



Arizona Peace Officer Standards and Training Board

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MINUTES OF THE AUGUST 21, 2019 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 August 21, 2019, at the Arizona Peace Officer Standards and Training Board, 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
Sheriff Mark Dannels, Cochise County Sheriff's Office (via telephone)
Ms. Jamie Kelly, Public Member
Chief Tom Kelly, Apache Junction Police Department
Mr. Andrew LeFevre, Grand Canyon University
Deputy Christopher Pittmann, Maricopa County Sheriff's Office
Chief Alan Rodbell, Scottsdale Police Department

Members Absent:

Officer Matthew Medina, Prescott Police Department
Colonel Frank Milstead, AZ Department of Public Safety
Director Charles Ryan, AZ Department of Corrections

Staff in Attendance:

Matt Giordano, Executive Director
Ben Henry, Deputy Director
Billy Caldwell, Compliance Specialist
Dan Ciernia, Digital Media Supervisor
Mike Deltenre, Compliance Specialist
Marie Dryer, Program Administrator
Amanda Faust, Compliance Specialist
Cathy Hawse, Compliance Specialist
Arlene Heckel, Compliance Specialist
Mike Orose, Compliance Specialist
Lynn Pirkle, Administrative Services Officer
Kip Rustenburg, Program Administrator
Sandy Sierra, Administrative Services Officer
Lori Wait, Compliance Specialist
Dan Wilson, Chief Technology Officer
Dale Wyman, Digital Media Specialist

Assistant Attorneys General:

Seth Hargraves
Mark Brachtl
John Tellier

A. Call to Order

Chairman Mascher called the meeting to order at 10:00 a.m. and asked Chief Kelly to lead everyone in reciting the Pledge of Allegiance.

B. Introductions, Presentations and Announcements

Matt Giordano, Executive Director

- Assistant Attorney General John Tellier will provide legal advice to the Board on the five final action cases today.
- For the record, three Board members are not present; Officer Matthew Medina, Colonel Frank Milstead and Director Charles Ryan. Sheriff Dannels will be participating via telephone. There are still two Board member vacancies (public member and jail administrator).
- Charging case 19-048 Kyle C. Hunt has been moved to the consent agenda. He has signed a consent agreement for voluntary relinquishment of his peace officer certification.
- Dan Wilson has been hired as our Chief Technology Officer and came on-board on July 20. Amanda Faust is our newest Compliance Specialist and she came on-board August 10. We are very glad and excited to have them both at AZPOST.
- Assistant Attorney General Mark Brachtl replaces Seth Hargraves as our legal counsel. This is the final meeting for Seth and we thank him for his time at AZPOST and wish him well on his assignment at the Attorney General's Office.
- A plaque was presented to Administrative Assistant Cheryl Holliday. Cheryl was the training assistant at AZPOST and was recently promoted to executive assistant in the director's office at the Department of Public Safety.

C. Executive Director's Report

Matt Giordano, Executive Director

- The Seven Points of Wellness Training provided at the Law Enforcement Summit in July was very well received and has garnered rave reviews. A number of agencies have requested this training at their agency. Thank you to AZPOST Training Supervisor Steve Enteman for being instrumental in bringing this instructor and training to Arizona and law enforcement in particular.
- In conjunction with the governor's office, we are undertaking a School Resource Officer (SRO) Training Program. Our In-Service Training unit is working with the National Association of School Resource Officers to bring a one and a half day training program to Arizona. This is at the request of the governor as well as several state representatives. We are looking at extra training for SROs in de-escalation and communication skills with the population they serve. We hope to have something finalized by the end of the year. AZPOST will cover the cost of tuition as well as per diem and lodging for individuals not in the Phoenix area. We are also looking at hosting regional classes to limit the travel for some agencies who are out of the area.

- In looking at our rules and some things we might want to change in the future, even though we have not officially begun this process, we are working with ASU on a survey regarding identifying potential changes. The survey has been completed by ASU and I will record a short video, as well as an introductory email, and hopefully get this out in the next couple of weeks to all the agency heads for feedback. A lot of the survey involves pre-employment drug use for applicants and some other issues. The video message will explain in more detail how the survey will work and how the data will be collected. The information will be confidential and will not be a public collection of data.
Chairman Mascher stated he thinks it is very important that we take a look at the rules, especially in the area of marijuana use. He would also like to discuss Threat Assessment Teams and maybe look at training in this area. Director Giordano stated that due to budget constraints, In-Service Training took the biggest hit financially. Now that AZPOST is financially sound, we will be able to offer more training around the state. We will be bringing back an Advanced Leadership Program, as well as SRO and Background Investigator Training.
- Spoke at a Development Disability Safety Coalition Meeting last week. This is a group of professionals who work with service providers that provide service to the community with developmental disabilities. Was thankful to be invited and will continue working with them as a liaison for training they feel is beneficial to them. As a result of this I was contacted by the Autism Society regarding training for a program called Be Safe. It is an outstanding program where it brings in community members with autism and police officers to interact and the communication flow really goes both ways. It helps officers understand how to interact with someone with autism as well as it helps someone with autism interact with members of law enforcement. I was able to connect them with agencies around the state in order for them to prepare to conduct training classes in those areas.
- Last week Training Program Administrator Kip Rustenburg met with the 100 Club as well as members from the FBINA reference Officer Resiliency Training. We will help them facilitate these classes around the state. Kip was contacted by the 100 Club to partner and start pushing this training out statewide to all peace officers.

D. Consent Agenda

Mr. LeFevre made a motion to accept the Consent Agenda with the amendment of adding the Kyle C. Hunt consent agreement. The motion was seconded by Chief Rodbell and passed unanimously.

1. Consent Agreements for Voluntary Relinquishment 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:

Jon P. Meck	19-085	Peoria Police Department
Kyle C. Hunt	19-048	Tolleson Police Department

2. Training Audit Deficiencies. The following individuals are deficient in their required annual training. The Board shall restrict their certified status until this deficiency is corrected:

Stacy A. Dudash El Mirage Police Department

E. Review, Discussion and Possible Action on a Yavapai County Sheriff's Office Petition for Determination that Two Burglary Related Convictions Constitutes Juvenile Indiscretion Under A.A.C. R13-4-105(D) for Applicant Kevin Rozell

Sheriff Mascher recused himself from this matter. Chief Rodbell was acting chairman.

Assistant Attorney General Seth Hargraves addressed the Board regarding the Yavapai County Sheriff's Office petition for determination that two burglary related convictions of 1st and 3rd degree burglary constitutes juvenile indiscretion under A.A.C. R13-4-105(D) for Applicant Kevin Rozell. Captain Martin, Yavapai County Sheriff's Office, addressed the Board to request that the petition be granted.

Mr. Ahler (AAG) made a motion that the information submitted is sufficient for the Board to determine that the conduct constituted juvenile indiscretion and therefore grant the appointment. The motion was seconded by Sheriff Dannels and passed unanimously.

F. Review, Discussion and Possible Action on a Sedona Police Department Petition of the Drug Experimentation Rule for Applicant Tristica Rose Kendall

Assistant Attorney General Seth Hargraves addressed the Board regarding the Sedona Police Department petition for determination that applicant's drug use was for experimentation for Applicant Tristica Rose Kendall.

Deputy Pittmann made a motion to grant the petition for a determination that the drug usage by Tristica Rose Kendall was experimental. The motion was seconded by Ms. Kelly and passed with one nay vote recorded for Chief Kelly.

G. Review, Discussion and Possible Action on a Tucson Police Department Petition for determination that multiple shoplifting incidents constitutes juvenile indiscretion under A.A.C. R13-4-105(D) for Applicant Evan Hasterok

Assistant Attorney General Seth Hargraves addressed the Board regarding the Tucson Police Department petition for determination that multiple shoplifting incidents totaling \$1480 constitutes juvenile indiscretion under A.A.C. R13-4-105(D) for Applicant Evan Hasterok. Captain Carlson, Tucson Police Department, addressed the Board to request that the petition be granted.

Chief Rodbell made a motion to determine that the information submitted is sufficient for the Board to determine that the conduct constituted juvenile indiscretion and therefore grant the appointment. The motion was seconded by Sheriff Dannels and passed unanimously.

H. Review, Discussion and Possible Action on a Buckeye Police Department Petition for Waiver of the Board's standards/qualifications regarding past criminal conduct/drug activity for Applicant Jason Quigley

Assistant Attorney General Seth Hargraves addressed the Board regarding the Buckeye Police Department petition for waiver of the Board's standards/qualifications regarding past criminal conduct/drug activity for Applicant Evan Hasterok. Assistant Chief Bob Sanders, Buckeye Police Department, addressed the Board to request that the petition be granted.

Mr. Ahler (AAG) made a motion to grant the waiver of the Board's standards/qualifications regarding past criminal conduct/drug activity. Based upon the information submitted by the Buckeye Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waver. The motion was seconded by Deputy Pittmann and passed with one nay vote recorded for Chief Kelly.

I. Review, Discussion and Possible Action on a Phoenix Police Department Petition for Waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) Applicant Emilie Wojtowicz

Assistant Attorney General Seth Hargraves addressed the Board regarding the Phoenix Police Department petition for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Emilie Wojtowicz. Commander Viner, Phoenix Police Department, addressed the Board to request that the petition be granted.

Deputy Pittmann made a motion to grant the request for waiver of the Board's seven year restriction from A.A.C. R13-4-105(A)(14). Based upon the information submitted by the Phoenix Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.

J. Review, Discussion and Possible Action on a Phoenix Police Department Petition for Waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) Applicant Eric Fulton

Assistant Attorney General Seth Hargraves addressed the Board regarding the Phoenix Police Department petition for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Eric Fulton. Commander Viner, Phoenix Police Department, addressed the Board to request that the petition be granted.

Mr. LeFevre made a motion to grant the request for waiver of the Board's seven year restriction from A.A.C. R13-4-105(A)(14). Based upon the information submitted by the Phoenix Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Deputy Pittmann and passed with two nay votes recorded for Chief Rodbell and Chief Kelly.

K. Final Action Cases:1. #17-187 – Mark P. Mann – Buckeye Police Department

The Board considered comments from Assistant Attorney General Seth Hargraves, who provided a brief overview of the case and the proposed Motion for Reconsideration, and from Mr. Mark Hanson, attorney representing Mr. Mann. Chief Rodbell made a motion to grant the State's Motion for Reconsideration and rescind the Board's prior action of voting to initiate proceedings. The motion was seconded by Chief Kelly and passed unanimously.

2. #17-177 – Luis G. Ruiz – Tucson Police Department

Mr. Ahler (AAG) 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 Rehearing, and Mr. Michael Storie, attorney representing Mr. Ruiz. Chief Rodbell made a motion to deny Respondent's Motion for Rehearing or Review. The motion was seconded by Mr. LeFevre and passed unanimously.

3. #17-092 – Nelu D. Podea – Phoenix Police Department

The Board considered comments from Assistant Attorney General Mark Brachtl, who provided a brief overview of the case and the proposed Consent Agreement, and Mr. Eric Wilson, attorney for Mr. Podea. Chief Rodbell made a motion to accept the Consent Agreement, Decision and Order for a 320-hour suspension of Mr. Podea's peace officer certification. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.

4. #18-088 – Jose Tavena III – Salt River Pima-Maricopa Indian Community

The Board considered comments from Assistant Attorney General Seth Hargraves, who provided a brief overview of the case and the proposed Consent Agreement. Chief Kelly made a motion to accept the Consent Agreement, Decision and Order for an 18-month suspension of Mr. Tavena's peace officer certification. The suspension shall be in effect from June 2, 2018 through December 2, 2019. The motion was seconded by Deputy Pittmann and passed unanimously.

5. #18-078 – Kendall M. Drake – Mammoth Police Department

The Board considered comments from Assistant Attorney General Seth Hargraves, who provided a brief overview of the case and the proposed Consent Agreement. Chief Rodbell made a motion to accept the Consent Agreement, Decision and Order for a 5-month suspension of Ms. Drake's peace officer certification. The suspension shall be in effect from May 5, 2018 through October 5, 2018. The motion was seconded by Sheriff Dannels and passed unanimously.

L. New Charging Cases:1. #19-082 – Joshua J. Gross – Tolleson Police Department

The Board considered comments from Compliance Specialist Billy Caldwell, who provided a brief overview of the case. Mr. LeFevre made a motion to **Initiate Proceedings** to deny peace officer certification to Mr. Gross. The motion was seconded by Chief Rodbell and passed unanimously.

2. #18-147 – Scott D. Bricker – Pinal County Sheriff’s Office

The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Sheriff Dannels made a motion to ***Initiate Proceedings*** against Mr. Bricker’s peace officer certification. The motion was seconded by Chief Kelly and passed unanimously.

3. #19-031 – Nicholas R. Jensen – Gila River Police Department

The Board considered comments from Compliance Specialist Orose, who provided a brief overview of the case. 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).

4. #19-038 – Matthew W. Schneider – Glendale Police Department

The Board considered comments from Compliance Specialist Mike Orose, who provided a brief overview of the case. Chief Rodbell made a motion to ***Initiate Proceedings*** against Mr. Schneider’s peace officer certification. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.

5. #19-063 – James D. Brewer – Gilbert Police Department

The Board considered comments from Compliance Specialist Lori Wait, who provided a brief overview of the case. Chief Rodbell made a motion to ***Resolve in Future***. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.

6. #19-081 – Richard Moralez – Winslow Police Department

The Board considered comments from Compliance Specialist Lori Wait, who provided a brief overview of the case. Chief Kelly made a motion to ***Initiate Proceedings*** against Mr. Moralez’s peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.

7. #19-061 – Ryan A. Morris – Gilbert Police Department

The Board considered comments from Compliance Specialist Lori Wait, who provided a brief overview of the case. Chief Rodbell made a motion to ***Initiate Proceedings*** against Mr. Morris’ peace officer certification. The motion was seconded by Chief Kelly and passed with one nay vote recorded for Mr. LeFevre.

M. Future Agenda Items

Chief Rodbell stated he would like a future agenda item to discuss whether the Board has the authority to require an agency to submit a petition for waiver of the Board’s rules for an individual they wish to appoint before they send that individual to an academy. The issue of agencies appointing an individual and having them attend an academy when it seems they are not qualified seems to be happening often. The agency places an individual in an academy when it seems they are not qualified and then requests a waiver from the Board. This places the Board in the awkward position of pulling someone out of an academy who believes they have been hired.

He would also ask staff to compile a list of those decisions previously made regarding these waivers and what the parameters were for those decisions so the Board has a clear picture of what has previously been done in terms of decision making.

N. Adjournment

The meeting was adjourned at 11:52 a.m.