

**STATE OF ALASKA**  
**Alaska Police Standards Council**  
**Minutes of the 136th Regular Meeting**  
**March 5, 2020**  
**Statewide Teleconference**

**1. CALL TO ORDER**

Chair Doll called the 136<sup>th</sup> Regular Meeting of the Alaska Police Standards Council to order on March 5, 2020, at 9:00 a.m. A roll call was conducted as follows:

**APSC Members Present**

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

**APSC Members Absent**

Vice-Chair Nancy Dahlstrom, Commissioner, DOC  
Wendi Shackelford, Public Member

**APSC Administrative Staff Present**

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

**Department of Law Representatives Present**

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

## **2. AUDIENCE INTRODUCTIONS**

Greg Russell, retired chief  
Travis Welch, Alaska Mental Health Trust  
Heath Scott, Chief, Haines PD  
Max Jusi, Officer, Haines PD

## **3. APPROVAL OF AGENDA**

Executive Director Griffiths asked that Agenda Item 9a be addressed after the agenda approval so that Mr. Welch would be available to discuss this matter with the Council.

It was moved and seconded to approve the agenda as modified. The motion passed with unanimous consent.

## **9. NEW BUSINESS**

### **a. Crisis Intervention Training Team – Course Standardization Draft Policy**

ED Griffiths reported that a Crisis Intervention Team (CIT) Instructor and Training Program Certification Draft Policy and Procedure is before the council to consider for adoption.

He then introduced Travis Welch, the program officer with the Alaska Mental Health Trust overseeing the criminal justice focus area, and also one of the state's trainers in CIT training. In addition, he is a former Chief of Police for the North Slope Borough PD.

The Mental Health Trust is currently in the process of giving APSC a grant for next year to conduct CIT training statewide in more of an outreach methodology than just doing it at the academy, which is a separate DPS grant. There is a concern about outside groups or individuals coming in and branding their training as CIT training when, in fact, it doesn't meet the criteria standardized by CIT International. The draft policy before the Council adopts the nationally approved methodology.

Mr. Welch noted that one of the Mental Health Trust's priorities is to partner with Alaska law enforcement to provide crisis intervention and team training. CIT came to Alaska in 2001 and is an innovative first-responder model of police-based crisis intervention with community healthcare and advocacy partnerships through the governing body CIT International. The CIT model (commonly known as the Memphis model) was first developed by retired Memphis Police Major Sam Cochran and is now used throughout the country. The CIT model provides law enforcement-based crisis intervention training for assisting those individuals with a mental illness and improves the safety of patrol officers, consumers, family members, and citizens within the community. The CIT model reduces both the stigma and the need for further involvement with the criminal justice system. The sustaining elements of the CIT model are: evaluation and research, in-service training, recognition and honors, and outreach to develop CIT in other communities.

To further assist law enforcement agencies, starting with approval of their FY21 budget, the Trust has granted \$160,000 to DPS, divided into two separate grants. The first grant of \$80,000 is to AST to support their efforts to train in-house CIT instructors and provide CIT training to troopers and officers throughout the state. The second grant of \$80,000 is to APSC to provide funding for officers from around the state to attend CIT training.

It was moved by Morgan and seconded by Hamon to approve Crisis Intervention Team (CIT) Instructor and Training Program Certification Draft Policy and Procedure. The motion passed with unanimous consent.

#### **4. APPROVAL OF PAST MINUTES – December 3, 2019**

It was moved White and seconded by Winkelman to approve the minutes of the 135<sup>th</sup> Regular Meeting held December 3, 2019. The motion passed with unanimous consent.

#### **5. PERSONS TO BE HEARD**

There were no persons to be heard.

## **6. COUNCIL CHAIR'S REPORT**

Chair Doll noted he has no updates to pass on.

## **7. EXECUTIVE DIRECTOR'S REPORT**

The February 24, 2020, Executive Director's Report to Council was distributed to Council members prior to the meeting.

ED Griffiths reported that the training sponsorship request form is updated to say, "We're going to pay the department or the individual officer who is going to training for reimbursement for their costs." The form was changed after miscommunications arose between APSC and an agency about who was to pay the vendor who provided training. APSC cannot pay a vendor directly without first following the State's procurement process.

ED Griffiths reminded the Council that the APOA conference will be May 5-7 in Juneau, and the next APSC meeting will be on May 7. The Law Enforcement Management Institute (LEMI) will be May 19-22 in the Anchorage APSC training center, with Jack Ryan as the instructor. The NTOA has been sponsored to teach two two-day sessions in Anchorage on supervising patrol critical incidents in August.

ED Griffiths commended his staff for their efficient handling of a huge influx of background and records check requests. Since his report reflecting the 104 requests that have come in since December, there have been an additional 56 requests that have come in. A positive note is that there has been a significant increase in the number of VPO requests; APSC is providing basic background checks using publicly available information for rural villages whenever asked.

ED Griffiths requested guidance from the Council regarding the use of CBD oil. In Alaska statute, it's defined as oil containing less than .3% THC and is available at local stores. He recommended that use of CBD oil containing .3% THC or less shouldn't be a barrier to hiring or retaining an officer. Another issue is the accidental ingestion of a marijuana edible. APSC has approached this issue as defining the use of marijuana to require intent, and has advised agencies that if they believe the exposure

was accidental, that APSC will not disqualify the individual. ED Griffiths requested guidance from the Council if they feel a different approach should be taken.

ED Griffiths noted that the funds APSC collects for surcharge fees are 98% of its budget. Current legislation allows APSC to carry over unspent surcharge fees to the next fiscal year, with a cap of \$125,000. This has caused issues for APSC in maintaining a stable budget, and a request to remove the cap is included in the House budget that just passed and is now before the Senate. If this goes through, it will give APSC a lot more freedom and financial stability from one year to the next.

Additionally, this year APSC anticipates having funds available to dedicate to basic officer training for municipal officers. ED Griffiths requested direction from the Council on whether to place a priority on some of the rural training that needs to be done, such as supporting the expansion of VPO training programs beyond the one academy in Bethel to regional academies in other hub areas in Western or Southeast Alaska, or instead to adopt a policy of reimbursing agencies who successfully have a candidate go through the ALET academy and/or at APD. One of the issues in reimbursing agencies is that frequently these funds go back into the city or borough budgets and not directly to the agency itself, which can be problematic.

The Council then discussed the use of CBD oil and accidental ingestion of marijuana edibles. Following discussion the Council's consensus was that ED Griffiths' approach was reasonable and should be continued.

The Council next discussed funding for basic academies for rural and tribal communities and/or regional or in-service training. The Council's consensus was to continue funding regional training, and with a preference for funding it directly rather than as a reimbursement.

## **8. OLD BUSINESS**

### **a. Regulation changes – Consider adopting published draft regulations Project 2019200895**

ED Griffiths reported that, at the December meeting, the Council adopted the proposed VPO regulation changes, and they have now been published.

Questions from the community were answered, and those were published as well. The final VPO regulation changes are now before the Council for adoption. If the Council adopts them, they will then go back to the Department of Law for a review/editing process. Following that, they will be signed off by the Lieutenant Governor within 90-120 days.

It was moved by Mercer and seconded by Morgan to approve the VPO regulation changes in Project 2019200895. A roll call vote was taken, and the motion passed unanimously.

**b. Statewide Applicant Index System – Discuss Draft Agency MOU**

ED Griffiths reported that APSC has drafted policy procedures and an MOU, which were provided to the Council. Following discussion the Council directed ED Griffiths to move forward with the project.

**9. NEW BUSINESS**

**b. Board position on pending legislation addressing peace officer disqualifications**

ED Griffiths reported that this pending legislation is part of the Governor's initiative on improving Alaskan justice programs, as reflected in HB224 and SB164, companion bills addressing VPOs and disqualifying individuals with certain criminal convictions from being peace officers. They also support the language in this regulation project clarifying the minimum standards for VPOs.

Since introduction, SB164 has been heard once in committee, and at least one legislator has proposed amending it to allow for a waiver of the "never having been convicted of a felony" provision after a certain period. This amendment was also proposed regarding HB224, which including language allowing for VPO status even if the individual had prior domestic violence convictions or multiple misdemeanor convictions.

Discussion followed, and the Council consensus was to affirm APSC's support of strengthening statutory guidelines for law enforcement officers and maintaining current standards disallowing individuals to become VPOs who had prior felony convictions, domestic violence convictions, or multiple

misdemeanor convictions, in order to best protect citizens in rural communities.

**c. Alaska Correctional Officer Association concerns about APSC's F-3 form**

ED Griffiths reported that APOA feels that APSC's questions on its F-3 form about past relationships with significant others, girlfriends, etc., are overly broad and abusive of APSC's authority. Chair Doll noted that that's a common background question for police departments to ask, and the information provided is important in performing the necessary background checks and is used as a piece in the overall picture. Following discussion, the Council's consensus was to keep the current wording in the F-3 form.

**10. ADJOURN TO EXECUTIVE SESSION**

It was moved Hamon and seconded by Winkelman to adjourn to Executive Session to address subjects that may tend to prejudice the reputation and character of individuals and for deliberations on adjudicatory proceedings in APSC cases: 2018-24, 2018-26, 2019-03, 2019-29, 2019-30, 2020-03, and 2020-04. The motion passed with unanimous consent. General meeting ended 10:37 am.

**11. CALL BACK TO ORDER – GENERAL SESSION**

Following deliberations during Executive Session, Chair Doll called the General Session back to order at 11:40 am.

**12. ROLL CALL**

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

**13. BUSINESS ARISING FROM EXECUTIVE SESSION**

**Max Jusi:** It was moved by Morgan and seconded by Winkelman to allow Mr. Jusi to proceed with his police officer application with the City of Haines. A roll call vote was taken, and the motion passed unanimously.

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

**2018-24 John Hunter:** It was moved by Mercer and seconded by White to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously.

**2020-04 Patsy Bell:** It was moved by Morgan and seconded by Hamon to adopt the Executive Director's finding of disqualification for certification as a police officer. A roll call vote was taken, and the motion passed unanimously.

**2019-03 Michael Alexander:** It was moved Winkelman and seconded by Mercer to accept the surrender of his police certification. A roll call vote was taken, and the motion passed unanimously.

**2019-29 Ty Ely:** It was moved by Nicholson and seconded White to accept the surrender of his police certification. A roll call vote was taken, and the motion passed unanimously with one recusal: Hamon.

**2019-30 Yamil Gines-Rivera:** It was moved by Weatherly and seconded by Dutra to accept the surrender of his corrections certification. A roll call vote was taken, and the motion passed unanimously.

**b. Council consideration of probable cause to initiate revocation action**

**2020-03 Aaron Henderson:** It was moved by Hamon and seconded by Morgan that the APSC has determined there is probable cause to move forward with revocation proceedings. A roll call vote was taken, and the motion passed unanimously with one recusal: Winkelman.

**c. Certificate Revocation Actions**



**2018-26 Jeffrey Lee:** It was moved by Morgan and seconded by Craig that APSC adopt the proposed decision by the Administrative Law Judge as the final agency decision pursuant to AS 44.64.060(3)(1) with the modification to strike two sentences on page 14 beginning with “As a result, this decision concluded that Burke Waldron’s testimony” and ending with “reliance on testimony by Chief Waldron” as that was unsupported by the record. A roll call vote was taken, and the motion passed unanimously.

#### **14. PERSONS TO BE HEARD AND COUNCIL COMMENTS**

There were no persons to be heard or comments from the Council.

#### **15. DETERMINATION OF NEXT SCHEDULED MEETING**

The next in-person Council meeting will be held on May 7<sup>th</sup>, 2020, from 12:00 p.m. to 4:00 p.m. in Juneau. Future meeting dates will be discussed at the May 7<sup>th</sup> meeting.

#### **16. ADJOURNMENT**

There being no further business to come before the Council, it was moved by Dutra and seconded by Hamon to adjourn the meeting. The motion passed by unanimous consent, and the meeting was adjourned at 12:00 pm.



Alaska Police Standards Council  
136<sup>th</sup> Regular Meeting Agenda  
March 5, 2020 0900  
Statewide Teleconference\*

GENERAL SESSION AGENDA

1. Call to Order & Roll Call
2. Audience Introductions – please announce yourself if you have called in.
3. Approval of agenda
4. Approval of past minutes – December 3, 2019
5. Persons to be heard:
6. Council Chair's Report: Justin Doll
7. Executive Director's Report: Bob Griffiths - Written
8. Old Business:
  - a. Regulation changes – Consider adopting published draft regulations Project 2019200895
  - b. Statewide Applicant Index System – Discuss Draft Agency MOU
9. New Business:
  - a. Crisis Intervention Training Team – Course Standardization Draft Policy
  - b. Board position on pending legislation addressing peace officer disqualifications
  - c. Alaska Correctional Officer Association concerns about APSC's F-3 Form
10. Adjourn to Executive Session to address subjects that may tend to prejudice the reputation and character of individual(s) and for deliberations on adjudicatory proceedings in APSC Cases 2018-24, 2018-26, 2019-03, 2019-29, 2019-30, 2020-03 and 2020-04.
11. Call back to order – General Session
12. Roll Call
13. Business arising from Executive Session (individual decisions voted in open session)
  - a) Action to accept surrendered certification(s) and findings of disqualification
  - b) Council consideration of probable cause to initiate revocation action
  - c) Certificate revocation actions
14. Persons to be heard and Council comments
15. Scheduling of future meetings
16. Adjournment:

**\*Online and/or call-in information:**

**Join by phone: 1-650-479-3207; Access code: 807 682 292**

<https://stateofalaska.webex.com/stateofalaska/j.php?MTID=m1a215a4a54ddd0c63515553209a5405e>

**Meeting number: 807 682 292; Password: 136APSC (1362772 from phones)**

**STATE OF ALASKA**  
**Alaska Police Standards Council**  
**Minutes of the 135<sup>th</sup> Regular Meeting**  
**December 3, 2019**  
**Anchorage, Alaska**

**1. CALL TO ORDER**

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

**APSC Members Present**

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

**APSC Members Absent**

None

**APSC Administrative Staff Present**

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

**Department of Law Representatives Present**

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

## **2. FLAG SALUTE**

A flag salute was conducted.

## **3. AUDIENCE INTRODUCTIONS**

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

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

## **4. APPROVAL OF AGENDA**

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

## **5. APPROVAL OF PAST MINUTES – June, 2019**

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

## **6. PERSONS TO BE HEARD**

There were no persons to be heard.

## **7. COUNCIL CHAIR'S REPORT**

Chair Doll noted he has no updates to pass on.

## **8. EXECUTIVE DIRECTOR'S REPORT**

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

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

## **9. OLD BUSINESS**

### **a. Regulation changes – approve draft changes for publication**

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

The proposed VPO regulation changes include:

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

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

Additional proposed regulation changes include:

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

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

#### **b. Statewide Applicant Index System - Ongoing**

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

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

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

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

## **10. NEW BUSINESS**

### **a. Survey of Rural communities for Village Police Officers**

No discussion.

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

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

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

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

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

### **c. Chair and Vice-Chair elections**

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

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

## **11. ADJOURN TO EXECUTIVE SESSION**

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

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

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

## **12. CALL BACK TO ORDER – GENERAL SESSION**

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

## **13. ROLL CALL**

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



## **14. BUSINESS ARISING FROM EXECUTIVE SESSION**

### **a. Requests for rescission of prior decisions**

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

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

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

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

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

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

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

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

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

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

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

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

**c. Council consideration of probable cause to initiate revocation action**

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

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

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

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

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

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

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

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

#### **d. Certificate Revocation Actions**

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

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

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

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

#### **15. PERSONS TO BE HEARD AND COUNCIL COMMENTS**

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

#### **16. DETERMINATION OF NEXT SCHEDULED MEETING**

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

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

#### **17. ADJOURNMENT**

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



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

GENERAL SESSION AGENDA

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

**Online and/or call-in information:**

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

Meeting number: 802 583 811; Password: APSC135

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



## Executive Director’s Report to Council November 26, 2019

### Activities:

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

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

### Statistics:

Fiscal year 2019 (Total):

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

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

### FY2020 Statistics

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

As of 11/22/2019

### Administrative Hearings & Appeals:

Case Status:

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

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

### Council and Command Changes across the state:

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

### Issues:

#### Unqualified Village Police Officers.

Most of you have likely read many of the published reports addressing the challenges of Alaska's rural policing; specifically, they focused on rural Alaskan communities hiring unqualified applicants to serve as Village Police Officers (VPO's). This media exposure highlighted long-standing problems for APSC and the rural communities and helped focus attention on solving the problems. We reasonably expect the legislature will, in the coming session, address placing statutory limitations on who can be hired as a police officer. APSC has begun a statewide outreach effort to contact all 113 communities eligible<sup>1</sup> to hire village police officers and determine if they have any, who they are, and if they meet our minimum requirements.

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

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



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

A few communities who are eligible for VPO officers elect to hire and train officers who meet urban policing standards<sup>2</sup>. These include: Galena, Hoonah, King Cove, Klawock, St. Paul, Sand Point, Seldovia, and Yakutat. However, Chevak and Hooper Bay both have VPO's in their communities and currently have a population over 1000. At the 2020 census, should their official population remain over this threshold, the communities would have to adhere to urban policing standards. This would be problematic for them, as they currently struggle to recruit, train and retain officers. We hope to address this issue in our proposed VPO regulatory changes.

## **Regulations:**

### **VPO Regulations Project:**

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

### **Policy & Procedure Development:**

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

### **Officer Applicant Tracking Index:**

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

## **Finances:**

### **Fiscal impacts of OAH administrative hearings.**

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

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

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

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

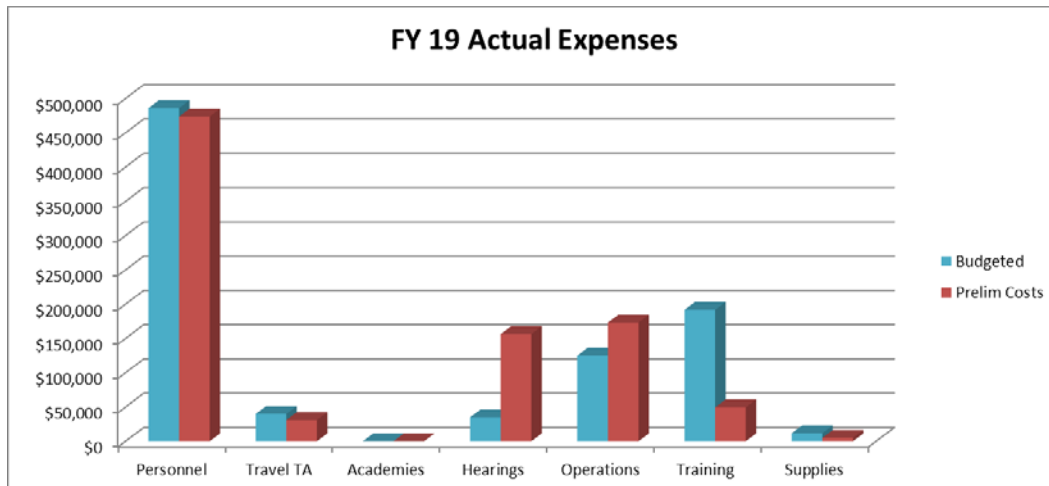
**Revenue Outlook:**

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

**FY 2019 Final Finances**

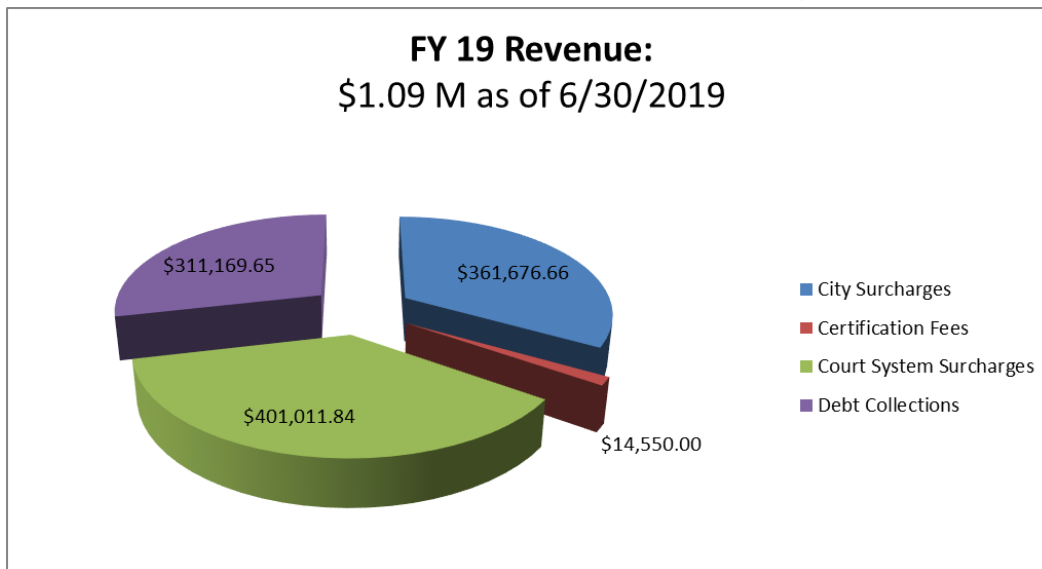
*FY2019 Final Expenses*

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



*FY2019 Actual Revenue*

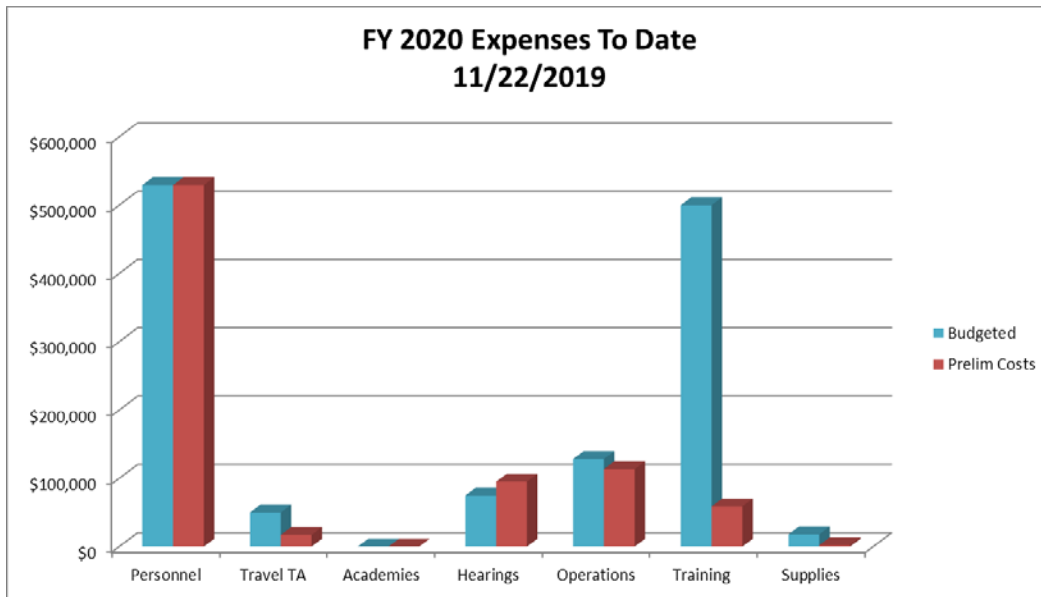
Revenue Sources	Revenue
City Surcharges	\$361,676.66
Certification Fees	\$14,550.00
Court System Surcharges	\$401,011.84
Debt Collections	\$311,169.65
Total Collected Revenue	\$1,088,408.15
Final Carry over from FY18	\$52,000.00
Grand Total of available revenue	\$1,140,408.15
Projected actual revenue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



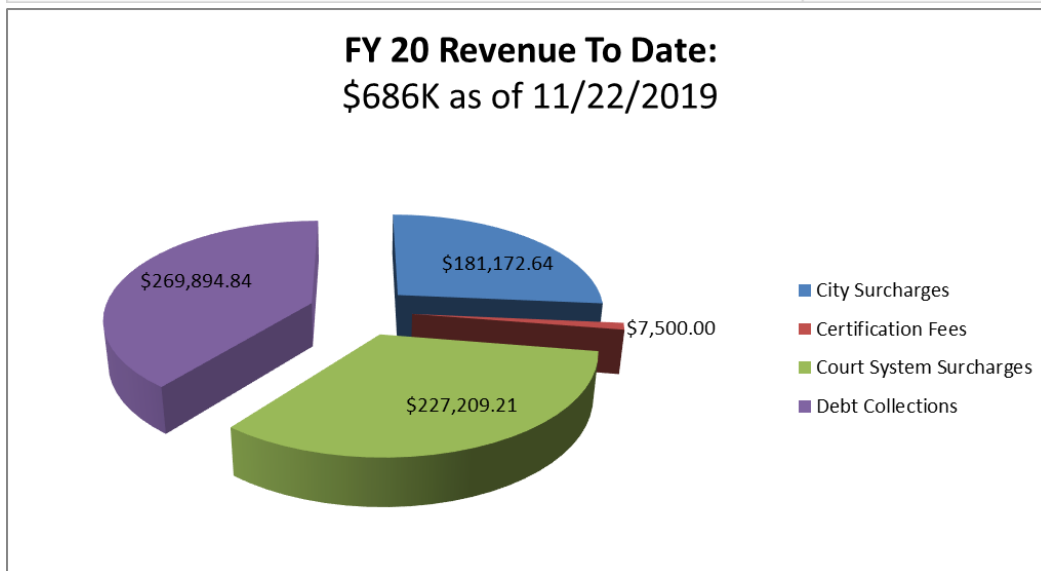
As of June 30, 2019

**FY2020**

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



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



## **Planned Activities:**

### **Proposed APSC Council Meeting Dates:**

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

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

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

### **Planned Hearings:**

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

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

### **Anticipated Travel and Events:**

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



## Memorandum to Council

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

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

13 AAC 85.090 and 250 Personnel Reports: The proposed changes to 13 AAC 85.090 and 85.250 are to add the requirement that an officer keep APSC advised of their current mailing address. This is added to comply with the requirements of the Administrative Procedures Act<sup>1</sup> in notifying officers of proposed administrative action. Addition of this language allows the Council to proceed with administrative action when a respondent refuses to accept document service or cannot be located after a diligent search. Address notification can be accomplished on APSC forms, through their employing agency, and/or using a change of address form/link available on APSC's website.

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

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

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

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<sup>1</sup> AS 44.62.380(c)

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

1                                    -- COUNCIL DISCUSSION DRAFT --

2                                    Proposed 2019 APSC Regulation Changes

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

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

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

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

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

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



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

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

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

5

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

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

10

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

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

15

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

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

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

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

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

6

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

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

11

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

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

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

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

17

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

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


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

In this chapter

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

**DRAFT**

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

## PURPOSE

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

## BACKGROUND

AS 18.65.220(5) provides that the Council may hire an administrator and other persons necessary to carry out its duties. The duties of the administrator include the collection and maintenance of confidential training and certification files containing employment, medical, education, training, criminal history, and certification records. The records of APSC are "public records"<sup>1</sup> and therefore may be subject to public inspection and disclosure. Pursuant to its authority under AS 18.65.220(1), APSC adopted regulations intended to communicate a reasonable and legitimate expectation of privacy to officers about what personal information and documents are considered confidential and protected from public disclosure<sup>2</sup>.

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

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

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

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

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

Act of 1996 protect all medical records;

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

While not all records APSC maintains are for state employees, APSC regulations are intended to communicate a legitimate expectation of privacy for all officers’ personal information contained within APSC records, pursuant to Article I, Section 22 of the Alaska Constitution<sup>3</sup>.

## **POLICY**

### **Training and Certification Files**

APSC regulations include the following provisions:

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

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

information can be released and for what purposes.

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

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

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

### **Investigatory and Administrative Action Files**

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

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

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



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

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

### **Public Records and Media Information Requests**

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

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

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

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

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

## **Instructor Certification and Training Program Files**

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

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

## **PROCEDURE**

### **1. Training and Certification Files**

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

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

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

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

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

### **2. Investigative Files**

(A) Investigative Files contain the following documents:

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

- 4) Documents, recordings, photographs, and other material submitted in response to subpoenas;
  - 5) Investigative notes, reports, recordings, and other records related to the inquiry;
  - 6) Accusations, notices of defense, consent agreements, and related correspondence;
  - 7) Correspondence and other documents related to OAH or judicial proceedings; and
- (B) Access to Investigative files is limited to APSC staff for official use only. Files must be in secure file cabinets, within a secure area: i.e., under the direct control of APSC staff or behind locked doors in an alarmed or monitored office or storage facility.
- (C) Other than documents submitted to OAH or an Alaska court as part of a proceeding, all investigative records and information are confidential and will be released only as required by a federal or Alaska court order, a federal statute or regulation, or an Alaska statute. Accusations, Statements of Issues, Findings of Facts, and Orders of Revocation or Denial may be publicly released following formal Council action.
- (D) Council staff shall carefully review Accusations and other documents APSC intends to file with OAH or an Alaska court and redact any protected information including CJIS data, personal identifying information, and information protected by law or the Alaska Constitution. In rare instances, such information may be required to prove an element of the case; in those instances, the Executive Director will assure that the such information is filed under protective seal with OAH and conducted in the manner which is least intrusive with respect to individual rights to privacy.
3. Instructor and Training Program Files
- (A) Instructor and Training Program Files contain the following:
- 1) APSC Applications for Instructor Certification (F-9) and supporting documentation regarding the training, experience, and qualifications of the applicant;
  - 2) APSC Applications for Training Program Certification (F-20) and information and records required by 13 AAC 87.010(b)(1)-(7): e.g., course syllabi; a list of the instructors; a detailed schedule of fees, charges for tuition, and all other charges; and policies on attendance and grading;
  - 3) Instructor certifications and related correspondence and records of courses and training; and
  - 4) Course and training program certifications, class rosters listing attendees, records regarding attendees' performance, and related correspondence.
- (B) Access to Instructor and Training Program files is limited to APSC staff members for official use only. Files must be in secure file cabinets, within a secure area: i.e., under the direct control of APSC staff or behind locked doors in an alarmed office or storage facility.
- (C) Officers or agencies requesting records must submit an APSC Records Request

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

#### 4. Officer Background Investigation Requests

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

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

### **ATTACHMENTS:**

None

### **AUTHORITY**

AS 18.65.220  
AS 18.65.270

### **IMPLEMENTATION RESPONSIBILITY**

APSC Executive Director

### **DISTRIBUTION**

APSC Staff and Council Members



## Executive Director's Report to Council

February 24, 2020

### Activities:

#### Since our December 2019 council meeting:

- APSC received and processed 104 formal records or public information requests. This does not include many routine agency background or officer training records requests, which are received and routinely handled daily.
- APSC staff evaluated 60 officers' training records to determine if they qualified for Alaska reciprocity or "lateral entry" for another Alaska agency.
- Office of Administrative Status Hearings (OAH) continued to be frequent events, preparation for each of these teleconferenced meetings requires planning and often significant administrative follow up. Seven hearings occurred this period.
- Sarah Hieb continued working with several agencies, including clerks with DPS and DOC Training Academy staff to refine the process of agencies entering officer training data into ACADIS. DPS Academy staff are now entering in academy related training for all courses. DOC has just begun entering their training courses as well. Any agency wishing to use the system for their departmental training records is encouraged to contact Sarah.
- APSC received, processed, and responded to 13 new complaints from members of the public regarding officer conduct or conduct of criminal justice agencies. Most of these were referred to the officer's employing agency; several were addressed directly by APSC staff and one was referred to the AK Department of Law. All complainants were notified or responded to in writing.
- APSC completed the enrollment and approved the attendance of 23 municipal Police officers, and fifteen DPS troopers to the ALET 20-01 Basic Police Academy (February 23 - June 12, 2020). We also reviewed and approved the attendance of three officers for APD's Lateral Academy 19-3 (December 12, 2019 to January 23, 2020), 21 Municipal Corrections officers to the DOC MCO academy 2020 session in Palmer (January 13 to 31, 2020), fifteen officers to the 2020 ALET Recertification Academy (January 28-February 14, 2020), with two more officers pre-approved for next year's session. We are now in the process of collecting applications for the Village Police Officer Basic Academy #37, in Bethel from May 28 - June 12, 2020.
- Training Coordinator Rob Heide travelled to Kodiak the week of January 13-17, 2020, to instruct an Instructor Development Course for twelve DPS and Kodiak officers.
- State legislative budget hearings and hearings on bills, kept the Executive Director in the capitol building often, since the legislative session began.
- APSC Staff continued with its ongoing misconduct investigations; in the time since our December meeting we opened 17 new cases and closed 24 existing investigations (including those closed by final action taken at our last meeting).



**Statistics:**

Fiscal year 2020 (As of 2/24/2020, including currently enrolled academies):

Training Events Sponsored	16	Except Academies (all held/planned FY20)
Officers Attending Sponsored Courses	206	Non-academy sponsored and hosted courses
Sponsored Training Hours Delivered	4540	Excluding Academies
Sponsored Academy Attendees	0	ALET, MCO, VPO, & Reciprocity
Municipal Academy Training Hours Sponsored	0	Municipal, reciprocity, MCO Academy
Non-APSC Sponsored Academy Attendees	155	ALET 19-02 & 20-01, Reciprocity/Lateral, MCO, VPO and APD
Non-sponsored academy training hours	124,576	Reciprocity/Lateral, ALET 19-02 & 20-01, MCO, VPO, and APD
Certificates issued	365	All Certifications
Officer Certifications	189	Basic, Intermediate & Advanced
Instructor Certifications	68	Including Renewals
Course Certifications	108	Including Renewals and online courses
Reciprocity Evaluations	161	For training waivers and lateral hires
New Investigations Initiated	37	
Investigations Closed	33	26 cases now open; 6 with OAH; 10 pending criminal prosecution
OAH Hearings Held	15	Includes status conferences.

**Administrative Hearings & Appeals:**

Case Status:

- Valent Maxwell, Klawock; APSC #2015-12; OAH # 16-0134-POC; Alaska Court # 1KE-17-00069CI. Case is under appeal to the Supreme Court, case # S17079. Per CourtView, the draft decision is now circulating within the court and is expected soon.
- Luis Nieves, AST; APSC Case 2018-10; OAH # 19-0140-POC; Case filed with OAH, hearing date set aside pending resolution of a civil suit filed by Nieves against the state.
- Kevin Nushart, DOC; APSC Case 2018-13; OAH # 19-0405-POC; Fact-finding hearing now set for May 19-27, 2020.
- Robert Carlson, DOC Probation/Parole; APSC Case 2018-15; OAH # 18-1040-POC; fact-finding hearing date pending; next status conference is set for March 12, 2020.
- Jeffery Lee, Bethel PD; APSC Case 2018-26; OAH # 19-0249-POC; This case is ripe for a final decision in this meeting.
- David L Russell, AST; APSC Case 2019-16; OAH # 20-0182-POC; Hearing not yet set.
- Michael Malave, DOC; APSC Case 2019-20; Awaiting response to accusation.
- Ty M Ely, Bristol Bay; APSC Case 2019-29; Council to accept voluntary surrender.
- Yamil F Gines-Rivera, DOC; APSC Case 2019-30; Council to accept voluntary surrender.
- Charles D Jetton, AST; APSC Case 2019-35; OAH # 20-0160-POC; Hearing not yet set.
- James G Lester, AST; APSC Case 2019-36; Awaiting response to accusation
- Jeremy See, APD; APSC Case 2019-37; In abeyance, pending grievance.

**Council and Command Changes across the state:**

- Council Member Jen Winkelman has been appointed as Acting Deputy Commissioner, DOC. She was also reappointed to the Council, as were Chiefs Ed Mercer and Joe White.

- Daniel Weatherly was appointed to the vacant seat on APSC. Dan retired from AST and now lives in Anchor Point. His experience policing in rural Alaska will provide valuable insight to the Council as we go about our business.
- AST Colonel Barry Wilson retired; Major Bryan Barlow was promoted to AST Colonel
- Bristol Bay Borough named John Rhyshek as their new police chief.
- Mike Kerle was promoted to Deputy Chief with Anchorage PD.
- Dwayne Shelton assumed the role of Chief in Palmer and Shayne LaCroix was promoted to Commander.
- In Wrangell, Tom Radke was named Chief.
- At last word, Unalaska, Nome, Bethel and Yakutat are still looking for permanent Chiefs of Police.

### **Regulations:**

The final decision can be made in this meeting to address the proposed regulation changes. Since this project began, the Governor introduced HB224 & SB164; companion bills addressing Village Police Officers and disqualifying individuals with certain criminal convictions from being peace officers. These bills codify our current regulations disqualifying certain individuals from being a police officer and were drafted to support the language in this regulation project clarifying the minimum standards for village police officers. Copies of these bills have been included in the meeting packet.

Since introduction, the Senate's bill has been heard once in committee and at least one legislator has proposed amending it to allow for a waiver of the "never having been convicted of a felony" provision after a certain period. I may have additional information on this by our meeting and can provide a verbal update. Currently, my recommendation is to proceed with the adoption of the regulations, as drafted. If the legislature passes conflicting statutes, their action trumps regulation and we can do some housekeeping later, if necessary.

### **Policy & Procedure Development:**

A Crisis Intervention Team (CIT) Instructor and Training Program certification draft Policy and Procedure is before the council to consider for adoption. I hope that Travis Welch, program manager for the Alaska Mental Health Trust (AMHT), will explain the concerns that led to this policy and the proposed grant from AMHT to APSC to sponsor statewide, department-based CIT training next year. If Travis is unable to attend our meeting, I will provide details when we address this issue on our agenda.

### **Issues:**

#### **Rural Law Enforcement**

A hot topic in Juneau is how to improve rural public safety. Of course, we all support doing so, however Council members should be vigilant and monitor the actions of their legislators. Just this week, two new bills were filed; one will totally revamp the VPSO program, and the other mandate specific training and a standardized investigative protocol for all police departments in "cases involving missing and murdered indigenous women." Initial review has identified some potential concerns. Following more comprehensive analysis and review I will provide an update on this legislation at our council meeting. If you have time ahead of the meeting please review HB277 and HB287, which I will include in the meeting packet.

### **Complaints by Alaska Corrections Officer Association Regarding APSC's F-3 Form**

Refer to attached correspondence for discussion if council members wish to address the concerns of the corrections officers' bargaining unit.

### **ACADIS Officer Training & Certification Portal:**

The ACADIS Readiness Suite (ACADIS) web portal is now being used by agencies to input, track and document officers' training. Additional agencies are encouraged to use the system.

### **Officer Applicant Tracking Index:**

Draft MOU for discussion and endorsement is before the council. The actual procedure to follow is still being determined by APSC staff in consultation with ACADIS.

### **Finances:**

APSC's authorized budget for FY2020 is \$1.3M. As a reminder, APSC can only spend this much *if it collects as much from its "Program Receipts."* These program receipts are principally court imposed (and collected) Police Training Surcharge Fees. These fees assessed were increased by the legislature, effective January 1, 2019, and APSC is now beginning to see a welcome increase. Coupled with two years of stable PFD checks, collection of past-due surcharge fees has also risen. Thus far in FY 2020, the Council has received \$850K, nearly the same amount collected for all FY2018. While we hope to collect all \$1.3M in revenue, at the beginning of the fiscal year we adopted a spend plan based on more frugal past revenues of only \$1.1M.

Not long after the Police Training Court Surcharge fee was implemented by the legislature, they also set a cap on how much of these funds could be carried forward from one year to the next. That is, unspent revenue from one year could be carried over to the next, but anything over that capped amount would revert to the state's general fund. For many years this amount was set within legislative intent language at \$125K; unspent revenue beyond this amount would 'lapse' to the general fund. We have made inroads with the legislature toward eliminating the cap on carryover funds in future years. In the Governor's proposed FY2021 budget, the cap was eliminated. Thus far, the House has approved this change. Should this provision survive the legislative process and the cap is removed, APSC will be able to carryforward all unspent revenue from one year to the next.

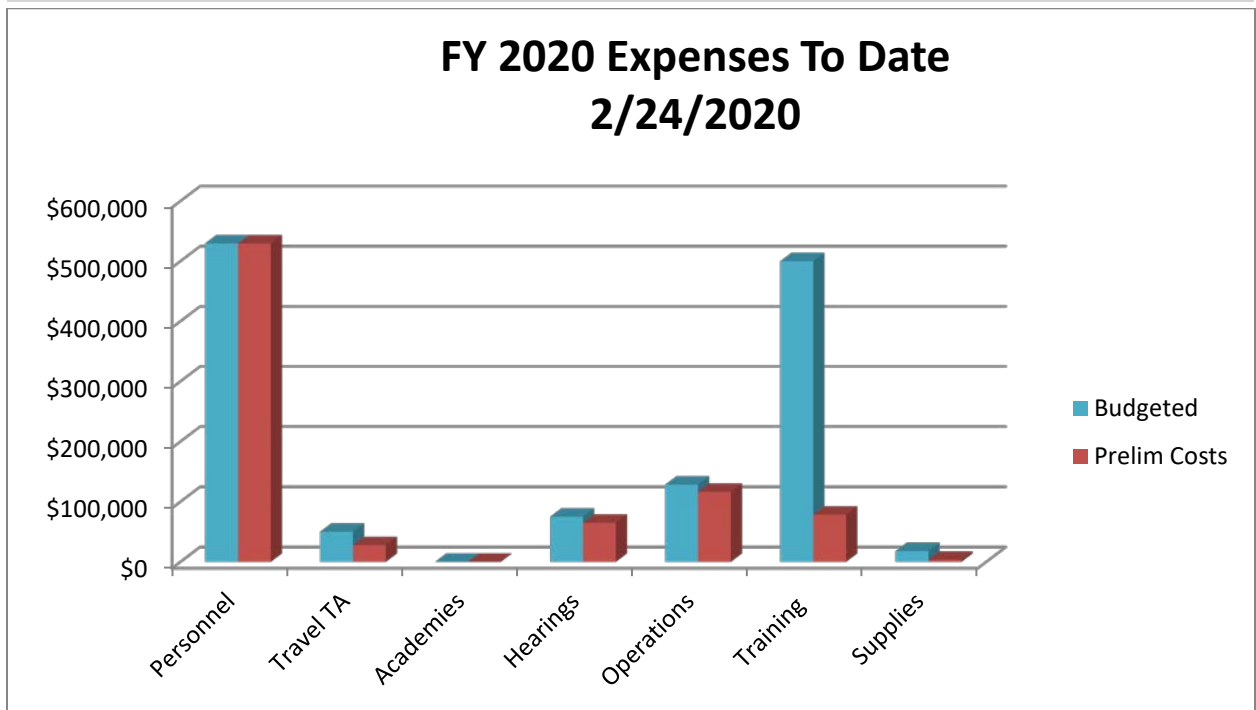
APSC's annual budget can be drastically impacted by an unanticipated number of administrative hearings, low PFD checks, and court decisions. Allowing increased carryforward of unspent revenue will eventually allow us more flexibility in budgeting.

It appears that we may have adequate funding to again support some basic academy training for municipal police officers. The previous legislative intent language telling APSC not to use its funds to support basic training for municipal officers was not included in the FY2020 budget. Now may be the time to initiate discussions about how to support departments who have been forced to fully fund their officers' attendance in the basic academies.



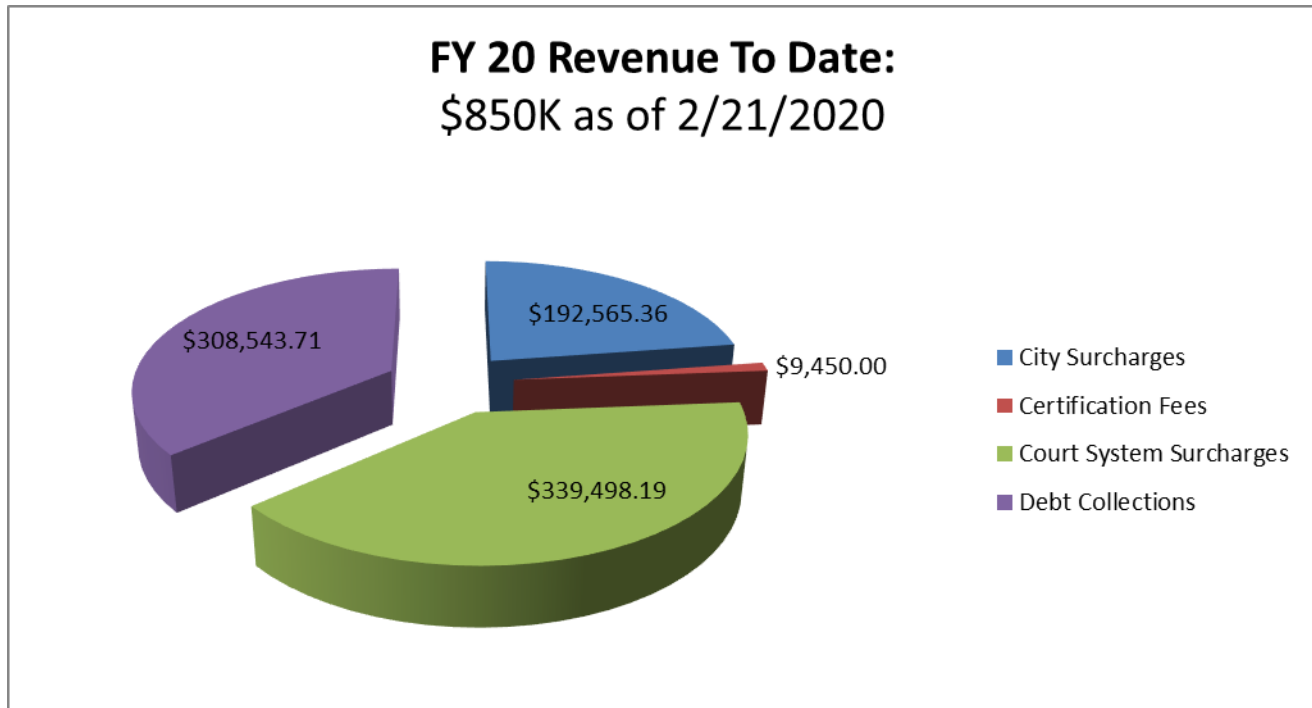
**FY2020 Expense Budget**

2020 IRIS Budget Lines	Item	Budgeted	Prelim Costs	% Budget	Actual Costs	% Budget
<b>125003000-1000</b>	Authorized by Legislature	\$529,400				
Current Budget	Personnel	\$529,400	\$529,400	100%	\$308,771	58%
<b>125003000-2000</b>	Authorized by Legislature	\$101,800	\$27,757	27%		
Current Budget	Travel TA	\$50,000	\$27,757	56%	\$17,840	36%
<b>125003000-3000</b>	Services Authorized by Legislature	\$632,000				
Current Budget	Academies	\$0	\$0	0%	\$0	0%
Current Budget	Hearings	\$75,000	\$65,000	87%	\$44,522	59%
Current Budget	Operations	\$128,300	\$116,416	91%	\$116,416	91%
Current Budget	Training	\$500,000	\$78,360	16%	\$63,783	13%
Current Budget	Total "Services"	\$703,300	\$259,776	37%	\$224,721	32%
<b>125003000-4000</b>	Authorized by Legislature	\$37,500				
Current Budget	Supplies	\$18,000	\$3,540	20%	\$3,540	20%
Totals	Projected real budget	\$1,300,700	\$820,473	63%	\$554,872	43%
FY20 Authorized Budget	Legislative spending authority.	\$1,300,700				
Actual Revenue to date	Actual Rev. vs Prelim/Actual Expenses	\$975,057	\$154,585		\$420,186	



**FY2020 Actual & Projected Revenue & Budget**

Revenue Sources	Revenue	%
City Surcharges	\$192,565.36	22.65%
Certification Fees	\$9,450.00	1.11%
Court System Surcharges	\$339,498.19	39.94%
Debt Collections	\$308,543.71	36.30%
Total Collected Revenue	\$850,057.26	
Final Carry over from FY19	\$125,000.00	
Grand Total of Available Revenue	\$975,057.26	
Projected Program Receipts	\$1,100,000.00	
Progress Actual vs projected YTD	77%	64%
Projected actual cash to spend (No carryforward to FY20)	\$1,225,000.00	
Projected actual cash to spend (less \$125K carryforward to FY21)	\$1,100,000.00	



**Planned Activities:**

Staff Travel Planned:

- Rob teaching MOI in Soldotna the week of April 13.
- APOA Crime Conference May 5-7, in Juneau.
- Sarah and Wendy will be attending the ACADIS training conference the week of May 10, in Ohio.
- Bob to Anchorage the week of May 18 for the Law Enforcement Management Institute (AKA

LEMI) and an OAH hearing. The hearing may continue into the following week.

- Rob will represent AK and present on our MOI Instructor Certification process at the IADLEST National Conference the week of June 7, in Fort Worth, TX.
- Rob will teach MOI in Kotzebue the week of August 23.

APSC Council Meeting Dates:

- Thursday May 7, 2020 12:00 PM to 4:00 PM, Juneau.
- TBD: Quarterly teleconferenced Meeting in September.



## Memorandum to Council

Date: February 21, 2020  
From: E.D. Bob Griffiths *RCG*  
Subject: Proposed Regulations Changes Ripe for Adoption

At the Council's last meeting in December 2019, you approved draft regulatory changes to proceed through the adoption process. Since that time the regulations were submitted to the Alaska Department of Law and were assigned project file number #2019200895. As required by the Administrative Procedures Act, notice of the proposed changes was distributed to members of the legislature and other concerned parties and published in the newspaper (ADN on 12/24/2019). Public notice was made of the question and comment period extending to January 31, 2020. Several questions were received and publicly answered and published; they are now part of the attached package. NO public comments were received prior to the end of the comment period.

The published regulatory amendments are now ripe for your decision to adopt as published, amend<sup>1</sup> and adopt, or reject. No public testimony on these changes will be heard at our meeting on March 5, 2020.

Of note, since this process started, the Governor introduced legislation (SB146 and HB224) that directly relates to, and is generally consistent with, some of the minimum standards for police officers and codifying our regulatory authority over hiring and training standards for Village Police Officers, or VPO. This legislation will be discussed separately during our up-coming meeting. Should the legislature amend and adopt law inconsistent with our regulations, the statutory change will supersede regulation, and we will be back to the Council to reconcile any conflicts.

To remind council members of what the proposed changes were, and why they were needed:

13 AAC 85.090 and 250 Personnel Reports: The proposed changes to 13 AAC 85.090 and 85.250 are to add the requirement that an officer keep APSC advised of their current mailing address. This is added to comply with the requirements of the Administrative Procedures Act<sup>2</sup> in notifying officers of proposed administrative action. Addition of this language allows the

<sup>1</sup> There are some restrictions on the scope of amendments that can be applied without triggering the need for prior public notice and a required comment period. The council's attorney should be consulted when considering this option.

<sup>2</sup> AS 44.62.380(c)

Council to proceed with administrative action when a respondent refuses to accept document service or cannot be located after a diligent search. Address notification can be accomplished on APSC forms, through their employing agency, and/or using a change of contact information form/link available on APSC's website.

13 AAC 85.900 Definitions: APSC staff identified that the definition of "crime of domestic violence" in our regulations is dated and inconsistent with Alaska's statutory definition of the same. This proposed change amends the definition so that it is consistent with Alaska statutes. The primary change for APSC means we will rely upon a conviction for an Alaska DV crime as disqualifying an individual, rather than having to dissect the specific allegations leading to the conviction to determine if they met the archaic and less-inclusive federal definition. One of the published questions asked and answered to the proposed amendments dealt with this issue; a more detailed explanation was provided in our answer to this question.

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

- US Citizenship required; to be consistent with all other APSC regulated positions
- Clarify that a felony conviction is always a disqualifier, not just one within the past 10 years, and that a conviction for a domestic violence or a sexual offense defined under AS 12.63.100(7) disqualifies an individual from being a Village Police Officer.
- Adds the illegal use of controlled substances within the past year as a disqualifier (excluding marijuana use).
- A village can no longer hire probationary or temporary individuals who do not meet the minimum qualifications at the time of hire.
- Clarifies that an individual who was denied or found ineligible for certification is also ineligible for hire as a village police officer.
- Requires a village to determine that an applicant meets minimum qualifications and confirm their eligibility with APSC before hire.
- Replaces the VPO training requirements with new, more specific requirements consistent with current academy curriculum and with state statutory requirements such as mandatory training in domestic violence, sexual assault, and dealing with disabled individuals.
- Adding the requirement for VPOs to keep a current address on file with APSC.
- Increases the population size of a "Village" from 1000 residents to 2000; this resolves an issue for a couple of the larger rural villages who were slightly over 1000 residents but employed VPOs.
- Adding definitions to VPO regulations for "crime of domestic violence" and "good moral character." These definitions are consistent with other APSC regulations.

Alaska Police Standards Council (APSC) Response to Questions Regarding Proposed Changes in Regulations Relating to Police, Village Police, Probation, Parole, Corrections, and Municipal Corrections Officer Standards.

Here is a link to the Public Comment Notice:

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=196481>

The following questions were received by APSC prior to January 6, 2020:

Question: Regarding the proposed changes adding the requirement that officers notify APSC of an address change:

1. Was there discussion on how that notification would take place? Who would do it? Could the departments integrate it into their systems? Right now, the relationship our officers have with APSC is rather passive and most communications come from the department on their behalf.
2. What, if any consequence is identified if the employee fails to update APSC of an address change?

Answer:

Address information provided by or through an officer's agency will be utilized as the officer or applicant's mailing address, however it will be the officer and/or applicant's responsibility to assure APSC has their current contact information. Officers and Applicants can securely and easily update their contact information by using online web-forms linked through APSC's [website](#), by mail, or by e-mail notice to APSC.

The consequences of not keeping APSC informed of current contact information could be that an individual may not receive official notices sent by certified mail from APSC to their last known address regarding administrative actions impacting their certification status.

Question: What is the difference between the federal definition of Crime of Domestic Violence (DV) and the proposed adoption of the state's definition of a DV crime?

Answer:

This is a complex question that cannot be addressed with a simple answer; however, in most cases it means: State DV statutes apply to specific crimes involving violence or threats that are perpetrated against a household member, which includes siblings and parents, or even roommates. (See [AS 18.66.990\(3\)](#)).

Federal DV crimes do not refer to the term “household member;” instead, they include violence or threatened violence committed against a spouse, intimate partner or a child (See [18 U.S.C § 922 \(g\)\(9\)](#) and [18 U.S.C. § 921\(a\)\(33\)\(A\)\(ii\)](#)). State crimes include violence committed by a child against a parent, whereas federal definitions do not. There are a few crimes, such as certain Disorderly Conduct convictions under state statute that meet the federal definition of a DV crime but are excluded from state DV crimes.

The intent of this regulatory change is to eliminate any perceived ambiguity between state and federal Domestic Violence definitions when determining Alaska’s standards for police and correctional officers.

Question: It looks like the proposed changes to 13 AAC 89.010 are going to make it more stringent to qualify as a Village Police Officer (VPO) than it would be to qualify for a regular police officer. Specifically, the proposed changes will create a barrier to qualification if a person has ever been convicted of the enumerated crimes instead of the barrier only looking back ten years from the time of application.

Answer:

The legislature charged APSC with implementing their policy; “...It is a primary public interest that applicants meet minimum standards for employment as police officers, probation and parole officers, and correctional officers, and that criminal justice education and training be made available to police officers...” (AS 18.65.130)

Current regulation 13 AAC 85.010(b) prohibits anyone ever convicted of a felony or a crime of domestic violence from being hired as a police officer. Additionally, it prohibits the hire of anyone convicted within the past 10 years of a misdemeanor crime of dishonesty or moral turpitude, or that resulted in serious physical injury to another person. In application, police departments simply do not hire individuals with these convictions, regardless of when they occurred.

The Council's intent is to more closely align minimum qualifications regarding citizenship and past criminal conduct by applicants for police and village police officer positions. Hopefully, the changes will clarify minimum standards for VPO's based upon prior findings and decisions made by the council as they've applied their judgement in previous discretionary adjudications. VPO standards for other qualifications, such as age and education remain much lower than those for Police Officers.

The changes are not meant to create barriers; rather, they are intended to set minimum professional standards for the protection of the public, regardless of where in Alaska they live or travel.

Questions received after January 6, 2020 will be addressed in future notices.

The period for written Questions ends January 21, 2020, to allow time for the agency to answer them prior to the end of the comment period. To be considered, comments must be submitted by 4:29 p.m. on January 31, 2020.



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

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

Authority: AS 18.65.220

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

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

Authority: AS 18.65.220

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

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

**Authority:** AS 18.65.220

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

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

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

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

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

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

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

**Authority:** AS 18.65.220 AS 18.65.230 AS 18.65.240

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

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

- (1) obtain proof of the applicant's age and citizenship;
- (2) review and evaluate the applicant's personal history and medical history statements and **assure they meet the standards in 13 AAC 89.010;**

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

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

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

**Authority:** AS 18.65.220 AS 18.65.230 AS 18.65.240

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

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

- (1) alcohol and drug interdiction
- (2) arrest procedures and Miranda rights
- (3) constitutional rights and the administration of justice
- (4) crime scene investigation
- (5) criminal complaints
- (6) criminal law and procedure
- (7) defensive tactics and use of force
- (8) disability awareness, in compliance with the requirements of AS 18.65.220

- (9) domestic violence, in compliance with the requirements of AS 18.65.240
- (10) driving under the influence procedures
- (11) ethics and cultural diversity
- (12) fire prevention and fire extinguishers
- (13) first aid
- (14) interview techniques
- (15) juvenile procedures
- (16) patrol procedures
- (17) police tools such as oleoresin capicum, baton, and handcuffs
- (18) report writing and police notebooks
- (19) search and rescue
- (20) search and seizure and evidence procedures
- (21) sexual assault, in compliance with the requirements of AS 18.65.240

(a) A person shall attend all sessions of the training required in (a) of this section, except for absences approved by the director of the program. A person who is absent for over 10 percent of the total hours of instruction will not be considered to have completed the training required by (a) of this section.

**Authority:** AS 18.65.220 AS 18.65.230 AS 18.65.240

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

**(e) A person certified by the council or serving in a position requiring certification by the council shall maintain a current, valid, mailing address on file with the council. The latest mailing address on file with the council is the address that will be used for official**

**communications and notifications. An officer must notify the council, in writing, of a change of the officer's address within 30 days of any change.**

Authority: AS 18.65.220

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

In this chapter

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

Authority: AS 18.65.220

## Initial Proposal to Council for Officer Applicant Tracking Index:

Taking direction from the council at the March 2019 meeting, APSC staff explored options for supporting a multi-agency, statewide index of officer applicants. We initially defined this project as requiring:

1. Security of the information at the highest level, yet accessible to small agencies with limited bandwidth.
2. Track full name, date of birth, and AKA/nicknames of applicants.
3. Ability for any LE agency with proper authority and individual credentials to search a name and determine if a person had applied at another participating agency to facilitate communications between agencies;
4. Participating LE agencies would easily input the names of new applicants to their department; individually or, ideally, in batches.
5. Ability for a participating agency to update an applicant's status to reflect one of several statuses with their agency:
  - a. applied;
  - b. eligible (meaning they were eligible, but not selected in that round of hiring);
  - c. not eligible (meaning they did not meet that agency's criteria for hire and would not be reconsidered by that agency)
6. Provide search capabilities to agencies seeking to identify eligible applicants from other agencies. (Who is in the system I might be able to hire?)
7. We also defined the following desirable characteristics:
  - a. Affordable or no-cost to APSC and/or agencies
  - b. Avoid separate system requiring maintenance, care and feeding
  - c. Data from index would be integrated with APSC's current ACADIS officer training and certificate data system.

Based upon the above, we sought assistance from Envisage Technologies, our vendor for the officer training and certification system relied upon by APSC: ACADIS. ACADIS is available by means of a secure internet connection or, through a web-based "portal" that provides much more limited access and functionality. APSC believes that with minor configuration changes, ACADIS will provide us with the tool necessary to make an applicant index possible.

Following consultation with legal advisors, APSC elected to forgo tracking the status of an applicant with participating agencies (#5 above); instead, the individual will either be listed as an applicant or an employee of an agency (should they be hired). Eligibility will not be addressed within the index other than for an applicant who has been formally found disqualified by the Council after being afforded due process.

## Memorandum of Understanding

**The Alaska Police Standards Council (APSC) and the undersigned law enforcement agencies hereby enter into the following information sharing agreement.**

**Purpose:** This agreement is intended to:

- Assist Alaska's police agencies in recruiting and hiring qualified police applicants interested in the profession who may not have been hired by another department;
- Reduce the level of effort required by Alaska police departments in investigating police officer applicants' backgrounds and qualifications for the position;
- Avoid duplication of effort by multiple agencies conducting multiple background investigations on the same individual; and,
- Increase the depth and quality of information about police officers and applicants housed within APSC's ACADIS information system without increasing APSC's data-entry burden.

Additionally, this agreement is designed to assure relevant information about an individual's qualifications uncovered by one agency is made available to other agencies where the applicant may be applying.

**Assumptions:**

1. Participating agencies agree to share information with other participating agencies regarding applicants to their agency and are willing to invest staff time entering applicant information, or providing it to APSC in a format amenable to importation into the system, in exchange for the value it provides to all participants.
2. Applicant's with one police agency will have signed information waivers and/or releases of information (ROI) with that agency. These documents allow background investigations by that agency and the sharing of information about the applicant's eligibility for hire with APSC and other public safety agencies; APSC's *Personal History Statement* (F-3) contains such a ROI.
3. Police officer applicants are interested in a career in public safety and are receptive to being approached by an agency other than the one they initially applied with. Therefore, these applicants would be agreeable to the sharing of their interest with other agencies, should they not be selected by that agency.

**Applicant Inquiries:**

Early in the recruitment and hiring process, participating agencies agree to query the ACADIS system for evidence of prior applications or employment within Alaska's public safety community. Information within the system may direct them to another department with relevant information. Participating agencies agree that they will share relevant background information on common applicants with one another provided Releases of Information (ROI) are provided.

The National Decertification Index (<https://www.iadlest.org/our-services/ndi/about-ndi>) is an additional resource to background investigators in identifying agencies in other states who may have information about an applicant's qualifications for appointment.



**Restricted Access and Use of Information:**

APSC grants participating agencies access into the ACADIS system to be used as an index system directing them to other agencies who previously processed an applicant for hire. Information available to an agency will only be the applicant's name, birthdate, APSC certification status, and law enforcement work and application history. Inquiries will reveal if an individual has previously been entered into the system, is currently employed by another agency, and/or if they have applied to another agency. This information will include if the individual has been disqualified by APSC, surrendered their certification, or previously had their certification revoked by APSC.

While the ACADIS system contains training records, certification and employment documents, and may contain information about APSC administrative cases, this information will not be available to inquiry. Participating agencies agree to respect the confidentiality of the information within the ACADIS system and to utilize the system and the data it contains only in accordance with this agreement, and/or with other APSC authorized usage, such as tracking officer training and certifications.

**Input applicant's names into the APSC's ACADIS system:**

The parties understand that not all applicants will be entered by every agency; only those applicants who took significant steps in the hiring process will be entered. Merely applying for, or expressing interest in applying for, employment would not normally trigger data entry; instead, it is expected that an applicant advancing in the agency's hiring process to the point of personal evaluation would then trigger system entry. Certainly, those subjected to a background investigation, polygraph and/or CVSA testing, psychological and/or physical examinations would rise to the level of entry in the system. Subject to the discretion of the participating agency, some agencies may elect system entry following oral interviews, physical performance and/or written evaluations. This agreement is intended to encourage, but not obligate, participating agencies to enter as many of their applicants as is reasonable, given resource constraints.

Each agency agrees to enter their applicants, *even though that applicant may have been previously entered into ACADIS by another agency or APSC*; this allows for the applicant's full application history to be tracked and recorded in the system.

ACADIS entry of applicant information can be done individually for smaller agencies with relatively few applicants. For larger agencies with many applicants, applicant information can be submitted to APSC in spreadsheet format for bulk importation.

**Disqualified Candidates:**

All agencies participating in this initiative should enter each of their applicants in the index system, even those who were disqualified during the pre-hire screening process. This being the case, ACADIS system cannot be utilized as a repository for adverse information about any individual without the individual first being afforded due process. Pursuant to Alaska's Administrative Procedures Act, APSC has an established protocol in place should an applicant be identified who should be disqualified from working as an officer in Alaska. The Council itself will make a formal *Finding of Disqualification*, should it be necessary. That finding alone would trigger an ACADIS entry documenting the individual's disqualified status.

In addition to participating agencies agreeing to enter information about their applicants, agencies agree to separately notify<sup>1</sup> APSC if their background investigation resulted in identifying behavior or prior conduct by an applicant rising to the level that APSC should consider disqualifying them from being hired by any agency. Should the Council agree, the individual would be notified and afforded due process prior to APSC formally finding them disqualified.

**ACADIS Access:**

ACADIS houses Alaska's officer employment, training, and certification history in a secure, hosted, web-based system operated by Envisage Technologies, LLC. Encrypted access to the system is controlled by username and password and is only available using pre-approved computers<sup>2</sup>. Each participating agency agrees to maintain at least one active user<sup>3</sup> who is granted access to the system who can serve as that agency's access point for inquiries and information entry into the system.

**APSC Commitment:**


APSC agrees to support and maintain the operation of the ACADIS system subject to the provisions of Alaska Statutes and Regulations. APSC Staff, directed by the Council, will control who is granted access to the system, the extent of information access granted to users, and will investigate and appropriately respond to information breaches or other breaches of the terms of the agreement.

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<sup>1</sup> Notification is by submission of a "Rejected Applicant" *Personnel Action Form*, or F-4. This can also be done through Alaska's APSC Web Portal: <https://alaska-apsc-portal.acadisonline.com/AcadisViewer/Login.aspx>

<sup>2</sup> Access restrictions dictate an agency must have a static IP address or range of addresses for the computer(s) used to access the system.

<sup>3</sup> A user can be an officer, investigator or in an administrative support position.

	STATE OF ALASKA ALASKA POLICE STANDARDS COUNCIL		POLICY AND PROCEDURE NUMBER T.B.D.	PAGE 1 of 4
	<b>Policy and Procedure</b>		EFFECTIVE DATE March 5, 2020	
SUBJECT <b>Crisis Intervention Team (CIT) Training Certification</b>		SUPERSEDES None	DATED N/A	
CHAPTER <b>Training</b>	SECTION <b>Instructor and Program Certification</b>	APPROVED BY ss// Justin Doll APSC Chair		

## I. PURPOSE

This policy provides Alaska Police Standards Council's (APSC) guidance to staff regarding the certification of Crisis Intervention Team (CIT) training programs and instructors.

## II. BACKGROUND

APSC certifies "other" training programs (defined as other than basic training programs) in accordance with 13 AAC 87.020. One such program, which has been implemented and adopted by at least four of the largest communities<sup>1</sup> in Alaska is the Crisis Intervention Team (CIT) training. APSC certified these four programs in accordance with the above regulation.

Each of the four CIT programs currently certified in Alaska contain the same core elements consistent with the "Memphis Model" of CIT training. This model has been adopted and promoted by CIT International, the nonprofit organization whose primary purpose is to: "Facilitate understanding, development, and implementation of Crisis Intervention Team (CIT) programs throughout the U.S. and worldwide in order to promote and support collaborative efforts to create and sustain more effective interactions among law enforcement, mental health care providers, individuals with mental illnesses, their families, and communities and reduce the stigma of mental illness."<sup>2</sup>

CIT International is **not** a governing or certifying body for CIT programs. They support the development and advancement of CIT programs through a defined set of core elements.

The Memphis Model is a solution focused on community response to helping people with mental illness. CIT programs based on this model bring stakeholders together from law

<sup>1</sup> Anchorage, Mat-Su, Fairbanks, and Juneau

<sup>2</sup> CIT International homepage [www.citinternational.org](http://www.citinternational.org)

enforcement, behavioral health and advocacy sectors, and people who have experienced mental health illness to develop solutions for safely re-directing people in crisis away from the judicial system and finding more appropriate health solutions.<sup>3</sup> The International Association of Chiefs of Police (IACP) has advocated for policy and public safety staff to be trained in Mental Health First Aid as well as to de-escalate situations; something the Memphis Model of CIT accomplishes.

CIT programs have been an integral part of law enforcement training in Alaska for 18 years; the first CIT course being taught by the Anchorage Police Department in 2002, employing the Memphis Model. Presently, all APSC certified CIT programs being taught employ the Memphis Model, however, there has been no requirement to adhere to this specific model in order for sponsors to call their program "CIT." APSC seeks to standardize Alaskan CIT training and training certifications on this model, which has been the industry standard for several decades.

**Factors governing APSC, member agencies, and this policy:**

- Current APSC regulations contain no specific provisions for certifying CIT programs or instructors;
- APSC is aware that grant funding for CIT training may be available in the future;
- APSC's regulations require funding be granted to programs meeting certification requirements;
- CIT International's "Memphis Model" is an industry standard best practice for CIT training, as demonstrated by over 3,000 Memphis Model CIT programs around the nation<sup>4</sup>;
- With current fiscal constraints, APSC's responsibility to fund certified, industry standard, and best practice programs is paramount;
- Presently, all CIT instructors and programs in Alaska are teaching the Memphis Model;
- If a CIT instructor or program is already teaching the Memphis Model **and** is certified, no additional paperwork is required;

### **III. APSC POLICY**

*It shall be the policy of the Alaska Police Standards Council that;*

- *APSC staff shall create a procedure for the certification of CIT instructors and CIT programs*
- *For a CIT program to qualify for certification, the program must:*
  - *Be based on the "Memphis Model" which includes the following ten core elements<sup>5</sup>:*
    - *Partnerships: Law Enforcement, Advocacy, Mental Health*

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<sup>3</sup> CIT International Program Overview 2017

<sup>4</sup> Crisis Intervention Team (CIT) Programs: A Best Practice Guide for Transforming Community Responses to Mental Health Crises, August 2019

<sup>5</sup> Crisis Intervention Team Core Elements, University of Memphis, September 2007

- *Community Ownership: Planning, Implementation, and Networking*
- *Policies and Procedures*
- *CIT: Officer, Dispatcher, Coordinator*
- *Curriculum: CIT Training*
- *Mental Health Receiving Facility: Emergency Services*
- *Evaluation and Research*
- *In-Service Training*
- *Recognition and Honors*
- *Outreach: Developing CIT in Other Communities*
- *Submit an Application for Course Certification form F-20 accompanied by the information specified in 13 AAC 87.010(b)(1-7); and*
- *Submit all course materials for evaluation by APSC staff*
- *To qualify for certification as a CIT instructor, an instructor must:*
  - *Qualify to be an APSC certified instructor in either Law Enforcement of General subjects; and*
  - *Apply for Instructor Certification using form F-9 and attaching supporting documentation*
- *APSC staff may collect appropriate forms, conduct background investigations into an instructor's training, and make a determination as to an instructor or training program's qualifications for certification.*
- *APSC staff may rely on currently certified CIT instructors or CIT program directors to guide APSC in making a determination as to an instructor or training program's qualifications for certification.*

#### **IV. PROCEDURE**

- A. APSC will evaluate a request to certify a CIT instructor and/or training program based upon this policy; requests must contain the appropriate *Instructor Application (F-9)* and *Application for Course Certification (F-20)* forms as well as supporting documentation.
- B. If applicable, APSC will review the proposed curriculum and determine if it meets the standards of the Memphis Model as set by CIT International.
- C. A CIT training program that meets the standards of the Memphis Model as set by CIT International as well as the requirements of 13 AAC 87.020 will be certified by APSC as an approved "CIT" course.
- D. A CIT training program that does not meet the standards of the Memphis Model as set by CIT International and/or the requirements of 13 AAC 87.020 will not be certified by APSC as an approved CIT program.
- E. An instructor who meets the requirements of 13 AAC 87.040 will be certified to teach an approved CIT curriculum.
- F. APSC may, upon written application, waive any part of the requirements outlined above if it finds that a person, although not meeting all the eligibility requirements, is otherwise qualified to be a CIT instructor.

G. APSC will only approve Funding Assistance Requests related to CIT training for courses meeting the standards of this policy.

**V. ATTACHMENTS:**

None

**VI. AUTHORITY**

AS 18.65.220; 13 AAC 87.020; and 13 AAC 87.040

**VII. IMPLEMENTATION RESPONSIBILITY**

APSC Executive Director

**VIII. DISTRIBUTION**

APSC Staff, Council Members, and interested agencies.