

HB

293

<TARGET><BILL>HB 293</BILL><SUBJECT>HB
293</SUBJECT><COMM>HSTA30</COMM></TARGET>



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,

A handwritten signature in black ink, appearing to read 'R.E. Griffiths', written in a cursive style.

R.E. 'Bob' Griffiths
Executive Director

HB 293 – Background Checks for Police & Training
LEGISLATION SECTIONAL ANALYSIS

January 19, 2018

Summary: This bill adds to the power of the Alaska Police Standards Council (APSC) to request a fingerprint based national criminal history records check from the Federal Bureau of Investigations (FBI) through the Department Public Safety for admittance to a basic police training program or for employment as a police officer, if the prospective employer does not have access to a criminal justice information system (CJIS).

Section 1: Amends AS 12.62.400 (National Criminal History record checks for employment, licensing, and other noncriminal justice purposes) to include the new subsection (a) (1) (19) allowing for a fingerprint based records check to be submitted to the FBI for admittance to a basic police training program under AS 18.65.230 (APSC training programs) or for employment as a police officer under 18.65.240(APSC standards for appointment as a police officer), if the prospective employer does not have access to a criminal justice information system (CJIS).

Section 2: Amends AS 18.65.220 (Powers of the APSC) to include the new subsection (8) which requires a state and national criminal history check for an applicant to a training program established in AS 18.65.230 and for a person to be appointed as a police officer under AS 18.65.240 if that person's prospective employer does not have access to CJIS to conduct their own criminal history check.

Section 3: Amends AS 18.65.230 (APSC training programs) by adding a new subsection (b) which requires an applicant for appointment as a police officer or for admittance to a training program to submit fingerprints and a fee to the APSC, unless this has been done by the applicant's employer.

Section 4: Amends AS 18.65.240 (APSC standards) to reflect the new subsection (d), added below in Section 5.

Section 5: Amends AS 18.65.240 (APSC standards) to add a new subsection (d) which limits the issuing of an APSC certificate unless the Council determines the applicant will undergo a national criminal history record check pre-employment; and requiring a prospective employer to submit an applicant's fingerprints to the council for submission to the FBI, if the prospective employer does not have CJIS access. The criminal history records check is required to assure applicants meet minimum standards established by the council.

Section 6: Amends AS 18.65.290 (Definitions) by adding a new subsection (9) which clarifies that the meaning of criminal justice information system is the meaning given in AS 12.62.900(13).

Section 7: specifies the applicability of the Act applies to persons that apply for admittance to a police training program under AS 18.65.230 or to be appointed as a police officer under AS 18.65.240 on or after the effective date of this Act.

Section 8: includes a revisor's instruction to change the catchline of AS 18.65.230 from "Training programs" to "Training programs; fingerprints"

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version:	HB 293
Fiscal Note Number:	1
(H) Publish Date:	1/19/2018

Identifier: DOC-COM-12-04-17
 Title: BACKGROUND CHECKS FOR POLICE & TRAINING
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Corrections
 Appropriation: Administration and Support
 Allocation: Office of the Commissioner
 OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates				
			FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

initial version.

Prepared By:	April Wilkerson	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	12/04/2017 03:00 PM
Approved By:	Dean Williams, Commissioner	Date:	12/04/17
Agency:	Department of Corrections		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION**Analysis**

This bill would amend AS 12.62.400(a) by adding a section to allow Alaska Police Standards Council the ability to request national criminal history records checks from the Federal Bureau of Investigation for persons who apply to attend a training program established by the council or who are to be employed as a police officer by an employer that lacks the ability to request a national criminal history record check.

The department will not have a fiscal impact with the implementation of this bill.

FISCAL NOTE

STATE OF ALASKA
2018 LEGISLATIVE SESSION

Bill Version HB 293
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) HB293-DPS-APSC-01-19-18 Dept. Affected Public Safety
 Title Background Checks for Police & Training Appropriation Alaska Police Standards Council
 Allocation Alaska Police Standards Council
 Sponsor Rules by Request of the Governor
 Requester House State Affairs OMB Component Number 519

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY19 Appropriation Requested	Included in Governor's FY19 Request	Out-Year Cost Estimates					
			FY19	FY20	FY21	FY22	FY23	FY24
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
		FY19	FY20	FY21	FY22	FY23	FY24	
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1007	I/A Rcpts (Other)							
1037	GF/MH (UGF)							
		0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS							
		FY19	FY20	FY21	FY22	FY23	FY24
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES		FY19	FY19	FY20	FY21	FY22	FY23	FY24
1250	UGF Revenue (UGF)							
1005	GF/Prgm (DGF)							
TOTAL CHANGE IN REVENUES		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY18) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY19) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended, or repealed? _____ Discuss details in analysis section.

Why this fiscal note differs from previous version/comments (if initial version, please note as such)

Not applicable, initial version.

Prepared by Kelly Howell, Administrative Services Director
 Division Administrative Services
 Approved by Walt Monegan, Commissioner
 Agency Department of Public Safety

Phone 465-4336
 Date/Time 1/19/18 2:15 PM
 Date 1/19/2018

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2018 LEGISLATIVE SESSION**

BILL NO. HB 293

Analysis

This legislation amends AS 18.65.220 relating to the powers of the Alaska Police Standards Council (APSC) by adding a new paragraph authorizing the APSC to require a state and national criminal history record check for purposes of evaluating a person's qualifications for admittance to a police training program or for employment as a police officer; amends AS 18.65.240 by adding a new subsection authorizing agencies to submit to the APSC an applicant's fingerprints for purposes of requesting the state and national criminal history record check; and amends AS 12.62.400(a) relating to national criminal history record checks for employment, licensing, and other noncriminal justice purposes by adding a new paragraph authorizing the Department of Public Safety to submit fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check for such purposes.

Passage of this legislation would have no fiscal impact on the Alaska Police Standards Council.



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January 31, 2018

House State Affairs
Alaska State Capitol
Juneau, Alaska

RE: HB 293 – An Act relating to powers of the Alaska Police Standards Council; and relating to background checks for admission to police training programs and certification as a police officer.

Dear Chairman Kreiss-Tomkins,

When I appeared at your committee hearing on January 30, 2018, I was not intending to testify on HB 293 as I saw it as a Public Safety Department issue; not a municipal issue. However, many comments were made that provided an impetus for me to offer some thoughts.

According to the mission of AML, this appears to be a good bill; one that would positively enhance the ability of small municipalities to be able to fill public safety positions within their municipality. As I walked into the hearing last Tuesday, however, I found the discussion in your committee moving towards solutions other than those requested in HB 293. Here is why I would request that this bill pass out of your committee, as written.


There were a few mentions made of turning this ability to do background checks, over to the specific municipality requesting the service. To begin with, this is a problem that arises with so much legislation. If there are questions pertaining to municipalities being “given” a new power, we would hope that there be discussion with municipalities before a decision like that is entered into. Municipalities have seen Community Assistance payments drop by more than half over the last two years. Many of the small municipalities are down to one or two employees. Hardly enough to be trained and do all the paperwork involved with background checks. To be able to have this service performed by the State and/or the Police Standards Council is a positive for municipalities. The mention was also made that there was doubt about the zero fiscal note. If the comment is true that all legislation imposes a cost, why would we saddle this extra cost on municipalities who would then have certain “set-up” costs to implement these laws. At this point, the State agencies involved already do this and would be adding more checks to those already being performed.

Secondly, municipalities would have to then turn these background checks back over to the State, as municipalities do NOT have a government-to-government relationship with the federal government. That is why most money that comes to municipalities (other

than federal grants) are "pass-through" funds. They pass through from the federal government to the state government to the political subdivision. The City of Kwethluk cannot simply go to the FBI with a request on a background check (or with anything else for that matter).

So, my request, on behalf of Alaska's municipalities would be for this committee to pass this bill through as requested. Please do not attempt to "re-write" something that is basically a bill intended to make things operate more efficiently and effectively.

Thank you,

A handwritten signature in black ink that reads "Kathie Wasserman". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Kathie Wasserman
Executive Director

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Governor Bill Walker
STATE OF ALASKA

January 17, 2018

The Honorable Bryce Edgmon
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Edgmon,

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Police Standards Council and national criminal background checks for prospective police officers.

The Alaska Police Standards Council (Council) is within the Department of Public Safety, and is tasked with overseeing professional standards for employment as a police officer and other law enforcement officials. Further, the Council is statutorily authorized to establish police training programs. A person may not be certified as a police officer without going through the required training and meeting other requirements the Council has established for the employment of police officers.

This bill adds to the Council's powers the ability for the Department of Public Safety to request a national criminal history record check from the Federal Bureau of Investigation for a person who applies to attend a training program established by the Council or who seeks employment as a police officer by an employer that lacks the ability to request a national criminal history record check. This bill would give the Council the ability to assure that only qualified candidates become police officers by making sure that a thorough national background check is completed on all potential police officers. Currently, most employers authorized to submit requests for national criminal background checks from the Federal Bureau of Investigation already do, and would continue to do so. This bill would allow the Council to do the same in the situation where a person is applying to a training program established by the Council or where a potential employer does not have the ability to request a national criminal history record check.

I urge your prompt and favorable action on this bill.

Sincerely,

A handwritten signature in black ink that reads "Bill Walker".

Bill Walker
Governor

Enclosure



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Public Safety

ALASKA POLICE STANDARDS COUNCIL

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January 31, 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 – Committee Questions

Dear Representative Kreiss-Tomkins,

Thank you for the opportunity to testify before the House State Affairs Committee yesterday regarding HB 293. During my presentation, the committee asked for additional information on several matters: 1) the number of police officers in Alaska and any trends in the number of police officers over time; 2) how many village police officers are there in Alaska; and 3) could a statutory change empower a municipality with the authority to send fingerprints directly to the Department of Public Safety for a Criminal History Background check.

I have enclosed a chart and associated graph demonstrating the number of police officers working for each Alaska police department on July 1st of each year, from 2013 through 2017. This is based on the records maintained by APSC and is subject to the reporting of each agency. Our numbers may differ slightly from those provided by our member agencies, due to the timeliness of their reporting employment actions to us.

It is notable that, while the number of Alaska State Troopers declined by about 45 officers from 2013 to 2017, the Anchorage Police Department added about 74 officers during the same period. This contributed to a statewide net increase of 32 officers. If the Anchorage Police Department were removed from the chart we would see that the statewide number of police officers outside Anchorage dropped by 42 officers in the five-year period.

APSC currently has official records of eleven village police officers in seven different rural communities. We know that there are over 123 other incorporated rural Alaskan communities who are eligible to hire village police officers. Unfortunately, we do not know how many of them may have already done so and simply failed to report it to the council.

It would not require a statutory change to allow municipalities to submit fingerprints to the Department of Public Safety. Incorporated municipalities currently have the authority to conduct their own fingerprint based background checks provided that:

- 1) They agree to abide by AS 12.62 and AS 12.64, the National Crime Prevention and Privacy Compact, if they wish to conduct fingerprint based background checks on potential employees.
- 2) Assuming that they agree to abide by those laws, every municipality will need to develop an infrastructure to ensure compliance with the appropriate security policies and regulations pertaining the receipt, storage and dissemination of criminal justice information. This can be quite complex, particularly so if they wish to store any data electronically. Even if they decide to store the information provided on paper, they must ensure that only authorized recipients are allowed to view this information.
- 3) In order to obtain criminal justice information from the repository (Records and Identification [R&I] and the national Interstate Identification Index system or III) DPS/R&I will need to enter into a User Agreement with the municipality. Once that agreement is in place, DPS/R&I is required by state law and national policy to audit each municipality biannually. This, of course, will cost both the municipality and the Department of Public Safety significant amounts of money. Misuse of the information can result in civil and criminal liability to the entities receiving the information.

As I described in my testimony, the FBI has determined that the Alaska Police Standards Council (APSC) is a regulatory/licensing entity, and is not considered to be conducting 'criminal justice activity'. Therefore, the APSC must be authorized by statute to request that these background checks are completed for those potential officers from municipalities without established agreements in place, as described above.

HB 293 will allow the APSC to request state and national fingerprint based background checks on behalf of municipalities who do not have the means to establish the infrastructure required to directly request these checks from DPS/R&I. APSC's background checks will be completed in a manner similar to any other licensing entity such as the Department of Education, the Alaska Bar, or the Division of Insurance.

Respectfully,



R.E. 'Bob' Griffiths
Executive Director

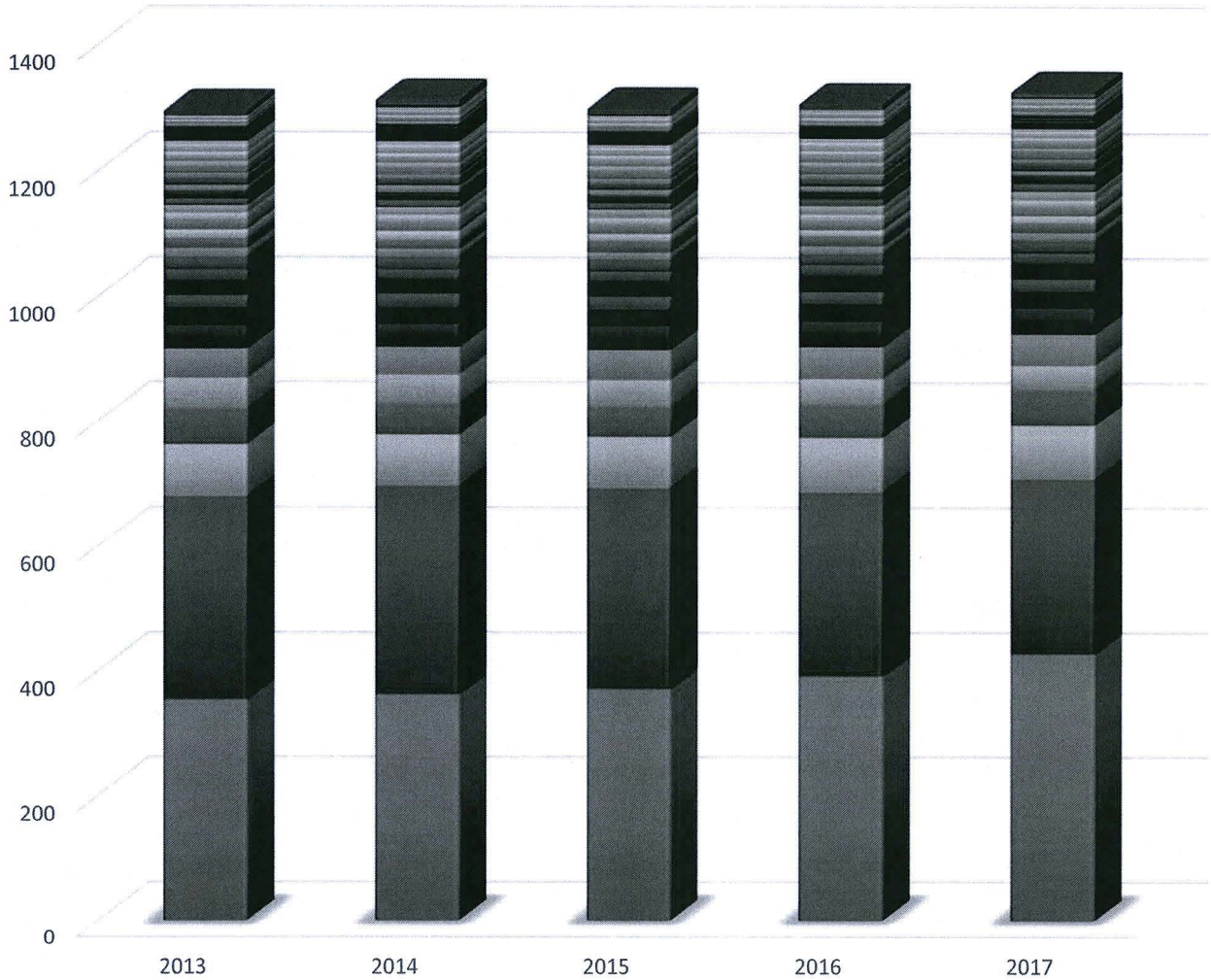
Attachment: APSC Officer Count

	2013	2014	2015	2016	2017
Anchorage Police Department	354	362	371	392	428
Alaska State Troopers	324	333	321	294	279
Alaska Wildlife Troopers	85	83	83	88	87
Anchorage Airport Police/Fire	57	50	48	53	57
Fairbanks Police Department	48	46	43	41	39
Juneau Police Department	47	44	48	51	50
North Slope Borough PD	39	39	40	44	45
Ketchikan Police Department	26	24	24	24	23
Fairbanks Airport Police/Fire	22	24	23	22	22
Wasilla Poice Department	22	22	23	25	23
Kenai Police Department	19	17	17	18	18
Kodiak Police Department	17	17	16	15	18
Palmer Police Department	16	14	13	14	14
Sitka Police Department	15	13	17	15	14
University of Alaska/Anchorage	15	16	13	11	13
North Pole Police Department	14	13	13	13	14
Unalaska DPS	13	13	13	12	12
Soldotna Police Department	12	12	13	14	13
Homer Police Department	11	12	11	11	13
Valdez Police Department	11	11	11	11	12
Bethel Police Department	10	12	10	9	8
Petersburg Police Department	10	9	8	10	11
Seward Police Department	10	9	10	10	9
Nome Police Department	9	9	10	10	10
University of Alaska/Fairbanks	9	9	9	8	6
Kotzebue Poice Department	8	8	10	12	11
Wrangell Police Department	7	7	7	6	6
Cordova Police Department	6	6	6	6	4
Dillingham DPS	6	8	7	8	6
Metlakatla Police Department	5	5	4	6	4
Fire, Life, and Safety	4	7	5	3	4
Haines Police Department	4	5	3	3	4
King Cove Police Department	4	4	4	4	5
Saint Paul Police Department	4	4	3	3	
Sand Point Police Department	4	4	3	3	5
Skagway Police Department	4	4	5	5	5
Whittier Police Department	4	4	2	4	5
Bristol Bay Borough PD	3	5	5	3	5
Craig Police Department	3	5	5	5	5
Yakutat Police Department	3	4	3	5	3
Hoonah Police Department	2	4	5	4	4
Klawock Police Department	2	4	4	4	3
Adak	1	1	1		
Chickaloon	1	3	2	2	2
Fort Yukon Police Department	1	2	2	2	3
Galena Police Department	1	1	1	2	
Ketchikan Airport Police	1	2	2	1	2
Seldovia Police Department	1	1	1		1
Cops on Call					1
Total	1294	1311	1298	1306	1326

This is a snapshot of the number of officers at each department on July 1 of each year.

Tracking only

Alaska Police Officers Per Agency as of July 1



- | | | |
|----------------------------------|--------------------------------|----------------------------------|
| ■ Anchorage Police Department | ■ Alaska State Troopers | ■ Alaska Wildlife Troopers |
| ■ Anchorage Airport Police/Fire | ■ Fairbanks Police Department | ■ Juneau Police Department |
| ■ North Slope Borough PD | ■ Ketchikan Police Department | ■ Fairbanks Airport Police/Fire |
| ■ Wasilla Poice Department | ■ Kenai Police Department | ■ Kodiak Police Department |
| ■ Palmer Police Department | ■ Sitka Police Department | ■ University of Alaska/Anchorage |
| ■ North Pole Police Department | ■ Unalaska DPS | ■ Soldotna Police Department |
| ■ Homer Police Department | ■ Valdez Police Department | ■ Bethel Police Department |
| ■ Petersburg Police Department | ■ Seward Police Department | ■ Nome Police Department |
| ■ University of Alaska/Fairbanks | ■ Kotzebue Poice Department | ■ Wrangell Police Department |
| ■ Cordova Police Department | ■ Dillingham DPS | ■ Metlakatla Police Department |
| ■ Fire, Life, and Safety | ■ Haines Police Department | ■ King Cove Police Department |
| ■ Saint Paul Police Department | ■ Sand Point Police Department | ■ Skagway Police Department |
| ■ Whittier Police Department | ■ Bristol Bay Borough PD | ■ Craig Police Department |
| ■ Yakutat Police Department | ■ Hoonah Police Department | ■ Klawock Police Department |
| ■ Adak | ■ Chickaloon | ■ Fort Yukon Police Department |
| ■ Galena Police Department | ■ Ketchikan Airport Police | ■ Seldovia Police Department |