

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 19, 2014

1:32 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Lesil McGuire, Vice Chair
Senator Fred Dyson
Senator Donald Olson
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 180

"An Act relating to the composition, powers, and duties of the Alaska Police Standards Council; and requiring agencies that are regulated by the Alaska Police Standards Council to provide certain information about the council to persons who file a complaint about the conduct of a police officer, probation officer, parole officer, municipal correctional officer, or correctional officer."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 292(JUD)

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 176

"An Act relating to the regulation of firearms and knives by the University of Alaska."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 180

SHORT TITLE: POLICE STANDARDS COUNCIL

SPONSOR(s): SENATOR(s) MCGUIRE

02/19/14 (S) READ THE FIRST TIME - REFERRALS
02/19/14 (S) JUD
03/19/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 176

SHORT TITLE: REG. OF FIREARMS/KNIVES BY UNIVERSITY

SPONSOR(s): SENATOR(s) COGHILL

02/14/14 (S) READ THE FIRST TIME - REFERRALS
02/14/14 (S) JUD
03/03/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/03/14 (S) Heard & Held
03/03/14 (S) MINUTE(JUD)
03/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/05/14 (S) Heard & Held
03/05/14 (S) MINUTE(JUD)
03/10/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/10/14 (S) Heard & Held
03/10/14 (S) MINUTE(JUD)
03/14/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/17/14 (S) Heard & Held
03/17/14 (S) MINUTE(JUD)

WITNESS REGISTER

NANCY MEANS, representing herself
Anchorage, Alaska
POSITION STATEMENT: Testified on SB 180.

NORMAN MEANS, representing himself
Anchorage, Alaska
POSITION STATEMENT: Testified in SB 180.

KELLY ALZAHARNA, Executive Director
Alaska Police Standards Council
Juneau, Alaska
POSITION STATEMENT: Answered questions related to SB 180

JOHN SKIDMORE, Director
Criminal Division
Legal Services Section
Department of Law
Anchorage, Alaska
POSITION STATEMENT: Answered questions related to SB 180.

CHAD HUTCHISON, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented Version Y of SB 176 on behalf of the sponsor.

HANS RODVICK, Intern
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information related to SB 176 on behalf of the sponsor.

PATRICK GAMBLE, President
University of Alaska
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 176.

ACTION NARRATIVE

[1:32:18 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators McGuire, Dyson, and Chair Coghill.

SB 180-POLICE STANDARDS COUNCIL

[1:34:16 PM](#)

CHAIR COGHILL announced the consideration of SB 180. "An Act relating to the composition, powers, and duties of the Alaska Police Standards Council; and requiring agencies that are regulated by the Alaska Police Standards Council to provide certain information about the council to persons who file a complaint about the conduct of a police officer, probation officer, parole officer, municipal correctional officer, or correctional officer." This was the first hearing.

[1:34:20 PM](#)

SENATOR MCGUIRE, sponsor of SB 180, introduced the bill speaking to the following sponsor statement:

With my introduction of SB 180, it is my hope that no other Alaskan is put in a position where they feel victimized and without recourse when a possible

improper use or abuse of authority by an officer occurs within our law enforcement system. "Nancy's Law" was inspired by the heart-wrenching story of a young Alaskan named Nancy who found herself in just that type of unfortunate and potentially life-altering situation.

In order to ensure the public has a voice and proper advocacy in the process, this bill will increase the number of public members of the Alaska Police Standards Council (APSC) and stipulates that those members may not have previously worked for a member agency. In addition, this measure establishes a procedure for the council to process complaints and will require member agencies to inform complainants of their rights and protections through the APSC. Finally, this measure will also give the Alaska Police Standards Council the ability to suspend a certificate when an officer has clearly done something that requires action, but doesn't necessarily warrant revocation.

Law enforcement is a very challenging and necessary duty. We are blessed to have a phenomenal majority of hard working officers in our state and I commend their service. But the public trust and confidence in these agencies is equally as necessary and important for these agencies to accomplish their missions. SB 180 provides additional safeguards for the public while helping to ensure bad actions and actors are subject to added scrutiny, including potential suspension and/or removal, by a stronger APSC with greater public representation.

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Senator Olson joined the committee.

[1:40:49 PM](#)

NANCY MEANS, representing herself, Anchorage, Alaska, related her personal story. She said that three years ago she and three of her high school friends went shopping in Anchorage on Black Friday. They were headed home at about 3:00 a.m. when her van broke down on the corner of C Street and Tudor Road. A police officer arrived on the scene and when the van wouldn't start he helped push it out of the intersection.

She related that the officer came back to the van and requested her license and registration and then asked for her phone number. She said she respectfully declined to give him her phone number. Then, the officer began to act very strange and he demanded the identification of her three friends. She informed the friends that they were not required by law to provide their identification and they didn't. At this point, the officer seemed flustered and returned to his car. She said she called her father because she felt like something strange was going on.

MS. MEANS said that within a few minutes the first officer returned to the van accompanied by a female officer. They asked her to step out of the car. She did so and was searched by the male police officer. She said she began to feel terrified. He then walked away from the van and requested that she walk towards him. At this point she told him she refused to answer any more questions and would not consent to any more searches and wanted her lawyer. He then placed her under arrest for DUI.

[1:45:00 PM](#)

SENATOR WIELECHOWSKI joined the committee.

CHAIR COGHILL summarized Ms. Means' story so far.

MS. MEANS continued to say that at this point the officer quickly grabbed her arms and placed her under arrest. She said it took her completely by surprise. The female officer then began to yell at her and said she would place her on the ground if she did not comply.

MS. MEANS said she looked over at her friends' horrified expressions and told them to call her dad. The female officer led her back to the police car, searched her again, and placed her in the back of the vehicle. The officer then turned around from the front seat and said, "Why are you such an indecent human being that you can't answer our questions?" Ms. Means said she sat silently and said nothing. Then, the officer said, "What kind of drugs are you on that are making you act this way?" Ms. Means said she still sat silently. Realizing her defenseless situation, she recalled the Anthony Rawlins case nine months prior where six women were abused and raped by a police officer. She began to mentally prepare herself to encounter a similar situation.

MS. MEANS said the officer drove her to the police station and booked her. The officer there tested her blood alcohol content, which was 0.000, and said he wished he could "un-arrest" her.

She said, while this was going on, her three friends were still stranded at twenty below zero in the middle of Anchorage. The male officer had them get out of the van and told them to walk across the street and stay there until their parents arrived. However, they were all minors and the officer was required to stay with them until their parents arrived, but he left.

She said the officer at the jail took her to her parents' office in Anchorage and her friends arrived shortly after. The van was impounded for a DUI. She said they tried to get the van back for a month and the city tried to charge \$800 to get the van out of impound.

She said she hired an attorney to appear in court for her because she had to go back to college. The case was dismissed. She said she has tried multiple times to have her record sealed because it shows as an arrest on CourtView. She wants to apply to graduate schools, which look at court records. Having an arrest record is a blemish on her character and was a detriment during three job interviews.

She concluded that she did nothing wrong and asserted her rights, but the police officers had complete disregard for her rights. She noted when she approached the Alaska Police Standards Council with a certified letter, they did not respond, nor take any action. She voiced concern about the lack of response.

[1:51:07 PM](#)

CHAIR COGHILL thanked Ms. Means and expressed hope that her story would prevent the same thing from happening to someone else.

SENATOR DYSON said he used to be able to say that Alaska has "clean cops" and he can't do that anymore. He advised that a bill he introduced this year just passed the Finance Committee and will address Ms. Means' issue.

SENATOR WIELECHOWSKI expressed sympathy and asked if she contacted assembly members or the mayor's office or filed a lawsuit.

MS. MEANS said she is in the process of a lawsuit against the Municipality of Anchorage. She had requested that they admit there was no probable cause for arrest and seal the record, but they refused saying, because she was arrested, there must have

been probable cause. She noted the hearing officer determined there was not probable cause to seize her vehicle.

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NORMAN MEANS, representing himself, Anchorage, Alaska, explained, as Ms. Means' father, he filed a complaint about the illegal impounding of his van and after several months he was told his complaint was sustained. He wasn't satisfied with the response and found there is no agency to handle complaints about civil liberty violations by a law enforcement officer against private citizens except the Alaska Police Standards Council. He said it's important that citizens can bring concerns to this council if they have a serious complaint. He suggested listening to the incident recordings because they're shocking when a young woman is only politely asserting her rights.

CHAIR COGHILL noted that Kelly Alzaharna and John Skidmore were available for questions.

SENATOR DYSON said he'd like to hear from the Alaska Police Standards Council. He recapped Ms. Means' testimony that she filed a complaint and didn't hear back from the Alaska Police Standards Council.

KELLY ALZAHARNA, Executive Director, Alaska Police Standards Council, Juneau, Alaska, answered questions related to SB 180. She explained that she was not working at the Council at the time of the incident. When the matter was first brought to her attention she asked to receive a copy of the letter. She said she received the letter and has been dealing with the concern since then.

SENATOR DYSON asked if there was a record of the receipt of that letter.

MS. ALZAHARNA said no. She said she was told about it, looked for it, and found no record of it.

SENATOR DYSON noted the letter was sent in writing and said that is problematic. He asked what the process is after a complaint is received.

MS. ALZAHARNA explained that she contacts the complainant and then follows up on the inquiry. The process used is determined by the nature of the complaint.

2:01:39 PM

SENATOR DYSON asked if protocols require notifying the officer and their bargaining unit when an investigation goes forward.

MS. ALZAHARNA said no.

SENATOR DYSON asked, if the complaint does meet the minimum standard that warrants an investigation, at what point is the officer notified.

MS. ALZAHARNA explained the process she follows. If the allegation is determined to be true and the misconduct falls below the minimum standards, the officer is formally notified of the allegation. The officer then has 15 days to respond. They have two options: surrender their certificate or file a notice of defense, a desire for a hearing following the Administrative Procedures Act. They can have representation. There is no need to notify their department, but the department generally knows.

CHAIR COGHILL voiced concern when things aren't done in the light of day and there are internal conflicts of interest. He asked where accountability lies if it's not transparent to the public.

[2:05:34 PM](#)

JOHN SKIDMORE, Director, Criminal Division, Legal Services Section, Department of Law, Anchorage, Alaska, answered questions related to SB 180. He requested more information about what Chair Coghill considers internal conflicts of interest.

CHAIR COGHILL clarified it is when it appears that "police are investigating police;" from a public perspective it appears to be behind a veil. He inquired what accountability measures are in place.

MR. SKIDMORE explained that the executive director of the Police Standards Council looks into the complaint and decides which cases should move forward. The Council, as a whole, used to make that decision, but cases dragged out much too long under that process. As to accountability, the concern for transparency is valid. He suggested contacting other members of the Council. Until a formal complaint is filed, the matter is a personnel matter and not public record. The bill doesn't change that. It adds two public members and prevents the Governor from appointing individuals that may have experience in law enforcement.

CHAIR COGHILL said he understands the efficiency of having the executive director make the decisions; however, it could also thwart the process.

MR. SKIDMORE agreed. He noted the last executive director was not with the Council very long.

[2:10:24 PM](#)

SENATOR DYSON said he, too, could see that the record should be confidential initially. He described a situation demonstrating confidentiality and questioned at what point the Police Standards process should be inserted.

MR. SKIDMORE said when an officer resigns, in lieu of termination, or is terminated from a police department, regulations require that agency to notify the Police Standards Council. The Council then has the ability to review and determine whether or not that officer should have their certificate revoked. The breakdown is when the agencies don't do what is required or don't contract the Council when they want to hire someone. He noted that the Council is reviewing regulations to address that problem.

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SENATOR MCGUIRE clarified what the bill would do differently. It would provide that the Council has a legal obligation to respond to the complainant about their rights and to meet to review the complainant's request, not leaving it up to the executive director to decide.

She asked how Nancy's complaint is being handled currently.

MR. SKIDMORE stated that the Council is under confidentiality standards.

SENATOR MCGUIRE asked for assurance that the Council is working on it.

MR. SKIDMORE replied that Ms. Meade's case is being looked at.

SENATOR DYSON asked if the Council is out of the loop on an agency's suspension decisions.

MR. SKIDMORE said unless the agency contacts the Council, they won't know what decision is made.

SENATOR DYSON asked how the Council would know about a past complaint regarding an officer.

MR. SKIDMORE repeated that unless the agency contacts the Council, they are not privy to agency hires. Agencies are required to contact the Council when there has been a termination or resignation in lieu of termination.

SENATOR WIELECHOWSKI asked if the administration and Council supports or opposes the bill.

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MR. SKIDMORE said the Council voted unanimously to oppose the bill. He noted the Alaska Police Officers Association also opposes the bill.

CHAIR COGHILL said he didn't intend to move the bill. He asked Mr. Skidmore to get the Council's recommendations to the committee.

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CHAIR COGHILL held SB 180 in committee for further consideration.

SB 176-REG. OF FIREARMS/KNIVES BY UNIVERSITY

[2:19:50 PM](#)

CHAIR COGHILL announced the consideration of SB 176. "An Act relating to the regulation of firearms and knives by the University of Alaska." He said it was the fourth hearing of the bill. He noted the proposed committee substitute (CS), Version Y.

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SENATOR MCGUIRE moved to adopt CS for SB 176, labeled 28-LS1385\Y, as the working document.

CHAIR COGHILL objected for purposes of an explanation.

[2:21:50 PM](#)

CHAD HUTCHISON, Staff, Senator John Coghill, Alaska State Legislature, Juneau, Alaska, presented Version Y of SB 176 on behalf of the sponsor. He explained that Version Y focuses on concealed carry. He cited an article called "Despite Policy, Weapons Still Appear on University Campus" that quotes a security officer on the UAF campus. In 1995, the UA Board of Regents established a policy that does not allow anyone to carry

concealed guns, knives, and explosives on the university property, inside university buildings and classrooms off campus, or at university-sanctioned events. But, Officer McGee says that Alaska's conceal and carry laws may keep him from enforcing that policy. He said, "As the police chief, and as a resident here in the state of Alaska, I think there's probably a greater number of firearms on campus than any of us really know about; it's just that these people aren't using their firearms to commit criminal acts."

MR. HUTCHINSON said this demonstrates three things: there are already firearms on campus, clarity, as it relates to concealed carry, is necessary, and the current policy of UA does not work. He opined that the CS strikes a balance between individual rights to keep and bear arms and the individual rights to privacy. It constitutes a reasonable compromise between concerns of university students, safety in the schools, and the fundamental rights of individuals who have guns on campus.

He stated that the fundamental principal of the bill is that the university may not restrict concealed carry. There are certain restrictions that relate to weapons misconduct. He provided a sample of the restrictions. As a compromise, the bill now includes the use of an approved lock box for the weapons and a permitting process is required.

[2:29:02 PM](#)

HANS RODVICK, Intern, Senator John Coghill, Alaska State Legislature, Juneau, Alaska, presented information related to SB 176 on behalf of the sponsor. He explained the permitting process of obtaining an Alaska concealed handgun permit. He shared the history of the concealed handgun permit. He listed who could, and could not, carry a concealed handgun.

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He summarized the requirements to carry a concealed handgun. He discussed the required competency class. It tests knowledge of Alaska laws, self-defense concepts, responsible use, and physical competence with a handgun. A person must go to the Department of Public Safety and pay for the license and submit fingerprints and a digital photo that was taken within 30 days. He opined that these rigorous requirements to obtain a permit strike a balance of public safety and lawful citizens exercising their fundamental rights. He stated that statistics show that these individuals will be lawful and safe.

[2:35:08 PM](#)

SENATOR MCGUIRE asked how the university received the committee substitute. She submitted that Version Y is well-crafted and provides more safety assurances.

MR. RODVICK deferred to Mr. Hutchison.

MR. HUTCHISON said he's conferred with the legislative liaison for the university system and the attorney who drafted the legal opinion of the first version of the bill. He said President Gamble would disclose the results of the University Board of Regent's executive session.

CHAIR COGHILL said he assured President Gamble that he was taking this legislation seriously.

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SENATOR DYSON strongly suggested fleshing out the definition of "lock box." He asked if the university regulates pocket knives.

MR. HUCHISON agreed to the conversation about a definition of the lock box.

CHAIR COGHILL expected to find a solution to this bill by Monday or not at all this year.

SENATOR MCGUIRE asked how legalization of the use of marijuana interfaces with the federal requirement of attesting to not being addicted to a controlled substance.

MR. HUTCHISON agreed there is an apparent conflict.

CHAIR COGHILL opened public testimony.

[2:41:53 PM](#)

PATRICK GAMBLE, President, University of Alaska, Anchorage, Alaska, answered questions related to SB 176. He maintained that most of the discussion, including the recent presentation, has missed the point of the university's concern. The focus is no longer on fundamental rights of the individual and now deals with a compromise. He stressed that the Board has not changed its position and continues to believe that board policy has been effective.

He termed the dilemmas "legal and operational" The legal dilemma is that there are excepted gun carry areas in the state under state law. The question has to be why those areas were excepted - why have they been taken out of those fundamental rights. The

answer is risk and safety. The Supreme Court determined that states could make exceptions and Alaska did. He concluded that Board policy is based on those exceptions. He further described the dilemma of trying to map the state law with its concerns, over onto a university community, which has many of the exact same conditions that are listed in the state's exceptions, such as "K - 12 students" and "around a place serving liquor" and "in a residence without the permission of the chief resident."

He emphasized that the bill creates unintended consequences that are real world, operational, actions and responsibilities, and liabilities, that the university is uniquely responsible for.

He discussed the fiscal note which contains a list of operational provisions that the university would have to put into place in order to get around the exceptions on campus. He opined it would be costly, as reflected in the fiscal note. The number in the fiscal note was taken from the cost of the University of Idaho's operational plan, a single campus.

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PRESIDENT GAMBLE discussed risk and why there are exceptions to areas where guns can be carried. He stated that the university does not deal in hypothetical scenarios, but in probabilities due to being accountable and liable. The university has a risk assessment system which determines a value for risk. He said the "state of play" today is that the campus is 24 times safer from violence in terms of murder and assault with intent to kill or maim than on city streets in Alaska.

He reported only four gun incidents where there was discipline involved at the University of Alaska in the last three years. In terms of risk, the UA campus is one of the safest places to be right now. Increasing the number of weapons increases the probability of accidents. He referred to hundreds of letters from donors, faculty, and students, in opposition to the bill, who say they are not going to stay in a public school that has this law in its current, as-written state.

He said in his experience, most accidents in the military were self-induced and the more weapons, the more incidents. He concluded that the bill will not make the campus safer and he has evidence that there is a downside to the bill.

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He concluded that the bill is a moving target and that isn't impressive. With some pushback there was an effort to compromise

rights just to get a bill passed. The Board policy looks good and they are satisfied with it in its current form. His said his assessment is that the probability and liability of what is currently in place are nicely balanced. This bill doesn't enhance that.

[2:54:02 PM](#)

SENATOR WIELECHOWSKI said his perspective is that this is a constitutional issue. In the future he'd like to hear from legal scholars on the issue.

CHAIR COGHILL said he agrees. He doesn't believe that citizens check their rights at the university door. He said he is willing to work on the safety issues.

PRESIDENT GAMBLE said it has been a good hearing on the bill. He said he supports the dialog with constitutional scholars.

CHAIR COGHILL concluded that President Gamble has to manage the campus from a legal and a practical perspective. He said he has to look at the individuals in Alaska and ask about citizen rights.

CHAIR COGHILL held SB 176 in committee for further consideration.

[2:58:12 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:58 p.m.