

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

	STATE OF ALASKA ALASKA POLICE STANDARDS COUNCIL		POLICY AND PROCEDURE NUMBER	PAGE 1 of 5
	Policy and Procedure		EFFECTIVE DATE March 10, 2016	
SUBJECT Confidentiality & Release of Information		SUPERSEDES None	DATED N/A	
CHAPTER Records	SECTION Release of Information	APPROVED BY Luis Nieves APSC Chairman		

PURPOSE

This policy provides the Council's guidance to Alaska Police Standards Council (APSC) 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 state laws and regulations.

POLICY

Training and Certification Files

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 Council include the collection and maintenance of confidential training and certification files containing employment, medical, education, training, criminal history and certification records. APSC certification and training files are not considered employee or employment files; rather they are considered to be administrative in nature and access to information contained within the file is regulated in 13 AAC 85.010 (f), 13 AAC 85.210 (f), 13 AAC 85.215 (f), and 13 AAC 89.080 (d).

The APSC has adopted and, from time to time, amended regulations governing the confidentiality and protection of information contained within officers' APSC files:

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

State employee records are not a matter of public record and are protected under AS 39.25.080. 2 AAC 07.910 (c) (3) states, in part, "if no such authorization [release of information] is submitted, personnel records will be released 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." AS 39.25.900 provides that a willful violation of the confidentiality requirements imposed by AS 39.25.080 and the personnel rules 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 were intended to provide the same level of confidentiality to all officers' files.

Criminal Justice Information System (CJIS) reports, also known as a "criminal history" or "criminal record," are maintained in APSC files pursuant to 13 AAC 85.010 (d), 13 AAC 58.210 (d) and 13 AAC 85.215 (d). These reports are considered "law enforcement sensitive" and confidential and cannot be released without strict adherence to state and federal laws and regulations. The Privacy Act of 1974, 5 U.S.C. § 552a, establishes a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by federal agencies. Alaska's criminal history files are contributed to the FBI's NCIC repository, and criminal history inquiries/records contain information from the federal system.

It is the policy of the Council that information within training and certification files is confidential and will not be released, except as required by court order, subpoena, or as described in regulation.

Investigatory and Administrative Action Files

In response to complaints or adverse employment action by a department, the Council creates and maintains administrative investigatory files that contain similar information to an officers training and certification file. Additionally, these files may contain investigative documentation obtained through subpoenas or other sources that may also be subject to the above described restrictions.

It is the policy of the Council that investigatory files are confidential and information contained within them is not subject to release except by court order or, as necessary, to support an action against an officer's certification with the Alaska Office of Administrative Hearings or the Alaska Court System.

When administrative revocation action against an officer's certification is initiated, formal

accusatory documents detailing the allegations against the officer are prepared (the "Accusation"). These documents are assembled into a packet that is served upon the officer. The officer then must respond to the accusation by either voluntarily surrendering their certification or request an Administrative Hearing before an Administrative Law Judge. Failure to respond to the accusation will result in the revocation of their certificate(s) by the Council.

It is the policy of the Council that the Accusation document is not considered part of an Investigatory file and therefore not subject to the same confidentiality and protection provided to those files. Notwithstanding, the Accusation document will not be released publicly unless requested through a Freedom of Information Act (FOIA) request, as long as it remains within the Council, APSC staff and the Officer. Should an officer request an administrative hearing and the Accusation be filed with the Office of Administrative Hearings (OAH), the document is no longer protected and subject to release by the OAH or the Council.

Instructor and Training Program Files

Pursuant to 13 AAC 87.010 – 085, APSC generates and maintains files on the certification of professional instructors and programs of instruction for law enforcement and corrections.

It is the policy of the Council that information within instructor certification and training program files is confidential and will not be released, except as required by court order, subpoena, or as described in regulation, except that, at the express request of the instructor or training program 'owner', copies of requested material or certifications may be provided to another party.

PROCEDURE

1. Training and Certification Files

(A) APSC 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, education and training
- 4) Medical history and examination reports (APSC F-2)
- 5) Application for Basic Training (APSC F-5)
- 6) Notice(s) of Course Completion (APSC F-6)
- 7) Application(s) for Certification (APSC F-7)
- 8) Field Training Final Report (APSC F-23)
- 9) Certifications issued and related correspondence
- 10) Copies of record requests from officers and agencies
- 11) Miscellaneous supporting documents

(B) Access to Training and Certification files is limited to APSC staff members for official use only. Files will be contained in secure file cabinets, within a secure area, either under the direct control of APSC staff or behind locked doors in an alarmed storage facility when not attended.

- (C) Records requests will be submitted on an APSC Records Request form signed by the requesting official or by the officer requesting their own records. Requests will be reviewed by staff and approved by the Executive Director only if they meet regulatory requirements.

2. Investigative Files

(A) Investigative Files contain:

- 1) Copies of complaints received or adverse Personnel Action forms that initiated the inquiry
- 2) Copies of related documents from the officer's certification and training file
- 3) Copies of subpoenas and their proof of service upon agencies, officials, and individuals.
- 4) Documents, recordings, photographs and other material submitted in response to subpoenas issued.
- 5) Investigative notes, reports, recordings and other records related to the inquiry.
- 6) Copies of Accusation(s), Notices of Defense, Accusation Letters, Consent agreements, and other related correspondence.
- 7) Documents and correspondence related to case proceedings with the OAH and Alaska Courts.
- 8) Other documents and materials related to the investigation.

- (B) Access to Investigative files is limited to APSC staff members for official use only. Files will be contained in secure file cabinets, within a secure area, either under the direct control of APSC staff or behind locked doors in an alarmed office or storage facility when not attended.

- (C) Other than documents submitted to OAH or Alaska Courts as part of the hearings and/or appeal process, all investigative records and information is confidential and will not be released other than by order of a court or in response to a subpoena.

- (D) Accusations and supporting documents filed with OAH should be carefully reviewed for personally identifiable information, CJIS data or other items subject to privacy constraints. Any such information should be redacted prior to submission to OAH or public release.

3. Instructor and Training Program Files

(A) Instructor and Training Program Files contain:

- 1) Copies of APSC Applications for Instructor Certification (F-9) and supporting documentation regarding the training, experience and qualifications of the applicant.
- 2) Copies of APSC Applications for Training Program Certification (F-20) and supporting documentation required by 13 AAC 87.010(b)(1-7), course outlines and syllabi, authorized instructors, program tuition or costs and program or institution policies on attendance and grading.

- 3) Copies of instructor certifications issued, related correspondence and records of courses and training delivered.
 - 4) Copies of course and training program certifications, class rosters listing attendees and performance and related correspondence.
- (B) Access to Instructor and Training Program files is limited to APSC staff members for official use only. Files will be contained in secure file cabinets, within a secure area, either under the direct control of APSC staff or behind locked doors in an alarmed office or storage facility when not attended.
- (C) Records requests will be submitted on an APSC Records Request form signed by the requesting official or by the instructor requesting their own records. Requests will be reviewed by staff and approved by the Executive Director only if they meet regulatory requirements, or are at the direct request of the owner of a training program.

ATTACHMENTS:

None

AUTHORITY


AS 18.65.220
AS 18.65.270

IMPLEMENTATION RESPONSIBILITY

APSC Executive Director

DISTRIBUTION

APSC Staff and Council Members

 STATE OF ALASKA ALASKA POLICE STANDARDS COUNCIL Policy and Procedure	POLICY AND PROCEDURE NUMBER	PAGE 1 of 6
	EFFECTIVE DATE March 10, 2016	
SUBJECT Mandatory Certificate Revocation	SUPERSEDES None	DATED N/A
CHAPTER Certification	SECTION Revocation	APPROVED BY Luis Nieves APSC Chairman

PURPOSE

This policy provides guidelines to Alaska Police Standards Council (APSC) staff in the process and steps to follow when an officer's Certification is subject to mandatory revocation.

POLICY

AS 18.65.240 (c) and AS 18.65.245 (2) provide that the council may deny or revoke the certificate of police, corrections, municipal corrections, probation and parole officers who do not meet standards adopted pursuant to AS 18.65.220 (2).

The APSC has adopted and, from time to time, amended regulations establishing minimum employment standards for officers:

1. 13 AAC 85.010 Basic Standards for Police Officers
2. 13 AAC 85.210 Basic Standards for Probation, Parole and Correctional Officers
3. 13 AAC 85.215 Basic Standards for Municipal Correctional Officers

The APSC has adopted and, from time to time, amended regulations establishing conduct that may, or shall, result in the revocation of an officer's certification, and providing due process protection for officers when revocation is sought by the Council:

1. 13 AAC 85.110 Regulates the revocation of Police Officer certificates.
2. 13 AAC 85.270 Regulates the revocation of Corrections, Municipal Corrections, Probation and Parole Officer Certificates.

Each of these regulations defines conduct that *may* result in the Council pursuing decertification and more egregious conduct that *shall* result in decertification.

It is the policy of the APSC that the Council solely reserves its charging authority in all cases wherein allegations have been made against an officer for:

1. *Alleged conduct that may result in certification revocation, and*
2. *In cases of where an officer has been discharged, or resigned under threat of discharge, from employment as a police officer, correctional officer, municipal*

corrections officer, parole officer or probation officer, in this state or any other state or territory, for cause for conduct that would cause a reasonable person to have substantial doubt about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States or that is detrimental to the integrity of the agency where the officer worked.

It is the policy of the APSC that the Council may delegate its charging authority to the executive director in cases wherein allegations have been made against an officer for alleged conduct that shall result in certification revocation upon a finding that the holder of the certificate:

- 1. has been convicted of a misdemeanor crime of domestic violence or, after hire as an officer, has been convicted of a felony, or of a misdemeanor crime listed in 13 AAC 85.010(b)(2), 13 AAC 85.210(b)(2) or 13 AAC 85.215(b)(2) or (b)(3); or*
- 2. has, after hire as an officer,*
 - A. used marijuana;*
 - B. illegally used or possessed any other controlled substance; or*
 - C. illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled substance;*

In determining whether the preponderance of evidence supports a finding that an officer has committed an act requiring revocation, the executive director may conduct an investigation as described in AS 18.65.220 (6) and consider:

1. Court records reflecting a determination or admission of guilt or a plea wherein the officer accepts the consequences of the charges against them;
2. The results of an investigation by the officer's or another agency into the alleged conduct; and
3. Investigative or other reports regarding the allegations against an officer.

PROCEDURE

1. APSC receives a Personnel Action Form (F-4) indicating unfavorable separation or discipline, or receives a complaint against an officer for misconduct.
2. Executive director will review the submission or complaint and:
 - (A) Refer the complaint to the officer's agency for administrative investigation, or
 - (B) Determine if the allegations, should they be substantiated, are subject to Council revocation of the officer's certificate or denial of a future application for certification.
 - 1) If allegations are not subject to revocation or disqualification, the executive director will note this in APSC files, make appropriate computer entries and close the case.
 - 2) If allegations are subject to mandatory revocation or disqualification, as described above, the executive director will initiate an administrative investigation to gather documents, reports and other evidence. If the evidence supports the allegations, proceed with the revocation process.

- 3) If allegations are not subject to the mandatory revocation criteria, above, the executive director will prepare a summary report of the allegations, or a draft Allegation, and present them to the Council at the next meeting for the Council to determine if probable cause may exist for revocation.
While the executive director may initiate an administrative investigation to gather additional documents, reports and evidence regarding the allegation, APSC will take no revocation action until the Council finds probable cause to do so. Once the Council finds probable cause to pursue revocation, the executive director will initiate or continue the administrative investigation until all reasonably available evidence has been collected and analyzed.
3. When the executive director initiates revocation action against the officer's Certification:
- (A) An Allegation document is prepared in coordination with the Department of Law.
 - (B) An Allegation Packet is prepared and sent by Certified US Mail, Return Receipt Requested, to the officer's last known address. The Allegation Packet must contain:
 - 1) A cover letter describing the purpose of the Allegation Packet, a listing of the contents, the duties and responsibilities of the officer, the proscribed 15 day deadline for them to respond, and the consequences of their failure to respond to the Allegation;
 - 2) A signed copy of the Allegation;
 - 3) A prepared Consent Agreement;
 - 4) A prepared Notice of Defense;
 - 5) A copy of the Statutes of the Alaska Police Standards Council;
and
 - 6) A copy of the Administrative Procedures Act
 - (C) Upon receipt of a timely response from the officer, the executive director will:
 - 1) Sign, date and forward to the Council the officer's signed Consent Agreement, when applicable; or
 - 2) Prepare and file a Request for Administrative Hearing to the Alaska Office of Administrative Hearings upon receipt of the officer's Notice of Defense, when applicable.
 - (D) Should the officer fail to respond to the accusation packet after delivery, the executive director will present the case to the Council, to include proof of the packet's delivery, at its next scheduled meeting for formal revocation action by the Council.
 - (E) If, after due diligence to determine a current address for the officer, the packet remains undeliverable, the executive director will present the case, including proof of the Packet's attempted delivery, to the Council at its next scheduled meeting for formal revocation action by the Council.
 - (F) Upon the Council's acceptance of the officer's Consent agreement to surrender their certificate or upon the formal revocation of their certificate

by the council, the executive director shall cause the officer's name to be entered into the National Decertification Index.

4. The Administrative Hearing Officer processes and decisions will be addressed in separate Policy and Procedure.

ATTACHMENTS:

Attachment A: Flow Chart, APSC Revocation Action—Traditional Process Flow

Attachment B: Flow Chart, APSC Revocation Action—Delegated Mandatory Revocation Process Flow

AUTHORITY

AS 18.65.220

AS 18.65.240 (c)

AS 18.65.245 (2)

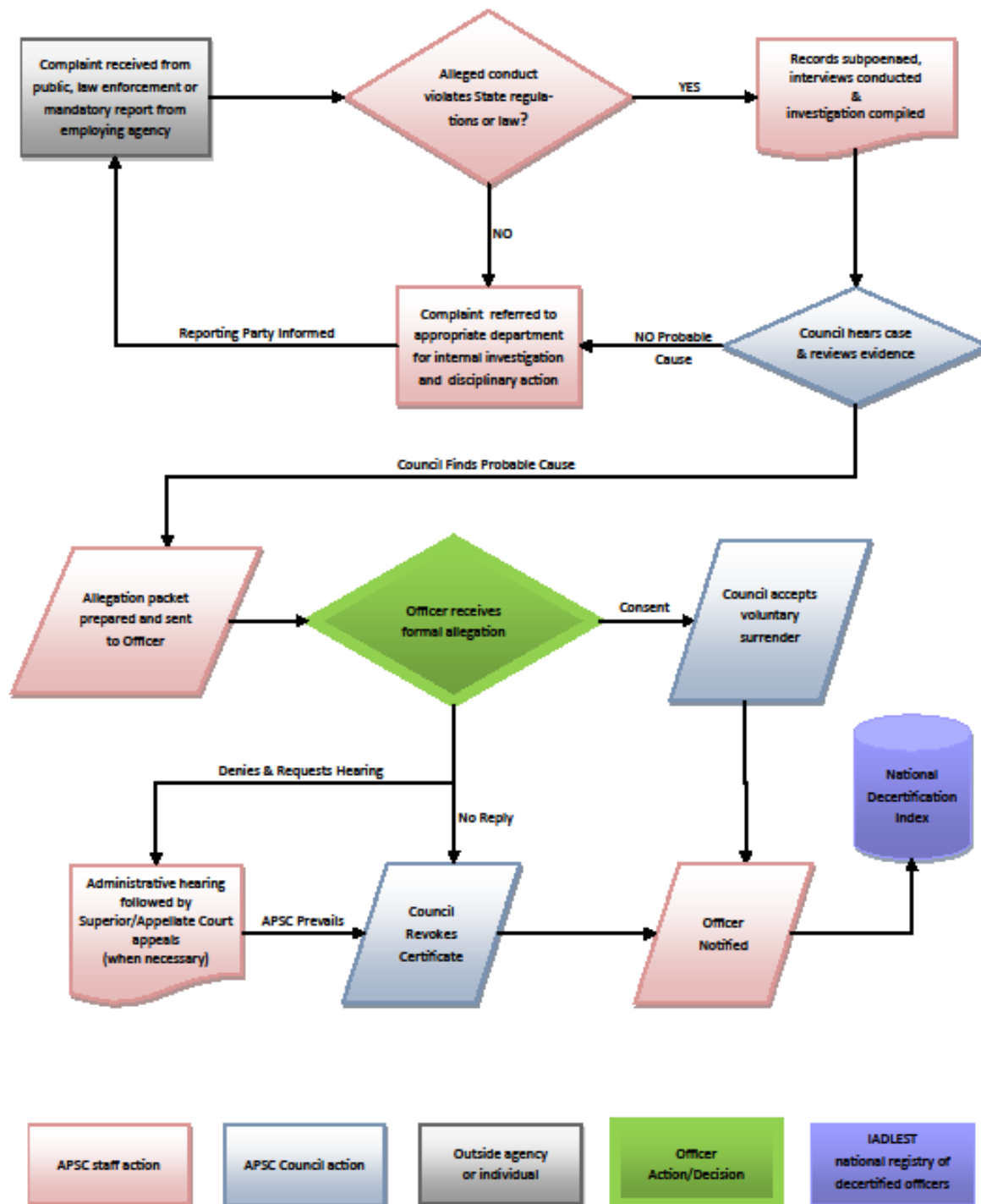
IMPLEMENTATION RESPONSIBILITY

APSC Executive director

DISTRIBUTION


APSC Staff and Council Members

Alaska Police Standards Council
Revocation Action Process—Traditional



Alaska Police Standards Council
Revocation Action—Delegated Mandatory Revocation



 STATE OF ALASKA ALASKA POLICE STANDARDS COUNCIL Policy and Procedure		POLICY AND PROCEDURE NUMBER	PAGE 1 of 3
		EFFECTIVE DATE March 10, 2016	
SUBJECT Disqualification of Non-Certified Officers		SUPERSEDES None	DATED N/A
CHAPTER Certification	SECTION Disqualification	APPROVED BY Luis Nieves APSC Chairman	

PURPOSE

This policy provides Alaska Police Standards Council (APSC) guidance to staff regarding the disqualification of non-certified officers who would not be qualified for certification based upon past conduct or other disqualifications. This policy is intended to provide a non-certified officer with due process while protecting public interest and organizational integrity by designating individuals who have been determined unqualified for a public safety position.

POLICY

13 AAC 85.100 (c) provides that the APSC executive director may deny an application for certification for a police officer upon determining that they no longer meet the requirements of 13 AAC 85.010 or who's conduct violated 13 AAC 85.100 (a) or (b).

13 AAC 85.260 (c) provides that the APSC executive director may deny an application for certification for a corrections, probation, parole or municipal corrections officer upon determining that they no longer meet the requirements of 13 AAC 85.210 or 13 AAC 85.0215 or who's conduct violated 13 AAC 85.260 (a) or (b).

Upon occasion, APSC encounters a situation in which an officer is terminated from employment for disqualifying conduct, yet has not yet applied to APSC for certification. It is in the best interests of the public and profession that these individuals be identified and formally declared as disqualified while still providing them with due process.

It is the policy of the Council that a non-certified officer who is terminated or resigns their position under threat of termination falls within the authority and jurisdiction of APSC and shall be subject to the same process provided an individual who applies for certification and has had that application denied.

PROCEDURE

Employment actions against officers are reported to APSC by means of the F-4 Personnel Action Form. Upon determination that the separated officer; (a) is not yet certified, and; (b) committed an act or omission that would disqualify them being certified as an officer by APSC; the executive director will initiate an investigation to determine the facts and circumstances and gather evidence for the Council to make an evidence-based decision.

Should investigation determine that, based upon a preponderance of evidence the officer did commit an act or omission that precluded their future certification as an officer, the executive director shall proceed in the same manner as though the individual had applied for and had been denied certification, as described in regulation.

13 AAC 85.100 and 85.260 provide that the executive director will notify a disqualified officer that they have been determined unqualified for certification and that they have the right to petition the Council for review of this decision.

Upon receipt of notice of disqualification from the executive director, the officer may choose to accept the decision or may fail to respond. Should the officer voluntarily accept the finding of the Council or fail to respond to notice from the executive director within the proscribed period of time, the executive director shall deem the officer disqualified and update APSC and NDI records to reflect the determination of disqualification for certification in Alaska.

Should the officer request to have a review by the Council, the executive director shall place the matter before the Council at their next scheduled meeting and provide the officer with the opportunity to address the Council. Upon review by the Council and their finding of probable cause to believe the officer to be disqualified, the executive director will notify the officer of the determination and provide them with the opportunity to appeal the decision to the Office of Administrative Hearings (OAH), pursuant to AS 44.62, the Administrative Procedure Act. Should the officer request a hearing, the executive director shall prepare a "Statement of Issues" and file it with the OAH. The matter will then proceed through the administrative hearing process.

ATTACHMENTS:

None

AUTHORITY

AS 18.65.220
AS 18.65.240

AS 18.65.242
AS 18.65.245

IMPLEMENTATION RESPONSIBILITY

APSC Executive Director

DISTRIBUTION

APSC Staff and Council Members