



## *Arizona Peace Officer Standards and Training Board*

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514 Fax (602- 244-0477

### **MINUTES OF THE MARCH 17, 2021 MEETING OF THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on March 17, 2021, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

#### Members Present (in person):

Sheriff Mark Dannels, Cochise County Sheriff's Office, Chairman  
Sheriff David Rhodes, Yavapai County Sheriff's Office  
Professor Kevin Robinson, Arizona State University  
Chief Chris Vasquez, Eloy Police Department  
Chief Jeri Williams, Phoenix Police Department

#### Members Present (via online video/telephone conferencing):

Commander Matthew Figueroa, Jail Commander, Coconino County Sheriff's Office  
Assistant Attorney General John Johnson, representing Attorney General Mark Brnovich  
Deputy Director Ken Hunter, representing Colonel Heston Silbert, AZ Department of Public Safety  
Ms. Jamie Kelly, Public Member  
Deputy Director Joe Profiri, representing Director David Shinn, AZ Department of Corrections

#### Members Absent:

Officer Matthew Medina, Prescott Police Department  
Ms. Leesa B. Weisz, Public Member

#### Staff in Attendance (in person):

Matt Giordano, Executive Director  
Ben Henry, Deputy Director  
Dan Ciernia, Digital Media Supervisor  
Amanda Faust, Training Program Administrator  
Darcy Nichols, Training Specialist  
Mike Orose, Compliance Program Administrator  
Rita Mae Schaefer, Administrative Assistant  
Sandy Sierra, Executive Assistant  
Lori Wait, Training Specialist  
Dale Wyman, Digital Media Specialist

#### Staff in Attendance (via online video conferencing):

William Caldwell, Compliance Specialist  
Cathy Hawse, Compliance Specialist

Steve Jacobs, Compliance Specialist  
David Toporek, Compliance Specialist

Assistant Attorney General:

Mark Brachtl (in person)

Roberto Pulver (via online video conferencing)

A. Call to Order

Chairman Dannels called the meeting to order at 10:00 a.m. and asked Chief Williams to lead everyone in reciting the Pledge of Allegiance. A Moment of Silence was observed for Officer Brian Brugman of the Apache Junction Police Department. Officer Brugman was shot in the line of duty yesterday and is currently in the hospital in critical but stable condition.

B. Introductions, Presentations and Announcements

*Matt Giordano, Executive Director*

- Roll Call was taken. Ten Board members are present today, five are here in person and five are participating via telephone/video conferencing. Officer Medina and Ms. Weisz are absent.
- Two new board members were introduced. Chief Chris Vasquez of the Eloy Police Department and Jail Commander Matthew Figueroa of the Coconino County Sheriff's Office. Chief Vasquez was appointed to fill the position vacated by Chief Tom Kelly and Commander Figueroa was appointed to fill the position vacated by Captain Don Bischoff.
- Assistant Attorney General Roberto Pulver will provide legal advice to the Board on final action case 20-031 Leo R. Buffa and new case 20-056 Aaron D. Minor.
- New case 20-146 Steven E. Gilbert will be tabled.

C. Executive Director's Report

*Matt Giordano, Executive Director*

- We have been exploring a partnership with the AZ Department of Corrections (DOC) and have entered into an Intergovernmental Agreement (IGA). The IGA will provide AZPOST with a fulltime individual from DOC who will work in our office performing the duties of a compliance specialist. Our rules also oversee basic academy and hiring standards for DOC. Currently, an AZPOST Compliance Specialist performs their new hire audits and works with them on training requirements. Thanks to Deputy Director Profiri, as well as Compliance Manager Mike Orose, for their assistance in getting this accomplished. This IGA is at no cost to AZPOST, DOC will pick up the cost for their employee. It is hoped that we will have someone onboard within the next month.
- In December, two attorney generals presented a settlement offer to the Board regarding the Taylor E. Barlow matter. The Board denied certification to Mr. Barlow and he filed a lawsuit against the Board and several staff members. At the December meeting, the Board voted not to accept Mr. Barlow's settlement offer. AZPOST recently received notice that we have been dismissed from the lawsuit.
- AZPOST hosted a virtual training session regarding Prop 207. We had over 500 individuals participate in this training virtually. The training has been added to our ShareFile to allow more individuals to view this training. Thanks to Dawn Mertz from AZHIDTA and Elizabeth Ortiz from AAPAC for their partnership, we could not have done this training without them.

D. Consent Agenda

Chief Williams made a motion to accept the Consent Agenda. The motion was seconded by Chief Vasquez and passed unanimously.

The following items were approved:

- 1. Minutes of the Board meeting held on February 17, 2021.
- 2. Certification Waivers:

Devin Clarke	AZ Department of Public Safety
Mark Cooper	AZ Department of Transportation
Kevin Erb	Colorado City Marshal's Office
Daniel Oncea	Maricopa County Sheriff's Office
Jonathan Pifer	Lake Havasu City Police Department
Michael Smith	Scottsdale Police Department
Jeffrey Thompson	Peoria Police Department

- 3. Consent Agreements for Voluntary Relinquishment/Denial of Peace Officer Certification. The following individuals, without admitting to any misconduct, requests the Board accept their request to permanently relinquish their Arizona peace officer certification:

Jonathan A. Perez	21-025	Flagstaff Police Department
Steven F. Mingura	18-155	Graham County Sheriff's Office
Michael R. Carleton	20-136	Tempe Police Department
Samuel E. Johnson	16-140	Colorado City Marshal's Office

- 4. Training Audit Deficiencies. The following individual is deficient in his required annual training for 2019. The Board shall restrict his certified status until this deficiency is corrected:

Mdgouhs Ali	Buckeye Police Department
-------------	---------------------------

E. Review, Discussion and Possible Action on 2019 Training Deficiencies for the San Carlos Recreation and Wildlife Service Department

Executive Director Giordano stated that normally training deficiencies are handled through the consent agenda. The list of deficient officers for the San Carlos Recreation and Wildlife Service Department constitutes the entire department. For this reason, it was listed as a separate agenda item. As of now, two members of the department are no longer deficient and their names can be removed from the deficiency list. They are in compliance and have provided documentation to staff that they have completed the required training for 2019. Those names are Isaiah Anderson and Zachary Ashkie. The rest of the names on the list are still not in compliance and should be restricted. Per AZPOST rules, every peace officer must have 8 hours of continuing training each year and 8 hours of proficiency training every three years. AZPOST staff has worked tirelessly with the agency to obtain these records.

Chief Williams inquired as to what is being done to ensure this does not happen again.

Executive Director Giordano stated compliance staff is in constant communication with the agency head and the officers who are not in compliance. As previously discussed, one of the plans for 2021 is to automate training records. Agencies will be able to upload their training records and we will then be able to get a fulltime idea of who is in compliance and who is not. Unfortunately, we are not there yet, so we will continue to do spot checks. With an agency of this size, we check everyone. With larger agencies, we look at a sample size. We communicate very thoroughly with the agencies; sometimes it is very hard to get the information we need back.

Sheriff Rhodes made a motion to restrict the certified status of the peace officers of the San Carlos Recreation and Wildlife Department who are deficient in the required training for 2019. The restriction shall remain in effect until the training or qualification requirement is met and written verification is provided to Board staff. The motion was seconded by Professor Robinson and passed unanimously.

F. Review, Discussion and Possible Action on 2018 and 2019 Training Deficiencies for the Navajo Division of Public Safety

Executive Director Giordano stated that last month the Board provided a 6-month extension to the Navajo Division of Public Safety (DPS) for their 2020 training deficiencies. We are still having trouble getting documentation for 2018 and 2019. After months, and sometimes years, of trying to get documentation, we are moving forward and presenting this to the Board. A letter was sent to these officers notifying them that they were deficient in their required annual training and that we would be bringing this to the Board for action. Since sending the letters, we have received documentation from numerous officers showing they are now in compliance; their names can be removed from the deficiency list. The names of those in compliance are: Dallas A. Begay, Farrell J. Begay, Rosalyn Benally, Rex B. Butler, Arlinda N. Chischillie-Nez, Michael Henderson, Ty B. Joe, Vera A. Nelson, Reeder V. Nez, Verna M. Nez, Shirley F. Sanisya, Gordon J. Toadlena, Dana D. Tome, Eric C. Williams, Ernest D. Yazzie, Tommy Yellowhair, Hosteen J. Chester, Carolyn J. Clauschee, Darwin C. Dooley, Clinton Y. Gilbert, Ferlando E. Gillis, Kurtis N. Halkani, Eddie Halwood, Patrick L. Huff, Pamela A. Hurley, Marwin Joe, Marilyn Littleben, Henry K. Moore, Kevin L. Nakai, Elroy Naswood, Irene Six, Kara Tilden, Alvernon R. Tsosie, and Gilbert Yazzie.

Sheriff Rhodes inquired as to whether this is an access to training issue. With the sheer number of individuals who are out of compliance and for that length of time, he wants to feel confident that there is access to the required training.

Executive Director Giordano stated that having access to the training material has never been communicated to AZPOST. Lack of communication is how it has been explained, we could not get them to communicate with us. We have more than 8 hours of continuing training materials on our website that their agency training coordinators can download. We will work with Navajo DPS in any way we can and will follow-up with their chief to see if access is an issue.

Deputy Director Profiri inquired as to how enforcement will be provided with the sheer number of restrictions the agency has.

Executive Director Giordano stated Navajo DPS started their own academy in 2018. Since then, they have generated three or four academy classes that have not been certified by AZPOST. They have a significant number of officers that are not governed by AZPOST. They also have almost 200 officers that, the majority of, are AZPOST certified. Although we restrict their certification, these officers can still provide service to their communities; we have no jurisdiction over them on tribal land.

Professor Robinson made a motion to restrict the certified status of the peace officers of the Navajo Division of Public Safety who are deficient in the required training for 2018 and 2019. The restriction shall remain in effect until the training or qualification requirement is met and written verification is provided to Board staff. The motion was seconded by Chief Williams and passed unanimously.

G. Review, Discussion and Possible Action on a Request from the Governor’s Office for a copy of the Confidential Legal Advice Memorandum regarding New Board Member Orientation

*Mr. Johnson (AAG) recused himself from this matter.*

Executive Director Giordano stated the Governor’s Office of Boards and Commissions inquired as to how we onboard new Board members. He informed them that he meets with new Board members in person and provides a 30-page document that is written by Assistant Attorney General Mark Brachtl that provides legal guidance and advice. The Boards and Commissions requested a copy of this 30-page document. The document is marked “Confidential” and before it is released, Executive Director Giordano would like the Board’s permission and direction regarding releasing this information to the Governor’s Office of Boards and Commission.

Sheriff Rhodes stated he is happy to waive his attorney/client privilege reference the 30-page orientation document. He feels it is a show of transparency as to how the AZPOST Board functions and a good faith effort. He personally did not see any harm in releasing this information.

Sheriff Rhodes made a motion to grant the request from the Governor’s Office of Boards and Commissions and provide a copy of the Board orientation memo. The motion was seconded by Sheriff Vasquez and passed unanimously.

H. Review, Discussion and Possible Action on the 2021 Five Year Review Report for A.A.C. Title 13 Public Safety Chapter 4

Executive Director Giordano stated that in 2016 we made significant changes to our rules. By statute, we are required every five years to review our rules. This review provides us an opportunity to look over our rules and make sure we are meeting our needs and that we have no issues with the rules that we created. We then report back to the Governor’s Regulatory Review Council (GRRC) on our administrative rules for their review and approval. A special thank you

to Mike Giammarino for his assistance in working with our consultant in reviewing our rules and providing the needed documentation in order to provide the Five Year Review Report to GRRC.

Chief Vasquez made a motion to allow staff to move forward and submit the Five Year Review Report to the Governor's Regulatory Review Council for their review and approval. The motion was seconded by Chief Williams and passed unanimously.

I. Review, Discussion and Possible Action on whether to seek a waiver of the Governor's moratorium on rulemaking, and the process that would be involved. In accordance with Governor's Executive Order 2021-02.

Executive Director Giordano stated the governor has a moratorium on rulemaking. In order to start the rulemaking process, agencies must seek a waiver to this moratorium. We requested a waiver last year when we changed all our minimum standards. We continue to look at ways to improve and we currently have a list of items we want to change in our rules, but the first thing we need to do is seek a waiver on the moratorium. We are requesting the Board's permission to seek a waiver of the Governor's moratorium on rulemaking so we can begin the rulemaking process. A few things we are looking at changing are: 1) Comprehensive Final Exam (CFE). We issue two versions of the CFE, one to waiver applicants and one to academy recruits. Now that we use an online platform, we have one test. It does not make sense to give a different test to waiver applicants; so now they will be given the entire test. 2) Basic Academy Curriculum Hours. We also want to change the number of hours for basic academy curriculum. Our rules continuously refer to the 585; to make any changes, we would have to go back to the rulemaking process each time. 3) Continuing Training. The way the rules are written, continuing training had to be tied back to the original 585; sometimes this is difficult to do. We are looking at changing the rules on continuing training. As long as training is applicable to the role of a peace officer, we want it to be considered eligible for the continuing training credit. We think it is reasonable and many of our partners have asked for this change. 4) Delayed Eligibility. One issue coming from the compliance side of the house is delayed eligibility for recruits. Over the past two years, we have had cases where recruits in the academy do something wrong and are removed from the academy. We then open a case on them for denial of certification. A denial is similar to a revocation and it is permanent. Oftentimes when you look at these cases and read the facts, you realize it is a maturity issue; an immature individual made a bad decision. Should we really preclude them? We have had agency heads and board members ask if a denial would preclude an individual from being a peace officer five years from now. With the current rules it does. What we have talked about internally is creating some type of delayed certification. We want to make sure that the individual is more mature, has had more life experience, and can succeed as a peace officer. We want to give them the ability to become a peace officer later in life, versus taking that opportunity away from them permanently. These are some of the changes we will be asking for in the upcoming rulemaking process.

Chief Williams made a motion to allow staff to seek a waiver of the Governor's moratorium on rulemaking. The motion was seconded by Professor Robinson and passed unanimously.

J. Review, Discussion and Possible Action to approve 42 Lesson Plan Revisions to Curriculum for Basic Training

Executive Director Giordano stated updating the lesson plans for basic training curriculum has been a long time coming. He thanked Training Manager Mandy Faust for pioneering this endeavor, it was a lot of work. She worked very closely with Training Specialists Lori Wait and Aaron Thomas, as well as our Subject Matter Experts (SMEs). The largest proposed addition to the curriculum is in Defensive Tactics. He thanked Sgt. Mike Puente of the Maricopa County Sheriff's Office. Sgt. Puente is the chairman of the committee for Defensive Tactics. Mike did a phenomenal job keeping the committee engaged, getting their feedback and directing the group. We have approximately 88 lesson plans in the 585, spread over a countless number of areas. The team worked tirelessly. We reached out to all the SME groups, some groups were already in existence and some we had to rebuild. They worked extremely hard on this. It's a give and take. SMEs wanted a specific change and we had to find a compromise as to what works for all academies. Some academies may have 50 recruits, while others may only have seven. We had to find the right balance for all the academies. We updated 42 of the 88 lesson plans, this was an incredible feat. We hit almost all of the proficiency skills. The following lesson plans had the most significant recommended changes:

- Firearms. The SME group recommendation was to increase the hours from 50 to 80. AZPOST staff determined an increase of 20 hours, from 50 to 70, would be appropriate. The increase of 20 hours will allow ten additional hours for de-escalation and decision making training. It will also add five hours for low light shooting and five hours for basic marksmanship.
- Defensive Tactics. This is the biggest increase, from 40 to 80 hours. The SME group held a DT Subject Matter Expert Symposium last year and invited every Defensive Tactic SME to participate in the one-week symposium. They held discussions, demonstrations and worked on the lesson plans. They covered all the lesson plans in Defensive Tactics. A newly created lesson plan titled Seven Foundational Principles for Policing and Use of Force will be added to the curriculum. Those principles include Mindset, Positioning, Emotional Control, De-escalation and Communication, Duty to Intervene, Duty to Report/Render Aid and Overall Professional Application of Reasonable Force. These changes are what police leaders, academy staff and the community is asking for.
- Community and Police Relations. This lesson plan was overhauled from top to bottom. We did not have an SME group for this subject matter but we convened one. We did something never done before, we invited community members to be part of this group. The group completely revised the Interpersonal Communications outline to include components of Emotional Intelligence, Empathy and Compassion, as well as more classroom exercises.
- Patrol Procedures. This training will be increased from three hours to eight. The Mental Health outline has been rewritten and renamed. The new outline will be titled Behavioral Health Crisis Response; it will include more detailed patrol response options, as well as more instruction on Autism and police response.

- High Risk Vehicle Stops. The SME group requested an increase from 8 to 16 hours of instruction and to include instruction on conducting high risk vehicle stops in confined spaces. AZPOST staff determined Close Quarter High Risk Vehicle Stops would be better taught as a standalone outline when time permits and not increase the hours of instruction. Instead of making this mandatory, it will be optional for academies that have extra time. Every academy in the state is doing for than 585 hours. If an academy has the time, we will give them the lesson plan and they can incorporate the extra hours if they so wish.
- Tactical Driving. The SME group requested an increase from 28 to 80 hours. The reason being that they were worried that in large academy classes, the recruits were not getting enough actual real time behind the wheel. With so many recruits to cycle through in a large class, there is a lot of time spent standing around waiting your turn. Smaller academies have informed us that their recruits get plenty of time behind the wheel, they don't know what they will do with all those extra hours. We took all this into consideration and are proposing to add 12 additional hours to tactical driving; from 28 to 40 hours.

42 lesson plans were revised, a lot of hard work went into accomplishing this. We want to make sure we are listening to our academy partners, since they are the ones teaching these lesson plans. If the Board approves these revisions, the plan is to convene an academy commander's meeting next week. We will give them access to the lesson plans and have them start familiarizing themselves with the changes and then AZPOST staff will go out to the academies to assist them in preparing how to teach the new curriculum. We will then come back in two years to present lesson plan revisions to the Board. Our goal is to revise lesson plans every two years and bring updates to the Board. We are very excited to bring these changes to the Board. Staff worked extremely hard and we listened to our partners, the academies and the community on what they would like to see officers being trained on at the basic level.

Chief Williams stated this is a heavy lift and probably should have been done sooner, but let's not dwell on the past and instead dwell on the future. She likes the two year update plan because law enforcement changes and evolves so quickly. She is also very glad that we connected with community members to get their input because how we train and how we serve is predicated upon our service to the community. She is very excited about these changes and thanked everyone that worked so hard on this.

Sheriff Rhodes stated that as a former academy commander, just trying to integrate this type of change to an academy is an incredible undertaking. He reviewed the material and met with some of the SMEs that worked on this project, he echoes Chief Williams' comments. These changes are a response to not only what the community wants, but to what we now know about de-escalation, how police officers respond and react in certain situations. Incorporating science, common sense and all the things that give a better training product is fantastic. He also thanked everyone that was involved and worked hard on this project.

Chief Williams made a motion to approve the 42 Lesson Plan Revisions to the Curriculum for Basic Training as submitted by AZPOST staff. The motion was seconded by Sheriff Rhodes and passed unanimously.



K. Final Action Cases:

1. 20-032 – Leo R. Buffa – Phoenix Police Department  
*Chief Williams and Mr. Johnson (AAG) recused themselves from this case.* The Board considered comments from Assistant Attorney General Mark Bracht; who provided a brief overview of the proposed consent agreement. Chief Vasquez made a motion to accept the proposed consent agreement for a 1-year suspension of Mr. Buffa's peace officer certification. The suspension shall be in effect from January 9, 2020 through January 9, 2021. The motion was seconded by Professor Robinson and passed unanimously.
2. 20-022 – Matthew D. Glass – Scottsdale Police Department  
The Board considered comments from Compliance Specialist William Caldwell; who provided a brief overview of the case. Professor Robinson made a motion to suspend Mr. Glass's peace officer certification for 12 months from December 16, 2020 through December 16, 2021. The motion was seconded by Sheriff Rhodes and passed unanimously.
3. 20-160 – Aaron M. Brotherton – Maricopa County Sheriff's Office  
*Ms. Kelly recused herself from this case.* The Board considered comments from Compliance Specialist David Toporek; who provided a brief overview of the case. Chief Vasquez made a motion to suspend Mr. Brotherton's peace officer certification for 18 months from November 18, 2020 through May 18, 2022. The motion was seconded by Chief Williams and passed unanimously.

L. New Charging Cases:

1. 20-056 – Aaron D. Minor – Scottsdale Police Department  
The Board considered comments from Compliance Specialist William Caldwell, who provided a brief overview of the case. Chief Vasquez made a motion to close this case with No Action. The motion was seconded by Chief Williams and passed unanimously.
2. 19-106 – Brandon D. Baeuerlen – Arizona State Parks  
The Board considered comments from Compliance Specialist Cathy Hawse, who provided a brief overview of the case. Professor Robinson made a motion to Initiate Proceedings against Mr. Baeuerlen's peace officer certification. The motion was seconded by Chief Williams and passed unanimously.
3. 21-008 – Antony R. Flores – Tucson Police Department  
The Board considered comments from Compliance Specialist Cathy Hawse, who provided a brief overview of the case. Chief Williams made a motion to Initiate Proceedings against Mr. Flores's peace officer certification. The motion was seconded by Chief Vasquez and passed unanimously.

4. 20-161 – Richard D. Gear – AZ Department of Public Safety  
*Deputy Director Hunter recused himself from this case.* The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Sheriff Rhodes made a motion to Initiate Proceedings against Mr. Gear's peace officer certification. The motion was seconded by Professor Robinson and passed unanimously.
5. 20-146 – Steven E. Gilbert – Gilbert Police Department  
This case was tabled.
6. 20-208 – Jordan M. Redd – Tempe Police Department  
The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Chief Williams made a motion to Initiate Proceedings against Mr. Redd's peace officer certification. The motion was seconded by Professor Robinson and passed unanimously.
7. 19-170 – Rene Algara– AZ Department of Public Safety  
*Deputy Director Hunter and Mr. Johnson (AAG) recused themselves from this case.* The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case. Chief Williams made a motion to Initiate Proceedings against Mr. Algara's peace officer certification. The motion was seconded by Chief Vasquez and passed unanimously.
8. 20-214 – Juan V. Espinoza – Fort Mojave Tribal Police Department  
The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case. Chief Vasquez made a motion to Initiate Proceedings against Mr. Espinoza's peace officer certification. The motion was seconded by Professor Robinson and passed unanimously.

#### M. Future Agenda Items

Executive Director Giordano will follow-up with Chief Francisco of the Navajo Division of Public Safety regarding his agency's training issues.

Chief Williams asked that further discussions regarding DUIs be addressed in a future meeting. Executive Director Giordano stated this matter will be added to next month's agenda.

Sheriff Rhodes thanked Executive Director Giordano and AZPOST staff for the meeting material being easy to follow and including a lot of relevant information. He stated it is a pleasure to be a part of the AZPOST Board.

#### N. Adjournment

The meeting was adjourned at 11:24 a.m.