



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Public Safety

ALASKA POLICE STANDARDS COUNCIL

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January 26, 2018

The Honorable Jonathan Kreiss-Tomkins
Chair, House State Affairs Committee
State Capitol Room 411
Juneau AK, 99801

RE: House Bill 293 Background Checks for Police & Training

Dear Representative Kreiss-Tomkins,

In 1972, when the legislature created the Alaska Police Standards Council (APSC), they granted the council the power to establish regulations defining the minimum standards for hiring and training of police officers. From that time forward, APSC has, by regulation, required a fingerprint based background check for all officers to assure they meet these standards. Two issues have emerged that hamper rural communities hiring officers and frustrate individuals hoping to sponsor their own police training through one of Alaska's basic police academies in hopes of future employment. HB 293 was designed to allow APSC to assist rural communities in their pursuit of law enforcement officers and independent students seeking enrollment in police training academies. I am writing to further explain the intent of the proposed legislation.

Presently, federal law prevents APSC and other Police Officer Standards and Training (POST) agencies across the United States from receiving full and complete Criminal History Record Information contained in the criminal record repositories of federal and state governments. This prohibition is directly related to the current construct of 28 USC 534 and CFR 28 Part 20, and accompanying policy and procedures through the FBI Advisory Policy Board. In short, what these laws and regulations state is that:

- Law enforcement agencies having access to the Criminal Justice Information System (CJIS – NCIC and Alaska's APSIN) can take fingerprints and conduct criminal history background checks for prospective employees;
- APSC and other states' POST agencies are regarded as occupational licensing bodies and not "law enforcement agencies" by the FBI; therefore, they are not entitled to CJIS information or fingerprint based criminal history information unless it is required by state statute; and
- APSC and POST agencies can only take and submit fingerprints for criminal history records checks related to employment and training *if the state adopts statutes specifically authorizing such checks*. Alaska currently lacks this statutory authority.

In the clear majority of cases, hiring agencies have access to the CJIS system, take applicants' fingerprints and submit them through the Alaska Department of Public Safety (DPS) for the required fingerprint-based background checks. However, in APSC's efforts to support rural justice by expanding the ranks of Village Police Officers, we discovered that most small rural communities

lack CJIS access and, therefore, the ability to take fingerprints for applicants and submit them for the required criminal history background checks. When APSC attempted to support these disadvantaged agencies by taking and submitting applicant's fingerprints on their behalf, we found we were blocked from doing so by the federal regulations and lack of clear statutory authority. HB 293 proposes the modification of state statute to grant APSC the authority to take fingerprints and submit them for a criminal history background check for those communities who lack CJIS access, allowing the council to support the small rural agencies in their effort to hire and train police officers.

APSC also regulates the minimum curriculum for basic training academies and certifies those academies that comply with state training standards. The Council restricts attendance to basic police training academies to individuals who meet the minimum criteria for police certification; this assures available training positions for state and municipal police recruits in the academies and for individuals who are capable of being hired as officers in the future. As basic training is directly related to an individual's future certification as an officer, individuals applying for enrollment as self-sponsored attendees to basic training academies who have disqualifying criminal convictions are not authorized by APSC to attend. HB 293 is intended to authorize APSC to submit training applicant's fingerprints for a criminal history background checks.

The council strongly supports this legislation and feels it is necessary for APSC to provide critical support to rural justice initiatives and the Governor's Public Safety Action Plan.

I look forward to the opportunity of explaining this legislation and the unique challenges of recruiting, hiring, training, and retaining qualified police officers in rural communities to the House State Affairs Committee. Please feel free to contact me if you need additional information or have any questions.

Respectfully,

R.E. 'Bob' Griffiths
Executive Director