

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE ALASKA POLICE STANDARDS COUNCIL**

In the Matter of)

CURT HAMILTON)

OAH No. 18-0795 POC
Agency No. APSC 2017-21

DECISION

I. Introduction

The investigative staff of the Alaska Police Standards Council (APSC) filed an accusation seeking to revoke Curt Hamilton's Alaska Police Officer Certification. The Accusation alleged that Mr. Hamilton had repeatedly behaved in a manner unbecoming a police officer, as shown by erratic, sometimes dangerous, behaviors, including threatening civilians with his weapon. Because the Executive Director showed, by a preponderance of the evidence, that Mr. Hamilton lacks good moral character; that he behaved in a way that caused reasonable people to doubt his honesty, fairness and respect for the law and rights of other; and that his inefficiency and incompetence in his job performance negatively impacted the reputation of the North Slope Borough Police Department, Mr. Hamilton's Alaska Police Officer Certification is revoked.

II. Factual Background

Curt Hamilton began working for the North Slope Borough Police Department on July 26, 2004, and received his APSC Police Officer Certification in July 28, 2005.¹ As described below, Mr. Hamilton's law enforcement career has been marked by numerous incidents in which he has behaved erratically, unprofessionally, and even dangerously, and for which he was the subject of several workplace investigations, including, but not limited to, situations which led to his submission of fifteen Use of Force Reports throughout his career.²

A. April 2006 sexual assault report

On April 12, 2006, Mr. Hamilton's sister-in-law reported a sexual assault by Mr. Hamilton to the Anchorage Police Department (APD).³ She alleged that, while she was visiting the

¹ AR 001.

² AR 035; AR 528. Simply filing a Report of Force does not mean, nor is it intended to imply, Mr. Hamilton used excessive force in all instances. In AR 30—48, North Slope Borough Human Resources Memorandum, concluded 9 of those were concerning, and they have been included in chronological order. This shows a pattern of escalating behaviors on Mr. Hamilton's part.

³ Except as otherwise indicated, the information for this paragraph is based on AR 135-141; Testimony Roberts.

Hamilton home, Mr. Hamilton had “grabbed her crotch and tried to put his hand down her shirt.”⁴ She said she fled the home and ran to where Mr. Hamilton’s wife was, and that together they called the police. When the sister-in-law, the wife, and police returned to the Hamilton residence, Mr. Hamilton was no longer at the home. When he later returned, he was detained in a police vehicle and Mirandized, but declined to speak with officers about the incident. During a subsequent Human Resources investigation, his explanation for refusing to cooperate was that he had believed he was the victim of domestic violence involving his wife, and he didn’t want to implicate her. No charges were filed for the incident. However, Mr. Hamilton failed to report his contact with APD to his superiors.

B. Washington State weapons incidents

In 2010, and again in 2014, Mr. Hamilton was the subject of police involvement in Washington state. In each case, he improperly used his authority as a police officer and threatened the use of force with weapons. These incidents, which should have been reported to his superiors, were only discovered later inadvertently by the North Slope Borough Police Department, when he was placed on Administrative Leave in a separate Human Resource Investigation.⁵

C. December 2010 Washington weapons incident

On December 5, 2010, Richland WA police officer Sgt. Bryce Henry responded to a call that a man had pulled a gun on another man.⁶ While three separate law enforcement agencies searched for an armed gunman, Sgt. Henry spoke with Mr. Hamilton to get further information. Mr. Hamilton said that while moonlighting as a limousine driver, he had been parked outside a strip mall waiting for passengers when a man exited a nearby bar.⁷ Believing the man to be intoxicated, Mr. Hamilton said he intervened to stop him from driving.⁸ When Mr. Hamilton told the man to get a designated driver, he said, the man told him to “step off.”⁹ Mr. Hamilton said he then identified himself as a police officer and that, in response, the man asked “how did he [Hamilton] know I don’t have a concealed weapon permit or I’m not carrying right now.”¹⁰ According to Hamilton, he drew his weapon and the man ran down the alley.¹¹

⁴ AR 136.

⁵ AR 004-013. North Slope Borough 9.1 directs an employee to report any time use or threat of use of a firearm occurred (AR 112-118.)

⁶ AR 142-146; Henry testimony.

⁷ Testimony Sgt. Henry.

⁸ AR 144; AR 146; Henry testimony.

⁹ Henry testimony.

¹⁰ AR 144; Henry testimony.

¹¹ Id.

It was only at this time that Sgt. Henry discovered the armed man was Mr. Hamilton, because Mr. Hamilton then admitted to Sgt. Henry that he only *thought* the other man had a gun. It was only then that law enforcement stopped the search for the bar patron.¹² Richland police were unable to locate either the bar patron or the witness who had reported Mr. Hamilton pointing a gun at a man¹³

D. 2014 Washington weapons incident

On April 22, 2014, Kennewick WA police were dispatched for another weapons complaint involving Mr. Hamilton.¹⁴ The Kennewick Police Department received a report that a business owner reported a man at his establishment had stated he had a gun and that he had the authority to shoot the business owner. Sgt. Jason Kiel, Det. Elizabeth Grant, and others responded to the call.

Mr. Hamilton, who was later identified as the man who had made the threats, had accompanied his father to give George Hickman, the business owner who was painting a vehicle for Mr. Hamilton's father, a letter. Mr. Hamilton's father and Mr. Hickman argued about rust removal.¹⁵ There was a tussle between Mr. Hamilton's father and Mr. Hickman.¹⁶

It was at this time, Mr. Hamilton inserted himself. Mr. Hamilton identified himself as a police officer and said he had a weapon. A third witness said Mr. Hamilton told Mr. Hickman that he had a gun and could use it to protect himself. He told Mr. Hickman that he could shoot him if he hit him with his vehicle.

During the investigation, Det. Grant seized Mr. Hamilton's weapon. Sgt Kiel proceeded to explain the reasoning behind the seizure of the weapon, which included Mr. Hamilton aiming, but not discharging, his gun in the 2010 incident in Washington. Mr. Hamilton denied the incident, until Sgt. Kiel said there was a written report. Mr. Hamilton then said the bar patron in that prior incident had "pulled a .45 on me" (a description wholly contrary to any prior statements by either Mr. Hamilton or any other witness to that incident).

¹² AR 143; Henry testimony. There were various interviews with Mr. Hamilton during his disciplinary investigations regarding what occurred. At times he claimed he had the gun at "low ready." This is contrary to the initial reports of a man aiming a gun at another.

¹³ Henry testimony; AR 143.

¹⁴ Except as otherwise indicated, the information for this section is based on AR 135-141AR 147-159; Henry testimony; Grant testimony; Kiel testimony

¹⁵ Id.

¹⁶ AR 149. Mr. Hickman reports Mr. Hamilton's father grabbed him by his head and he then pushed the car door on him; Mr. Hamilton's father said Mr. Hickman pushed the car door on him and then he took his hat.

As to the investigation of the incident with Mr. Hickman, Mr. Hamilton was able to give a detailed description of the events until the point when Mr. Hickman and Mr. Hamilton's father were interacting with Mr. Hickman over the paperwork, at which time Mr. Hamilton then became unclear as to the events. Sgt. Kiel questioned Mr. Hamilton's veracity because, as a seasoned police officer, Mr. Hamilton was trained to accurately recollect details. In this case, he was only able to recollect detailed facts until the facts appeared to work against him.¹⁷

Mr. Hamilton did not advise his superiors of this interaction.¹⁸ A Kennewick police report was filed against Mr. Hamilton for threatening statement/gesture and impersonation¹⁹

E. November 2014 inoperable taillight arrest

On November 10, 2014, Mr. Hamilton pulled over Roland Warrior for having inoperable taillights.²⁰ Also in the vehicle were Mr. Warrior's partner, Crystal Kaleak, their one-year old baby, and a passenger in the backseat. The baby was not in a car seat; she was described as being tied to Mr. Warrior underneath his parka.²¹ The interaction was audio-recorded. After Mr. Warrior presented his driver's license and Mr. Hamilton ran it through dispatch, Mr. Hamilton instructed Mr. Warrior to drive home, and to not drive the car until he had the lights fixed.

Having been instructed several times by Mr. Hamilton to drive directly home because of the taillights, Mr. Warrior drove off. However, Mr. Hamilton apparently did not believe he had released him. Mr. Hamilton interpreted the departure as "peeling out." He pursued Mr. Warrior with lights and siren, yelling at him to pull over.

When Mr. Warrior arrived home and exited the vehicle with his child strapped to his back, Mr. Hamilton drew his gun and ordered Mr. Warrior on the ground. Ms. Kaleak asked that Mr. Warrior be able to enter the house and remove the baby in the home since the weather was below zero and she was only in a t-shirt. Mr. Hamilton told her to take the baby from Mr. Warrior while he was face-down outside and handcuffed.²² With the baby strapped to his back, Mr. Warrior was

¹⁷ When Mr. Hamilton later described the April 2014 incident to Lt. Phillip Brymer during Lt. Brymer's investigation, Mr. Hamilton said he and his father just wanted to leave the letter but couldn't find any tape. Mr. Hamilton said Mr. Hickman asked him a hypothetical question about using a vehicle as force, to which Mr. Hamilton said he responded that if someone uses their vehicle as a weapon against him, his training is to respond with force, including possibly lethal force.

¹⁸ AR 015.

¹⁹ AR 160-168.

²⁰ Except as otherwise indicated, the information for this incident is based on the audio recording of November 10, 2014, testimony from Ms. Kaleak.

²¹ AR 208; AR 233; AR 532.

²² Mr. Hamilton claimed that he knew Mr. Warrior had weapons in his garage and his requiring Mr. Warrior to lay on the ground was for the officer's safety. However, there was no evidence any guns were within Mr. Warriors

flat on his chest. Mr. Hamilton was aiming a gun at Mr. Warrior; because of the positioning, he was also aiming at the child.²³

Mr. Hamilton said Mr. Warrior's conduct was felonious and arrested him. Throughout the arrest process, Mr. Warrior repeated that he had left the original stop because Mr. Hamilton told him to, and that any tire sounds were a result of ice and snow. Mr. Warrior repeatedly told Mr. Hamilton he only left because of Mr. Hamilton's multiple instructions for him to do so. The charges against Mr. Warrior were actually misdemeanors, not felonies, and were later dismissed.

F. 2015-2017 force incidents.

Throughout 2015, 2016, and 2017, Mr. Hamilton had numerous encounters with potential suspects or detainees that escalated quickly to a physical encounter, with Mr. Hamilton frequently striking or tasing these individuals.

On August 6, 2015, Mr. Hamilton observed a man walking on Ahgeak Street in Utqiagvik.²⁴ Mr. Hamilton exited his vehicle. The man attempted to distract Mr. Hamilton, then rushed towards him. Mr. Hamilton grabbed the man and struck him in the head with the end of his flashlight, and both men fell onto the tundra.²⁵

On March 4, 2016, an arrestee kept his hands in his pockets and resisted being arrested and searched.²⁶ Mr. Hamilton use the "leg sweep" maneuver to bring him to the ground, grabbed the man's head, put him in a "thigh lock," and intermittently grabbed the man as he fell. The man was charged with disorderly conduct.²⁷

Less than three weeks later, on March 24, 2016, Hamilton and another officer detained a man for detoxification.²⁸ The detainee pulled away from the officers and clenched his fists. One officer pushed the man into an open door and then to the ground. The man refused to move his hands out from under his chest. Mr. Hamilton attempted to tase him but failed. The other officer deployed OC (oleoresin capsicum) spray. When the man didn't move his hands, Mr. Hamilton tased him for 5 seconds on the left buttock.²⁹

reach. Second, if Mr. Hamilton had allowed the family to proceed inside and remove the baby from Mr. Warrior's coat, as they requested, they would have been further way from the garage where the guns were allegedly stored.

²³ AR 030; recording November 10, 2014, Kiel testimony.

²⁴ The record does not identify the man by name.

²⁵ AR 035; AR 233.

²⁶ The record does not identify the man by name.

²⁷ AR 035.

²⁸ The record does not identify the man by name.

²⁹ AR 036.

On July 20, 2016, while Mr. Hamilton was interviewing individuals about an assault report, an interviewee became agitated, balled his fists, adopted a fighting stance, and refused to listen to Mr. Hamilton's orders.³⁰ Mr. Hamilton drew his taser and, when the man picked up a glass jar, tased him in the left side of his chest.³¹

Three days later, on July 23, 2016, Mr. Hamilton encountered a man and woman verbally arguing. The man approached Mr. Hamilton's patrol vehicle in a hostile manner, charged, and then began fighting. Mr. Hamilton attempted a leg sweep but fell to the ground. When the man then put his hand over Mr. Hamilton's mouth, Mr. Hamilton bit him.³²

The following month, on August 28, 2016, Mr. Hamilton was arresting a man for assault. When the man braced himself against the car to avoid being taken away, Mr. Hamilton held his taser against him, but ended up returning it to the holster.³³

Two weeks later, on September 11, 2016, Mr. Hamilton arrested a woman for property damage and suspicion of DUI. When she refused to get into his car, Mr. Hamilton deployed a 5-second tase to her lower right side.³⁴

On November 20, 2016, Mr. Hamilton responded to a report of a suicidal man³⁵ The man refused to go with Mr. Hamilton and held onto his chair. Mr. Hamilton tased the man on the lower right abdomen. The man continued to resist while leaving the residence and slammed his head into doors and walls. The force resulted in the suicidal man on the floor.³⁶

On March 10, 2017, Mr. Hamilton stopped the same man from the November 2016 suicidal incident for driving a car with no license plate. When the man refused to step out of the car, Mr. Hamilton tased him in the lower left side. When that was unsuccessful, he sprayed the man with pepper spray.³⁷

G. 2017 DMV Incidents

In March 2017, Utqiagvik DMV employee Jane Asaou filed a complaint against Mr. Hamilton in response to interactions with Mr. Hamilton that started on January 27, 2017, after Mr.

³⁰ The record does not identify the man by name.

³¹ AR 036.

³² AR 036; the record does not identify the people by name.

³³ AR 036.

³⁴ AR 005; AR 036.

³⁵ The record does not identify the man by name.

³⁶ AR 005; AS 36.

³⁷ AR 005.

Hamilton's daughter failed her first driver's test.³⁸ While on personal leave, Mr. Hamilton filed a complaint against Ms. Asaou, after his daughter failed the first test.³⁹

On March 10, 2017, when his daughter failed the test a second time, Mr. Hamilton yelled, scolded, and swore at Ms. Asaou. He was furious and challenged Ms. Asaou's authority.⁴⁰ She said he showed his frustration because she would not pass his daughter. She said she felt intimidated because she knew he was a police officer.⁴¹

On March 22, 2017, for the third driver's test attempt, Mr. Hamilton wore his uniform when he brought his daughter to the DMV; Ms. Asaou interpreted this as an act of intimidation.⁴² Mr. Hamilton admits to being in uniform during this incident.⁴³ He said he had enough time to go home and get his personal vehicle for the test, but not enough time to change his clothing.⁴⁴ After his daughter failed for the third time, Mr. Hamilton said he was frustrated because he didn't believe the tests were administered correctly.⁴⁵

H. 2016-2017 inappropriate workplace sexual relationship

Between December 2016 and March 2017, Mr. Hamilton began an intimate relationship with North Slope Borough Police Department clerk J. ██████ S. ██████.⁴⁶ At some point, the relationship became sexual. The pair exchanged multiple explicit messages and photos, including explicit texts and photos shared during work hours with Mr. Hamilton at work and in his uniform.⁴⁷ During the relationship, Ms. S. ██████ disclosed to Mr. Hamilton that her husband had, on occasion, been physically violent towards her.⁴⁸ Mr. Hamilton did not report or document these disclosures.⁴⁹

The relationship ended in March 2017 after Mr. Hamilton's wife became aware of the affair and confronted Ms. S. ██████ at work.⁵⁰ Despite the relationship ending, Mr. Hamilton

³⁸ AR 031; AR 456-457; Asaou testimony.

³⁹ AR 470. Mr. Hamilton told Lt. Brymer, in his interview, he believed Ms. Asaou failed his daughter in retaliation for the complaint he made against her; however, the report filed by Mr. Hamilton did not go anywhere and Ms. Asaou did not appear to know about it during her testimony.

⁴⁰ AR 031; Asaou testimony.

⁴¹ AR 031; Asaou testimony.

⁴² Asaou testimony; North Slope Borough Department Regulation 4.2(I)(5), regarding uniform / equipment prohibits wearing Department issued clothing off duty

⁴³ AR 468.

⁴⁴ AR 468.

⁴⁵ AR 468.

⁴⁶ Testimony Ms. S. ██████.

⁴⁷ AR 243-449.

⁴⁸ AR 442-443; AR 508; Testimony Ms. S. ██████.

⁴⁹ Testimony Lt. Brymer.

⁵⁰ AR 499; Testimony Ms. S. ██████; Closing Curt Hamilton. Neither disputes it ended, but there is not a consensus on how it ended

continued to express interest in Ms. S [REDACTED], who testified to an April 2017 incident in which Mr. Hamilton told her he wanted to kiss her and touched her intentionally on the arm (elbow) and back.⁵¹ Ms. S [REDACTED] testified that she told Mr. Hamilton to stop, but he persisted.⁵²

Human Resource Investigator Bertha Ahkpik was assigned to investigate after Ms. S [REDACTED] filed a complaint of sexual harassment.⁵³ The investigation described a relationship that went sour after Mr. Hamilton's wife confronted Ms. S [REDACTED]; Ms. S [REDACTED] was humiliated that Mr. Hamilton's wife had discovered the messages and photos.⁵⁴

Although no one was present when Mr. Hamilton made contact with Ms. S [REDACTED] or when he made statements that were the subject of her sexual harassment claims, the investigation revealed several coworkers encountered Ms. S [REDACTED] shortly after the incident. She described his behaviors to the coworkers and was visibly shaken.⁵⁵ As to the allegation that he had told Ms. S [REDACTED] that he wanted to kiss her,

Mr. Hamilton had poor recollection about what he might have said to Ms. S [REDACTED]; he believes he may have said, "Thank you."⁵⁶ When he was asked about the incident in which Ms. S [REDACTED] said he used his hand to rub her arm, and stroke her back, Mr. Hamilton initially could not recall being in the Administration Office that day, but later said he may have gone in to check his mail.⁵⁷ However, when pressed about whether he touched her, he said, "the only thing I can recall is I may have bumped her while getting my mail possibly with my utility belt."⁵⁸

III. Procedural History Leading up to Termination and Decertification

On April 22, 2014, North Slope Borough Police Department Chief Leon Boyea instructed Lt. Phillips Brymer to investigate the Washington incident from 2010 and 2014.⁵⁹

⁵¹ AR 033; AR 499. S [REDACTED] testimony; Mr. Hamilton denied stating he wanted to kiss her; he said he wanted to "thank her."

⁵² AR 490-492; S [REDACTED] testimony. While there were no witnesses to the touching incident, another employee observed Mr. Hamilton in the area at the time it reportedly occurred. Mr. Hamilton denied intentionally touching Ms. S [REDACTED], suggesting he could have inadvertently touched her with his utility belt while reaching for the mail; Another employee testified there was ample room for a person to go to the mailroom and not make physical contact with Ms. S [REDACTED].

⁵³ Ahkpik testimony.

⁵⁴ AR500

⁵⁵ AR 501-511.

⁵⁶ AR 505

⁵⁷ AR 505

⁵⁸ AR 505- 506.

⁵⁹ AR 161-175; this investigation was part of a broader investigation of a variety of complaints against Mr. Hamilton. During their investigation this incident came to light. Mr. Hamilton had not previously advised his chain of command of his law enforcement contact; AR 162.

During this investigation Mr. Hamilton told Lt. Brymer that the intoxicated bar patron said he had a .45 caliber handgun and would shoot Mr. Hamilton if Mr. Hamilton did not back off.⁶⁰ Mr. Hamilton said he retreated to different cars, got behind a hood and called 911.⁶¹ This is a similar version of events that Mr. Hamilton had told Sgt. Kiel during the 2014 incident, when he attempted to justify his actions in the 2010 incident by stating the bar patron who ran away had “pulled a .45 on me.”⁶² However, this version of events was inconsistent with both police reports and with the hearing testimony of Sgt. Bryce and Det. Grant.

The April 2014 investigation concluded Mr. Hamilton improperly used his official position on two separate occasions and made a false report.⁶³

The department conducted a second investigation into Mr. Hamilton in April 2017, following Ms. S [REDACTED]’s report of sexual harassment. Mr. Hamilton was placed on investigative leave April 14, 2017.⁶⁴ On June 27, 2017, at the close of the investigation, the investigation resulted in a recommendation that Mr. Hamilton be discharged.⁶⁵

Mr. Hamilton was provided notice of the disciplinary process and a meeting was scheduled for July 27, 2017.⁶⁶ Following that meeting, findings and recommendations were made regarding terminating Mr. Hamilton’s employment, and he was ultimately terminated⁶⁷

On December 13, 2017, Travis Welch recommended to the Council that Mr. Hamilton be decertified.⁶⁸ On July 16, 2018, APSC Administrative Investigator Sarah Hieb submitted an Accusation seeking revocation of Mr. Hamilton’s police officer certification. On July 28, 2018, Mr. Hamilton submitted a Notice of Defense, requesting a hearing in this matter. Mr. Hamilton’s administrative hearing was held October 22 - 23, 2018. Present were Sarah Hieb and Robert Griffiths. Curt Hamilton appeared telephonically, as did various witnesses. The record remained open for post-hearing written submissions. APSC submitted its closing argument November 1, 2018; Mr. Hamilton did not submit a post-hearing written closing, but he made an oral closing on October 23, 2018.

⁶⁰ AR 169; Mr. Hamilton should have reported the 2010 incident to his chain of command when it occurred, the Borough did not learn of the incident until learning of and beginning an investigation into the later 2014 incident.

⁶¹ AR 169.

⁶² AR 150.

⁶³ Id.

⁶⁴ AR 006.

⁶⁵ AR 004-013.

⁶⁶ AR 014- 029.

⁶⁷ AR 030-048.

⁶⁸ AR 077.

IV. Credibility of Witnesses

The Executive Director presented multiple witnesses. Collectively they were all credible. Each law enforcement officer provided consistent factual recitations of their observations and interactions with Mr. Hamilton. Their testimony was supported by separate documentary evidence, as well as other witnesses' testimony. There was no evidence that anyone had any incentive to embellish or lie.

The testimony from the various law enforcement officers was persuasive as each described the responsibility an officer has to the public and to the law. Collectively, they shared that without integrity and truthfulness, one cannot effectively be a police officer. All opined that their interactions with Mr. Hamilton had impacted their opinion of the North Slope Borough Police Department, and that his conduct was inconsistent with the type of behaviors that would be tolerated in their precincts.

What was most persuasive was that none of their testimony contained any arrogance or overt criticism of Mr. Hamilton. They were candid in their concerns about Mr. Hamilton's judgment and veracity, but were not disparaging. This was in sharp contrast to Mr. Hamilton's presentation.

Crystal Kaleak was a credible witness. While she was animated and certainly no fan of Mr. Hamilton's, her testimony was supported and bolstered by the recording Mr. Hamilton asked to have played of the arrest of Mr. Warrior.

Jane Asou was a credible witness. She was direct and clear on her recollection. She articulated well the feelings she had about Mr. Hamilton yelling at her and being in his uniform with his intent to intimidate her. She did not appear to have any motivation to be untruthful.

Bertha Akpik was a credible witness. However, she seemed reluctant to be involved in any of the proceedings. It is unclear if her memory was a problem or she was simply distancing herself. She was able to authenticate her investigation report and findings, which were more detailed than her testimony.

J. ██████ S. ██████ was a credible witness. She was remorseful and embarrassed about her relationship with Mr. Hamilton, especially the messages and photos. However, despite that, she took responsibility for her actions and provided testimony consistent with others' findings. Part of the Executive Director's case seemed to be focused on viewing Ms. S. ██████ as a victim in the relationship between her and Mr. Hamilton. While it appears, she has been a victim of domestic violence in her marriage, and therefore she might be more susceptible to Mr. Hamilton's

advances, it seems from the evidence they were in a consensual relationship between December and March. But she was very clear, and believable, that Mr. Hamilton persisted in making advances towards her despite being told to stop.

Mr. Hamilton did not testify in his hearing. However, the evidence he did present was in stark contrast to the credible evidence presented by the Executive Director. Mr. Hamilton provided statements during various investigation regarding the numerous incidents. Mr. Hamilton is heard on the recording of the incident involving Mr. Warrior's arrest. There were also statements made by Mr. Hamilton to others. Mr. Hamilton also chose to make a closing statement.

Overall, Mr. Hamilton's presentation and version of events was not credible for several reasons. His recitations varied from each telling in significant ways that favored him. As a trained police officer, he should have been able to recollect facts with more precision. He had incentive to change his stories, and it is apparent that he did so when he thought it would cast him in a better light. He views himself as the victim by every person he encountered. He took no responsibility for his role in any of the incidents raised in this case and has no insight into how his behaviors were perceived by others.

Indeed, the most telling piece of evidence was the audio recording of Mr. Warrior's arrest. Mr. Hamilton asked that it be played, expecting that it would exonerate him. Yet, all it showed was an agitated officer escalating a situation. This was consistent with other officers' testimony that he took minor incidents and escalated them.

V. Discussion

The APSC establishes minimum standards for the employment of officers and is tasked with determining eligibility for all police officer certification and with monitoring misconduct by a certified officer to determine whether revocation is appropriate.⁶⁹ The Executive Director is seeking to revoke the Mr. Hamilton's police officer certification under both discretionary and mandatory bases.

The Executive Director asserts the Council must revoke Mr. Hamilton's certification because his conduct caused reasonable people to have substantial doubt about his honesty, fairness, and respect for the rights of others and for the law.⁷⁰

⁶⁹ AS 18.65.240.

⁷⁰ 13 AAC 85.110 (b)(3).

The Executive Director also asserts the Council has the discretion to revoke Mr. Hamilton's certification because Mr. Hamilton has demonstrated inefficiency, incompetence, or some other reason adversely affecting the ability and fitness to perform his job duties or that is detrimental to the reputation, integrity or discipline of the North Slope Borough Police Department.⁷¹

Lastly, the Executive Director also asserts it is within the Council's discretion to revoke Mr. Hamilton's certification because he lacks good moral character and is dishonest⁷²

Based on the totality of the evidence, the Executive Director has met his burden of proving by a preponderance of the evidence that revocation of Mr. Hamilton's police officer certification is justified in both mandatory and discretionary circumstances.⁷³

A. Mr. Hamilton's conduct caused reasonable people to have substantial doubt about Mr. Hamilton's honesty, fairness and respect for the rights of others and for the law.

The APSC is required to revoke a certificate when the officer's conduct creates the appearance of dishonesty, inequity and a disrespect for others and the law.⁷⁴ Mr. Hamilton has a developed a pattern of these behaviors.⁷⁵

i. Dishonesty

Honesty by law enforcement officers is necessary to the public interests and to the efficient administration of law enforcement. Accordingly, certified police officers are expected to act with candor. The evidence is that Mr. Hamilton repeatedly failed to do so.

The first known incident of Mr. Hamilton's dishonesty during his tenure as an officer occurred during the 2006 incident alleging unwanted touching. Mr. Hamilton claimed he didn't want to speak with law enforcement because he thought he was a witness against his wife in a DV incident. This is a disingenuous response. There is no law enforcement officer who would think he was a witness after being put in the back of a police car and Mirandized. Mr. Hamilton's claim to the contrary was dishonest.

⁷¹ 13 AAC 85.110(a)(2).

⁷² 13 AAC 85.110(a)(3).

⁷³ See AS 44.62.460(e)(1).

⁷⁴ 13 AAC 85.110 (b)(3); *Alaska Police Standards Council v. Parcell*, 348 P.3d 882 (Alaska 2015).

⁷⁵ The record is replete with instances, large and small of Mr. Hamilton's unsuitability to continue as a certified law enforcement officer as a result of dishonesty, a lack of integrity, and disrespect for persons and law. The incidents referenced are sufficient to make the findings. However, a review of the entire record also includes other wrongdoings on a smaller scale. There is also overlapping in the various categories, i.e., lying about a man having a weapon is both dishonest and a disrespect for the law.

Mr. Hamilton was untruthful in his interaction with Lt. Kiel when, during the 2014 investigation, he denied the 2010 incident occurred. When pressed, he admitted the incident, but then falsely claimed he had pulled his gun because the other man had pulled a gun on him.

Mr. Hamilton was dishonest with Richland police when he downplayed his interactions with Sgt. Henry. While Sgt. Henry said it is rare for the people he interviews to tell the whole truth, as a law enforcement officers, Mr. Hamilton is held to a higher standard. Mr. Hamilton had times when he was patently dishonest with his fellow officers. It is also dishonest to shade the truth.

Mr. Hamilton's dishonesty is abundant throughout his employment as a law enforcement officer. With each investigation, Mr. Hamilton's versions of the events change. These variations of the facts are dishonest and impact Mr. Hamilton's ability to perform his job. Whether filling out a warrant, testifying in court, or interacting with the public, without honesty, no officer can do his job.

ii. Disrespect for the Law

A law enforcement officer is in the business of enforcing the law. It is critical that the officer not only be one who respects the law but also be seen by the public as one who respects the law. By selectively enforcing or using his position as a law enforcement officer as a proverbial sword to be wielded as a weapon of power, he shows a disrespect for the law. Without respect for the law, he cannot enforce it.

Mr. Hamilton demonstrated a disrespect for the law and process when he attempted to intimidate Ms. Asaou to award his daughter her driver's license on her third attempt when he wore his police uniform off duty to the DMV. Attempting to intimidate the DMV employee into passing his daughter, when she was not qualified to pass her driver's test, is disrespectful of the law. That, combined with his beratement of Ms. Asaou and criticism of her job, was an abuse of power.

Mr. Hamilton demonstrated a disrespect for the law when he discovered Ms. S [REDACTED] had been a victim of domestic violence but did not report it to the appropriate authorities. He is required to report such information as an officer, even off duty.

Mr. Hamilton's interaction with Mr. Warrior was a disrespect of the law. Initially he disregarded car seat laws, as well as allowed Mr. Warrior to drive home without operable tail lights. However, once he became enraged, he became draconian in his enforcement and escalated a misdemeanor to falsely claiming that Mr. Warrior was driving recklessly. Mr. Warrior pulling

out on an icy road in Utkivak in November does not equate to reckless driving.⁷⁶ Mr. Hamilton became indignant when Mr. Warrior misunderstood his instructions and overreacted. He then embellished facts to create a basis for a felony stop.⁷⁷ This selective enforcement displayed a lack of respect for the law. The embellishment of facts also disrespects the law.

Mr. Hamilton showed a disrespect for the law when he used his weapon improperly on December 5, 2010 and when he told Mr. Hickman he had the authority to shoot him during the 2014 incident in Washington. In both instances, Mr. Hamilton held himself out as an officer with authority over the Washington residents. Mr. Hamilton was not an officer in Washington and had no right to assert himself or imply as such.

Mr. Hamilton also engaged in disrespect of the law in his post-relationship dealings with Ms. S██████. Both Mr. Hamilton and Ms. S██████ said the relationship ended in March 2017. The following month, Mr. Hamilton told her he wanted to kiss her and touched her, despite being told to stop. This is not respectful of the law, or of others.

iii. Disrespect for others

It is often said that respect cannot be demanded but is earned. This is often done by respecting others. Mr. Hamilton showed no respect for others in his interactions. This resulted in a poor view of Mr. Hamilton, and the North Borough Police Department.

Mr. Hamilton showed no respect for his fellow officers in Washington when he misled them into believing an armed man was loose in their community. Three separate law enforcement agencies were searching for this man when Mr. Hamilton finally recanted his statement about the missing man being armed. This incident could also have ended tragically had officers found the man and proceeded as if he were armed.

Mr. Hamilton disrespected the North Slope Borough when he told Washington citizens he was law enforcement, and then proceeded to draw his weapon on them. He used his role as an Alaska police officer to intimidate.

Mr. Hamilton disrespected Ms. Soriano by touching her and speaking to her in a sexually suggestive manner, at work, after she had told him to stop. She was entitled to feel safe in her workplace and as a lieutenant with the North Slope Borough, he should have respected her personal space. He likewise showed a disrespect for his sister-in law on April 12, 2006, when he engaged in unwanted touching.

⁷⁶ See AS 28.35.400

⁷⁷ Audio recording of Mr. Warrior's stop.

iv. Effect on the community's perception of Mr. Hamilton and North Slope Borough Police Department.

This case does not present an instance in which one must predict a hypothetical reasonable person's likely reaction to Mr. Hamilton's multiple displays of questionable conduct. Multiple law enforcement officers testified as to the negative impacts of Mr. Hamilton's behaviors on their perception of the North Slope Borough Police Department. Sgt. Henry said Mr. Hamilton was "embarrassing to his agency."⁷⁸ Sgt. Henry was correct when he said integrity is a crucial component of law enforcement because of the authority given to officers and the stress last-minute decision-making can cause on those ill-equipped. Testimony from various law enforcement officers and community members concluded Mr. Hamilton was not cut out for law enforcement because of the escalation and overreaction. The officers opined Mr. Hamilton was too dangerous to have that authority and a gun.

The record contains other examples of Mr. Hamilton's negative impact on the community. Crystal Kaleak testified Mr. Hamilton's overreaction caused her one-year-old child to be fearful following her interaction with Mr. Hamilton. Children should not be fearful of their interactions with law enforcement. Good law enforcement officers protect people and evoke a feeling of safety. The petition filed by 200 people in the community likewise shows that Mr. Hamilton's actions negatively impacted the reputation of the North Slope Borough Police Department.

B. Mr. Hamilton demonstrated inefficiency, incompetence, or some other reason adversely affecting the ability and fitness to perform his job duties or that is detrimental to the reputation, integrity or discipline of the North Slope Borough Police Department.

APSC has broad discretion and the ability to weigh facts of each situation.⁷⁹ This is not an instance in which a person made a single mistake and made amends. Instead, Mr. Hamilton has demonstrated a pattern of escalating minor incidents with physical force or threats. He appears to become frustrated when someone is not submitting to his demands, and he escalates situations that could be mitigated with maturity or lack of ego. A skilled officer is able to do this.

A skilled officer can pivot and deescalate. One example of Mr. Hamilton's failure to perform his job was involving Mr. Warrior. Mr. Hamilton is recorded as repeatedly telling Mr.

⁷⁸ Testimony Sgt. Henry; Testimony Sgt Kiel; Testimony Det. Grant.

⁷⁹ Because Mr. Hamilton has demonstrated behaviors that require Mr. Hamilton to lose his certification, it is not necessary to explain the basis for the discretionary decertification; however, as the Executive Director provided sufficient evidence to support that as well, those will also, briefly, be addressed. There is, however, much overlap in the mandator and discretionary grounds for decertification.

Warrior to go home. When Mr. Warrior left, with tires “breaking traction,” Mr. Hamilton pursued him with lights and sirens, for the three minutes it took for Mr. Warrior to reach his home. As Mr. Warrior was driving off, he told Mr. Hamilton he was going home and to follow if Mr. Hamilton wanted. Mr. Warrior’s explanation that the tires skidded a bit because it was the weather conditions is plausible, as was his explanation of not finding the lights and sirens unusual due to having previously had an escort under similar circumstances. Mr. Hamilton also had seen Mr. Warrior’s driver’s license, so he knew where Mr. Warrior was going. His escalation of the situation was inappropriate.

Mr. Hamilton then further displayed his lack of appropriate job skills when he pulled his gun on Mr. Warrior, particularly while Mr. Warrior was carrying his baby on his back. His incompetence escalated a minor traffic stop.⁸⁰

Mr. Hamilton’s apparently sincere, and clearly mistaken, belief that the incident was a felony demonstrated a lack of knowledge of the law. He should know the difference between a misdemeanor and felony. However, given his pattern of escalating situations with force, it is further evidence that he was not able to discern the subtleties.

There was also persuasive testimony from the officers concerning the impact of Mr. Hamilton’s ability to do his job based on his lack of veracity. Sgt. Kiel testified that key components of an officer’s job include signing affidavits for warrants, testifying in court, and, in general, having a reputation for honesty. Sgt. Kiel opined that Mr. Hamilton’s pattern of dishonesty would prevent him from being used as a witness, since his character would always be at issue. That would create unnecessary doubt in the prosecution of cases and put the public at risk of not having a fair trial. If Mr. Hamilton were untruthful, an innocent person could be charged or convicted; if he were being truthful, his history of inconsistent facts could result in a guilty person going free. At this point, his reputation precedes him, and he cannot effectually enforce the law.⁸¹

Smaller examples of him not being able to do his job include tasing a suicidal man in November 2016, and pepper-spraying a suicidal man for not having a license plate in March 2017. He was unable to navigate these difficult situations in a compassionate manner; instead,

⁸⁰ Even if there was some immediate confusion about instructions, once Mr. Hamilton arrived at the residence and heard Mr. Warrior’s explanation, he could have recomposed himself. However, Mr. Hamilton continued to escalate his reactions in a non-equivalent manner.

⁸¹ A prosecutor would be required to provide the defense with Mr. Hamilton’s list of dishonest acts to impeach him under *Brady v Maryland* 373 U.S. 83 (1963) and *Giglio v. United State* 405 U.S.150 (1972).

Mr. Hamilton seems to escalate every situation with force. While police officers are trained to use force, it is not always the solution. Officers are trained and expected to assess situations and assert the least amount of force, as well as to show compassion and kindness, especially with the most vulnerable. In his repeated failures to do so, Mr. Hamilton demonstrated over and over he is not fit to be a police officer.

C. Mr. Hamilton has displayed a lack of good moral character that justifies revocation of his certification

“Good moral character” is a standard eligibility requirement in professions serving the public.⁸² The Council has defined good moral character to mean 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 other and the law.⁸³

There is a great amount of interplay between respecting others, and good moral character. Much of what was previously discussed regarding truthfulness and respect, applies to what one looks for in good moral character. Since the Council defines good moral character as how a reasonable person sees an individual as honest, fair and respectful of the law, the discussion above regarding the perception of the community members and Washington law enforcement officers, should also be considered and applied here.

It is often said good moral character can best be shown when a person acts and doesn’t think he is being watched. Mr. Hamilton’s actions outside of Alaska involving the public, when he shows a disregard for the law and the community of Washington, is a demonstration of his lack of good moral character. He acted as if he were above the law because he thought no one would stop him.

Another example of lack of good moral character, is when he tried to intimidate Jane Asaou, of the DMV to award his daughter a license when she was not qualified. She said she felt he was using his uniform to intimidate her, and it impacted her opinion of the North Slope Borough Police Department.⁸⁴ Good moral conduct does not include using authority innately entrusted when wearing a uniform to gain a benefit.

Mr. Hamilton’s dishonesty in investigations is further evidence of his lack of good moral character. Mr. Hamilton was trained to accurately record and recite details of situations. In instances when it benefitted him, he had clear recollection. When situations were less favorable

⁸² *Alaska Police Standards Council v Lance Parcell* Supreme Court s-15364

⁸³ *Id.*

⁸⁴ Testimony Jane Asaou.

to him, his recollections were spotty, and evolved as more favorable at each telling. His dishonesty in multiple investigations is sufficient evidence to support a finding that Mr. Hamilton lacks good moral character.

Good moral character also does not include engaging in sexual activities during work hours and in uniform. Hamilton's inappropriate behavior surrounding Ms. S [REDACTED] became more disruptive after the relationship ended, because Mr. Hamilton pursued Ms. S [REDACTED] and engaged in unwanted touching. This improper, entitled conduct is further evidence Mr. Hamilton lacks good moral character.

In short, Mr. Hamilton does not possess the good moral character to be a police officer. He has developed a pattern of using his power in a manner that is unbecoming of an officer. Revocation of his certificate is justified on this ground as well.

VI. Conclusion

Law enforcement officers are provided a tremendous amount of power and with that comes great responsibility. Officers must act with truthfulness and accountability.

The Executive Director met his burden of showing that revocation is appropriate here.

Curt Hamilton's Alaska Police Officer Certificate is revoked under 13 AAC 85.110(a)(1) and 13 AAC 85.110(a)(2).

DATED this 21st day of November 2018.

By: _____



Hanna Sebold
Administrative Law Judge

Adoption

The undersigned adopts this Decision under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 11th day of March, 2019.



By: _____

Chief Justin Doll
Chair, Alaska Police Standards Council

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STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of,)
)
Curt Hamilton,) No. APSC 2017-21
)
Respondent)
_____)

ACCUSATION

Sarah Hieb, Administrative Investigator of the Alaska Police Standards Council (APSC), State of Alaska, is seeking to revoke the police certificate of Respondent Curt Hamilton under the legal authority of AS 18.65.240(a) and (c), the Council’s regulations in 13 AAC 85.110, and under the procedures governed by the Administrative Procedure Act in AS 44.62.330, *et. seq.* The Administrative Investigator alleges as follows:

1. On or about July 26, 2004, the Respondent was hired by the North Slope Borough Police Department (NSBPD) as a police officer.
2. On or about July 28, 2005, the Respondent was certified by APSC as a police officer in the State of Alaska.
3. On or about April 12, 2006 Respondent was detained by the Anchorage Police Department (APD) as he was accused by his sister-in-law of sexually assaulting her (non-consensual touching). No charges were brought forward by APD. Respondent did not report his detention or involvement to NSBPD as required by department policy. In 2014, NSBPD became aware of this incident and conducted an internal investigation. NSBPD deemed the incident too old to take any disciplinary action on, but found that Respondent's actions were detrimental to the reputation, integrity, and discipline of NSBPD.

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4. On or about December 5, 2010, in Richland, Washington, Respondent approached an intoxicated man as the man was getting into his car and told the man not to drive. He then announced he was a police officer and drew his firearm. Respondent initially told responding Richland officers the man had a firearm, and then he later recanted and his final statement was he thought the intoxicated man was armed and never did see a firearm. Although telling the Richland officers he would report the contact to his NSBPD supervisors as per NSBPD policy, Respondent did not report this incident to NSBPD. This incident was harmful to the reputation, integrity, and discipline of NSBPD. Four years later, on an unrelated incident with Kennewick officers, Respondent changed his final statement about not seeing a gun to the intoxicated man had a gun.

5. On or about April 22, 2014, in Kennewick, Washington, the armed Respondent was with his father who was serving civil paperwork and Respondent told the other party that he was a police officer and had the authority to shoot people who committed assaults. Kennewick police officers responded and seized Respondent's firearm and NSBPD credentials. Respondent's actions were detrimental to the reputation, integrity, and discipline of the NSBPD and showed a lack of respect to the rights of others. Respondent did not tell NSBPD about this incident.

6. NSBPD learned about both Washington incidents in 2014 when Kennewick officers contacted Respondent's NSBPD supervisors. NSBPD initiated an internal investigation that resulted in Respondent being disciplined with a suspension of one week. Respondent's actions gave substantial doubt about his

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honesty and were detrimental to the reputation, integrity and discipline of the NSBPD.

7. On or about November 10, 2014, Respondent stopped a vehicle for a tail-light infraction. The driver drove half a mile to his residence with Respondent chasing it using lights and sirens. Respondent did a felony stop on the driver, causing Respondent to be pointing his handgun at the baby on the driver's back. NSBPD supervisors initiated and completed an internal investigation into this incident on the same day, concluding Respondent's use of force was within policy. In a review of the incident, on or about January 24, 2015, NSBPD Consultant John Murphy stated the internal investigation was done poorly with a "number of errors" and there was no indication that any investigation actually occurred. No disciplinary action was taken by NSBPD, however NSBPD's reputation, discipline, and integrity were damaged.

8. Between December 15, 2016 and March 5, 2017, Respondent and a subordinate department records clerk exchanged texts which evolved into sexually explicit photos being texted and a physical affair. On January 24, 2017, Respondent was promoted to Lieutenant. On or about March 4, 2017 the employee texted Respondent that she had been assaulted by her husband and had bruises. Respondent failed to report the domestic violence assault to the police department. The affair between Respondent and the records clerk ended on March 5, 2017.

9. On or about March 12, 2017, Respondent was accused of harassing a DMV employee when Respondent's daughter did not pass the driving test. The DMV employee said Respondent was "furious, showed anger and frustration, and scolded the employee" and she was intimidated and scared of Respondent because he

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was a police officer and his uniform shirt was partially covered by his jacket. The internal investigation found Respondent's conduct was intimidating, disrespectful, and inappropriate and his conduct was detrimental to the agency's reputation.

10. On or about April 10, 2017, Respondent began to sexually harass the same department records clerk he had an affair with. On that date, while at her desk he told her he wanted to kiss her in another office. He also said that he and his wife were separating. The employee responded by telling him not to tell her these things and to leave her alone. Four days later, Respondent put his hand on her arm and then rubbed her back while standing over her at her desk. She made it obvious she was uncomfortable by looking and moving away from him.

11. NSBPD began an internal investigation into the sexual harassment and texting. Respondent was advised the results of the investigation could include termination. The investigation found Respondent was a supervisor of the clerk and his actions caused damage to the reputation, integrity, and discipline of the NSBPD as well as demonstrated the lack of respect for the rights of others.

12. On or about September 8, 2017, as a conclusion to the internal investigations, Respondent was terminated by NSBPD. The Personnel Action Form (F-4) provided to APSC stated Respondent was under investigation for wrongdoing, they recommended de-certification, and he was not eligible for rehire.

13. AS 18.65.240(c) provides that the APSC may deny or revoke the certificate of a police officer who does not meet the standards adopted under (a) (2) of this section.

14. 13 AAC 85.110(a)(2) provides that the council may revoke a basic, intermediate, or advanced certificate upon a finding that the holder of the certificate

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has been discharged from employment as a police officer in this state for cause for inefficiency, incompetence, or some other reason that adversely affects the ability and fitness of the police officer to perform job duties or that is detrimental to the reputation, integrity, or discipline of the police department where the police officer worked.

15. 13 AAC 85.110(a)(3) provides that the council may revoke a basic, intermediate, or advanced certificate upon a finding that the holder of the certificate does not meet the standards in 13 AAC 85.010(a) or (b).

16. 13 AAC 85.110(b)(3) provides that the council will revoke a basic, intermediate, or advanced certificate upon a finding that the holder of the certificate has been discharged from employment as police officer in this state 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 states and the United State or that is detrimental to the integrity of the police department where the police officer worked.

COUNT I

Paragraphs 1-16 are incorporated by reference. Based upon the facts described above, Respondent has been discharged from employment as a police officer in this state for cause for inefficiency, incompetence, or some other reason that adversely affects the ability and fitness of the police officer to perform job duties or that is detrimental to the reputation, integrity, or discipline of the North Slope Borough Police Department, which is grounds for discretionary revocation under 13 AAC 85.110(a)(2).

COUNT II

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Paragraphs 1-16 are incorporated by reference. Based upon the facts described above, Respondent does not meet the minimum standards for a certified police officer established under 13 AAC 85.010(a)(3). Respondent lacks good moral character and is dishonest, which is grounds for discretionary revocation under 13 AAC 85.110(a)(3).

COUNT III

Paragraphs 1-16 are incorporated by reference. Based upon the facts described above, Respondent has been discharged from employment as police officer in this state 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 states and the United State or that is detrimental to the integrity of the North Slope Borough Police Department, which is grounds for mandatory revocation under 13 AAC 85.110(b)(3).

DATED this 16th day of July, 2018 at Juneau, Alaska.



Sarah Hieb, Administrative Investigator
Alaska Police Standards Council