

STATE OF ALASKA
Alaska Police Standards Council
Minutes of the 124th Regular Meeting
December 6, 2016
Anchorage, Alaska

CALL TO ORDER

Chair Johnson called the Regular Meeting of the Alaska Police Standards Council to order on December 6, 2016. A roll call was conducted as follows:

APSC Members Present

Chair Bryce Johnson, Chief, Juneau PD

Vice Chair Luis Nieves, Sergeant, AST

Carrie Belden, Director, DOC

Richard Burton, Public Member (telephonic)

William Comer, Deputy Commissioner, DPS

Rebecca Hamon, Public Member

John Papasodora, Chief, Nome PD

Wendi Shackelford, Public Member

Kelly Swihart, Chief, Petersburg PD

Berni Troglio, Prob. Officer IV DOC

Ronda Wallace, Chief, Kodiak PD

Dean Williams, Commissioner, DOC (telephonic)

APSC Members Absent

Brad Reich, Public Member

APSC Administrative Staff Present

Robert Griffiths, Executive Director

Wendy Menze, Secretary

Sarah Hieb, Administrative Investigator

Robert Heide, Training Coordinator

Department of Law Representatives Present

Robert Henderson, Department of Law

Persons to be Heard

There were no persons to be heard.

ADJOURN TO EXECUTIVE SESSION

The General Meeting was adjourned to Executive Session to address subjects that may tend to prejudice the reputation and character of individuals and for deliberations on adjudicatory proceedings.

CALL BACK TO ORDER – GENERAL SESSION

Following the Executive Session, Chair Johnson called the General Meeting back to order.

FLAG SALUTE

A flag salute was conducted.

ROLL CALL

A roll call was conducted, with the same Council Members and staff present. (Commissioner Williams was briefly excused, shortly after roll call to attend to a conflicting matter).

AUDIENCE INTRODUCTIONS

Members of the audience introduced themselves:

Chris Klint	Sean Martines	Michelle Delkettie
Josh Dossett	Mike Holman	Robert “RJ” Ely
Joe White	Jennifer Shockley	Ed Mercer
Jeff Laughlin	Doug McCloskey	Michael Duxbury
Brad Johnson	Bob Beasley	Ray Leggett
Dave Ross	Corey Rowley	Gene Belden
Kalie Bell	Greg Russell	Jacob Wilson
Shirley Cote	Mike Hicks	James Cockrell
Sherrie Myers	Tony April	John Waldron
Allison Hanzawa	John Novak	Linda Johnson
Aaron Danielson	Tom Clemons	

APPROVAL OF AGENDA

It was moved and seconded to accept the agenda as presented. The motion carried unanimously.

Approval of Past Minutes – August 16, 2016

It was moved and seconded to approve the minutes of the 123rd Regular Meeting held August 16, 2016. The motion carried unanimously.

CHAIRMAN'S REPORT

Executive Session Case Deliberations

Chair Johnson brought forward the cases deliberated in executive session, for final action to be taken by the council, as follows:

Mark Harreus: A motion was made and seconded to accept the surrender of his police certification. A roll call vote was conducted. The motion passed unanimously with Rebecca Hamon and Chief Papasodora abstaining and Dean Williams being absent during the vote.

Jeremie Alvarez: A motion was made and seconded to accept the surrender of his corrections certification. A roll call vote was conducted. The motion passed unanimously with Carrie Belden and Berni Troglia abstaining and Dean Williams being absent during the vote.

Adam Spindler: A motion was made and seconded to revoke his corrections certification. A roll call vote was conducted. The motion passed unanimously with Carrie Belden and Berni Troglia abstaining and Dean Williams being absent during the vote.

Travis Boyd: A motion was made and seconded to find probable cause to pursue revocation action against his correctional officer certificate and to refer the matter to the Executive Director. A roll call vote was conducted. The motion passed unanimously with Carrie Belden and Berni Troglia abstaining and Dean Williams being absent during the vote.

Valent Maxwell: A motion was made and seconded to reject the ALJ's opinion and revoke his police certification with the APSC's independent and revised rationale. A roll call vote was conducted. The motion passed unanimously with Dean Williams being absent during the vote.

Thomas Lee: A motion was made and seconded to adopt the final decision and revoke his corrections certification. A roll call vote was conducted. The motion passed unanimously with Carrie Belden and Berni Troglia abstaining and Dean Williams being absent during the vote.

Fred Lamont: A motion was made and seconded to adopt the Executive Director's proposal for action and accept the Administrative Law Judge's recommendations to uphold Lamont's determination of disqualification for Village Police Officer certification. A roll call vote was conducted. The motion passed unanimously with Dean Williams being absent during the vote.

Wesley McQuillin: A motion was made and seconded to accept the Administrative Law Judge's final conclusion while adopting the APSC's own independent and revised rationale. A roll call vote was conducted. The motion passed unanimously with Dean Williams being absent during the vote.

William Kemper: A motion was made and seconded to accept the Administrative Law Judge's final conclusion while adopting the APSC's own independent and revised rationale. A roll call vote was conducted. The motion passed unanimously with Dean Williams being absent during the vote.

COUNCIL CHAIR'S REPORT

Chair Johnson expressed his sincere thanks to the APSC staff for the great job they do in managing the Council's day-to-day activities as well as arranging for the meetings.

Chair Johnson then recognized the late Sergeant Allen Brandt of Fairbanks, who was killed in the line of duty. He noted that although it is the Council's job to follow up on holding officers accountable when necessary, it is important to recognize and thank the vast majority of officers for the good work they do while, every day, putting their lives on the line.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Griffiths noted that he provided a written report to the Council members prior to the meeting. The report includes an activities

overview, the budget report, the training report, and complaints and issues to be brought before the Council.

The Department of Public Safety provides legal assistance to the APSC through the Department of Law in bringing cases before the Office of Administrative Hearings (OAH). As the number of cases being brought before the OAH has been increasing, Executive Director Griffiths noted that, to lessen the burden on the Department of Law, APSC staff will be taking on the role of presenting cases before the OAH and request legal assistance only when necessary.

Executive Director Griffiths noted in his report there is an update on the Cops on Call program, where certified experienced law enforcement officers can be used for on-call purposes. Current regulations need to be adjusted slightly to give the APSC discretion in how training/certification requirements are applied for candidates requesting to be part of the Cops on Call program. If the Council approves the APSC's suggestions as outlined in the report, they will then be formalized into a policy and brought back before the Council for their approval.

Executive Director Griffiths next explained the concern the APSC has over individuals who have been disqualified for certification and continue to seek employment in law enforcement fields. It is the staff's recommendation that language be clarified to allow APSC's jurisdiction to apply to an individual once they have applied for a job, not just when they have been hired and applied for certification. Then, if the individual has been disqualified for certification, that information can be maintained in a database available to potential employers or training academies. This would apply to candidates for academy training as well. Full due process would be provided to the individual to dispute the disqualification determination before it became final.

NEW BUSINESS

John Skidmore, Re: Department of Law Resources

John Skidmore, Director of the Criminal Division for the Department of Law, began by thanking Council members for their service. He then described

the legal services the state provides to the Council, specifically through John Novak and Robert Henderson at this time, and through himself prior to Mr. Henderson. Contested hearings are what require the majority of Mr. Novak's time for APSC. He noted in 2015 there were 5 contested hearings. In 2016 there have been 16 contested hearings, which is why it is being requested that APSC staff handle OAH presentations in the majority of these cases. Legal assistance may continue to be requested in complicated or hotly contested cases.

OLD BUSINESS

Cops on Call Program

Executive Director Griffiths noted there is a white paper as part of his written report that explains the legal background of the Cops on Call program, the restrictions in current regulations, and staff recommendations. Staff is requesting they be given permission to establish a list of qualified individuals that meet a specific set of qualifications. Applicants would be screened by APSC staff before being included on the list.

It was moved and seconded to approve in concept the staff recommendations as presented. The motion passed unanimously.

NEW BUSINESS

Waiver request: Yakutat Chief Bob Beasley Recertification Training

Executive Director Griffiths explained that Chief Beasley has had a very distinguished career in law enforcement. He then left sworn service to become a special enforcement officer for the ABC Board. In his new position as Chief of Police in Yakutat, he would normally be required to go through the recertification academy, which includes mandatory DV training. As Chief Beasley is currently a DV instructor and has been an active participant in statewide law enforcement training while serving with the ABC Board, it is staff's recommendation that the two-week recertification academy training be waived. It was moved and seconded to waive the two-week recertification training requirement for Chief Beasley. The motion passed unanimously.

Recruit Academy Withdrawal Reimbursement Policy

Executive Director Griffiths reported that the draft policy presented for the Council's consideration is intended to codify and simplify the existing policy of the APSC to require reimbursement from the sponsoring agency if their academy training candidate either withdrew from the course before completion or was terminated from the program.

Discussion followed regarding how the reimbursement cost was calculated, and Executive Director Griffiths explained that most of the cost was incurred within the first week of attendance, and then the remaining costs would be prorated depending on when the individual left training. While the APSC doesn't have any enforcement authority to collect reimbursements, it can choose to withhold funding for future training applicants from an agency with an outstanding balance.

It was moved and seconded to approve the draft policy. The motion carried unanimously.

Rejected Applicant Disqualifications

Executive Director Griffiths reiterated the concern he expressed in his report and previously in the meeting about individuals who apply for law enforcement or corrections jobs who are determined to not be qualified for certification and then continue to apply for law enforcement or corrections jobs at other agencies. This requires each agency to go through the same background check and qualification procedure, wasting agency time and resources and increasing the risk of a less-than-thorough agency hiring the individual before APSC becomes aware of the situation.

APSC staff is requesting jurisdiction over individuals at the applicant stage for law enforcement or corrections jobs or academy training, not just when they have been hired and have applied for certification. This would allow APSC to include their names in the National Decertification Index. Due process would be provided to individuals to dispute/appeal the disqualification prior to it becoming finalized. This request would authorize a change in existing regulations to clearly indicate that APSC's jurisdiction begins at the applicant stage. Also included in the recommendation is the

deletion of some language in current denial and revocation regulations regarding a discharge “for cause,” in addition to conduct determined to be disqualifying in and of itself.

It was moved and seconded to authorize staff to move forward with these recommendations and begin the regulatory change process. The motion passed unanimously.

COUNCIL CHAIR AND VICE-CHAIR ELECTIONS

The annual election was conducted by ballot to fill the APSC Chairman and Vice-Chairman positions. Chief Johnson was unanimously elected as Chairman and Sergeant Luis Nieves was unanimously elected Vice-Chairman for the coming year.

PERSONS TO BE HEARD AND COUNCIL COMMENTS

There were no persons to be heard or Council comments.

SET NEXT MEETING DATE

Following discussion it was moved and seconded to schedule the next two APSC regular meetings in Anchorage on March 29 and May 3, both starting at 8:00 a.m. The motion carried unanimously.

ADJOURNMENT

There being no further business to come before the Council, it was moved and seconded to adjourn the meeting. The motion passed unanimously.

APPROVAL: Minutes adopted and approved at the 125th general meeting of the Council on March 29, 2017, at Anchorage, Alaska.



Executive Director’s Report to Council

November 30, 2016

Activities:

After adoption of our regulatory changes and their effective date in September, APSC staff has:

1. Finalized and published the *APSC Users Guide* which contains all relevant statutes and regulations, <http://dps.alaska.gov/APSC/docs/APSC%20UG%202016.pdf>;
2. Updated old forms and published new forms as described in the regulations;
3. Met with departments and psychologists regarding the mandatory psychological evaluation requirement and reporting form;
4. Modified our ACADIS system to reflect new status of certifications based on expiry dates; and,
5. Worked with the DOC Academy and HR on restructuring and certifying their newly designed academy curriculum and streamlining their recruitment and hiring process;
6. Travelled to Sitka for ALET 2016-2 Graduation and to Anchorage to address the monthly APOA lunch meeting.

Currently, Rob Heide is working with DPS on Village Police Officer Training Academy certification.

Sarah Hieb and I have participated in multiple OAH hearings and status conferences; several cases were resolved without hearings.

Sheldon Schmidt stepped aside from organizing this year’s Executive Development Conference (EDC), and, at our request, Terry Vrabec agreed to carry-on for one more year.

APSC’s cases continue working their way through the Office of Administrative Hearings system. We’ve participated in countless status hearings and held a number of full hearings in the past few months. Kudos to John Novak, Rob Henderson, and John Skidmore for their ongoing support to APSC.

Just over five months into the current fiscal year; APSC has processed, generated, sponsored and/or scheduled:

Training Events Sponsored	37	Except Academies (all planned or held)
Officers Directly Sponsored	30	Travel, lodging, and registration to events
Officers Attending Courses	379	APSC Sponsored Courses
Training Hours Delivered	12378	Ex: Basic Academies, 2-Week & MCO
Academy Attendees	21	ALET 13 (2 dropped), CTC 8
Academy Training Hours Delivered	17665	Excludes APD Officers, Troopers, VPOs & VPSOs

Certificates issued	68	All Certs
Instructor Certifications	16	Included Renewals
Course Certifications	16	Including Renewals
New Investigations Initiated	14	18 Cases closed or resolved
OAH Hearing Events Held		Reported Quarterly (not up to date)

Command Changes across the state:

- Bob Beasley has agreed to stay on as Police Chief for Yakutat, PD. Included in this meeting’s agenda is his request for a waiver from the recertification academy, which I feel the Council should favorably consider.
- Don “Dusty” Johnson, CTC Academy Director, retired following the last academy graduation on November 10th; we are not aware of who his replacement may be.
- Metlakatla: longtime Chief Nick Yliniemi has retired and Bruce Janes has been appointed chief.
- The community of St. Paul has been without a police chief for many months. They just announced they have hired Zack Lamblez, a 16 year veteran officer from Minnesota.
- Jeff Ankerfelt has been appointed Sitka Police Chief.

Issues:

UAF/CTC:

UAF/CTC will only run one academy session next year due to fiscal reductions to the university. There has been no change in status on the issue discussed at our last meeting regarding UAF/CTC accepting students in the LE Academy who have been disqualified from certification as police officers.

Anchorage Police Department Academy Funding:

As directed by the Council in their last meeting; I wrote APD’s Chief Tolley regarding his request for APSC funding for their basic academy, explaining the legislative history and history of our funding support for APD in general. I explained that “the Council does not feel it is appropriate to use the limited APSC funds to subsidize APD’s basic academy. Similarly, APSC does not have the ability to support direct funding of DOC, ALET or UAF/CTC academies.” As of this date there has been no further communication with Chief Tolley on this matter.

APSC Purchasing:

In early October we learned that our longstanding intuitional business practice of selecting, processing, and paying training vendors was in conflict with state purchasing regulations. We worked closely with the Department of Administration and DPS Purchasing in identifying a purchasing process that worked for APSC and would comply with regulations. We believe we now have this worked out.

While our process of directly reimbursing an officer or agency for training expenses will not be impacted, the following changes can be expected as a result:

- Any agency requesting specific training from a specific vendor will be;
 - 1) Strongly encouraged to contract directly with the trainer/vendor and request reimbursement from APSC, or
 - 2) Prior to receiving any services from a specific vendor, be required to provide justification to APSC as to why the vendor was selected and what makes their service unique enough to justify a state Request for Alternate Procurement (RAP – effectively a ‘sole source justification’). This option will add several weeks to the planning and

approval process before APSC can complete the purchase so as to confirm the course and instructors.

- Events such as future Executive Development Conferences will be particularly challenging to accomplish under the more restrictive procurement guidelines and increasingly restrictive budgets.

Office of Administrative Hearings and DOL Representation of APSC:

When a matter is before the Council for a fact-finding hearing, the Council has chosen to delegate this task to the Office of Administrative Hearings (OAH). Their task is to conduct a fair and impartial hearing and prepare a recommended decision as to the facts of the case and their interpretation of APSC regulations. The Council retains the ultimate decision making authority upon reviewing the recommendations of OAH and both parties (the officer and the executive director).

For some time, APSC's operational default has been to appoint the DPS's Department of Law (DOL) General Counsel, John Novak, as their representative in all cases referred to the Office of Administrative Hearings (OAH). APSC's case-load before the OAH has dramatically increased recently for a number of reasons. While this recent surge in cases before OAH is now waning, the number of active APSC investigations has not decreased and may increase with the proposed efforts to disqualify unfit job applicants (see below) and DOC's addition of a new office of professional standards.

Mr. Novak addressed this issue before the Council at our last teleconference meeting, pointing out that APSC cases have been dominating his workload and taking away time for other important DPS legal matters.

I've discussed this situation with DPS leadership, Mr. Novak, Mr. Henderson, OAH, and with other APSC staff members. All of us are in general agreement that, in the vast majority of cases referred to the OAH, Council staff can adequately present the case without direct legal representation. The Council has delegated the fact-finding hearing process to the OAH, but retains final decision making authority. OAH's "recommended decisions," are just that, "recommended;" the council is free to conduct further fact-finding if desired and to render its own final decisions based upon the totality of information and circumstances.

While there may be an occasional case where staff considers it unwise to continue the OAH process without representation, the executive director has determined that the new operational default will be for APSC Staff to represent the council before the OAH in future cases. Mr. Novak and Mr. Henderson remain resources for us to consult, whenever necessary.

Any court appeal of the Council's final decision would require the assistance of Mr. Novak or another DOL attorney. Mr. John Skidmore is expected to speak about this issue before the Council at this meeting, so he can address any questions members may have.

Regulations:

Changes Made:

The finalized/adopted regulations were published in the October regulatory updates. Two publication errors were found between what was submitted by the Lt. Governor's office and what emerged in print; both of these matters are being addressed.

Disqualified Officer Applicants and Academy Candidates:

Through a separate memo to the Council and new business agenda item, I am recommending the consideration of minor changes to regulations to clarify when the APSC should assert jurisdiction over disqualified officer applicants and self-pay academy candidates. This also provides the Council with the opportunity to direct when, if ever, they wish to take administrative action to formally find an applicant or training candidate disqualified for certification.

Village Police Officers:

The Alaska DPS is planning to examine their Village Public Safety Officer (VPSO) program regulations (13 AAC 96.010-900) as part of their normal regulatory review process to identify any potentially needed changes. At the same time, APSC has been struggling for years to enforce Village Police Officer regulations (13 AAC 87.090-150).

APSC staff and I feel it may be an appropriate time to collaborate with the DPS and explore the consolidation of the VPSO and VPO programs into one set of regulations, governed by DPS rather than APSC. *While DPS is not necessarily receptive of this concept, they are open to discussion.* Should the Council concur, staff would initiate a working group with DPS to explore potential changes and make recommendations to the Council and DPS Commissioner.

Policy & Procedure Development:

Academy Funding Policy (withdrawal reimbursement):

Included with Council members' packets is a draft proposed Police Academy Funding Policy. This, more particularly, relates to the policy of requiring a police agency to reimburse APSC for expenses associated with an academy student who withdraws or is discharged from an academy before successfully graduating. While this has long been the policy of the council and staff, this written policy is intended to assure standardization in how it is applied and spell out what costs are considered reimbursable.

Cops on Call:

In response to members' request(s), the Council directed us to develop recommendations regarding how to support smaller agencies through a program of short term / part time/ seasonal officers. In collaboration with Det. (Ret) Glen Klinkhart, who is currently engaging in this work for several agencies and capturing "lessons-learned", we developed recommendations for the Council, which are included in a separate document.

Planned Activities:

IADLEST Annual Conference and training, Nashville, TN	May 21-25, 2017
APSC quarterly teleconference meeting,	Feb. or March date TBD
APSC Spring meeting –	Date and location TBD
APOA Training Dates (tentative for planning purposes):	
May 1-2: Anchorage Class	
May 3: Annual Meetings in Anchorage	
May 4-5: Kenai Class	
May 8-9: Fairbanks Class	
May 11-12: Juneau Class	
May 13-14: Instructors Travel Home	

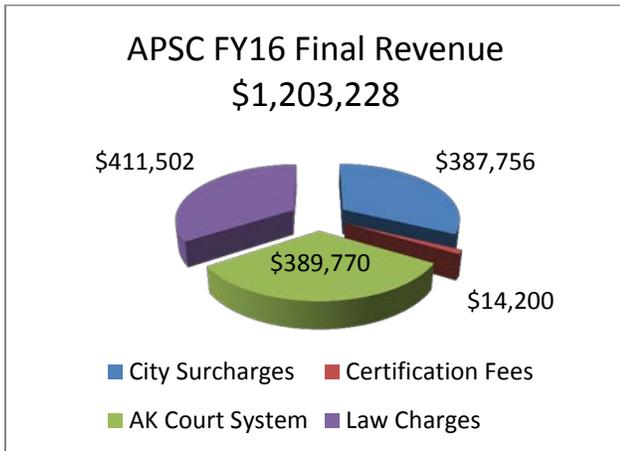
OAH Hearings Currently Scheduled: None set with firm dates.

Finances:

FY 16 Finals:

Generally speaking, we ended FY 16 in financially sound territory in spite of missing our forecast \$1.283M revenue by ~\$80K. Our final revenues collected are reflected below, and we were able to carry-over the necessary \$125K fund balance necessary for cash flow purposes:

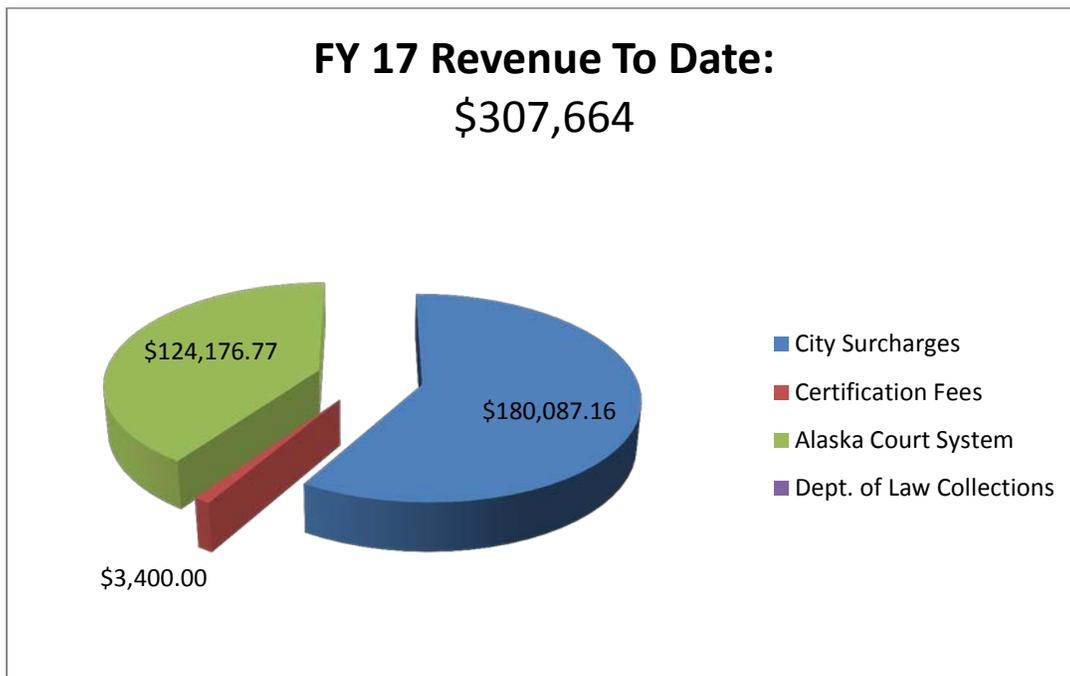
Final FY16 Expenses:



Budget Items	Budgeted	Actual	%Budget
Academies	\$327,500.00	\$396,194.26	121%
APSC Meetings	\$67,350.00	\$21,165.66	31%
Division Related	\$67,350.00	\$48,287.30	72%
Hearings	\$37,500.00	\$50,769.40	135%
Training	\$327,500.00	\$344,890.46	105%
Personnel Costs	\$456,400.00	\$324,066.76	71%
Total Non-Personnel	\$827,200.00	\$861,307.08	104%
Grand Total	\$1,283,600.00	\$1,185,373.84	92%

FY 17 to Date:

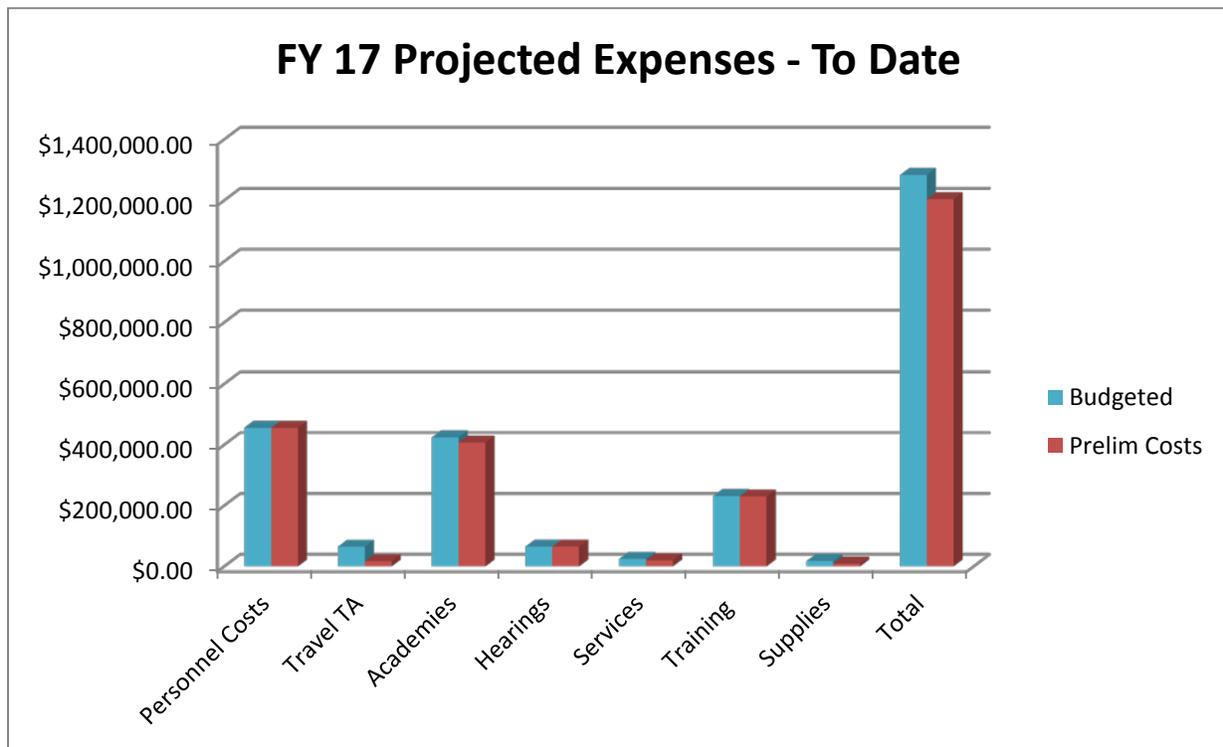
FY 17 revenues have started off weak; at only 25% of the annual projected amount collected, while we are about 42% of our way through our fiscal year. These normally see a boost following the issuance (and garnishment) of PFD checks, but at this point we have not yet seen it reflected in funds remitted to APSC.



We recently moved \$90K in appropriated FY17 travel and supply funding into our budget for supporting necessary training. The new numbers are reflected in the below spreadsheet and chart. Expense projections are based on a number of assumptions: 1) We will use all budgeted personnel funding, which may not be the case due to mandatory state employee furloughs; 2) We project five students in the Municipal Corrections, 10 in the recertification academy, and 17 in ALET 1701, these numbers are our best estimates at this time and will change; and, 3) Training events are already scheduled and funds are already obligated for courses scheduled through February, 2017.

Based upon the projected spending in Academy Training and currently scheduled (obligated) in-service training, APSC transferred travel and supply funding to cover these training expenses. Funding basic academy and required minimum training remains our highest priority, therefore APSC staff will be very selective in approving only the highest priority of new training requests for the balance of FY 17, until a better estimate of basic and recertification academy attendee numbers is known.

If revenues continue to lag, as discussed previously, APSC will approve no additional in-service training requests. Additionally we may be forced to cancel previously approved, but not yet conducted, training; or, as a last resort, may be forced to reduce the number of sponsored academy attendee slots available to municipal agencies.



IRIS Budget Lines	Item	Budgeted	Prelim Costs	% Budget	Final Costs	% Budget
125003000-1000	Appropriation	\$455,700				
Current Budget	Personnel	\$455,700	\$455,700	100%	\$154,941	34%
125003000-2000	Appropriation	\$134,700	\$16,816	12%		
Current Budget	Travel TA	\$64,700	\$16,816	26%	\$2,272	4%
125003000-3000	Appropriation	\$655,000				
Current Budget	Academies	\$424,000	\$406,998	96%	\$191,492	45%
Current Budget	Hearings	\$65,000	\$65,000	100%	\$0	0%
Current Budget	Services	\$25,000	\$19,515	78%	\$19,515	78%
Current Budget	Training	\$231,000	\$230,269	100%	\$170,670	74%
Current Budget	Total	\$745,000	\$721,782	97%	\$381,677	51%
125003000-4000	Appropriation	\$37,500				
Current Budget	Supplies	\$17,500	\$9,343	53%	\$9,343	53%
Total	Appropriation	\$1,282,900	\$1,203,641	94%	\$548,232	43%