

STATE OF ALASKA
Alaska Police Standards Council
Minutes of the 135th Regular Meeting
December 3, 2019
Anchorage, Alaska

1. CALL TO ORDER

Chair Doll called the 135th Regular Meeting of the Alaska Police Standards Council to order on December 3, 2019, at 8:00 a.m. A roll call was conducted as follows:

APSC Members Present

Chair Justin Doll, Chief, Anchorage PD
Vice-Chair Wendi Shackelford, Public Member
Michael Craig, Public Member
Nancy Dahlstrom, Commissioner, DOC
Steve Dutra, Chief, North Pole PD
Rebecca Hamon, Public Member
David Knapp, Sergeant, Correctional Officer IV DOC
Ed Mercer, Chief, Juneau PD
Leon Morgan, Deputy Commissioner, DPS
Shane Nicholson, Sergeant, Kodiak AWT (telephonic)
Joe White, Chief, Ketchikan PD (telephonic)
Jen Winkelman, Director of Probation/Parole, DOC

APSC Members Absent

None

APSC Administrative Staff Present

Robert Griffiths, Executive Director
Wendy Menze, Administrative Assistant
Sarah Hieb, Administrative Investigator
Rob Heide, Training Coordinator

Department of Law Representatives Present

Jack McKenna, Department of Law
Stephanie Galbraith, Department of Law

2. FLAG SALUTE

A flag salute was conducted.

3. AUDIENCE INTRODUCTIONS

Anthony Henry (telephonic)
Ray Brown, Dillon & Findley (telephonic)
Ruth Adolf (telephonic)
Chad Goeden, AST
Sean McGee, UAF
Greg Russell
Jeromey Lindhag, North Pole PD
Joshua Wilson, ACOA
Travis Welch, Alaska Mental Health
Molly Brown, Dillon & Findley

Joel Smith, Wasilla PD
Ty Ely, APOA
David Ross, Kenai PD
Andre Achee, Whittier PD
Steven Campbell
Robert Baty, Sitka PD
Tara Henry
R. J. Ely, Craig PD

4. APPROVAL OF AGENDA

It was moved by Hamon and seconded by Dutra to approve the agenda.
The motion passed unanimously.

5. APPROVAL OF PAST MINUTES – June, 2019

It was moved by Knapp and seconded by Craig to approve the minutes of the 134th Regular Meeting held June 12, 2019. The motion passed unanimously

6. PERSONS TO BE HEARD

There were no persons to be heard.

7. COUNCIL CHAIR'S REPORT

Chair Doll noted he has no updates to pass on.

8. EXECUTIVE DIRECTOR'S REPORT

The November 26, 2019, Executive Director's Report to Council was distributed to Council members and attendees prior to the meeting. ED Griffiths noted he had nothing to add to his report that wouldn't be covered in later agenda items. He reported that APSC's financial picture has improved. The training surcharge was raised so additional funds are being collected. In addition, with the past two stable years of PFD funds, collections of past due or unpaid fines has increased. As a result, it is anticipated that this budget year APSC will be able to collect the \$1.3 million approved by the legislature.

ED Griffiths reported that this year APSC will be requesting from the legislature the authority to carry over money into following fiscal years. Currently APSC is allowed to carry over \$125,000 at the end of the fiscal year into the next one. APSC will also be requesting the authority to sponsor or at least partially sponsor municipal officers' attendance at the basic academy now that more funds are available.

9. OLD BUSINESS

a. Regulation changes – approve draft changes for publication

ED Griffiths reported that there are a number of areas in the draft regulation changes that are before the Council for consideration. The process requires the Council to approve moving forward with the draft changes. Then APSC would file a formal notice to the Department of Law, which would then start the public comment process, public notification, et cetera. Once all comments are gathered, the matter is then brought before the Council for final approval. The regulations are then filed with the Lieutenant Governor's office, and after legal review they are then published and become the new regulations.

The proposed VPO regulation changes include:

- Codifying the basic academy requirements for VPOs.
- Applicants who have felony, sex offense, or domestic violence convictions cannot be hired as VPO.

- Increase the population size of a “Village” from 1000 residents to 2000; this resolves an issue for a couple of the larger rural villages who are slightly over 1000 residents but employ VPOs.

Additional proposed regulation changes include:

- Clarifying the definition of a domestic violence offense.
- Adding language that specifies certified officers are required to keep APSC informed of their mailing address for legal notification purposes.

It was moved by Shackelford and seconded by Dutra to move forward with the proposed regulatory changes. A roll call vote was taken, and the motion passed unanimously.

b. Statewide Applicant Index System - Ongoing

ED Griffiths reported that work is continuing on developing a statewide applicant index system using ACADIS. The next step is developing policy procedures and MOUs, which will be presented to the Council for consideration later this year.

c. APSC Case 2018-36, Samuel George, St. Paul PD – Case dismissal recommendation

ED Griffiths reported that the Council had previously voted to proceed with the revocation procedures concerning Mr. George. As APSC staff proceeded with that process, they received input from Mr. George that led them to request further information from St. Paul PD. After numerous requests for further information and receiving no response from St. Paul PD, staff is no longer comfortable with proceeding with the revocation process.

It was moved by Hamon and seconded by Knapp to dismiss APSC Case 2018-36, Samuel George. A roll call vote was taken, and the motion passed unanimously.

10. NEW BUSINESS

a. Survey of Rural communities for Village Police Officers

No discussion.

b. Policy Review and update: Confidentiality & Release of Information

ED Griffiths reported that this matter came before the APSC as it was trying to reconcile APSC's policy and operations regarding confidentiality and release of information with provisions in various statutes. The proposal before the Council is a balance between APSC's need to be open and transparent and also protecting the privacy and personal information of certified officers.

It was moved by Hamon and seconded by Dahlstrom to approve APSC's new policy on confidentiality and release of information.

Following discussion, it was moved by Morgan and seconded by Craig to add the words "electronic records" in the policy's definition of what it is designed to include. A roll call vote was taken, and the motion to amend the original wording passed unanimously.

Following further discussion, a roll call vote was taken, and the motion to approve APSC's new amended policy on confidentiality and release of information passed unanimously.

c. Chair and Vice-Chair elections

Chair Doll expressed his willingness to serve another term as Chair but encouraged other Council members to volunteer to serve as Chair. Vice-Chair Shackelford said she would like to step down as Vice-Chair but would be willing to stay on the Council as a public member. Commissioner Dahlstrom indicated her willingness to serve as Vice-Chair.

A written vote was conducted, with Sergeant Nicholson and Chief White voting via e-mail. Chief Justin Doll was unanimously re-elected as Chair of APSC and Commissioner Dahlstrom was unanimously elected as Vice-Chair of APSC for the next term.

11. ADJOURN TO EXECUTIVE SESSION

It was moved by Dahlstrom and seconded by Shackelford to adjourn to Executive Session to address subjects that may tend to prejudice the reputation and character of individuals and for deliberations on adjudicatory proceedings in APSC cases: 2015-07, 2018-09, 2018-12, 2018-15, 2018-28, 2018-34, 2018-41, 2019-04, 2019-11, 2019-12, 2019-15, 2019-16, 2019-18, 2019-19, 2019-20, 2019-29, 2019-30, 2019-33, 2019-35, 2019-36, and 2019-37; and to evaluate the performance of the Executive Director. The motion passed with unanimous consent.

ED Griffiths noted that in Case 2015-07, Anthony Henry, Chair Doll and Ms. Shackelford had conflicts and asked to be recused. Chair Doll, Ms. Shackelford, and ED Griffiths would be excluding themselves during any deliberative discussion in this case. Also Mr. Henry's attorney, Mr. Brown, asked to provide a short presentation to respond to both the proposed decision by the hearing officer as well as the proposal for action that was filed by ED Griffiths. In addition, Mr. Brown asked that a letter and some exhibits he provided be included in the record. Vice-Chair Dahlstrom noted her approval of Mr. Brown's request. Mr. McKenna reported he had the proposed documents and could review them with the Council during Executive Session. Chair Doll requested that Mr. Henry's case be taken up first as there were people on line as well as in person to participate in that matter.

It was moved by Knapp and seconded by Dutra to take a 10-minute break prior to going into Executive Session. The motion passed with unanimous consent. Time 9:00 am.

12. CALL BACK TO ORDER – GENERAL SESSION

Following deliberations during Executive Session, Chair Doll called the General Session back to order at 12:30 pm.

13. ROLL CALL

A roll call vote was conducted, and all members present at the start of the meeting, both in person and telephonically, remained in attendance.

14. BUSINESS ARISING FROM EXECUTIVE SESSION

a. Requests for rescission of prior decisions

2018-09 Brian Karnes: It was moved by Dahlstrom and seconded by Hamon to take no action and to not consider further action in this matter. A roll call vote was taken, and the motion passed unanimously.

b. Action to Accept Surrendered Certification(s) and findings of disqualification

2019-11 Edward Matsuura: It was moved by Shackelford and seconded by Craig to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously.

2019-12 John Mendoza: It was moved by Knapp and seconded by Nicholson to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously.

2019-015 Robert Robbins: It was moved by Hamon and seconded by White to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously.

2019-18 Anthony Thomas: It was moved by White and seconded by Morgan to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously. Mr. McKenna noted he had recused himself from discussion on this case due to prior work on the underlying criminal case. His deputy was available to answer Council questions.

2019-19 Charlotte Nayagak: It was moved by Winkelman and seconded by Morgan to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously.

2018-12 David Schofield: It was moved by Shackelford and seconded by Dutra to accept the surrender of his certification. A roll call vote was taken. The motion passed unanimously.

2018-15 Robert Carlson: It was moved by Doll and seconded by White not to accept the negotiated settlement of surrender of his certification. A roll call vote was taken. The motion passed unanimously with one abstention by Dahlstrom and three recusals: Knapp, Shackelford, and Winkelman.

2018-28 Leighton Cox: It was moved by Dutra and seconded by Craig to accept the surrender of his certification. A roll call vote was taken. The motion passed unanimously.

2019-04 Todd Shero: It was moved by Hamon and seconded by Mercer to accept the surrender of his certification. A roll call vote was taken. The motion passed unanimously with one recusal: Winkelman.

2019-33 Jimmie Weeks: It was moved by Mercer and seconded by Knapp to accept the surrender of his certification. A roll call vote was taken. The motion passed unanimously with one abstention by Dahlstrom and two recusals: Knapp and Winkelman.

c. Council consideration of probable cause to initiate revocation action

2019-16 David Russell: It was moved by Winkelman and seconded by Shackelford that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken. The motion passed unanimously.

2019-20 Michael Malave: It was moved by Shackelford and seconded by Craig that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken. The motion passed unanimously with one abstention by Dahlstrom and one recusal: Winkelman.

2019-29 Ty Ely: It was moved by Morgan and seconded by Shackelford that the APSC has determined there is probable cause to move forward

with revocation proceedings. A roll call vote was taken, and the motion passed unanimously with two recusals: Hamon and Mercer.

2019-30 Yamil Gines-Rivera: It was moved by Hamon and seconded by Winkelman that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken, and the motion passed unanimously.

2019-35 Charles Jetton: It was moved by Doll and seconded by Craig that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken, and the motion passed unanimously with three recusals: Morgan, Nicholson, and Shackelford.

2019-36 James Lester: It was moved by Mercer and seconded by Shackelford that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken, and the motion passed unanimously with one recusal: Morgan.

2019-37 Jeremy See: It was moved by Knapp and seconded by Hamon that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken, and the motion passed unanimously with one recusals: Doll. Mr. McKenna noted he had recused himself from any participation in this matter.

d. Certificate Revocation Actions

2018-41 Shamika Lawrence: It was moved by Dutra and seconded by Shackelford that the APSC revoke her certification. A roll call vote was taken, and the motion passed unanimously with one recusal: Winkelman.

2015-07 Anthony Henry: It was moved by Morgan and seconded by Craig that the APSC adopt the proposed decision by the Administrative Law Judge as the final agency decision pursuant to AS 44.64.060(3)(1). A roll call vote was taken, and the motion passed unanimously with two recusals: Shackelford and Doll.

2018-34 Gregory Braeuer: It was moved by Shackelford and seconded by Dutra that the APSC adopt the proposed decision by the Administrative Law Judge as the final agency decision pursuant to AS 44.64.060(3)(1). A

roll call vote was taken, and the motion passed unanimously with one recusal: Winkelman. Mr. McKenna noted he had recused himself from any participation in this matter.

15. PERSONS TO BE HEARD AND COUNCIL COMMENTS

Ms. Shackelford reported that Travis Welch had requested matters related to crisis intervention team training, certification for the course and instructors, and funding for officers to attend that training be added to APSC's next meeting agenda. As APSC is beginning a state steering committee related to those matters, Ms. Shackelford requested that be an agenda item for further discussion.

16. DETERMINATION OF NEXT SCHEDULED MEETING

The next telephonic Council meeting will be held on March 5th, 2020, from 9:00 a.m. to 12:00 p.m. This meeting may be cancelled if an ALJ decision in a pending contentious case is received prior to March 5th as that case would need to be discussed with Council members present in person.

The next in-person Council meeting will be held on May 7th, 2020, from 12:00 p.m. to 4:00 p.m. in Juneau.

17. ADJOURNMENT

There being no further business to come before the Council, it was moved by Shackelford and seconded Dahlstrom to adjourn the meeting. The motion passed by unanimous consent, and the meeting was adjourned.
Time: 1:15 pm.

Minutes approved and adopted on March 5, 2020 at the 136th General Meeting of the Alaska Police Standards Council.



Alaska Police Standards Council
135th Regular Meeting Agenda
December 3, 2019, 0800
Anchorage Police Headquarters

GENERAL SESSION AGENDA

1. Call to Order & Roll Call
2. Flag Salute
3. Audience Introductions – please announce yourself if you have called in.
4. Approval of agenda
5. Approval of past minutes – June 12, 2019
6. Persons to be heard:
7. Council Chair's Report: Justin Doll
8. Executive Director's Report: Bob Griffiths - Written
9. Old Business:
 - a. Regulation changes – Approve draft changes for publication
 - b. Statewide Applicant Index System – Ongoing
 - c. APSC Case 2018-36; Samuel George, St. Paul PD – Case dismissal recommendation
10. New Business:
 - a. Policy Review and update: Confidentiality & Release of Information
 - b. Chair and Vice-Chair elections
11. Adjourn to Executive Session to address subjects that may tend to prejudice the reputation and character of individual(s) or for deliberations on adjudicatory proceedings in APSC Cases 2015-07, 2018-09, 2018-12, 2018-15, 2018-28, 2018-34, 2018-41, 2019-04, 2019-11, 2019-12, 2019-15, 2019-16, 2019-18, 2019-19, 2019-20, 2019-29, 2019-30, 2019-33, 2019-35, 2019-36 & 2019-37; and to evaluate the performance of the Executive Director.
12. Call back to order – General Session
13. Roll Call
14. Business arising from Executive Session (individual decisions voted in open session)
 - a) Requests for rescission of prior decisions
 - b) Action to accept surrendered certification(s) and findings of disqualification
 - c) Council consideration of probable cause to initiate revocation action
 - d) Certificate revocation actions
15. Persons to be heard and Council comments
16. Scheduling of future meetings
17. Adjournment:

Online and/or call-in information:

<https://stateofalaska.webex.com/stateofalaska/j.php?MTID=mc3ea9eb34cff6653406ed0506fadba88>

Meeting number: 802 583 811; Password: APSC135

Join by phone: 1-650-479-3207; Access code: 802 583 811



Executive Director’s Report to Council November 26, 2019

Activities:

Since our last Council meeting and June’s report, APSC has:

- Wrapped up and “closed-out” fiscal year 2019 and its associated budget and account reconciliations.
- Prepared for and attended the Gregory Braeuer fact-finding hearing, held July 15-17 in Anchorage.
- Met with Alaska Municipal League (AML) on July 24 in Juneau to discuss options in partnering to address rural policing recruiting and retention problems.
- Taught a Methods of Instruction (MOI) course in Wrangell September 30 to October 3.
- Prepared for and attended the October 1-4 Jeffery Lee fact-finding hearing in Anchorage, then returned the next week, wrapping up on October 11.
- Participated in a rural policing policy panel discussion in the AML annual Conference in Anchorage on November 20.
- Attended numerous status and planning conferences for cases before the OAH, in addition to meetings with attorneys and collaboration on case filings and preparation of exhibits and other evidence for hearings.
- Continued working on regulatory rule drafting
- Conducted ongoing investigations, including interviewing, subpoena service and evidence gathering.
- Revised policy & procedure in response to guidance from the Alaska Department of Law.
- Created and added a web-form on our website to allow officer to automatically update their contact information with APSC. It is posted in several locations on APSC’s website.

Statistics:

Fiscal year 2019 (Total):

Training Events Sponsored	10	Except Academies (all held)
Officers Attending Sponsored Courses	165	Non-academy sponsored and hosted courses
Sponsored Training Hours Delivered	4118	Excluding Academies
Sponsored Academy Attendees	0	ALET, CTC, MCO, VPO, & Reciprocity
Municipal Academy Training Hours Sponsored	0	Municipal, reciprocity, MCO Academy
Non-APSC Sponsored Municipal Academy Attendees	66	ALET 18-02 & 19-01, CTC #32, Reciprocity, MCO, VPO and APD
Non-sponsored academy training hours	28,923	APSC Reciprocity, ALET 18-02, and municipal corrections – excludes APD
Certificates issued	445	All Certifications

Officer Certifications	290	Basic, Intermediate & Advanced
Instructor Certifications	82	Including Renewals
Course Certifications	73	Including Renewals and online courses
Reciprocity Evaluations	156	For training waivers and lateral hires
New Investigations Initiated	30	
Investigations Closed	31	Includes investigations from prior years
OAH Hearings Held	32	Includes status conferences.

FY2020 Statistics

Training Events Sponsored	5	Except Academies (all held)
Officers Attending Sponsored Courses	30	Non-academy sponsored and hosted courses
Sponsored Training Hours Delivered	516	Excluding Academies
Sponsored Academy Attendees	0	ALET, MCO, VPO, & Reciprocity
Municipal Academy Training Hours Sponsored	0	ALET, MCO, VPO, & Reciprocity
Non-APSC Sponsored Municipal Academy Attendees	44	ALET 19-02, VPO, and APD
Non-sponsored academy training hours	38,822	ALET 19-02, VPO, and APD
Certificates issued	264	All Certifications
Officer Certifications	150	Basic, Intermediate & Advanced
Instructor Certifications	40	Including Renewals
Course Certifications	74	Including Renewals and online courses
Reciprocity Evaluations	95	For training waivers and lateral hires
New Investigations Initiated	20	
Investigations Closed	16	Includes investigations from prior years
OAH Hearings Held	14	Includes status conferences.

As of 11/22/2019

Administrative Hearings & Appeals:

Case Status:

- Anthony Henry, APD; APSC 2015-07; OAH # 16-0315-POC; Case before Council for decision in this meeting.
- Valent Maxwell, Klawock; APSC #2015-12; OAH # 16-0134-POC; Alaska Court # 1KE-17-00069CI. Case is under appeal to the Supreme Court, case # S17079. Briefs filed, conference and oral argument dates not yet set.
- Luis Nieves, AST; APSC Case 2018-10; OAH # 19-0140-POC; Case filed with OAH, hearing delayed to January 2020, in Anchorage.
- David Schofield, Whittier; APSC Case 2018-12; Case before Council for resolution in this meeting.
- Kevin Nushart, DOC; APSC Case 2018-13; OAH # 19-0405-POC; Fact-finding hearing now set for February 2020.
- Robert Carlson, DOC Probation/Parole; APSC Case 2018-15; OAH # 18-1040-POC; Case before the Council for resolution in this meeting.

- Jeffery Lee, Bethel PD; APSC Case 2018-26; OAH # 19-0249-POC; Fact-finding hearing held, awaiting preliminary decision from OAH.
- Gregory Braeuer, DOC; APSC Case 2018-34; OAH # 19-0146-POC; Case before the Council for decision in this meeting.
- Samuel George, St. Paul PD; APSC Case 2018-36; the officer's response to the allegations generated questions about how St. Paul officials conducted their investigation that led to George's dismissal. APSC sought additional witness statements and documents from the agency. Repeated attempts and contacts with the chief and city administrator have met with no response. The city was notified that their lack of response meant APSC would likely dismiss the case; there was no response to this notice, either. Staff recommends the Council drop the case due to a non-responsive agency and APSC's inability to pursue the investigation and adequately substantiate the allegations.
- Shamika Lawrence, APSC Case 2018-41; criminal case 3AN-18-11134CR – Non-Responsive – Case before Council in this meeting for final decision.

Council and Command Changes across the state:

- Longtime Council Member Brad Reich, of Kiana, stepped down from his position because of increased community responsibilities. Brad served the Council since 2012. Thank you for your service Brad! As of this writing, his position has not been filled by the governor.
- The governor did reappoint Jennifer Winkelman, and Chiefs Ed Mercer and Joe White, whose terms were set to expire in March 2020.
- Nome Police Chief Bob Estes retired, and Mike Heintzelman is serving as Interim Chief.
- Bethel's Chief Waldon retired and Lt. Amy Davis is currently Acting Chief.
- UAA PD's new Chief is Jeff Earle, who started in August.
- Wasilla's Chief Gene Belden retired on November 15th, and Joel Smith was appointed as Acting Chief
- In Wrangell, Bruce Smith was named Acting Chief in late June 2019, after longtime Chief Doug McCloskey retired. The department is still recruiting for a new Chief.
- The following communities are also searching for new Police Chiefs: Nome, Yakutat, Unalaska, Bethel, Bristol Bay Borough.

Issues:

Unqualified Village Police Officers.

Most of you have likely read many of the published reports addressing the challenges of Alaska's rural policing; specifically, they focused on rural Alaskan communities hiring unqualified applicants to serve as Village Police Officers (VPO's). This media exposure highlighted long-standing problems for APSC and the rural communities and helped focus attention on solving the problems. We reasonably expect the legislature will, in the coming session, address placing statutory limitations on who can be hired as a police officer. APSC has begun a statewide outreach effort to contact all 113 communities eligible¹ to hire village police officers and determine if they have any, who they are, and if they meet our minimum requirements.

Our outreach efforts led to identifying 51 VPO's in 20 different communities. Most of these officers were previously unknown to APSC. We identified 55 communities with no VPOs; some of whom had

¹ Incorporated communities, off the interconnected road system, with a population under 1000 as of the last national census.

Troopers, North Slope Borough Police, VPSO's or Tribal officers present. Unfortunately, despite our efforts, we got no response from 38 incorporated communities.

A few communities who are eligible for VPO officers elect to hire and train officers who meet urban policing standards². These include: Galena, Hoonah, King Cove, Klawock, St. Paul, Sand Point, Seldovia, and Yakutat. However, Chevak and Hooper Bay both have VPO's in their communities and currently have a population over 1000. At the 2020 census, should their official population remain over this threshold, the communities would have to adhere to urban policing standards. This would be problematic for them, as they currently struggle to recruit, train and retain officers. We hope to address this issue in our proposed VPO regulatory changes.

Regulations:

VPO Regulations Project:

Draft regulation changes are presented in a separate memo to the Council and are an agenda item in this meeting. These draft changes include staff recommended language changes and have been discussed with DOL as well as presented to an audience of rural community leaders at the recent Alaska Municipal League Conference.

Policy & Procedure Development:

Before the Council in this meeting is a recommended update to your policy and procedure regarding the release of information in APSC's files. I can address any of your concerns or questions about the recommended changes during the anticipated discussion of the changes.

Officer Applicant Tracking Index:

This project continues but has been overshadowed by investigations and other Council matters. APSC staff must clarify the process of utilizing ACADIS as a platform for tracking officer applicants and then develop a procedure and policies for the Council to consider, along with drafts of an operational Memorandum of Agreement for participating agencies, a user guide and operations manual. Once the Council approves the process and agreement, APSC staff can work directly with agencies wishing to participate to identify individual department members who will have access and provide them training.

Finances:

Fiscal impacts of OAH administrative hearings.

As previously discussed in earlier Council reports, APSC's "due process" for officer certification actions includes a fact-finding hearing before an Administrative Law Judge (ALJ) with the state's Office of Administrative Hearings (OAH). Each state agency pays for OAH services based on hourly rates. Budgeting for this expense is problematic, as we have no idea how many misconduct or disqualification cases may arise each year and of those, how many may go to a hearing over the course of that fiscal year. Over the course of FY 2019, APSC obligated \$156K for scheduled and anticipated hearing costs, based on officers who requesting hearings and the projections of attorney handling their cases. We

² We excluded those communities from our survey who hire officers meeting the higher standards of urban officers; they already report to APSC and have active police departments.

ended up using just under \$76K after officers changed their minds and surrendered their certificates, hearings were delayed beyond the end of the fiscal year, or hearings held were shorter than initially forecast by attorneys.

Unspent funds were returned to APSC at the end of the year; unfortunately, they were unable to be used for training that year. As a result, at the end of last fiscal year, we maximized our legislatively authorized carry-over to FY2020 of \$125K. This year we obligated \$95K for OAH hearings; providing us with a projected increase in available training resources.

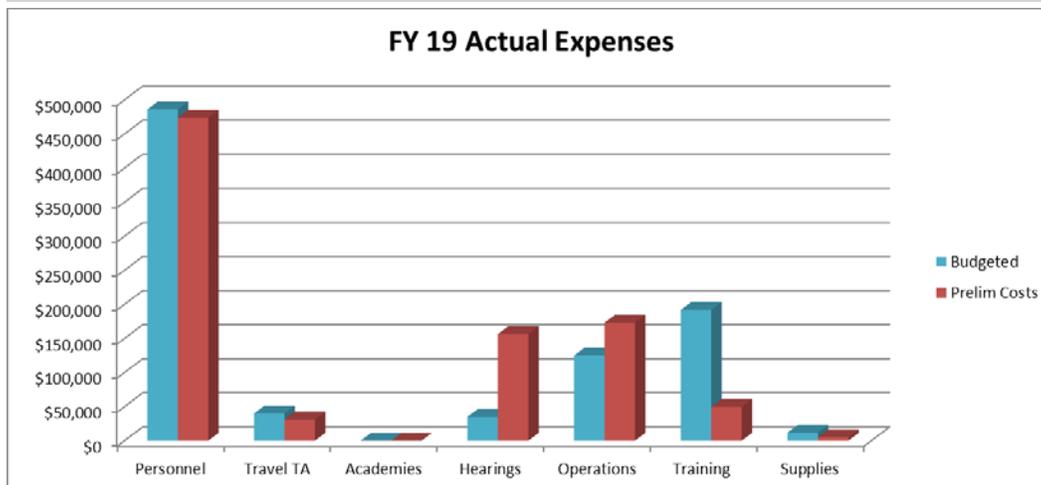
Revenue Outlook:

The changes made by the legislature in 2018 increased court-imposed police training surcharge amounts. These changes went into effect January 1, 2019. The surcharge increase, coupled with two years of moderate and stable PFD payments, effected our debt collections and has resulted in a positive impact on our revenues. We are not yet at levels of revenue seen in 2009 or 2015, but we are now cautiously optimistic about the future and hope to collect revenue equal to our authorized budget of \$1.3M.

FY 2019 Final Finances

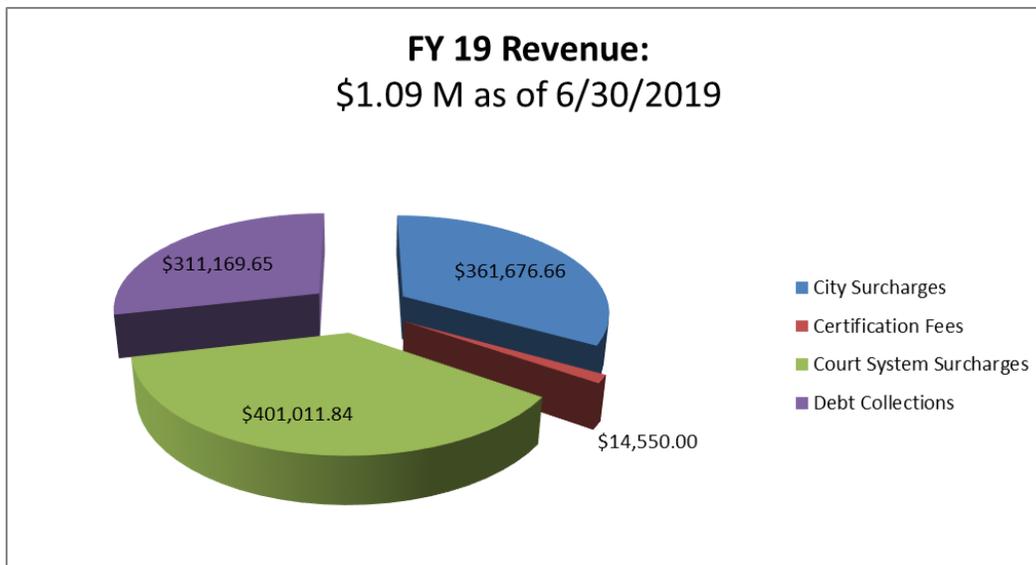
FY2019 Final Expenses

2019 IRIS Budget Lines	Item	Budgeted	Prelim Costs	% Budget	Actual Costs	% Budget
125003000- 1000	Authorized by Legislature					
Current Budget	Personnel	\$486,200	\$473,544	97%	\$492,506	101%
125003000- 2000	Authorized by Legislature	\$124,700	\$30,985	25%		
Current Budget	Travel TA	\$40,000	\$30,985	77%	\$24,295	61%
125003000- 3000	Authorized by Legislature	\$640,000				
Current Budget	Academies	\$0	\$0	0%	\$0	0%
Current Budget	Hearings	\$35,000	\$156,500	447%	\$75,654	216%
Current Budget	Operations	\$125,000	\$173,132	139%	\$173,132	139%
Current Budget	Training	\$191,800	\$49,615	26%	\$48,656	25%
Current Budget	Total	\$351,800	\$379,248	108%	\$297,442	85%
125003000- 4000	Authorized by Legislature	\$37,500				
Current Budget	Supplies	\$12,000	\$5,136	43%	\$5,136	43%
Totals	Projected real budget	\$890,000	\$888,913	100%	\$819,380	92%
FY19 Authorized Budget	Legislative spending authority.	\$1,288,400				
Actual Revenue to date	Actual Rev. vs Prelim/Actual Expenses	\$1,140,408	\$251,495		\$321,028	



FY2019 Actual Revenue

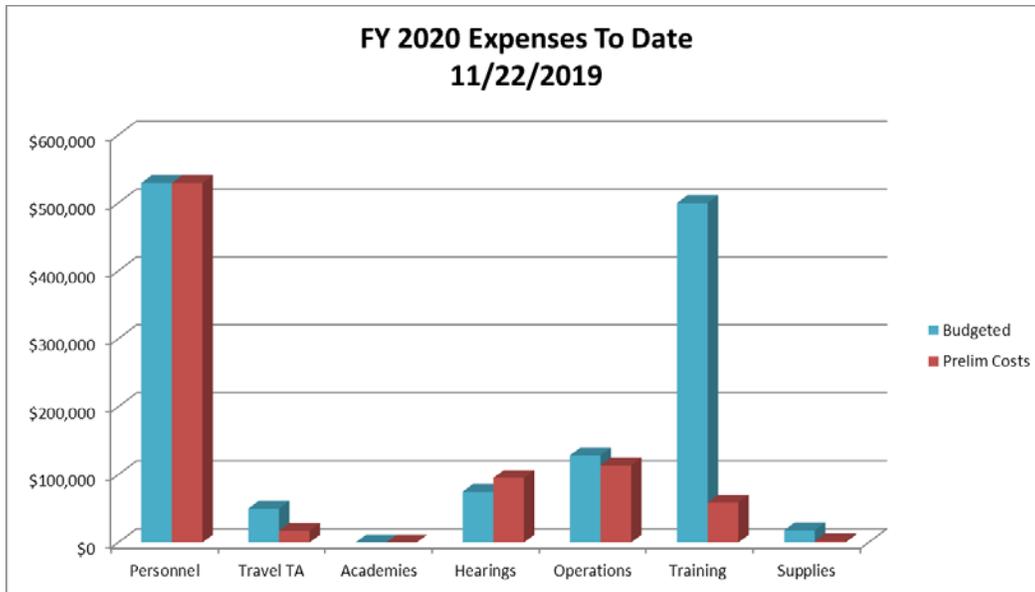
Revenue Sources	Revenue
City Surcharges	\$361,676.66
Certification Fees	\$14,550.00
Court System Surcharges	\$401,011.84
Debt Collections	\$311,169.65
Total Collected Revenue	\$1,088,408.15
Final Carry over from FY18	\$52,000.00
Grand Total of available revenue	\$1,140,408.15
Projected actual revenue	\$890,000.00
Progress Actual vs projected YTD	122%
Projected actual cash to spend (No carryforward to FY20)	\$942,000.00
Projected actual cash to spend (recapturing \$125K carryforward)	\$817,000.00



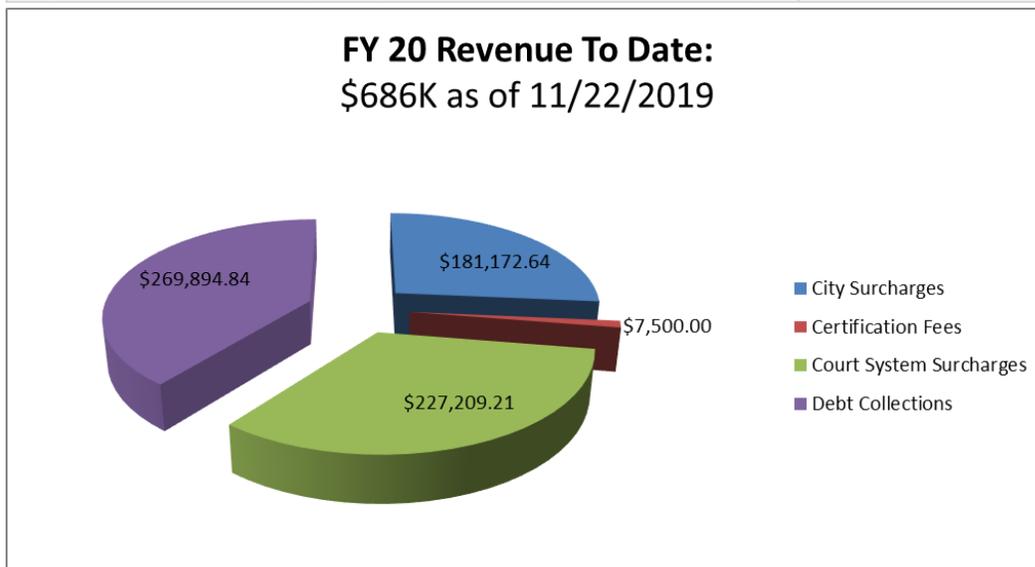
As of June 30, 2019

FY2020

2020 IRIS Budget Lines	Item	Budgeted	Prelim Costs	% Budget	Actual Costs	% Budget
125003000-1000	Authorized by Legislature	\$529,400				
Current Budget	Personnel	\$529,400	\$529,400	100%	\$176,422	33%
125003000-2000	Authorized by Legislature	\$101,800	\$17,200	17%		
Current Budget	Travel TA	\$50,000	\$17,200	34%	\$7,876	16%
125003000-3000	Services Authorized by Legislature	\$632,000				
Current Budget	Academies	\$0	\$0	0%	\$0	0%
Current Budget	Hearings	\$75,000	\$95,076	127%	\$30,076	40%
Current Budget	Operations	\$128,300	\$113,553	89%	\$113,553	89%
Current Budget	Training	\$500,000	\$58,741	12%	\$16,488	3%
Current Budget	Total "Services"	\$703,300	\$267,370	38%	\$160,117	23%
125003000-4000	Authorized by Legislature	\$37,500				
Current Budget	Supplies	\$18,000	\$2,130	12%	\$2,130	12%
Totals	Projected real budget	\$1,300,700	\$816,100	63%	\$346,545	27%
FY20 Authorized Budget	Legislative spending authority.	\$1,300,700				
Actual Revenue to date	Actual Rev. vs Prelim/Actual Expenses	\$810,777	\$5,324		\$464,232	



Revenue Sources	Revenue
City Surcharges	\$181,172.64
Certification Fees	\$7,500.00
Court System Surcharges	\$227,209.21
Debt Collections	\$269,894.84
Total Collected Revenue	\$685,776.69
Final Carry over from FY19	\$125,000.00
Grand Total of Available Revenue	\$810,776.69
Projected Program Receipts	\$1,100,000.00
Progress Actual vs projected YTD	62%
Projected actual cash to spend (No carryforward to FY20)	\$1,225,000.00
Projected actual cash to spend (less \$125K carryforward to FY21)	\$1,100,000.00



Planned Activities:

Proposed APSC Council Meeting Dates:

The Annual APOA Training Conference is scheduled for Tuesday, May 5 through Thursday, May 7, 2020. The Council traditionally holds a spring face-to-face meeting in conjunction with this event and may wish to consider it again.

Another option may be holding the meeting in Anchorage during the week of May 18th, when APSC will be sponsoring AML's annual Law Enforcement Management Institute.

The Council may wish to also explore scheduling a statewide teleconference meeting the first week of March (suggested March 4-6) to facilitate the regulations project and reduce the number of cases to be addressed in May.

Planned Hearings:

Luis Nieves, AST; APSC Case 2018-10; OAH # 19-0140-POC; hearing with OAH scheduled for January 22 through 24, 2020, in Anchorage.

Kevin Nushart, DOC; APSC Case 2018-13; OAH # 19-0405-POC; Fact-finding hearing set for February 25 through March 3, 2020, in Anchorage.

Anticipated Travel and Events:

Rob Heide is planning to teach MOI in Kodiak in January 2020 and Soldotna April 2020. He is also tentatively scheduled to make a presentation at the IADLEST National Conference about our MOI instructor certification program in June 2020 in Fort Worth, Texas.



Memorandum to Council

Date: October 3, 2019
From: E.D. Bob Griffiths *EBG*
Subject: Draft Regulations Changes

This memo is to explain the draft proposed regulation changes for the council to consider. Once the council approves these changes, we will begin the formal regulatory change process. It is important to note that these are staff recommended proposals based upon constituent input and recent staff experience working with rural communities and administrative investigations. They have been reviewed by APSC's attorneys with the Department of Law but have not yet been formally proposed for adoption. The council should take this opportunity to modify these proposed changes or to add additional changes they feel appropriate.

13 AAC 85.090 and 250 Personnel Reports: The proposed changes to 13 AAC 85.090 and 85.250 are to add the requirement that an officer keep APSC advised of their current mailing address. This is added to comply with the requirements of the Administrative Procedures Act¹ in notifying officers of proposed administrative action. Addition of this language allows the Council to proceed with administrative action when a respondent refuses to accept document service or cannot be located after a diligent search. Address notification can be accomplished on APSC forms, through their employing agency, and/or using a change of address form/link available on APSC's website.

13 AAC 85.900 Definitions: APSC staff identified that the definition of "crime of domestic violence" in our regulations is dated and inconsistent with Alaska's statutory definition of the same. This proposed change amends the definition so that it is consistent with other Alaska statutes. The primary change for APSC means we can rely upon a conviction for an Alaska DV crime as disqualifying an individual, rather than having to dissect the specific allegations leading to the conviction to determine if they met the more restrictive federal definition.

13 AAC 89.010 – 150 Proposed Village Police Officer regulation changes:

- US Citizenship required; to be consistent with all other APSC regulated positions
- Clarify that a felony conviction is always a disqualifier, not just one within the past 10 years, and that a conviction for a domestic violence or a sexual offense defined under AS 12.63.100(7) disqualifies an individual from being a Village Police Officer.
- Adds the illegal use of controlled substances within the past year as a disqualifier (excluding marijuana use).

¹ AS 44.62.380(c)

- A village can no longer hire probationary or temporary individuals who do not meet the minimum qualifications.
- Clarifies that an individual who was denied or found ineligible for certification is also ineligible for hire.
- Requires a village to determine that an applicant meets minimum qualifications and confirm their eligibility with APSC before hire.
- Replaces the VPO training requirements with new, more specific requirements consistent with current academy curriculum and with state statutory requirements such as mandatory training in domestic violence, sexual assault, and dealing with disabled individuals.
- Adding the requirement for VPO's to keep a current address on file with APSC
- Increases the population size of a "Village" from 1000 residents to 2000; this resolves an issue for a couple of the larger rural villages who were slightly over 1000 residents but employed VPO's.
- Adding definitions to VPO regulations for "crime of domestic violence" and "good moral character."

1 -- COUNCIL DISCUSSION DRAFT --

2 Proposed 2019 APSC Regulation Changes

3 Section 13 AAC 85.090. is amended by adding a new section to read:

4 **(e) A person certified by the council or serving in a position requiring**
5 **certification by the council shall maintain a current, valid, mailing address on file**
6 **with the council. The latest mailing address on file with the council is the address that**
7 **will be used for official communications and notifications. An officer must notify the**
8 **council, in writing, of a change of the officer's address within 30 days of any change.**

9
10 Section 13 AAC 85.250 is amended by adding a new subsection to read:

11 **(e) A person certified by the council or serving in a position requiring**
12 **certification by the council shall maintain a current, valid, mailing address on file**
13 **with the council. The latest mailing address on file with the council is the address that**
14 **will be used for official communications and notifications. An officer must notify the**
15 **council, in writing, of a change of the officer's address within 30 days of any change.**

16
17 Section 13 AAC 85.900 (20) is amended to read:

18 (20) "crime of domestic violence" [MEANS AN OFFENSE THAT HAS, AS AN
19 ELEMENT, THE USE OR ATTEMPTED USE OF FORCE, OR THE THREATENED
20 USE OF A DEADLY WEAPON, AND THE OFFENSE WAS COMMITTED BY A
21 PERSON AGAINST A VICTIM, BOTH OF WHOM ARE DESCRIBED IN 18 U.S.C.
22 921(A) (33)(A)(II), AS THAT PROVISION READ ON MARCH 17, 1998;] **shall have**
23 **the meaning as defined in AS 18.66.990.**

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Section 13 AAC 89.010 (a) is amended to read:

- (a) The basic standards for a village police officer are that the person
 - (1) is 19 years of age or older;
 - (2) is a citizen of the United States [OR A RESIDENT ALIEN WHO HAS DEMONSTRATED AN INTENT TO BECOME A CITIZEN OF THE UNITED STATES] ;
 - (3) is of good moral character; misdemeanor convictions, other than minor traffic offenses, during the 10 years before application will, in the council's discretion, be considered by the council in determining moral character;
 - (4) has [NOT] **never** been convicted of a felony or been incarcerated, placed on probation, or placed on parole after conviction of a felony, by a court of the United States or of any state or territory [DURING THE 10 YEARS BEFORE APPLICATION]; a felony conviction in another jurisdiction for an offense which is not a felony in Alaska does not necessarily bar certification unless the felony conviction was for a crime of dishonesty or a crime which resulted in serious physical injury or a threat of serious physical injury; [AND,]
 - (5) has no physical or mental condition that would adversely affect the person's performance as a police officer;
 - (6) **has never been convicted of**
 - (A) **a crime involving domestic violence in this state or a similar law of another jurisdiction; or,**

1 **(B) a crime that is a sex offense in this state as defined under AS**
2 **12.63.100(7), or a similar law of another jurisdiction; and**
3 **(7) has not illegally used controlled substances other than marijuana, as**
4 **defined in AS 11.71.900, within 12 months preceding hire or appointment.**

5

6 Section 13 AAC 89.010 (b) is amended to read:

7 **(b) No person may be hired or appointed as a village police officer who**
8 **does not meet the basic standards in (a) of this section.** Only a village, **as defined in**
9 **13 AAC 89.150,** may appoint a person as a village police officer.

10

11 Section 13 AAC 89.010 (c) is amended to read:

12 (c) A person **who was denied certification or** whose certificate has been
13 revoked by the council is not eligible for hire as a village police officer by a village unless
14 the person's certificate has been reinstated by the council.

15

16 Section 13 AAC 89.020 (a) is amended to read:

17 (a) Before appointing an applicant to a permanent position as a village police
18 officer, a village shall

19 (1) obtain proof of the applicant's age and citizenship;

20 (2) review and evaluate the applicant's personal history and medical history
21 statements and **assure they meet the standards in 13 AAC 89.010;**

- 1 (3) pursuant to AS 18.65.240, obtain, review, and evaluate responses to
- 2 fingerprint record checks by the Department of Public Safety and the Federal
- 3 Bureau of Investigation; and,
- 4 (4) contact the Council to confirm an applicant's eligibility for
- 5 appointment and certification.

6

7 Section 13 AAC 89.020 (c) is amended to read:

- 8 (c) [TERMINATION] Separation as a village police officer for less than 90
- 9 consecutive days will be considered unbroken service for purposes of (b) of this section
- 10 and 13 AAC 89.030 (a)(1).

11

12 Section 13 AAC 89.040. is repealed and readopted to read:

- 13 (a) A village police officer basic training program must consist of at least 80
- 14 hours of instruction and include instruction in:

- 15 (1) alcohol and drug interdiction
- 16 (2) arrest procedures and Miranda rights
- 17 (3) constitutional rights and the administration of justice
- 18 (4) crime scene investigation
- 19 (5) criminal complaints
- 20 (6) criminal law and procedure
- 21 (7) defensive tactics and use of force
- 22 (8) disability awareness, in compliance with the requirements of AS 18.65.220
- 23 (9) domestic violence, in compliance with the requirements of AS 18.65.240

- 1 (10) driving under the influence procedures
- 2 (11) ethics and cultural diversity
- 3 (12) fire prevention and fire extinguishers
- 4 (13) first aid
- 5 (14) interview techniques
- 6 (15) juvenile procedures
- 7 (16) patrol procedures
- 8 (17) police tools such as oleoresin capsicum, baton, and handcuffs
- 9 (18) report writing and police notebooks
- 10 (19) search and rescue
- 11 (20) search and seizure and evidence procedures
- 12 (21) sexual assault, in compliance with the requirements of AS 18.65.240
- 13 (a) A person shall attend all sessions of the training required in (a) of this
- 14 section, except for absences approved by the director of the program. A person who is
- 15 absent for over 10 percent of the total hours of instruction will not be considered to have
- 16 completed the training required by (a) of this section.

17

18 Section 13 AAC 89.080 is amended by adding a new subsection to read:

19 **(e) A person certified by the council or serving in a position requiring**
20 **certification by the council shall maintain a current, valid, mailing address on file**
21 **with the council. The latest mailing address on file with the council is the address that**
22 **will be used for official communications and notifications. An officer must notify the**
23 **council, in writing, of a change of the officer's address within 30 days of any change.**

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Section 13 AAC 89.150 is amended and two paragraphs added, to read:

In this chapter

- (1) "certificate" means a certificate described in 13 AAC 89.030;
- (2) "council" means the Alaska Police Standards Council;
- (3) "village" means a community off the interconnected Alaska road system, with a population of less than [1,000] **2000** persons based on the most recent federal census, which has been incorporated as provided in [AS 29.18].**AS 29.05.**
- (4) "crime of domestic violence" shall have the meaning as defined in AS 18.66.990.**
- (5) "good moral character" means the absence of acts or conduct that would cause a reasonable person to have substantial doubts about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States; for purposes of this standard, a determination of lack of "good moral character" may be based upon a consideration of all aspects of a person's character;**

DRAFT

 STATE OF ALASKA ALASKA POLICE STANDARDS COUNCIL Policy and Procedure	POLICY AND PROCEDURE NUMBER	PAGE 1 of 7
	EFFECTIVE DATE December 3, 2019	
SUBJECT Protected Information	SUPERSEDES Version 1	DATED March 10, 2016
CHAPTER Records	SECTION Release of Information	APPROVED BY APSC Chairman

PURPOSE

This policy provides the Council's guidance to Alaska Police Standards Council (APSC or Council) staff regarding the security, safekeeping and limited release of information contained within APSC files. This policy is intended to balance public interest with an individual's privacy while remaining compliant with federal and Alaska statutes and regulations.

BACKGROUND

AS 18.65.220(5) provides that the Council may hire an administrator and other persons necessary to carry out its duties. The duties of the administrator include the collection and maintenance of confidential training and certification files containing employment, medical, education, training, criminal history, and certification records. The records of APSC are "public records"¹ and therefore may be subject to public inspection and disclosure. Pursuant to its authority under AS 18.65.220(1), APSC adopted regulations intended to communicate a reasonable and legitimate expectation of privacy to officers about what personal information and documents are considered confidential and protected from public disclosure².

A variety of federal and state statutes and regulations govern the release of public records:

- State personnel records of persons in the classified and partially exempt services are protected under AS 39 25.080(a).
- AS 40.25.120(a)(3) and the federal Health Insurance Portability and Accountability

¹ AS 40.25.220(3) "public records" means books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; "public records" does not include proprietary software programs.

AS 40.25.110(a) provides: "(a) Unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public under reasonable rules during regular office hours."

² Currently, there is no specific statutory exemption of APSC records from public release; rather, APSC is reliant upon various state and federal statutes, federal regulations, and the Alaska Constitution for protecting the privacy of officer and applicant personal information.

- Act of 1996 protect all medical records;
- AS 40.25.120(a)(4) and federal 28 CFR Part 23 protect “records required to be kept confidential by a federal law or regulation or by state law” which restricts the release of financial records and Criminal Justice information contained within APSC files;
 - 2 AAC 07.910(c)(1) authorizes disclosure of applicants’ and classified and partially exempt employees’ protected personnel records “to a state agency, for personnel related activities.”
 - 2 AAC 07.910(c)(3) authorizes disclosure to a state agency for any other purpose upon receipt of a written authorization from the person whose records are sought or, in the absence of such authorization, “to other state officials and employees who are authorized by statute to review such state documents, upon receipt of a subpoena issued by competent authority and the execution of an agreement that confidential information will not be released or made public;” and,
 - Alaska Statute 39.25.900 provides that a willful violation of the State Personnel Act or the personnel rules adopted under the statute constitutes a misdemeanor and that, upon conviction, a state employee immediately forfeits his or her office or position.

While not all records APSC maintains are for state employees, APSC regulations are intended to communicate a legitimate expectation of privacy for all officers’ personal information contained within APSC records, pursuant to Article I, Section 22 of the Alaska Constitution³.

POLICY

Training and Certification Files

APSC regulations include the following provisions:

1. 13 AAC 85.010(f), “Basic Standards for Police Officers,” states that the information within APSC files on an applicant or police officer is confidential and establishes general guidelines about what information can be released and for what purposes.
2. 13 AAC 85.210(f), “Basic Employment Standards for Probation, Parole and Correctional Officers,” states that the information within APSC files on an applicant or a probation, parole, or correctional officer is confidential and establishes general guidelines about what information can be released and for what purposes.
3. 13 AAC 85.215(f), “Basic Employment Standards for Municipal Correctional Officers,” states that the information within APSC files on an applicant or municipal corrections officer is confidential and establishes general guidelines about what

³ Alaska’s constitution privacy protections have been interpreted through various court decisions, including Alaska Wildlife All. v. Rue, 948 P.2d 976, 980 (Alaska 1997) which established a three prong test for the release of public records generally regarded as containing private information: (1) does the party seeking to come within the protection of the right to [privacy] have a legitimate expectation that the materials or information will not be disclosed? (2) is disclosure nonetheless required to serve a compelling state interest? (3) if so, will the necessary disclosure occur in that manner which is least intrusive with respect to the right to [privacy]?

information can be released and for what purposes.

4. 13 AAC 89.080(d), "Personnel Reports and Training Records," states that the information within APSC files is confidential, but a village police officer may review the officer's own records.

These regulations provide that an applicant or officer may review certain information within their file and that the Council may provide information that indicates a person might not qualify for certification or that adversely reflects upon the person's ability to be a competent officer to a federal, state, or local law enforcement or correctional agency that has hired or is considering hiring the person. The regulations also provide that an applicant or officer may not review information the Council received with the understanding the information or its source would remain confidential, except for information that underlies a denial or revocation of certification. APSC Personal History Statements explain these regulations and include an acknowledgement and release of information form.

The Council's policy is that information within training and certification files is confidential and protected under the Alaska state constitution and by state and federal statutes and regulations. The Council will not release the information except as required by its own regulations, a federal or Alaska court order, or a federal or state statute or regulation.

Investigatory and Administrative Action Files

In response to complaints or adverse employment actions by a department, the Council creates and maintains administrative investigatory files that may contain information like information in an officer's training and certification files. Additionally, these files may contain protected investigative and personnel documentation obtained through subpoenas or other sources.

The Council's policy is that investigatory files are confidential, and the Council will not release information in them except as required by a federal or Alaska court order, statute, or regulation. Because an officer has a right to examine and challenge any evidence relied upon by the Council in revoking or denying certification, confidential information may be introduced as evidence to support an action against an officer's certification in Alaska's Office of Administrative Hearings (OAH) or an Alaska court. In such instances, disclosure shall occur in that manner which is least intrusive with respect to the right to privacy.

When necessary, pursuant to the provisions of Alaska's Administrative Procedures Act (AS 44.62.010 *et. seq.*), the Council prepares formal accusatory documents detailing its legal authority and the specific allegations against the applicant or officer (the "Accusation" or "Statement of Issues"). These documents are assembled into a packet that is served upon the applicant or officer, who then becomes the "Respondent" in the matter. The Respondent must respond to the accusations within statutory timeframes: i.e., deny them and request an administrative hearing; voluntarily surrender their certification without admitting to the accusations; or, in cases of certificate denial or determinations of ineligibility for certification, accept the findings of the Executive Director or appeal them to the Council. Failure to timely respond to the accusation will result in revocation or the

denial of certification and the issuance of a formal Findings of Fact and Order of Revocation, Denial, or Disqualification.

The Council's policy is that the Accusation or Statement of Issues documents will not be released publicly unless publicly filed with the Office of Administrative Hearings, incorporated into the Council's Findings of Fact and Order, or requested under the Alaska Public Records Act.

Public Records and Media Information Requests

APSC members and staff are frequently asked to provide information to the news media and public interest groups. APSC believes its actions should be transparent but recognizes that Article 1, Section 22 of the Alaska Constitution protects individual's right to privacy.

Pursuant to AS 18.65.270 and AS 44.62.310, Council meetings are held in public with proper notice. Deliberations on adjudicatory matters, including individual certification matters, are held in executive session to protect the reputation of individuals whose certifications or eligibility for employment or training are being considered. Council voting is always conducted in the open and memorialized to identify each Council member's vote. The Council makes materials considered during the meetings publicly available in advance and publishes the minutes. The names of officers, their employing departments, and their certification status is not protected information.

The Council's policy is that, to avoid any potential interference with Council investigations, complaints filed with the Council and the existence of an ongoing administrative investigation are confidential until publicly acted upon. When the Council takes formal administrative action to deny or revoke an individual's certification or finds an individual ineligible for employment or training, documents detailing the Council's findings and the legal basis for the decision may be publicly released. These documents may include the Accusation, Statement of Issues, Findings of Fact, and Orders of Revocation, Disqualification, or Denial.

Notwithstanding the confidentiality of administrative investigations, in cases where allegations against an officer or applicant, if sustained, would most likely lead to the officer's certification revocation or to the officer's or applicant's disqualification for certification, APSC staff may enter the officer's name into the confidential National Decertification Index (NDI) with a notation that the person is the subject of an ongoing investigation.⁴ This alerts federal and other states' certification bodies of the pending APSC proceeding. At the conclusion of the Council's investigation and administrative proceedings, the NDI entry will be removed if no adverse action is taken, or updated to reflect the final outcome of the case.

⁴ <https://www.iadlest.org/our-services/ndi/about-ndi>

Instructor Certification and Training Program Files

Pursuant to 13 AAC 87.010--13 AAC 87.090, APSC generates and maintains files on the certification of instructors of and programs of instruction for law enforcement and corrections personnel. The names of instructors, their employing agency (if any), and their certification status are not protected.

The Council's policy is that personal information within instructor certification and training program files is confidential, except to the extent disclosure is required by a federal or Alaska court order, a federal statute or regulation, or an Alaska statute. At the written request of the instructor or their agency, the Council may provide instructor or course certification records to another party. The Council may share course syllabi, academy curricula, and non-proprietary course materials with other criminal justice agencies.

PROCEDURE

1. Training and Certification Files

(A) APSC officer training and certification files contain the following documents:

- 1) Personnel Action Forms (APSC F-4);
- 2) Personal History Statement (APSC F-3);
- 3) Documentation of citizenship and/or birth records;
- 4) Documentation of education and training;
- 5) Medical history and examination reports (APSC F-2 & F-11);
- 6) Application for Basic Training (APSC F-5);
- 7) Notice(s) of Course Completion (APSC F-6);
- 8) Application(s) for Certification (APSC F-7);
- 9) Field Training Final Report (APSC F-23);
- 10) Certifications issued and related correspondence; and
- 11) Record requests from officers and agencies;

(B) Access to training and certification files is limited to APSC staff for official use only. Files must be in secure file cabinets, within a secure area: i.e., under the direct control of APSC staff or behind locked doors in an alarmed or monitored office or storage facility.

(C) Officer and agency records requests must be submitted on an APSC Records Request form signed by the requesting departmental official or by the officer requesting his or her own records. Staff will review requests and the Executive Director will approve them only if they fall within this policy.

(D) All records requests and APSC's responses shall be retained in APSC files in accordance with the longest applicable records retention requirement.

2. Investigative Files

(A) Investigative Files contain the following documents:

- 1) Complaints received or adverse Personnel Action forms that initiated the inquiry;
- 2) Related documents from the officer's certification and training file;
- 3) Subpoenas and their proof of service upon agencies, officials, and individuals;

- 4) Documents, recordings, photographs, and other material submitted in response to subpoenas;
 - 5) Investigative notes, reports, recordings, and other records related to the inquiry;
 - 6) Accusations, notices of defense, consent agreements, and related correspondence;
 - 7) Correspondence and other documents related to OAH or judicial proceedings; and
- (B) Access to Investigative files is limited to APSC staff for official use only. Files must be in secure file cabinets, within a secure area: i.e., under the direct control of APSC staff or behind locked doors in an alarmed or monitored office or storage facility.
- (C) Other than documents submitted to OAH or an Alaska court as part of a proceeding, all investigative records and information are confidential and will be released only as required by a federal or Alaska court order, a federal statute or regulation, or an Alaska statute. Accusations, Statements of Issues, Findings of Facts, and Orders of Revocation or Denial may be publicly released following formal Council action.
- (D) Council staff shall carefully review Accusations and other documents APSC intends to file with OAH or an Alaska court and redact any protected information including CJIS data, personal identifying information, and information protected by law or the Alaska Constitution. In rare instances, such information may be required to prove an element of the case; in those instances, the Executive Director will assure that the such information is filed under protective seal with OAH and conducted in the manner which is least intrusive with respect to individual rights to privacy.

3. Instructor and Training Program Files

- (A) Instructor and Training Program Files contain the following:
- 1) APSC Applications for Instructor Certification (F-9) and supporting documentation regarding the training, experience, and qualifications of the applicant;
 - 2) APSC Applications for Training Program Certification (F-20) and information and records required by 13 AAC 87.010(b)(1)-(7): e.g., course syllabi; a list of the instructors; a detailed schedule of fees, charges for tuition, and all other charges; and policies on attendance and grading;
 - 3) Instructor certifications and related correspondence and records of courses and training; and
 - 4) Course and training program certifications, class rosters listing attendees, records regarding attendees' performance, and related correspondence.
- (B) Access to Instructor and Training Program files is limited to APSC staff members for official use only. Files must be in secure file cabinets, within a secure area: i.e., under the direct control of APSC staff or behind locked doors in an alarmed office or storage facility.
- (C) Officers or agencies requesting records must submit an APSC Records Request

form signed by the requesting department official or by the instructor requesting his or her own records. Staff will review requests and the Executive Director will approve them only if they fall within this policy.

4. Officer Background Investigation Requests

(A) APSC Regulations provide for the limited release of specific information to another law enforcement agency for the purpose of investigating the suitability of an officer or applicant for another position. Officers and applicants acknowledge this fact when completing their sworn Personal History Statements (F-3 Form) and sign a limited Release of Information that authorizes the exchange of personal information for this purpose.

- 1) The requesting agency must provide APSC a formal information request form accompanied by a signed release of information from the applicant.
- 2) APSC will provide the requesting agency information about the applicant's training, certifications, and employment history with state and local law enforcement agencies and will provide a summary of any sustained misconduct reported to APSC as well as a referral to the disciplining agency.

ATTACHMENTS:

None

AUTHORITY

AS 18.65.220
AS 18.65.270

IMPLEMENTATION RESPONSIBILITY

APSC Executive Director

DISTRIBUTION

APSC Staff and Council Members