



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION

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February 12, 2016

**SENT VIA US MAIL, FIRST CLASS AND EMAIL**

William D. Falsey  
Municipal Attorney  
Office of the Municipal Attorney  
P.O. Box 196650  
Anchorage, AK 99519-6650

Re: Your letter of February 3, 2016

Dear Mr. <sup>Bill</sup>Falsey,

On behalf of Colonel James E. Cockrell, Director of the Alaska State Troopers ("AST") I am responding to your letter of February 3, 2016 regarding "the provision of law enforcement services by the Alaska State Troopers to areas of the Municipality of Anchorage with no local police services."

In your letter, you take issue with AST's decision to discontinue police services, effective June 30, 2016, to the community of Girdwood and surrounding areas within the Municipality of Anchorage.<sup>1</sup>

As Colonel Cockrell stated in his letter of February 23, 2015, this decision was a difficult one. However, we believe it is also a decision within AST's authority and discretion to make.

Alaska Statute 18.65.080 is permissive, not mandatory. Although you twice assert this statute "requires the Alaska State Troopers to enforce criminal laws throughout the state," the Alaska Supreme Court has squarely held otherwise. In *Wongittilin v. State*, the court found "[t]he word 'may' in [that] statute affords the police officer . . . permissive

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<sup>1</sup> The effective date of this change has been moved since Colonel Cockrell's February 23, 2015 letter indicating an effective date of January 1, 2016.

authority, not an obligatory duty.”<sup>2</sup> It is our understanding that the Anchorage Police Department presently aims to employ over 100 more officers than the entire statewide AST will have in the coming fiscal years, and we believe AST has the clear discretion to allocate its limited law enforcement resources where they are most needed.

Your letter cites *Alaska Inter-Tribal Council v. State* for the proposition that AST is the “primary source of law enforcement for all Alaskans who live in places that do not have local certified police officers.” However, the application of that case to the Municipality of Anchorage is inapt.

*Alaska Inter-Tribal Council* was an equal protection case in which residents of rural “off-road” communities in the unorganized borough unsuccessfully argued that AST was discriminatorily providing inferior law enforcement services to rural Alaska. The case dealt with the provision of police services in the unorganized borough—not in organized municipalities—“most” of which, the court recognized, “*are served by police officers employed by their local governments.*”<sup>3</sup> Indeed, the court explicitly stated that “[l]aw enforcement services provided by local municipal police departments [were] not at issue” in that case.<sup>4</sup>

Similarly, your assertion that Indian, Rainbow, Bird, Girdwood, and Portage are “much like the other communities” served by AST in other areas of the state is incorrect. Anchor Point, Ninilchik, Cooper Landing, and Crown Point are all unincorporated communities or census-designated places located within the Kenai Peninsula Borough, a second-class borough with no police powers. Girdwood and the surrounding communities identified in your letter are actually within and part of the Municipality of Anchorage, a unified municipality with police powers.

Please note too that your understanding of the distribution of law enforcement resources in the City and Borough of Juneau is likewise incorrect. The Juneau Police Department is responsible for law enforcement activities in the entire City and Borough of Juneau. AST generally provides search and rescue services only, and assistance as needed.

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<sup>2</sup> *Wongittilin v. State*, 36 P.2d 678, 682 (Alaska 2001) (internal citations and quotations omitted).

<sup>3</sup> *Alaska Inter-Tribal Council v. State*, 110 P.3d 947, 950 (Alaska 2005) (Emphasis added).

<sup>4</sup> *Id.*

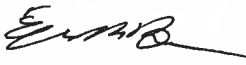
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In closing, we disagree that AST is exercising discretion “to leave an area of the state entirely without general law enforcement services.” As your letter accurately observes, the Anchorage Municipal Charter allows Girdwood voters to extend their service area, just as other voters in Anchorage service areas have done multiple times since the Municipality became a unified home rule entity in 1975.<sup>5</sup> Further, as stated in Colonel Cockrell’s February 23, 2015 letter, AST will continue to provide three troopers to do traffic enforcement on the Seward Highway from the Girdwood area, and will back up the Anchorage Police Department in that area as needed.

Sincerely,

CRAIG W. RICHARDS  
ATTORNEY GENERAL

By:   
Elizabeth M. Bakalar  
Assistant Attorney General

EMB/rjc

cc: Colonel James E. Cockrell, Director, Alaska State Troopers (*via email*)

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<sup>5</sup> See *Area G Home and Landowners Organization, Inc. v. Municipality of Anchorage*, 927 P.2d 729, 730 (Alaska 1996).