



Alaska Association of Chiefs of Police

PO Box 3734

Seward, Alaska 99664

January 28, 2021

Re: Recommendations for proposed APSC Regulations

The Alaska Association of Chiefs of Police encourages responsible, appropriate, sensible, and necessary police reform, in order to be responsive to the ever-changing landscape we work in every day. We believe our responsibility to the public is to maintain a professional police force and we support APSC in its efforts to make this happen.

In an extensive and time-consuming effort our Board of Directors, and the membership of AACOP, came together to evaluate the proposed Alaska Police Standards Regulations that are currently being proposed and up for public comment. We are hopeful that the Alaska Police Standards Council will consider our recommendations and implement these suggestions. We found most of the proposed changes to be sensible and some we found to be overreaching and ill-defined and unnecessary.

We ask that the Alaska Police Standards Council consider each of these recommendations and we would appreciate feedback on those recommendations. We would like to engage and work on a compromise that suits all those who may be affected by these changes.

- 1) 13AAC 85.010(c) Page 3, We prefer this to be changed to 15 business days.

Due to the complexity and speed at which police departments hire we believe 15 Business Days would be more reasonable.

- 2) 13 AAC85.010(d) same as #1 allow 15 business days.
- 3) 13 AAC 85.020 (d) Allow duties related to suspension to be performed. This language is too restrictive very broad. Agencies cannot get an officer off suspension if we don't allow "police duties," such as range qualifications, attend law enforcement related classes and other associated training that are "police duties."

Recommend changing language to allow for duties other than acting under the "color of law."

- 4) 13 AAC 85.090(a) & (b) & (d) Page 10, 13: Make this 15 business days. Due to the complexity of hiring, speed at which we hire, and all other factors 15 BD seems more reasonable.
- 5) 13 AAC 85.090 (f) Page 13: Make this 15 business days. Reason due to incarceration, delays in arrest, and weekends plus it is more consistent with previous deadlines.
- 6) 13 AAC 85.090 (f) Page 14: No changes
- 7) 13 AAC 85.100(a)(3)(B) “violated the law enforcement code of ethics.” **This must be removed all together due to the ambiguous terms and unreasonable expectations used within this oath.**

AACOP believes in the words and the ideology of the Law Enforcement Code of Ethics and we believe that every police officer should strive to achieve such perfection, but we also understand these words are DESIRED, “values and ideals,” not absolutes. Examples exist throughout this code, like unsullied, a term which has many shades of gray. A priest may view unsullied in a different way than a lawyer, politician, a police chief, or even a body such as the standards council.

The LECOIE even states we “constantly strive to achieve,” meaning we may not always do what it asks. This cannot be used as a standard model of decertification. Of course, we all swear that we will strive to achieve these ideals, but the bottom line is, we will never achieve this level of perfection in spirit.

Ethics are not moral absolutes. We cannot hold anyone to this standard when not a single person can say they have done so with 100% honesty.

- 8) 13 AAC 85.100((a)(3)(C) Page 15: These terms like “unreasonable” are being tested and are starting to erode from the standard we have always believed. Recent cases out of the 10th Circuit court are now ignoring Graham v. Conner standards. When will this come to Alaska? The trends coupled with this language spells trouble on the horizon for Alaska Law Enforcement. AACOP issues a cautionary plea to consider defining this in more detail.
- 9) 13 AAC 85.100(a)(3)(D) Page 15: Define harassed and coerced. LEO’s get accused of this all the time but who sets the standard? What protections do line officers have from these terms being used as a “catch all,” to decertify an officer? Poor supervision and vengeful command staff can use this regularly to decertify officers. We have to be careful!

Recommend the word “unlawfully” be added in front of harassed and coerced.

- 10) 13 AAC 85.100(a)(3)(E) Page 15: What is “inappropriate sexual activity?” These loose terms need to be defined. Who determines inappropriate? What standard are we using?

Recommendation: This must be defined and clarified.

- 11) 13 AAC 85.100(a)(3)(F) Page 15: What is “participated,” “inappropriate relationship sexual or otherwise?” What is the otherwise? These loose terms need to be defined.

Remove “otherwise” and define “inappropriate relationship.”

- 12) 13 AAC 85.100(a)(3)(G) Page 15: This is a department level issue and is already a hot topic issue and in no way has a place in a decertification statute. These policies are ambiguous and almost impossible to write to cover all “exceptions.” We cannot place such an ambiguous standard in a statewide statute.

Add: If the investigating agency determines or something similar if this must be placed in statute. Would prefer this be removed.

- 13) 13 AAC 85.100(a)(3)(I) Page 15: This needs to be changed as stated in #6.

- 14) 13 AAC 85.100(a)(3)(G) Page 15: “fail to respond to questions related to an investigation,” Whose investigation? Does this include a third-party investigation, a news reporter’s investigation? This needs to be defined and written better.

If not APSC then who is going to protect the right not to self-incriminate in a non-administrative process? We cannot make a rule that compels officers to incriminate themselves in a matter not related to law enforcement.

An officer should be required to respond, in an administrative department investigation, or other authorized law enforcement investigations but not ALL investigations.

Not reasonable or fair to just say “investigation.” Define investigation.

- 15) 13 AAC 85.100(b)(1) Page 16: Every jurisdiction has different Felony definitions. Concerning for some, Alaska standard is not always a Seattle standard. Current trends make this statute concerning. The evolution of morality and selective prosecution in some jurisdictions can make this problematic.

Recommend: Language be added that requires APSC to analyze whether the conduct is a felony in Alaska.

- 16) Of course many of these concerns are repeated in the suspension section 13 AAC 85.110(a) – (b), and 13 AAC 85.260(a) – (b), 13 AAC 85.270.

Same issues as listed above. Be consistent with above recommendations.

- 17) 13 AAC 87.040(e)(4) Page 50: This does have 5 business days. No objections to this language.

- 18) 13 AAC 87.084(d)(1) & (3) Page 59: For a variety of reasons related to medical leave, seasonal workers, unexpected issues we would request this be changed to 6 months.

- 19) 13 AAC 87.084(f) Page 60: We would like this changed to 90 days? Works a little better.
- 20) Mandatory training requirements, funding, tracking, and costs to departments. All of these issues need to be answered.

AACOP found this issue to be very controversial. The Board of Directors, although not unanimously, voted to oppose the MANDATORY training requirements to be enforced by APSC, especially the 8 hours of “current trends.”

The “current trends,” is extremely problematic in that it isn’t defined and is open ended. Each jurisdiction is governed by the citizens, and it is the citizens of those jurisdictions, that may not believe in the “current trends,” occurring throughout our nation or in certain parts of our state. To enshrine a statute with such ambiguous language is extremely concerning to some on the BOD of AACOP.

Although we understand the intent of these requirements, there does not appear to be systemic failure throughout our state on this topic. We do not support such an extremely vague guideline like this. Most of the requirements seem appropriate but the consensus of the BOD, is these decisions be left to the department and the cultural and community norms of the locals not the “trend setters,” in other parts of the country.

Some feel this, ambiguous mandate, infringes on the local communities ability to regulate their ideals and standards. Local agencies should not be forced to adopt training which they feel may not suit their community objectives. National and state “trends,” can change with each administration and some feel this can cause inconsistent training requirements within the law enforcement that are contrary to the local culture.

We hope the Alaska Police Standards Council will consider these suggestions and make the appropriate changes. We understand the difficulties in making systemic changes and we all support a consistent and accountable system that is fair and equitable to all. APSC must be the last line of defense for those officers who are falsely accused and not allow regulations that make it easier to decertify someone especially with a lot of ambiguous terms.

We appreciate all the hard work that has gone into these changes and we support the effort to responsible police reform.

Very respectfully,

The Board of Directors of AACOP