



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 MEETING AUGUST 17, 2016 PHOENIX, ARIZONA

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on August 17, 2016, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sergeant Chris Andreacola, Tucson Police Department
Sergeant Leo Aparicio, Pinal County Sheriff's Office
Mr. David Brown, Public Member
Mr. H. Jeffrey Coker, Public Member
Sheriff Mark Dannels, Cochise County Sheriff's Office
Chief Lawrence Hall, Buckeye Police Department
Colonel Frank Milstead, Arizona Department of Public Safety
Detention Director Mike Olson, Maricopa County Sheriff's Office
Chief Alan Rodbell, Scottsdale Police Department
Director Charles Ryan, Arizona Department of Corrections
Professor Cornel Stemley, Grand Canyon University

Board Members Absent:

Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich
Sheriff Scott Mascher, Chairman

Staff in Attendance:

Ted Brandon
Billy Caldwell
Annie Deer
Mike Deltenre
Marie Dryer
Cathy Hawse
Steve Jacobs
Jack Lane
Mark Perkovich
Sandy Sierra
Lori Tallerday

Assistant Attorneys General:

Michael Saltz
Seth Hargraves
John R. Tellier

A. Call to Order

Acting Chairman Coker called the meeting to order at 10:00 a.m. and stated he will be sitting in today for Sheriff Mascher.

B. Introductions, Presentations and Announcements

Executive Director Jack Lane stated that Assistant Attorney General John Tellier is at today's meeting to represent the Board on several final action cases. He then introduced the newest AZ POST staff members to the Board. Mark Perkovich is the new Compliance Program Administrator. Mark is a retired commander from the Tempe Police Department and was previously at AZ POST as a contract employee. Billy Caldwell is a new Compliance Specialist who has 21 years of previous law enforcement experience and William Rogers is a new Facilities Worker with over ten years' experience and has already been busy making much needed improvements throughout the building.

C. Executive Director's Report

Budget – A budget analyst from the Office of Strategic Planning and Budgeting (OSPB) was at AZ POST this week to familiarize herself with our organization in order to assist us with future funding needs. She advised what actions we should take in order to begin the process to be included in the governor's budget for next fiscal year.

Board Communications – Several agencies have approached AZ POST regarding the new Narcan (an overdose reversing drug) legislation which allows peace officers who are properly trained to administer the drug; but this requires a standing order from a physician. Agencies have requested that AZ POST obtain a physician that would do a blanket standing order to be used by all Arizona law enforcement. We are fortunate enough to have Dr. Brian Hawkins, who is also a reserve police officer with the Buckeye Police Department and an AZ POST physician trainer, who has agreed to be the physician that issues that standing order. We will provide written information on this to all the agencies so that they will not have to go out and seek their own physician. We are also looking at legislation that was passed that allows for pharmacists to dispense Narcan to family members and community members who will be assisting those needing the drug and a prescription will not be required for this. Further research will be done regarding this new information and will be provided to the agencies because it looks like you can get Narcan prescribed to your agency without a prescription from a physician.

Personnel and Staffing – Two new Training Compliance Specialists have been selected and will be coming on board soon. One is a retired MCSO lieutenant and the other is a retired DPS captain.

D. Review, Discussion and Possible Action on Training Deficiencies for Sergeant Donovan Delmar of the Diné College Police Department

AZ POST rules require a full authority peace officer to complete eight hours of continuing training each year in order to retain certification. A full authority peace officer must also complete firearms qualification each year in order to continue to be authorized to carry a firearm each year.

Sgt. Donovan Delmar of the Diné College Police Department is deficient in two areas of his 2015 annual training; for firearms qualification and discretionary shoot.

Chief Rodbell moved to restrict the certification of Sergeant Donovan Delmar for failure to complete annual training as required under R13-4-111 Certification Retention Requirements. This restriction shall remain in effect until staff receives documentation correcting all remaining deficient training areas, seconded by Sheriff Dannels, motion carried unanimously.

E. Review, Discussion and Possible Action on Training Deficiencies for Officer Mario Olivarez of the Miami Police Department

AZ POST rules require a full authority peace officer to complete eight hours of continuing training each year in order to retain certification. A full authority peace officer must also complete firearms qualification each year in order to continue to be authorized to carry a firearm each year.

Officer Mario Olivarez of the Miami Police Department is deficient in two areas of his 2015 annual training; for 8 hours of continuing training and discretionary shoot.

Chief Rodbell moved to restrict the certification of Officer Mario Olivarez for failure to complete annual training as required under R13-4-111 Certification Retention Requirements. This restriction shall remain in effect until staff receives documentation correcting all remaining deficient training areas, seconded by Sheriff Dannels, motion carried unanimously.

F. Final Action Cases:

Case #1 – Kevin N. McGowan – Phoenix Police Department

The Board considered arguments from Assistant Attorney General Seth Hargraves and Steven Serbalik, attorney for Kevin McGowan. Mr. Brown made a motion to adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law and impose a 240-hour suspension of peace officer certification, from April 8, 2015 to August 14, 2015, seconded by Sergeant Andreacola, motion carried unanimously.

Case #2 – Joseph M. Petrocco – Scottsdale Police Department

Chief Rodbell recused himself from this case. The Board considered arguments from Assistant Attorney General Seth Hargraves and Phil Flemming, attorney for Joseph Petrocco. Colonel Milstead made a motion to adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Director Ryan, motion carried with two nay votes recorded for Sheriff Dannels and Sergeant Andreacola.

Case #3 – Bryan E. Byrne – Buckeye Police Department

Chief Hall recused himself from this case. The Board considered arguments from Assistant Attorney General Michael Saltz and Kathryn Baillie, attorney for Bryan Byrne. Colonel Milstead made a motion to grant the Motion for Reconsideration and allow Mr. Byrne to voluntarily relinquish his peace officer certification, seconded by Chief Rodbell, motion carried unanimously.

Case #4 – David E. Hough – Phoenix Police Department

The Board considered arguments from Assistant Attorney General Seth Hargraves and Steven Serbalik, attorney for David Hough. Sheriff Dannels made a motion to adopt the Consent Agreement, Decision and Order and suspend peace officer certification for 23 days from December 11 through 21, 2014; December 28, 2014 through January 4, 2015; and January 8 through January 11, 2015, seconded by Chief Rodbell, motion carried unanimously.

Case #5 – Samuel L. Perez – St. Johns Police Department

The Board considered comments from Assistant Attorney General Michael Saltz. Colonel Milstead 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 #6 – Robert E. Hawkes – Gila River Police Department

The Board considered comments from Assistant Attorney General 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 #7 – Adalberto Velez Jr. – Mesa Police Department

The Board considered comments from Assistant Attorney General Michael Saltz. Colonel Milstead made a motion to modify the Consent Agreement, Decision and Order and suspend peace officer certification for three years from June 26, 2015 to June 26, 2018, at which time his peace officer certification will lapse, seconded by Chief Hall, motion carried with one nay vote recorded for Sheriff Dannels.

Case #8 – Josealejandro E. Pickett – Mesa Police Department

Sheriff Dannels and Colonel Milstead recused themselves from this case. The Board considered comments from Assistant Attorney General Michael Saltz. Sergeant Aparicio made a motion to modify the Consent Agreement, Decision and Order and suspend peace officer certification for three years from January 17, 2015 to January 17, 2018, at which time his peace officer certification will lapse, seconded by Mr. Brown, motion carried unanimously.

Case #9 – Benjamin Parry – Pinal County Sheriff's Office

Sergeant Aparicio recused himself from this case. The Board considered comments from Acting Compliance Manager Ted Brandon. The Board received legal advice regarding the motion from Assistant Attorney General John Tellier. Chief Hall made a motion to accept the allegations as Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Rodbell, motion carried unanimously.

Case #10 – Alexander J. Roy – Sierra Vista Police Department

This case was tabled.

G. New Charging Cases:

Case #1 – Elizabeth R. Cervera – Flagstaff Police Department

The Board considered comments from Compliance Specialist Mike Deltenre. Mr. Brown made a motion to close this case with ***No Action with Agency Discretion***, seconded by Chief Rodbell, motion carried unanimously.

Case #2 – Robert P. Fink – AZ Game and Fish Department

The Board considered comments from Compliance Specialist Mike Deltenre. Colonel Milstead made a motion to close this case with ***No Action with Agency Discretion***, seconded by Professor Stemley, motion carried unanimously.

Case #3 – Eric L. Hatchell – Chino Valley Police Department

The Board considered comments from Compliance Specialist Mike Deltenre. Colonel Milstead made a motion to close this case with ***No Action with Agency Discretion***, seconded by Chief Hall, motion carried unanimously.

Case #4 – Emilio E. Rodriguez – Prescott Valley Police Department

The Board considered comments from Compliance Specialist Mike Deltenre. Chief Rodbell made a motion to close this case with ***No Action with Agency Discretion***, seconded by Sheriff Dannels, motion carried unanimously.

Case #5 – Victoria D. Deuel – Casa Grande Police Department

Sergeant Aparicio recused himself from this case. The Board considered comments from Compliance Specialist Cathy Hawse. Mr. Brown made a motion to ***Initiate Proceedings***, seconded by Professor Stemley, motion carried unanimously.

Case #6 – Abel I. Aragon – Chandler Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Colonel Milstead made a motion to close this case with ***No Action with Agency Discretion***, seconded by Mr. Brown, motion carried unanimously.

Case #7 – Joshua E. Phillips – Phoenix Police Department

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

Case #8 – Stewart Sherman – Phoenix Police Department

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

Case #9 – Cody J. Smith – Phoenix Police Department

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

Case #10 – Gary W. Hicks – Surprise Police Department

The Board considered comments from Compliance Specialist Lori Tallerday. Chief Hall made a motion to ***Initiate Proceedings***, seconded by Colonel Milstead, motion carried unanimously.

Case #11 – Eduardo G. Preciado – Mesa Police Department

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 Sheriff Dannels, motion carried unanimously.

Case #12 – Sean G. Wurm – Maricopa Police Department

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

H. Future Agenda Items

Mr. Coker stated he feels that officers are currently faced with situations that they have never been exposed to and believes there is a need to update basic training in order to meet the new reality that officers are now faced with. He would like to address this matter at a future meeting. Executive Director Lane stated this item will be placed on the September agenda for discussion.

Executive Director Lane stated that there are five Board members whose terms will expire on August 27, 2016. If they wish to be reappointed they should contact the Governor's Office of Boards and Commissions. He stated those members can continue to legally sit on the Board until they have either been replaced or reappointed.

I. Adjourn

Chairman Coker adjourned the meeting at 11:44 a.m.