in 1977, serves the legal needs of the disabled throughout the state. There are no financial restrictions for accepting clients, but many of the program's clients lack financial

resources. The program's current budget, derived primarily from federal sources, is \$1.7 million, and its staff comprises 19.5 positions, including five attorneys. The center is currently handling about 600 cases. These present a variety of disability issues: access to Medicare and Social Security benefits, special education services within the schools, access under the Americans with Disabilities Act, and abuse or neglect of the disabled. The agency has authority to investigate allegations of abuse and neglect within institutions.

In addition to providing direct legal representation, the center conducts training throughout the state and works with other agencies to address the problems of the disabled. One of its efforts, conducted in conjunction with the Alaska Native Justice Center and several state agencies, is a regular outreach clinic to the homeless at the Brother Francis Shelter, many of whom have disabilities

### **Other Sources of Legal Information**

One change over the last six years in the area of civil legal aid has been the growth of programs that provide guidance rather than actual legal representation. Such programs can use non-lawyers in educational roles that do not involve providing specific legal advice and hence are more economical, particularly in meeting the needs of those clients who are representing themselves or primarily need information and referral. The Alaska Family Law Self-Help Center assists individuals from throughout the state in questions related to family and domestic situations, particularly divorce and custody. It has helped over 2500 clients in its first year, most of them referred by the court system. Program staff provide explanations of court procedures and instructions in completing forms. Funding comes primarily from the court system. Funds expected from the Violence Against Women Act programs will permit the center to broaden its services slightly to address some questions posed by domestic violence situations.

The various programs of the Alaska Native Justice Center also provide guidance and education rather than direct legal representation. The center does not have staff attorneys. Program staff inform clients about justice system procedures, assist with forms and provide referrals. The center also monitors the progress of client cases through the system and offers support for both victims and defendants. As mentioned above, the Alaska Native Justice Center is currently conducting a monthly clinic at the Brother Francis Shelter in conjunction with the Public Defender, the Disability Law

Center and the Child Support Enforcement Division to assist residents of the shelter with their legal needs.

### **IOLTA Funds**

IOLTA (Interest on Lawyer Trust Accounts) funds have been a major source of money for a number of legal aid programs and other social service programs connected to the justice system. The Alaska Bar Foundation, which administers the IOLTA grant program, selects recipients for these funds on an annual basis. Among the programs these grants have assisted in the past have been Alaska Legal Services, Catholic Social Services for its Immigration and Refugee Program, United Youth Courts of Alaska, the Alaska Native Justice Center and Court Watch.

The number of recipients and the funds available for grants from the IOLTA program have decreased dramatically in the last several years. In FY 2001 the program awarded a total of \$367,000; in FY 2002, \$344,000, and in FY 2003, \$121,000. The decrease in available funds is due at least partially to the nationwide decline in interest rates.

Only three awards were made in FY 2003: \$90,000 to the Alaska Pro Bono Program, \$24,000 to Catholic Social Services, and \$7,000 to United Youth Courts.

The IOLTA program administration estimates that only about \$84,000 will be available for grants for the next fiscal year—less than one quarter the amount awarded three years ago.

### **The Future**

In the last several years both the Alaska Court System and the Alaska Bar have taken steps to examine and make recommendations on the legal needs of the indigent. The court system's Access to Civil Justice Task Force released an extensive report with recommendations pertaining both to the court system itself and to other agencies in the justice system—both state and private. Some of these—those which have not required too much fresh funding—seem to have been implemented, to a degree. The Family Law Self-Help Center has emerged as part of the court's efforts to respond to the needs of those who cannot afford attorneys.

The Bar Association is working to address the needs of this population in part through the work of its Pro Bono Services Committee. The committee is seeking to create a position that would coordinate the placement needs of the diverse agencies providing civil representation.



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