

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 5, 2005

3:35 p.m.

**MEMBERS PRESENT**

Senator Gene Therriault, Chair  
Senator Thomas Wagoner, Vice Chair  
Senator Charlie Huggins  
Senator Bettye Davis  
Senator Kim Elton

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 134

"An Act relating to arrest; relating to investigation standards for police officers conducting criminal investigations and violations of those standards."

MOVED CSSB 134(STA) OUT OF COMMITTEE

CONFIRMATION HEARING: Brigadier General Tony A. Hart

CONFIRMATION ADVANCED

**PREVIOUS COMMITTEE ACTION**

BILL: SB 134

SHORT TITLE: POLICE INVESTIGATION STANDARDS/ARRESTS

SPONSOR(s): SENATOR(s) BUNDE

03/08/05	(S)	READ THE FIRST TIME - REFERRALS
03/08/05	(S)	STA, JUD
03/17/05	(S)	STA AT 3:30 PM BUTROVICH 205
03/17/05	(S)	Heard & Held
03/17/05	(S)	MINUTE(STA)

**WITNESS REGISTER**

Senator Con Bunde  
State Capitol Building  
Juneau, AK 99801

**POSITION STATEMENT:** Sponsor SB 134

Chief Walt Monegan  
Anchorage Police Department  
PO Box 196650  
Anchorage, AK 99519

**POSITION STATEMENT:** Testified on SB 134

Colonel Tony Hart  
Confirmation Candidate  
Department of Military and Veterans Affairs  
176th Wing Public Affairs  
5005 Raspberry Road  
Anchorage, AK 99502

**POSITION STATEMENT:** Confirmation candidate for Brigadier General

#### **ACTION NARRATIVE**

**CHAIR GENE THERRIAULT** called the Senate State Affairs Standing Committee meeting to order at [3:35:14 PM](#). Present were Senators Huggins, Wagoner, Elton and Chair Therriault. Senator Davis arrived momentarily. The committee took up SB 134.

#### **SB 134-POLICE INVESTIGATION STANDARDS/ARRESTS**

CHAIR GENE THERRIAULT announced SB 134 to be up for consideration and reminded members that the Y version was adopted at the last hearing. He indicated that Senator Bunde was awaiting an amendment from the Department of Public Safety (DPS), however he has not received it yet.

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SENATOR CON BUNDE, Sponsor of SB 134, said it is unlikely the amendment will arrive this week and he is growing concerned about imposing on the committee's patience. He noted SB 134 has a further referral to the Senate Judiciary Committee, where the amendment could be addressed.

CHAIR THERRIAULT indicated the bill might also pick up a fiscal note so it may get an additional referral to the Senate Finance Committee. He asked if members had any questions of the sponsor.

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SENATOR KIM ELTON asked if the concern about the language on page 2, line 15, was that it allows officer discretion to hold off on an arrest when going after "a bigger fish."

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SENATOR BUNDE acknowledged the presence of Chief Monegan, who could also address that question. He then described that issue as walking a fine line. He does not want to tie the hands of police officers and, although the larger police departments have standards that negate the need for this legislation, the state is broad and diverse so standards need to be adopted to provide for those departments that don't have established standards.

He described Section 2 as the main focus of this legislation. It requires the Alaska Police Standards Council (APSC) to adopt minimum standards and to enforce them. He said the legislature should not tread too heavily on one side or the other of this gray area; he believes professional police officers, as members of the council, should establish the minimum standards. He reminded members the standards would be focused on investigation of sexual assault cases because Alaska leads the nation in the number of sexual assaults. He said he is trying to ensure that victims are not revictimized by the system.

SENATOR ELTON said his one concern is that it is difficult to craft and apply a recipe in a real world situation where cases might not fit into a recipe.

SENATOR BUNDE shared Senator Elton's concern but said citizens expect standards of some sort.

CHAIR THERRIAULT asked if version Y narrowed the scope of Section 2 from all violent crimes to sexual assault.

SENATOR BUNDE said that is correct.

CHAIR THERRIAULT affirmed the Y version was adopted.

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Senator Davis arrived.

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WALT MONEGAN, Chief of Police, Anchorage Police Department, said the APSC and other professional organizations have expressed

concerns about legislating investigations. He thought the closest the state has ever come to doing that is with the domestic violence standards. Those standards were appropriate because they provided police officers with tools.

CHIEF MONEGAN said his initial reaction to the earlier language was that it could be very complicated in cases of multiple defendants or in cases that could be enhanced through non-custodial interviews. He explained that he might suspect a person is a party to a crime and have enough probable cause to make that arrest, but the case could be strengthened if the suspect is interviewed with the guarantee he would not be arrested following the interview. He said the police department uses non-custodial interviews continually to strengthen cases. The biggest objection that police departments have is that once probable cause has been established, an arrest must be made, which ties police investigators' hands in using other investigative techniques. He said he absolutely agrees for the need to set investigative standards and to holding police officers to those standards. He believes the best tool to design standards is to use the APSC with, perhaps, periodic audits as a reminder that police officers are entrusted with the public trust and that shoddy investigative work only victimizes the victim again.

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SENATOR ELTON asked Chief Monegan if he is comfortable that the Section 1 language would give police departments the discretion to make judgments on non-custodial interviews.

SENATOR BUNDE repeated this is a gray area and a difficult call. His focus is on allowing the APSC to set standards. He suggested the bill could be improved by removing subsection (4) of Section 1.

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CHAIR THERRIAULT asked if subsection (4) was removed, the entire first section of the bill would drop away.

SENATOR BUNDE said by removing that new language, the existing language would apply. He explained, "We would then have the new subsection or Section 2 with a new subsection that asks that the Police Standards Council establish standards and provide - I don't want to say enforcement, but perhaps oversight.

CHAIR THERRIAULT motioned to strike Section 1 from the bill, which would leave all of the non-highlighted language in statute as is and remove subsection (4) on page 2, lines 15-19.

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SENATOR ELTON asked if Section 3 would be dropped as a result.

CHAIR THERRIAULT said no, but dropping Section 1 would trigger a title change.

CHAIR THERRIAULT announced that without objection, Amendment 1 was adopted.

SENATOR CHARLIE HUGGINS assumed officers carry a Miranda card, which acts as a checklist [for arrest]. He said a checklist [for investigations] would provide a systematic approach but he expressed concern that it could act as a set of manacles and slow the process. He asked for Chief Monegan's response.

CHIEF MONEGAN said the analogy of a checklist is an excellent one. He believes the APSC is the most logical group to devise that list. The APSC's primary function now is to make sure the training is up to par so that all police officers can be certified. He said everyone agrees that high investigative standards are good; in some rural areas, these types of crimes do not occur as frequently as in urban areas. An inexperienced officer in such a case might "flounder." The checklist would be very helpful.

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SENATOR THOMAS WAGONER motioned to report CSSB 134(STA), \Y version as amended, and attached fiscal notes, from committee with individual recommendations. There being no objection, it was so ordered.

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**CONFIRMATION HEARING - Brigadier General Tony A. Hart**

CHAIR GENE THERRIAULT informed members that neither he nor his staff was contacted by anyone who expressed any concern about the confirmation of Colonel Tony Hart. His intent is to allow members to ask questions of Colonel Hart and then forward his name to a joint session.

COLONEL TONY A. HART said his resume speaks for itself, except that it does not indicate his National Guard service. He has been a Guard member since 1988 and believes his experience with C-130s, the weapons system, and air mobility command is the main reason the commissioner decided to bring him to Alaska. He has spent a lengthy time at Scott Air Force Base. He said the commissioner's goal for transformation of the Alaska National Guard is important. The commissioner believes Colonel Hart would be a good fit because of his experience with the major command and National Guard.

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CHAIR THERRIAULT asked whether he and his wife have any children.

COLONEL HART said he and his wife have 5 grown children.

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SENATOR CHARLIE HUGGINS maintained that Colonel Campbell has done some magnificent things for the Alaska National Guard. He asked members to recognize the fact that bringing Colonel Hart from the outside to take over a significant leadership position shows a major vote of confidence. Colonel Hart has graduated from all officer courses and comes to Alaska as a master navigator. He endorsed Colonel Hart and expressed great respect for his judgment.

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CHAIR THERRIAULT asked the will of the committee.

SENATOR THOMAS WAGONER motioned to forward Colonel Hart's name to the joint session for confirmation. There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Therriault adjourned the meeting at [4:00:05 PM](#).