



Arizona Peace Officer Standards and Training Board

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MINUTES OF MEETING MARCH 16, 2016 PHOENIX, ARIZONA

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on March 16, 2016, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman
Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich
Sergeant Leo Aparicio, Pinal County Sheriff's Office
Mr. H. Jeffrey Coker, Public Member
Sheriff Mark Dannels, Cochise County Sheriff's Office
Colonel Frank Milstead, AZ Department of Public Safety
Detention Director Mike Olson, Maricopa County Sheriff's Office
Chief Alan Rodbell, Scottsdale Police Department
Director Charles Ryan, AZ Department of Corrections
Professor Cornel Stemley, Grand Canyon University

Board Members Absent:

Sergeant Chris Andreacola, Tucson Police Department
Mr. David Brown, Public Member
Chief Lawrence Hall, Buckeye Police Department

Staff in Attendance:

Annie Deer
Mike Deltenre
Marie Dryer
Ivan Gelo
Donna Gieber
Sandy Hansberger
Cathy Hawse
Steve Jacobs
Jack G. Lane
Lynn Larson
Cathy Masters
Lynn Pirkle
Sandy Sierra
Lori Tallerday
Don Yennie

Assistant Attorneys General:

Michael Saltz
Seth Hargraves

A. Call to Order

Chairman Mascher called the meeting to order at 10:00 a.m.

B. Introductions, Presentations and Announcements

Interim Director Jack Lane stated there are two items on the agenda today that will be pulled. One item was taken care of prior to today's meeting and the other will be tabled for a later date.

C. Consent Agenda

Chief Rodbell made a motion to approve the Consent Agenda, seconded by Colonel Milstead, motion carried unanimously.

1. Minutes of the Board meeting held on January 20, 2016, were approved as written.
Minutes of the Special Board meeting held on February 10, 2016, were approved as written.
Minutes of the Executive Session held on February 10, 2016, were approved as written.
Minutes of the Board meeting held on February 17, 2016, were approved as written.

2. Ministerial Actions:

a. Certification Waivers:

Gregory A. Taylor	Chandler Police Department
Bryan C. Demke	Hualapai Nation Police Department
Cedric D. Carter	Goodyear PD
Jamie D. Cole	Goodyear PD
William D. Underwood	Goodyear PD
Levi S. Presmyk	Yavapai-Apache Nation PD
Sharon A. Gage	Maricopa County Attorney's Office
Jason E. McFadden	Phoenix PD
Joshua T. McIntire	Chino Valley PD
Kristen L. Wright	AZ Department of Public Safety
Scott C. Wold	Phoenix PD
Leslie A. Vega-Brown III	Wickenburg PD

b. Instructor Certification Renewals (list attached to agenda material)

c. Training Program Confirmations (list attached to agenda material)

3. Income and Expense Statement – January 2016

Funds as of January 1, 2016	\$1,359,872.65
CJEF Revenue (January 2016)	179,023.99
Misc. Revenue (January 2016)	143.12
Expenditures for January 2016	(632,791.10)
Balance as of January 31, 2016	\$906,248.66

D. Executive Director’s Report

Budget – The CJEF (Criminal Justice Enhancement Fund) was underfunded last month and as such our revenues were extremely low. This month the revenues are slightly higher. Once the missing funds are replaced, we are good going forward with carry forward money. We will also be addressing the need for additional funding during next year’s legislative session. State RICO funds may be available as a means to fund the necessary academy improvements; this too will be pursued along with addressing additional funding through the Office of Strategic Planning and Budgeting (OSP).

Board Communications – An email was sent to all agency heads regarding the DUI discussion item that is on today’s agenda. There are a few agency heads at today’s meeting to address the Board regarding this item.

Personnel and Staffing – The program administrator who oversees the waiver process will be retiring at the end of June. A reorganization was recently put in place that will allow for the agency to continue functioning with one less program administrator; this will result in cost savings for the agency.

E. Legislative Update

Interim Director Lane stated he has been monitoring SB 1240 which deals with peace officers who are appointed by a private postsecondary institution. This bill was initiated by Grand Canyon University (GCU) who would like to provide their own peace officers on campus; similar to how the three major universities currently do. There is language included in the bill that will ensure AZ POST standards are met.

Phoenix Police Chief Joe Yahner stated that Phoenix PD has no problem with this; as long as GCU patterns themselves after ASU and U of A.

F. Summary of Current Events

Interim Director Jack Lane stated there is nothing new to report.

G. Review, Discussion and Possible Action on Executive Director Selection Process

Director Charles Ryan, Chairman of the Executive Director Selection Subcommittee stated the Subcommittee met prior to this meeting and would like to recommend that Jack Lane be appointed as the AZ POST Executive Director.

Chief Rodbell made a motion to go into executive session to discuss the appointment and salary of the executive director, seconded by Sheriff Dannels, motion carried unanimously.

The Board voted to go into executive session at 10:19 a.m. for discussion and consideration of the appointment and salary of the executive director. The open meeting reconvened at 10:34 a.m.

Director Ryan made a motion to appoint Jack Lane as the Executive Director at the salary level discussed in executive session, seconded by Chief Rodbell, motion carried unanimously.

Chairman Mascher stated he was very confident the Board made the right decision and was looking forward to working with Executive Director Lane. He knows there are still some difficult challenges we are going to be facing financially and one of the biggest priorities he sees is the need to create a long-term strategic budget and also to determine what our basic responsibilities are with specific priorities at AZ POST.

H. Review, Discussion and Possible Action on off-duty DUIs and the Board's position and direction to staff regarding future cases. May include public comment at the invitation of the Chairman

The subject of off-duty DUIs has been discussed on numerous occasions, but a clear-cut solution has never been determined. The statute gives the agency head the discretion to report this to the Board; which leads to inconsistencies on how individual agencies deal with DUIs. With some agencies a DUI is an automatic termination; while with other agencies it is looked at on a case-by-case scenario. The Board has long struggled with these inconsistencies and a few years ago decided that in DUI cases where there were no aggravating circumstances, it would impose a 6-month suspension of peace officer certification. This caused problems for the smaller agencies who could not afford to have an officer on a 6-month suspension; they were forced to terminate the officer. Since the discussion held last July in Flagstaff did not have a resolution, the Board asked that this be placed on the agenda once again. An email was sent to all agency heads asking for their input on this subject; only five responses were received. Of those five responses two were in favor of leaving it to the agency head's discretion; two were in favor of leaving it as it currently stands and one stated since they are a tribal agency they must follow tribal rules which requires a clean driving record for 39 months; which would mean automatic termination for a DUI. The following agency heads were present and provided input at today's meeting:

Chief Larry Rodriguez – Tolleson Police Department. Chief Rodriguez stated he agrees that there are a lot of inconsistencies. If he has someone arrested for DUI, he has to fire them. He cannot hold on to them for 6 months; they are useless to him if they cannot go out on the road.

Chief Joe Yahner – Phoenix Police Department. Chief Yahner stated he also agrees that the inconsistencies are huge. Phoenix is in the limelight and you will hear about a DUI in Phoenix where you might not in other parts of the state. He looks at each case-by-case scenario and it is not an automatic termination. He looks at the individual, their tenure, and their work history before he makes a final decision. It is a significant issue if you get a DUI in the City of Phoenix, the minimum discipline you will receive is the max suspension, which is 240 hours and you are on the verge of termination. The other issue that is not being addressed and should be considered is the interlock issue. If you get convicted of DUI, you get an interlock for a year. Government entities cannot get a waiver for this; you cannot put an interlock device on a patrol car. That makes it problematic. He asked the Board to make the suspension retroactive if they decide to stay with the current practice. That way he can make the decision or have the option to have that employee back working in the community within a 6 month period after they have served their suspension, as well as any other treatment that he may impose on them as a condition of employment.

Sheriff KC Clark – Navajo County Sheriff's Office. Sheriff Clark stated he has been at the sheriff's office for 29 years; 7.5 of those years as sheriff. He has never seen one of their deputies get a DUI. However, he would take aggressive action if it did happen. He would also take into consideration the individual, their tenure, and their work history. He has nowhere to place a deputy or a commander if they are suspended for 6 months. He understands that we want to remain strict, but we also want to be fair. He asked the Board to consider option #3 and leave it to the discretion of the agency head when dealing with DUIs with no aggravating circumstances.

Chief Rodbell stated his concern is the inconsistencies; the Board cannot compel agencies to report this information. The only fair way to deal with it would be to change the statute to require reporting of all DUIs. He feels we need to deal with this behavior that is a violation of the law and a public safety issue.

Colonel Milstead stated he does not want to see this fall on the Board to have to do the dirty work for an agency head that does not nor will not deal with the matter. He wants to trust that the agency head will do the right thing in these situations.

Colonel Milstead made a motion that the Board direct staff to recommend No Action with Agency Discretion for cases involving a first time conviction of off-duty DUI without aggravating circumstances, seconded by Professor Stemley, motion carried with one nay vote.

I. Review, Discussion and Possible Action on training deficiencies for Officer Billy Cloud – Tombstone Marshal’s Office

This matter was resolved prior to today’s meeting; all training deficiencies have been taken care of.

J. Reports

1. Department of Corrections – Director Ryan reported that since the last regular meeting, 71 cadets have graduated from COTA. They currently have four classes in progress with 115 cadets in attendance. They have 488 vacancies statewide. Thirteen cadets have graduated in through county and tribal detention IGAs. A canine academy began February 25, 2016.
2. Training – Don Yennie reported on the In-Service Training classes which have been held since the last regular meeting. He stated they strive to provide quality training throughout the state by a variety of different methods. Sometimes they provide 100% of the training and sometimes they provide support whether it is by providing specific blocks of instruction, by train-the-trainer classes, providing assistance with a class and by providing digital media training material and printed material. He stated that ALP Class #17 graduated on March 10, 2016; this brings the total number of ALP graduates to 1,315. ALP #18 began March 15, 2016. He also read a letter from the Indian Country Intelligence Network (ICIN) thanking Dan Ciernia and Dale Wyman from the AZ POST Digital Media unit for their assistance and hard work in producing two videos for ICIN.

K. Final Action Cases:

Case #1 – Samuel B. Long – Sahuarita Police Department

The Board considered comments from Assistant A.G. Michael Saltz. Colonel Milstead made a motion to adopt the Consent Agreement, Decision and Order (as amended) and suspend peace officer certification from April 21, 2015 to July 28, 2018, seconded by Mr. Coker, motion carried unanimously.

Case #2 – Cristobal M. Velasco – Santa Cruz County Sheriff’s Office

The Board considered comments from Assistant A.G. Michael Saltz. Sheriff Dannels made a motion to adopt the Consent Agreement, Decision and Order for voluntary relinquishment of peace officer certification, seconded by Chief Rodbell, motion carried unanimously.

Case #3 – Daniel M. Santa Cruz – Tucson Police Department

This case was tabled.

L. New Charging Cases:Case #1 – Carrick R. Cook – AZ Department of Public Safety

Colonel Milstead recused himself from this case. The Board considered comments from Compliance Specialist Lori Tallerday. Chief Rodbell made a motion to close this case with ***No Action with Agency Discretion***, seconded by Professor Stemley, motion carried unanimously.

Case #2 – Curven J. Begay – Navajo Division of Public Safety

The Board considered comments from Compliance Specialist Lori Tallerday. Chief Rodbell made a motion to ***Initiate Proceedings***, seconded by Director Ryan, motion carried unanimously.

Case #3 – Fabian D. Terry – Gila River Police Department

The Board considered comments from Compliance Specialist Lori Tallerday. Sheriff Dannels made a motion to ***Initiate Proceedings***, seconded by Professor Stemley, motion carried unanimously.

Case #4 – Dakota R. Darby – Tucson Police Department

The Board considered comments from Compliance Specialist Cathy Hawse. Chief Rodbell made a motion to ***Resolve in the Future***, seconded by Professor Stemley, motion carried unanimously. Chief Rodbell made a motion to rescind his previous motion and close this case with ***No Action with Agency Discretion***, seconded by Professor Stemley, motion carried unanimously.

Case #5 – Nathaniel Luttrell – Tucson Police Department

The Board considered comments from Compliance Specialist Cathy Hawse. Assistant A.G. Ahler made a motion to ***Initiate Proceedings***, seconded by Sergeant Aparicio, motion carried unanimously.

Case #6 – Arick C. Martino – Tucson Police Department

The Board considered comments from Compliance Specialist Cathy Hawse; also a short video was shown concerning this case. Chief Rodbell made a motion to ***Initiate Proceedings***, seconded by Sheriff Dannels, motion carried unanimously.

Case #7 – Beau Tribolet – Tucson Police Department

The Board considered comments from Compliance Specialist Cathy Hawse. Assistant A.G. Ahler made a motion to ***Initiate Proceedings***, seconded by Sergeant Aparicio, motion carried unanimously.

Case #8 – Reza Vafaie – Tucson Police Department

The Board considered comments from Compliance Specialist Cathy Hawse. Chief Rodbell made a motion to ***Initiate Proceedings***, seconded by Professor Stemley, motion carried unanimously.

Case #9 – Bryan E. Byrne – Buckeye Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Professor Stemley made a motion to ***Initiate Proceedings***, seconded by Colonel Milstead, motion carried unanimously.

Case #10 – Jamie L. Crawford – Bullhead City Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Director Ryan made a motion to ***Initiate Proceedings***, seconded by Chief Rodbell, motion carried unanimously.

Case #11 – Guy W. Falkengren – Chandler Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Chief Rodbell made a motion to ***Initiate Proceedings***, seconded by Director Ryan, motion carried unanimously.

Case #12 – Scott A. Hedges – Chandler Police Department

Sheriff Dannels recused himself from this case. The Board considered comments from Compliance Specialist Steve Jacobs. Assistant A.G. Ahler made a motion to ***Initiate Proceedings***, seconded by Chief Rodbell, motion carried unanimously.

Case #13 – Jonathan T. Love – Avondale Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Assistant A.G. Ahler made a motion to ***Initiate Proceedings***, seconded by Sheriff Dannels, motion carried unanimously.

M. Call to the Public

No one wished to address the Board during the call to the public.

N. Future Agenda Items

No new items to add.

O. Adjourn

Chairman Mascher adjourned the meeting at 11:53 a.m.