



February 3, 2020

Senator Joshua Revak
Chair: Senate State Affairs
State Capitol Room 125
Juneau AK, 99801
Via E-Mail: Senator.Joshua.Revak@akleg.gov

RE: SB164 - Peace Officers and Police Officer Classifications in Alaska

Honorable Senator Revak;

The Alaska Police Standards Council (APSC) is frequently asked about the difference between a “peace officer,” and a “police officer” in Alaska. We also recognize there is substantial confusion about the differences between a Police Officer, Village Public Safety Officer (VPSO), Village Police Officer (VPO), and Tribal Police Officers (TPO). This document is intended to differentiate and clarify the terms as best we can. Please note, these are our agency’s interpretations and are always subject to additional clarification by the Department of Law and Alaska Courts.

Peace Officers:

A “peace officer” is the broadest category of law enforcement officer and is defined in at least two Alaska Statutes:

AS 01.10.060. Definitions. (a) In the laws of the state, unless the context otherwise requires, ... (7) "peace officer" means (A) an officer of the state troopers; (B) a member of the police force of a municipality; (C) a village public safety officer; (D) a regional public safety officer; (E) a United States marshal or deputy marshal; and (F) an officer whose duty it is to enforce and preserve the public peace;

AS 11.81.900. Definitions. (46) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;

There have been numerous court decisions and Attorney General opinions over the years clarifying and interpreting these definitions. It is now generally held that a “peace officer” is a *public employee* (VPSOs are publicly *funded* and specifically included) whose *primary duty* is enforcing some or all laws to maintain public peace and order. In addition to those positions specifically listed, it is generally agreed that peace officers also include police officers employed by Alaska’s airports and universities; criminal investigators for Alaska agencies other than the

Peace Officers and Police Officer Classifications in Alaska

Department of Public Safety (DPS); police officers working for the Alaska Railroad Corporation; fire marshals and arson investigators working for state and municipal fire agencies; and, Alaska State Park rangers.

Police Officers:

A “Police Officer” is a more narrow and specific sub-set of peace officer defined by statute.

AS 18.65.290(8) “police officer” means

(A) an employee of the state or a municipal police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations, and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace;

(B) an officer or employee of the Department of Transportation and Public Facilities who is stationed at an international airport and has been designated to have the general police powers authorized under AS 02.15.230(a);

(C) a University of Alaska public safety officer with general police powers authorized under AS 14.40.043;

This narrows police officers to those peace officers who are *employees of a state or municipal police department* or other specifically listed public safety agency who have been granted powers of search and arrest and are charged with maintaining public peace. This definition excludes federal marshals, criminal investigators working for other agencies, railroad police officers, and Park Rangers.

When APSC was created by the legislature in 1972 it was charged with establishing hiring and training standards for Alaska’s police officers. The Council subsequently adopted regulations creating two levels of minimum hiring and training standards for police officers; higher standards for officers working in urban agencies and those along the road system; and more lenient standards for officers working in small isolated communities where recruiting qualified candidates was more challenging and the pool of qualified candidates was more limited. These latter officers were differentiated from their more urban police officer colleagues, in regulation only, as being “Village Police Officers” (VPOs).

Tribal police, whose sovereign authority derives from their tribal entity, are not regarded as Alaskan peace officers or police officers and have no special authority to enforce state laws.

Police Qualifications and Training Regulations:

All police officers, including VPOs, fall under the jurisdiction of APSC which has regulated their minimum qualifications and training since 1972. VPSO qualifications and training are regulated

Peace Officers and Police Officer Classifications in Alaska

by the Department of Public Safety. Most other peace officers do not fall under APSC or DPS regulation and their employing agency manages their qualification and training standards.

Tribal police requirements and training are determined by their Tribal entity and, in some cases, where US Department of Justice grant funding is used, must meet minimum federal standards.

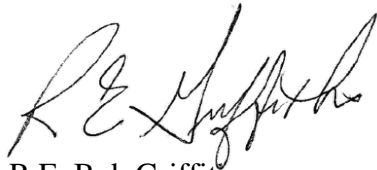
To assist in evaluating the different minimum qualifications for hiring various officers, I have included a chart listing their significant requirements as well as the significant disqualifiers. We hope this will be helpful as the legislature evaluates SB 164 and other public safety legislation.

Police Authority and Jurisdiction in Alaska:

Unlike most other states, Alaska's police officers, no matter their agency or normal geographic assignment, have statewide enforcement and investigative powers. This includes VPOs. While municipal laws are only applicable within a municipality, all police officers are free to enforce state law, statewide.

If you have any additional questions, please do not hesitate to contact me.

Respectfully,



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Executive Director

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ENC: Alaska Peace Officer Qualifications chart

Minimum Officer Qualifications in Alaska

Officer Classification / Requirements	Police Officer	Village Police Officer* VPO	Village Public Safety Officer VPSO	Tribal Police Officer ¹ TPO	Other Peace Officers
Regulated by APSC	Yes	Yes	No	No	No
Age	21	19	21	Set by Tribe	Depends on Position
Education	HS or GED	None	HS or GED	Set by Tribe	Depends on Position
Citizenship	US	US	US or resident alien	Set by Tribe	Depends on Position
Good Moral Character	Required	Required	Required	Set by Tribe	Likely Yes
Physical Exam	Required	Required for Academy	Required for academy	Set by Tribe	Depends on Position
Psychological Evaluation	Required	No	No	Set by Tribe	Depends on Position
Fingerprint criminal history check	Required	Required	Required	Federal grantees only starting next year	Depends on Position
Basic background investigation	Hiring agency	Hiring city & APSC	Hiring Grantee	Federal grantees only	Hiring agency
Exclusionary Conduct:					
Prior Felony?	Excludes	Excludes	Excludes	Set by Tribe	Likely excludes
Prior Sex Crime?	Excluded by reference	Excluded by reference	Excluded by reference	Set by Tribe	Likely excludes
Prior DV Conviction?	Excludes	Excludes	10 year exclusion	Set by Tribe	Likely excludes
Misdemeanor crime	10 year exclusion for crimes of moral turpitude	10 year exclusion for crimes of moral turpitude	5 year exclusion	Set by Tribe	Depends on Position
Drug crime	Varies	Felony only	Excludes most	Set by Tribe	Likely excludes
Drug use	5 year exclusion	1 year exclusion	10 year exclusion	Set by Tribe	Likely excludes
Marijuana Use	1 year exclusion	Prohibited after hire only	1 year exclusion	Set by Tribe	Likely excludes
Authority:					
Investigate/Enforce Alaska Law	Yes	Yes	Yes subject to DPS direction	No	Restricted by Position
Investigate/Enforce Tribal Law	No	No	No	Yes	No
Conduct addressed in SB164 & HB224					
¹ TPO's are not regarded as Alaskan Peace Officers but are included here for informational purposes					
*VPO qualifications listed include regulatory changes currently in process of adoption by the Council: File #2019200895					