



Arizona Peace Officer Standards and Training Board

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MINUTES OF THE JUNE 17, 2020 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 June 17, 2020, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

Members Present (in person):

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman
Captain Don Bischoff, Jail Commander, Mohave County Sheriff's Office
Sheriff Mark Dannels, Cochise County Sheriff's Office
Chief Tom Kelly, Apache Junction Police Department
Chief Alan Rodbell, Scottsdale Police Department
Deputy Christopher Pittmann, Maricopa County Sheriff's Office

Members Present (via online video/telephone conferencing):

Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich
Ms. Jamie Kelly, Public Member
Mr. Andrew LeFevre, Faculty Member, Grand Canyon University
Ms. Leesa B. Weisz, Public Member
Deputy Director Ken Hunter, representing Colonel Heston Silbert, AZ Department of Public Safety

Members Absent:

Officer Matthew Medina, Prescott Police Department
Director David Shinn, AZ Department of Corrections

Staff in Attendance (in person):

Matt Giordano, Executive Director
Ben Henry, Deputy Director
Dan Ciernia, Digital Media Supervisor
Mike Deltenre, Compliance Specialist
Marie Dryer, Compliance Program Administrator
Steve Jacobs, Compliance Specialist
Kip Rustenburg, Training Program Administrator
Mike Orose, Compliance Specialist
Sandy Sierra, Executive Assistant
David Toporek, Compliance Specialist

Staff in Attendance (via online video conferencing):

William Caldwell, Compliance Specialist
Cathy Hawse, Compliance Specialist

Assistant Attorneys General:

Mark Brachtl (in person)
Anne Froedge (via online video conferencing)

A. Call to Order

Chairman Mascher called the meeting to order at 10:02 a.m. and asked Sheriff Dannels to lead everyone in reciting the Pledge of Allegiance.

B. Introductions, Presentations and Announcements

Matt Giordano, Executive Director

- 11 Board members are present today, six are here in person and five are participating via telephone/video conferencing. Officer Matt Medina and Director David Shinn are absent.
- Training Program Administrator Kip Rustenburg will be retiring on June 29th. Even though Kip has only been at AZPOST for a short time, she will be greatly missed. Amanda Faust will be promoted to fill the position vacated by Kip.
- Wayne Amos, White Mountain Apache Rangers, has completed his required annual training. His name can be removed from the training deficiencies list on the Consent Agenda.
- Assistant Attorney General Anne Froedge will provide legal advice to the Board on the first three final action cases – Wade Voeltz 15-068; Scotty J. Caley 19-002 and Pedro A. Molera 18-109.
- Agenda items G-J will be taken out of order and will be presented before the agenda items for the budget and the proposed rules changes. This will allow the agency heads requesting petitions to leave the meeting sooner, if they so choose.

C. Executive Director's Report

Matt Giordano, Executive Director

- The Law Enforcement Summit in Flagstaff has been modified and will now be a one-day event for agency heads only. As a result, we canceled the Board meeting we normally hold during the Summit as well as the training we had scheduled. We hope to have the training, which was to be provided by Dr. Kimberly Miller, at a future date.
- We are still working on replacing the Advanced Leadership Program and hope to have a local vendor provide this training. We have received one proposal and we are waiting on a proposal from ASU in order to move forward with this training. We are hopeful to be able to identify the program we will be using and begin the class this calendar year.
- We had begun the process of working on the Job Task Analysis (JTA) and meeting with our Subject Matter Experts (SMEs) with the goal of updating our 585-hour basic academy curriculum. This came to a halt due to Covid-19. We have once again started the process and by practicing social distancing, we are having in-person meetings again. We hope that by this time next year, we will have completed the process and made significant changes to the 585-hour basic training curriculum, which is long overdue.

D. Review, Discussion and Possible Action on AZPOST Administrative Rules in Title 13 Public Safety Chapter 4 as listed in the Notice of Proposed Rulemaking (NPO)

Executive Director Matt Giordano provided a brief description of the proposed rule changes. This is a very long and tedious process and he thanked Kip Rustenburg, Marie Dryer, Mark Brachtel, Steve Jacobs and Jeanne Hann (consultant) who were all heavily involved in the process and instrumental in providing this finished product. He explained the format requirements and gave a brief description of each proposed change. Jeanne Hann, who is the consultant who assisted in preparing the rule packet with the proposed changes, was available via telephone to answer any questions the Board may have.

Some of the highpoints of the proposed changes are:

- Update minimum qualifications regarding pre-application use of marijuana, other dangerous drugs, prescription medications, steroids, and narcotics;
- Eliminate the total times an individual could have used marijuana in the past and focus only on use in the two years before appointment as a peace officer;
- Remove “experimentation” as an explanation for pre-application use of marijuana or other dangerous drugs;
- Update requirements regarding pre-application use of Adderall and CBD oil. This will eliminate the need for substantive policies 2016-001 and 2019-001 and amendments;
- Update procedures to allow online administration of the comprehensive final examination (CFE), waiver examination, and completion of the personal history and other forms;
- Add home schooling as an acceptable form of high school equivalency;
- Clarify that results of a fingerprint check are required before graduation from the academy and reimbursement of training expenses;
- Require information regarding agencies to which an applicant previously applied;
- Add requirement for an agency to address “resolve-in-the future” designations before appointing an individual as a peace officer;
- Update certification retention requirements;
- Update minimum course requirements;
- Update academy training requirements; and
- Modernize the rules to be consistent with Board practice and industry standards.

The Board will also make changes to ensure the rules are consistent with statute, Board practice, and current rule-writing standards.

Several Board members expressed their concern that the term de-escalation is not included anywhere in the rules. They inquired as to whether now, with this new rule change, would be a good time to include this term in the rules.

Executive Director Giordano explained that in the 585-hour basic training curriculum the term de-escalation is not used. This term is a fairly new term in police vernacular. The term is new, but the concept is not. The principles of de-escalation are taught through continuing training and in the academy through scenario training. We are already teaching

de-escalation techniques, we are already demonstrating these techniques and testing for them through scenario based training in all of our academies. He explained that once the Job Task Analysis (JTA) is complete and we have identified where the principles of de-escalation are taught, we will update the 585-hour basic training curriculum and the titles with de-escalation will be very clear. He does not feel it is necessary to incorporate the term into the rules right now since it will be captured in the 585-hour basic training curriculum. Next year when the JTA is done and we have revamped the basic training curriculum, we will be coming back through the rules process for Board approval and the term de-escalation will be included in the curriculum. It will be a much more compact rules process and it will only be focusing on the basic training curriculum.

Mr. LeFevre stated perhaps a position paper from the Board to the governor and the legislature indicating our awareness of the importance of de-escalation training and our plan to revamp the training requirements and making sure that the term de-escalation is included in the new basic training curriculum would address the concern that many Board members feel.

Chairman Mascher stated he feels if we included the term de-escalation in this rule change without yet having completed the JTA process, it would be like placing the cart before the horse. He feels it is important that we publish a position statement stating that we are looking at this, that we are making changes, and that we are doing things. He would ask that AZPOST let agencies, the public, the governor and legislature know that we are looking at additional training and focusing on de-escalation as we move ahead with rules changes in the future.

Executive Director Giordano assured him that this would be done sooner rather than later.

Mr. LeFevre made a motion that the Board adopt the amended administrative rules in Title 13 Chapter 4 as listed in the Notice of Proposed Rulemaking. The motion was seconded by Chief Kelly and passed unanimously.

Mr. LeFevre then made a motion that the Board proceed with the process of amending its rules by filing the Notice of Proposed Rulemaking, as adopted by the Board, with the Office of the Secretary of State. The motion was seconded by Chief Rodbell and passed unanimously.

E. Review, Discussion and Possible Action on Proposed 2020/21 Fiscal Year Budget

Executive Director Giordano presented the 2020/21 fiscal year budget to the Board for approval. This year's budget does not include one-time appropriation funding as this funding was not approved by the legislature. As a result, we lost a little over a million dollars. These funds were used to provide reimbursement to academies. We were able to roll academy reimbursements into our CJEF funding and we should not see a reduction in payments to our academies. For now, we will continue reimbursing an academy \$2500 for each recruit that graduates and \$900 for each recruit that makes it halfway through the academy. We will carry a balance of approximately 3 million dollars into FY21. It is important to have carry-over funds when you rely exclusively on funds that vary from month to month. We have seen a

reduction in the CJEF fund due to Covid-19 and we anticipate further reductions as the year goes on. Anticipated ending funds for FY21 is 1.3 million; so our carry-over funds will decline from 3 million this year to 1.3 million next year. There will be no employee raises this year. Even though there has been a reduction in CJEF funding, we are still in good shape financially due to vacancy savings.

Ms. Weisz stated the President’s Executive Order on Police Reform allocates Department of Justice discretionary grant funding to state and local law enforcement agencies to use for training and perhaps this is an option for additional funding.

Deputy Pittmann made a motion to accept the 2020-21 budget as presented. The motion was seconded by Sheriff Dannels and passed unanimously.

F. Consent Agenda

Sheriff Dannels made a motion to accept the Consent Agenda, as amended. The motion was seconded by Chief Rodbell and passed unanimously.

The following items were approved:

- 1. Minutes of the Board meeting held on May 20, 2020.

- 2. Certification Waivers:

Tyler A. Ambrosia	Chandler Police Department
Stephanie Ann Kimosh	Chandler Police Department
Thomas M. Whittaker	Chandler Police Department
Brandon J. Sevenski	Gilbert Police Department
Dean S. Spencer	Mammoth Police Department
Kyle J. Garrity	Maricopa County Sheriff's Office
Robert G. Norby Jr.	Peoria Police Department
Oluwatosin J. Omotayo-Johnson	Peoria Police Department
Gavin D. Kundert	Scottsdale Police Department
Justin R. Sledge	Scottsdale Police Department
Jeffrey D. Garcia	Tombstone Marshal's Office
Nicholas Z. Nunes	AZ Department of Public Safety
Matthew A. Dolan	Gilbert 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:

Michael N. Cardinal	19-137	Bullhead City Police Department
Christopher J. Rodden	19-197	Yavapai County Sheriff’s Office
Anthony M. Sammartino	20-053	Maricopa County Sheriff’s Office
Matthew W. Schneider	19-038	Glendale Police Department

Justin J. Smith	19-216	Prescott Valley Police Department
Steven A. Flores	20-020	Phoenix Police Department

4. Training Audit Deficiencies:

Houston Aday	San Carlos Recreation and Wildlife
Emerson Baylish	San Carlos Recreation and Wildlife
Jerald Thompson	San Carlos Recreation and Wildlife
Daniel Moreno	South Tucson Department of Public Safety
Steven Nunez	South Tucson Department of Public Safety
Vincent Durand	Quechan Tribal Police Department

Agenda items G-H were taken out of order.

G. Review, Discussion and Possible Action on a Douglas Police Department Petition for Waiver pursuant to A.A.C. R13-4-103(G) for failure to meet minimum qualifications for appointment under A.A.C. R13-4-105(A)(10) for Applicant Jesus Villa

Assistant Attorney General Mark Brachtl addressed the Board regarding the Douglas Police Department petition for waiver pursuant to A.A.C. R13-4-103(G) for failure to meet minimum qualifications for appointment under A.A.C. R13-4-105(A)(10) for Applicant Jesus Villa. Applicant Villa admitted, during the hiring process, that he smoked marijuana, one time, in 2018. Chief Kraig Fullen, Douglas Police Department, addressed the Board to request that the petition be granted.

Sheriff Dannels made a motion to grant the Douglas Police Department's petition for waiver. The motion was seconded by Chief Rodbell and passed unanimously.

H. Review, Discussion and Possible Action on a Douglas Police Department Petition for Waiver of disqualifying conduct pursuant to juvenile indiscretion under A.A.C. R13-4-105(D) and A.A.C. R13-4-105(C) for Applicant John S. Trujillo

Assistant Attorney General Mark Brachtl addressed the Board regarding the Douglas Police Department petition for waiver of disqualifying conduct pursuant to juvenile indiscretion under A.A.C. R13-4-105(D) and A.A.C. R13-4-105(C) for Applicant John S. Trujillo. Applicant Trujillo admitted to consuming narcotics after the age of 21 and a one-time sale of marijuana when he was a juvenile. Chief Kraig Fullen, Douglas Police Department, addressed the Board to request that the petition be granted.

Sheriff Dannels made a motion to deny the Douglas Police Department's petition for waiver. The motion was seconded by Chief Rodbell and passed unanimously.

I. Review, Discussion and Possible Action on a Hualapai Nation Police Department Petition for Waiver pursuant to A.A.C. R13-4-103(G) for failure to meet minimum qualifications for appointment under A.A.C. R13-4-105(A)(10) for Applicant Ty G. Atherton

Assistant Attorney General Mark Brachtl addressed the Board regarding the Hualapai Nation Police Department petition for waiver for failure to meet minimum qualifications for appointment under A.A.C. R13-4-103(G) and A.A.C. R13-4-105(A)(10) for Applicant Ty G. Atherton. Applicant Atherton admitted to smoking marijuana, one time, in 2018.

Chief Rodbell made a motion to grant the Hualapai Nation Police Department's petition for waiver. The motion was seconded by Deputy Pittmann and passed unanimously.

J. Review, Discussion and Possible Action on an AZ Department of Public Safety Petition for Waiver pursuant to A.A.C. R13-4-103(G) of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Dallin R. Smith

Deputy Director Hunter recused himself from this agenda item.

Assistant Attorney General Mark Brachtl addressed the Board regarding the AZ Department of Public Safety petition for waiver pursuant to A.A.C. R13-4-103(G) of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Dallin R. Smith. Applicant Smith admitted to consuming a testosterone booster by a series of injections and without a prescription. Major Damon Cecil, AZ Department of Public Safety, addressed the Board to request that the petition be granted.

Deputy Pittmann made a motion to grant the Arizona Department of Public Safety's petition for waiver. The motion was seconded by Captain Bischoff and passed unanimously.

K. Final Action Cases:

1. 15-068 – Wade O. Voeltz – Maricopa County Sheriff's Office

Deputy Pittmann recused himself from this case. The Board considered comments from Assistant Attorney General Mark Brachtl; who provided a brief overview of the case and the proposed Motion for Reconsideration filed by the State. Kathryn Baillie, attorney for Mr. Voeltz, was available for any questions.

Chief Rodbell made a motion to grant the State's Motion for Reconsideration, dismiss the November 16, 2016 Complaint and take no further action on this case. The motion was seconded by Sheriff Dannels and passed unanimously.

2. 19-002 – Scotty J. Caley – Quartzsite Police Department

The Board considered comments from Assistant Attorney General Mark Brachtl; who provided a brief overview of the case and the proposed Motion for Reconsideration filed by the State.

Chief Rodbell made a motion to grant the State's Motion for Reconsideration, dismiss the February 20, 2019 Complaint and take no further action on this case. The motion was seconded by Sheriff Dannels and passed unanimously.

3. 18-109 – Pedro A. Molera – Nogales Police Department

The Board considered comments from Assistant Attorney General Mark Brachtel, who provided a brief overview of the case and the terms of the proposed Consent Agreement and from Mark Williams, attorney for Mr. Molera.

Sheriff Dannels made a motion to accept the proposed Consent Agreement, Decision and Order for a 12-month suspension of Mr. Molera's peace officer certification. The suspension shall be in effect from June 30, 2018 through June 30, 2019. The motion was seconded by Captain Bischoff and passed unanimously.

4. 19-146 – Benjamin J. Huddleston – AZ Department of Public Safety

Deputy Director Hunter recused himself from this case. The Board considered comments from Compliance Specialist William Caldwell, who provided a brief overview of the case. Deputy Pittmann made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Huddleston's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

5. 19-052 – Paul E. Huskey – Salt River Police Department

The Board considered comments from Compliance Specialist William Caldwell, who provided a brief overview of the case. Chief Rodbell made a motion to accept the Findings of Fact and Conclusions of Law and suspend Mr. Huskey's peace officer certification for 18 months, effective today. The motion was seconded by Chief Kelly and passed unanimously.

L. New Charging Cases:

1. 19-233 – Daniel Carbajal – Page Police Department

The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case. Deputy Pittmann made a motion to table this case until the August meeting. The motion was seconded by Chief Rodbell and passed unanimously.

2. 19-036 – Cody J. Delafuente – Cottonwood Police Department

The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to Initiate Proceedings against Mr. Delafuente's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.

3. 19-220 – Matthew S. Salyers – Glendale Police Department

Ms. Kelly recused herself from this case. The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case; a short video was also presented. Chief Kelly made a motion to close this case with No Action

with Agency Discretion. The motion was seconded by Deputy Pittmann and passed with one nay vote recorded for Mr. Ahler (AAG).

The Board felt it was important to note that consistency on how use of force cases are handled is important, but more important is that the Board review these cases carefully because each case will be different as far as scope and nature of the incident and how much force was used. The Board felt the public looks to them to determine if how the agency handled the matter is enough or if more action is needed. If the Board determines the agency handled the matter effectively, it will defer to the agency and take no action with agency discretion.

4. 19-181 – Edward T. Swan – AZ Department of Public Safety

Deputy Director Hunter recused himself from this case. The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case and stated there are two errors on the case overview that should be noted. Sheriff Dannels made a motion to Initiate Proceedings against Mr. Swan's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

5. 20-018 – Matthew B. Woen – Yuma Police Department

The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case. Deputy Pittman made a motion to Initiate Proceedings against Mr. Woen's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

M. Future Agenda Items

There are no new items to add.

N. Adjournment

The meeting was adjourned at 12:07 p.m.