

STATE OF ALASKA
Alaska Police Standards Council
Minutes of the 121st Regular Meeting
March 10, 2016
Conducted via Teleconference

CALL BACK TO ORDER – GENERAL SESSION

ROLL CALL

Following an Executive Session, Vice Chair Nieves called the Regular Meeting of the Alaska Police Standards Council to order on March 10, 2016. A roll call was conducted as follows:

APSC Members Present

- Vice Chair Luis Nieves, Sergeant, AST
- Carrie Belden, Director, DOC
- Berni Troglio, Prob. Officer IV DOC
- William Comer, Deputy Commissioner, DPS
- Gus Sandahl, Chief, Kenai PD
- Dean Williams, Commissioner, DOC
- Rebecca Hamon, Public Member
- Brad Reich, Public Member
- Bryce Johnson, Chief, Juneau PD
- Kelly Swihart, Chief, Petersburg PD

APSC Members Absent

Richard Burton, Public Member

Bob Kean, Public Member

John Papasodora, Chief, Nome PD

APSC Administrative Staff Present

Robert Griffiths, Executive Director

Wendy Menze, Secretary

Sarah Hieb, Administrative Investigator

Department of Law Representative Present

Robert Henderson, Department of Law

FLAG SALUTE

A flag salute was conducted.

AUDIENCE INTRODUCTIONS

Members of the audience introduced themselves:

Terry Thurbon

Nancy Reeder

Ed Mercer

Greg Russell

John Novak

CONSENT AGENDA

Approval of Current Meeting Agenda

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

Approval of Past Minutes – December 1, 2015

It was moved and seconded to approve the minutes of the 120th Regular Meeting held December 1, 2015. The motion carried.

CERTIFICATION ACTIONS

Executive Session Case Decisions

Executive Director Griffiths gave the Executive Session report as follows:

Kevin Gilmore: The Council voted to revoke his certification.

Ryan Mattingley: The Council voted to adopt a modified decision from the Administrative Law Judge and revoke his certification.

Shad Haller: The Council voted to accept the surrender of his certification.

Nicholas Gray: The Council voted to revoke his certification.

Kenneth VanSpronsen: The Council voted to accept the surrender of his certification

Ryan Webb: The Council voted to revoke his certification.

Stephanie Cravens: The Council voted to revoke her certification.

Aaron Fedolfi: The Council voted to revoke his certification.

Joshua Tyler: The Council voted to pursue revocation action.

Andrew Reid: The Council voted to pursue revocation action.

Anthony Henry: The Council voted to pursue revocation action.

John Waldron: The Council voted to pursue revocation action.

David Johnson: The Council voted to pursue revocation action.

Thomas Lee: The Council voted to pursue revocation action.

Ronald Minter: The Council voted to pursue revocation action.

Mark Harreus: The Council voted to pursue revocation action.

Aaron Parker: The Council voted to pursue revocation action.

Victor Dillon: The Council reaffirmed their previous decision to pursue revocation action.

Wesley McQuillin: The Council reviewed documents referred to them and took no action on their previous decision to pursue revocation action.

VICE CHAIRMAN'S REPORT

Recognition of Outgoing Council Members

Vice Chair Nieves thanked outgoing Council members Jamie Sunderland and Sheldon Schmitt for their years of service to the Council. They will be given plaques in recognition of their service. Brad Reich suggested also giving Mr. Schmitt a challenge coin, an APSC tradition for outgoing chairmen.

Recognition of New Council Members

Vice Chair Nieves then welcomed new Council members Dean Williams, Commissioner of the Department of Corrections; Chief Bryce Johnson, Juneau Police Department; Chief Kelly Swihart, Petersburg Police Department; and Chief John Papasodora, Nome Police Department. He also welcomed Assistant Attorney General Rob Henderson, who is the new legal counsel for the Alaska Police Standards Council.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Griffiths noted that he provided a written report to the council members prior to the meeting, and the report is available online at the APSC website as well. The report includes the budget report, the training report, and also the logic behind some of this meeting's agenda items.

Complaints and Issues

Out of Compliance Agencies

Executive Director Griffiths then discussed the difficulties APSC continues to have with very sporadic or nonexistent reporting of the hiring of seasonal or temporary officers by agencies around the state. In addition, VPO hiring and terminations are often not reported as well. He mentioned one agency that initially refused to give APSC separation paperwork for an individual that was known to no longer be working for that agency. The matter was finally resolved, but not without a great deal of effort on the part of APSC.

Executive Director Griffiths noted that APSC requires this reporting; but if agencies don't comply, they are merely in violation and there are no prescribed penalties. Executive Director Griffiths asked the Council's input on what measures could be implemented to ensure greater cooperation in meeting the regulated reporting requirements.

After further discussion, it was the Council's recommendation that in the next 30 days, a subcommittee be formed to work with Executive Director Griffiths in drafting a policy on how to handle reporting violations. The draft policy will then be presented to the Council for their approval.

Release of Information

Executive Director Griffiths presented the Council with a proposed policy on release of information by APSC to clarify when it is appropriate to release information to the public about certification actions and when it is not. This has been reviewed and approved by Mr. Henderson.

It was moved and seconded to accept the proposed policy on release of information. The motion carried.

Staff Direction and Policy on Mandatory versus Discretionary Revocations

Executive Director Griffiths presented the Council with a proposed policy to clarify the delegation of authority he and his staff have concerning mandatory versus discretionary certification revocations. Its purpose is to expedite some of the more egregious violations and to give APSC staff clear guidance on what cases do not need to come to the Council before revocation action is taken and which must be brought to the Council first. This has been reviewed and approved by Mr. Henderson.

It was moved and seconded to accept the proposed policy on staff procedure regarding mandatory versus discretionary revocations. The motion carried.

Staff Direction on Disqualified Officers and Rejected Applicants – Process Policy

Executive Director Griffiths presented the Council with a proposed policy to direct APSC staff to monitor instances where officers are hired by a police department but leave before they are certified. Those officers who leave under circumstances that clearly would have caused them to be decertified would be disqualified from later applying for certification. This has been reviewed and approved by Mr. Henderson.

It was moved and seconded to accept the proposed policy on staff procedure regarding disqualified officers and rejected applicants. The motion carried.

OLD BUSINESS

Regulation Changes

Police Regulations Public Comment Progress

Executive Director Griffiths noted that the proposed police certification regulations are currently out for public comment. After the public comment period closes, this matter will come before the Council at their next meeting on May 10, 2016.

Recommended Proposed Corrections Regulation Changes Motion to Publish and Pursue Adoption of Proposed Changes

Executive Director Griffiths noted that Council members were provided proposed regulation changes to APSC's corrections certification process, including some training items, titled "Corrections, Combined Changes, Version 2." A lot of these proposed changes mirror the police proposed regulations, but there are some distinct exceptions. Input from the public comment on the proposed police regulations as well as input from the Department of Corrections was taken into account in developing the proposed corrections regulation changes.

Some of the differences from the proposed police regulations include:

The 30-day reporting requirement was changed to 90 days.

Mandatory reporting of misconduct is limited to sustained misconduct after an agency investigation

Ms. Belden requested the Council consider extending the background check verification requirement under 85.210(a) from date of hire to 30 days after date of hire. After discussion, the Council consensus was to leave the verification requirement at date of hire.

Ms. Belden requested the Council consider changing the language regarding home school/high school diplomas from programs "accredited" by the state to programs "recognized" by the state to allow for inclusion of education offered by some of the smaller school districts in Alaska.

Ms. Belden requested the Council consider including 85.210(e) in the proposed corrections regulations and changing the 6-month requirement

for completion of field training to 12 months, as this would provide a better accommodation for corrections officers working a week-on/week-off schedule.

It was moved and seconded to publish and pursue adoption of the proposed corrections regulation changes with the following amendments:

Change “accredited” state school programs to “recognized” state school programs.

Include 85.210 (e) with the change from 6 months to 12 months regarding the field training completion date.

The motion carried.

CHAIRMAN NOMINATIONS FOR MAY ELECTION

Vice Chair Nieves noted that the Council Chair position is currently vacant and asked for nominations from Council members. Deputy Commissioner Comer nominated Chief Bryce Johnson and Vice Chair Nieves seconded the nomination. Chief Johnson accepted the nomination.

Executive Director Griffiths noted he'll send an e-mail out advising that additional nominations can be submitted to him prior to the May 10 election date.

NEW BUSINESS

Executive Director Griffiths advised that the University of Alaska Anchorage has asked for a letter of support from APSC supporting their application for federal funding to conduct a statewide survey of law enforcement agencies called the “Alaska Law Enforcement Management and Administrative Statistics Survey.” He noted that support of this application would be consistent with APSC’s mission statement.

It was moved and seconded to authorize the executive director to send a letter to UAA in support of their federal funding application for conducting the law enforcement agencies survey. The motion carried.

Executive Director Griffiths noted that Bob Kean will soon be stepping down from his Council position as a public member. He asked that any recommendations from Council members for a replacement for this public member position be sent to APSC staff.

PERSONS TO BE HEARD AND COUNCIL COMMENTS

Ms. Troglia asked about the status of the skid car transfer from Anchorage to Sitka. Executive Director Griffiths advised that the transfer is in process and noted that it's not too soon to start considering a request in next year's budget for a new skid car.

Mr. Russell noted APSC has the option of purchasing refurbished skid cars, and he will get the information on this to the executive director.

Mr. Russell also noted that military recruitment centers have a database of recognized high schools, and this may be an additional resource for APSC staff.

Ms. Troglia commended Executive Director Griffiths for the written report provided to the Council members before the meeting. She said she found it extremely informative and a breath of fresh air. She commended APSC staff on being proactive with their policy recommendations.

NEXT REGULARLY SCHEDULED MEETING DATE – MAY 10, 2016

Vice Chair Nieves noted that the next regular meeting of the APSC will be May 10, 2016, at the Centennial Hall in Juneau. He noted that the APOA Annual Conference will also be taking place in Juneau during that week.

ADJOURNMENT

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



Executive Director’s Report to Council

March 11, 2016

Activities:

Since joining APSC in November, I’ve been learning the ropes from the rest of the team and thoroughly enjoying the camaraderie within the DPS headquarters building.

I must take this opportunity to acknowledge the outstanding performance of Sarah Hieb and Wendy Menze. From July to late November, 2015, they kept the office going with only 50% staffing; they managed to address all requests for certification, kept on top of active revocation cases, and fielded all new misconduct reports. Their feat requires Council recognition and allowed me to immediately focus on priority issues. In case it is not clear, they are awesome members of your team and have my deepest respect and appreciation.

The APSC team managed to clear or catch-up on a huge backlog of pending cases, some dating back several years. We managed to get revocation cases back on track with the Office of Administrative Hearings (OAH) and were able to quickly address new complaints when they were received. Fiscal year to-date, APSC has processed/generated/sponsored:

Training Events Sponsored	69	Except Academies
Officers Directly Sponsored	216	Planned or completed
Officers Attending Courses	569	Sponsored & sponsored courses
Training Hours Delivered	12,964	Ex: Basic Academies, 2-Week & MCO
Academy Attendees	64	4 Full/1 Recertification/1 MCO attended & scheduled
Academy Training Hours Delivered and/or scheduled	33,639	Ex: APD Officers, Troopers, VPSOs & VPSOs
Certificates issued	195	All Certs
Instructor Certifications	44	15 New & 29 for additional courses
Course Certifications	60	30 New & 30 recertified
New Investigations Initiated	21	5 closed, 11 to Council for action
OAH Hearing events	19	Reported Quarterly through 12/31/16

The process for hiring a replacement Training Coordinator is proceeding; we managed to obtain permission from the Governor’s Office to fill the mission critical position, in spite of a state wide hiring freeze. We advertised the position for over 30 days and received about a dozen applications. Six candidates were selected for interviews which the whole team did on 2/11/16. Two final candidates emerged on the top and we are now doing basic background checks on them before

making a final selection. The hiring process was delayed when I had to make a week long dash out of state for a family emergency, but we should be able to make an offer to our final candidate in March, with hopes of having them on board in April.

In assuming the position, I was surprised that, other than our Statutes and Regulations, APSC has not had any formal written policies. Being a proponent of having some good written guidance from the Council I have begun the process of remedying the situation. Since our last meeting in December, we have experienced a few incidents or questions that caused some head scratching and not a few phone calls with attorneys John Novak and Rob Henderson for advice. The result is three APSC draft policies presented to the Council at this meeting for your consideration. Each of these is addressed in detail, below.

Sometime later this year, the APSC offices will be moving from the DPS Headquarters building on Whittier Street to the “Community Building,” located next door to and just below the state courthouse in downtown Juneau. This building is owned by the state and was remodeled and updated last year to house the Governor’s office during the Capitol renovation project. DPS Headquarters will be on the third floor, APSC and CDVSA will be housed on the second floor and, preliminarily, the first floor will house adult Probation & Parole. This building is secure; while visitors are welcome and encouraged, they will no longer be able to drop in, unannounced.

Since the Legislature reconvened in Juneau, many of my activities have been refocused on responding to legislative inquiries, evaluating proposed legislation’s impact on APSC and criminal justice in Alaska and, of course, the budget. On that topic, Council members are asked to direct their attention to [HB 205](#), next scheduled for hearing in House Judiciary on Friday, March 11th. Among other changes in statute, this bill would raise our training surcharge rates from 25% to 50%, depending upon the crime or violation. Council Members are encouraged to express their opinions on the bill to Representative Charisse Millett, who is on the Judiciary Committee and is the bill’s prime sponsor.

Finances:

Generally speaking, we are on good financial ground at this point in time. We are rapidly approaching the limit to approving additional discretionary training funding requests for the remainder of the fiscal year, but have already approved and obligated funds for many courses and officers between now and then. Last minute requests for non-academy training will be subject to more scrutiny but are still likely to be approved. Academy requests must be honored. Below are actual expenses as of 3/2/16:

Budget Items*	Budgeted	Projected Cost	%Budget	To Date Cost	%Budget
Academies	\$327,500.00	\$410,690.16	125%	\$231,998.86	71%
APSC Meetings	\$67,350.00	\$15,350.00	23%	\$12,784.46	19%
Division Related	\$67,350.00	\$45,000.00	67%	\$33,066.64	49%
Hearings	\$37,500.00	\$37,500.00	100%	\$9,195.90	25%
Training	\$327,500.00	\$301,307.59	92%	\$152,145.77	46%
Personnel Costs	\$456,400.00	\$317,933.33	70%	\$166,337.46	36%
Total Non-Personnel	\$827,200.00	\$809,847.75	98%	\$439,191.63	53%
Grand Total	\$1,283,600.00	\$1,127,781.08	88%	\$1,044,720.72	81%

*Note that budget items can be reallocated within the budget year and we will soon do so.

The current budget for FY17 does not propose any change from FY16 funding. As our funding is directly related to surcharge revenue collected the previous year and we are currently on-track with estimates, this does not yet appear to be an immediate concern. Looking forward; the impact of reduced numbers of troopers and other officers, statewide, precipitated by the state's budgetary shortfall, may well have a trickle-down effect upon revenues and we should prepare for reductions in future years.

Training:

As mentioned above, APSC has sponsored 64 Academy attendees this year. These include; 37 officers in basic academies, 21 in the recertification academy and 6 Municipal Corrections Officers.

We have either sponsored training events or officer(s) to attend them on 69 occasions, thus far, through the end of the fiscal year. These include Methods of Instruction, FTO, Interview and Interrogation, ChildFirst Forensics, Hostage Negotiations, Dispatcher Training, Train the Trainers in a variety of topics and a host of other courses. This provided sponsored training opportunities for at least 569 students.

APSC's Skid Car is currently in the Anchorage area and is regularly used by agencies from Fairbanks and the CTC Academy to those on the Kenai Peninsula. AST has an older unit they use in Sitka for the ALET academy and in-service training. The unit in Sitka is rapidly reaching end of life as repairs are increasing and cost of operating it exceeding budgets. Replacement cost is estimated to be roughly \$100K, funds that are not available to DPS and, given the current fiscal situation, will not be in the near future. DPS is very interested in moving the APSC unit in Anchorage to Sitka and has made a number of inquiries to that effect. Doing so would impact training in the south central region, without establishing a rotational schedule of moving the units back and forth, which is a 2-3 day endeavor each way. The Council may wish to consider the acquisition of a second unit next year, or a partnership with Anchorage or another agency to split the cost of a new unit, as training would be adversely impacted should APSC bear the entire cost in one fiscal year.

Regulations:

Our proposed police officer regulatory changes have been published and are currently out for comment until April 1, 2016. We've already received a number of constructive comments from the public and various agencies. Many of these suggestions were incorporated in draft Corrections, Municipal Corrections, Probation and Parole Officer Regulations presented for your consideration at this meeting. *At this meeting the Council may not consider changes to the proposed law enforcement regulations, as they are still open for comment;* these will be done in our next regular public meeting on May 10, 2016.

Following our last meeting, staff incorporated the changes proposed in police officer regulations into draft corrections regulations, incorporating some of the earlier public and agency comments generated from the publication of the police regulations and comments and suggestions provided by Council members and Department of Corrections' staff. The final draft versions are provided to the Council at this meeting for their action. Should the Council approve the drafts at this meeting, they would be published for a 30 day comment period and ready for final Council action at the May 10, 2016, in concert with the proposed police regulations.

Policy & Procedure Development:

Before the Council in this meeting are three draft Policy & Procedures proposed by staff. For efficient operations, consistency in application of regulations and to assure we carry out our professional duty by maintaining high standards of conduct and preventing those who should not

be in our profession from moving from one agency to another, staff recommends that the Council adopt these policies as presented.

Mandatory Revocation: This policy is designed to delegate to APSC staff, in limited cases, the authority to move forward with revocation of officer's certificates in cases of conduct that is clearly subject to mandatory revocation before bringing the case to the council for a probable cause finding. It also instructs staff to seek the Council's probable cause finding before proceeding with certain cases subject to mandatory revocation and all allegations subject to discretionary revocation. The purpose of this policy is to clearly define APSC staff's discretion while expediting revocations for egregious misconduct.

Release of Information: The Council and its staff treat privacy and information protection very seriously. Yet, we also have a duty to be transparent in our actions taken and some of those generate media interest. This policy is designed to clarify when APSC releases information publicly and when it does not, as well as what information can be considered for release.

Disqualified Officers: APSC staff has identified a deficiency in how we previously handled uncertified officers who were terminated for cause or resigned while under investigation for wrongdoing; we did not consistently declare them as "disqualified for certification," which, in turn, did not prevent them from moving to another jurisdiction because their name was never entered in the National Decertification Index (NDI). This proposed policy clarifies that, once hired by an agency, an officer falls under the authority of APSC. That, if prior to certification, an officer becomes disqualified for certification based upon their actions, they will be subject to a formal process to declare them disqualified. The process used is the same as defined within regulations governing the denial of an officer's application for certification and provides them with the due process, therein. It also instructs staff that disqualified officers will be entered into the NDI.

Planned Activities:

- March 20-22: Washington, DC to participate in the USDOJ Sponsored IADLEST Forum on Training, Licensure and Certification.
- June 4-9: IADLEST Annual Conference in Grand Rapids, MI
- June 27-August 5: Director's agency visits to all Southeast Alaska agencies, via boat.

OAH Hearings Currently Scheduled:

March 15-15 Ray Leggett

TBD: Valent Maxwell, Victor Dillon, Wesley McQuillin and William Kemper