



Arizona Peace Officer Standards and Training Board

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

MINUTES OF THE JANUARY 18, 2023 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 January 18, 2023, 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
Detective Joseph Krajcer, Tempe Police Department
Interim Director Ken Hunter, Arizona Department of Public Safety
Attorney General Kris Mayes
Chief Chris Vasquez, Eloy Police Department

Members Present (via online video/telephone conferencing):

Commander Matthew Figueroa, Jail Commander, Coconino County Sheriff's Office
Professor Kevin Robinson, Arizona State University
Ms. Leesa B. Weisz, Public Member

Members Absent:

Detective Benjamin Cook, Pinal County Sheriff's Office
Sheriff Doug Schuster, Mohave County Sheriff's Office

Staff in Attendance (in person):

Matt Giordano, Executive Director
Sean Donegan, Deputy Director
Michele Blanco, Compliance Specialist
Richard Bradshaw, Compliance Specialist
Mike Deltenre, Compliance Specialist
Mike Giammarino, Compliance Program Administrator
Arlene Heckel, Compliance Specialist
Darcy Nichols, Compliance Specialist
Mark Post, Compliance Specialist
Mike Puente, Training Specialist
Michael Rodriguez, Training Specialist
Rita Mae Schaefer, Administrative Assistant
Tim Shay, Compliance Specialist
Sandy Sierra, Executive Assistant
Dave Toporek, Compliance Specialist
Rick VanKeuren, Training Specialist
Lori Wait, Training Program Administrator
Dale Wyman, Digital Media Specialist

Assistant Attorneys General:

Mark Brachtl

Gino Duran

Jeanne Galvin

A. Call to Order

Chairman Dannels called the meeting to order at 10:03 a.m. and asked Attorney General Kris Mayes to lead everyone in reciting the Pledge of Allegiance.

B. Introductions, Presentations and Announcements

Matt Giordano, Executive Director

- Attorney General Kris Mayes was introduced. The newly elected Attorney General is attending her first AZPOST Board meeting.
- Roll Call was taken. Eight Board members are present, five are here in person and three are participating via telephone/video conferencing. We still have one vacant Board member position. Randy Schoch has been chosen as the new public member on the Board. Next month we hope to have Mr. Schoch and the new directors for the Department of Public Safety and the Department of Corrections attend the meeting.
- Assistant Attorney General Jeanne Galvin is the Independent Legal Advisor for all the final action cases.
- Deputy Director Ben Henry was selected by Governor Katie Hobbs to serve on her cabinet as the director for the Arizona Department of Liquor Licenses and Control. Ben did a phenomenal job while at AZPOST, he will be greatly missed. With Ben's departure, Sean Donegan was promoted to Deputy Director. Darcy Nichols will be promoted to fill Sean's position as the Compliance Manager.
- Two cases will be tabled today; 2022-192 Aldo S. Ortega and 2022-162 Jesus M. Salomon-Hull.

C. Executive Director's Report

Matt Giordano, Executive Director

- AZPOST had a great year in 2022. Chuck Miiller and the rest of the managers are working on our annual report and we hope to have it out by the end of this month.
- The rules changes we instigated in 2022 have now become effective. We are no longer vetting advanced officer training, that is now at the purview of the agency heads to decide what is in their best interests and what their community needs are. We have received a lot of positive feedback on this change.
- When we start doing our training audits for calendar year 2022, we will be looking for annual training to be 12 hours of continuing training per year for every certified peace officer in the state. We eliminated the distinction between Continuing and Proficiency Training, we only require 12 hours of continuing training.
- Working on a future partnership with ASU relating to the AZ Violent Death Reporting System. Most agencies around the state report a violent death; that information is then collected at ASU. They will now be identifying suicides and would like to tie it back to identifying peace officers who commit suicide. We will be working closely with them through an MOU to provide them information to identify anyone who committed suicide to see if they ever worked as a law enforcement officer in Arizona.

- We received a letter from the statewide conference of the NAACP regarding our rule change on no longer vetting officer training. They had concerns about the types of training that could be brought to Arizona. I met with them and explained the reasons behind the rule changes and the safeguards that are in place so that no out-of-bounds training is brought to Arizona. It was a very productive meeting and the issue was resolved for that matter.
- California POST did not have the ability to sanction a peace officer’s certification, until now. They are working through this new process and we are working very closely with them to assist in any way needed. Sean Donegan, Billy Caldwell, Darcy Nichols, Mike Giammarino and Gino Duran have been working closely with their staff as they transition to this new phase of taking action on an officer’s certification based on misconduct.
- As the lobbyist for AZPOST, I will monitor bills at the legislature. I will keep the Board apprised of any issues or bills that will have implications for Arizona law enforcement or specifically AZPOST.
- Last week I was a guest on a Tucson radio show called Law Matters. This is the second time I have been on the show, it is a very well done program and the host is very pro law enforcement. It gave me the opportunity to talk about all the great things the men and women in this room do on a daily basis.

D. Consent Agenda

Interim Director Hunter 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 November 16, 2022.
2. 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:

Anthony J. Shantz	2020-059	Coconino County Sheriff’s Office
Jonathan D. Cardona	2020-083	AZ Department of Public Safety
Jose M. Sanchez Jr.	2022-073	Oro Valley Police Department
Jack Z. Egoian	2022-130	Glendale Police Department
Tyler L. Long	2022-150	Mohave County Sheriff’s Office
Aaron M. Benda	2022-159	AZ Department of Public Safety
Taylor S. Nelson	2022-175	Mohave County Sheriff’s Office
Michael F. Martinez	2022-180	Phoenix Police Department
Byron C. Wilson Jr.	2022-189	Phoenix Police Department
Alex G. Jaramillo	2022-209	Yavapai County Sheriff’s Office

- E. Review, Discussion and Possible Action on Academy Certification for the AZ Department of Public Safety State Trooper Academy to provide the basic training required to receive certified peace officer status.

Executive Director Giordano stated AZPOST staff conducted an on-site inspection of the academy to determine compliance with AZPOST standards. Staff determined the academy is in compliance and recommends the Board's approval.

Interim Director Hunter recused himself from this matter but wanted to thank AZPOST staff for their assistance and guidance.

Ms. Weisz made a motion that the Arizona Department of Public Safety State Trooper Academy meets all the requirements of R13-4-114 and R13-4-116, and the academy may provide the basic training required to receive certified peace officer status. The motion was seconded by Attorney General Mayes and passed unanimously.

- F. Review, Discussion and Possible Action on Adopting a Substantive Policy Statement which describes what is a polygraph examination, for the purposes of the Board's administrative rules.

Executive Director Giordano stated he has received inquiries from companies which offer new technologies to determine deceptiveness when administering a polygraph examination. They are asking for approval to use this new technology for pre-employment interviews to meet the rule requirement for polygraph examinations. The Board's administrative rules (A.A.C. R13-4-106.C.8) require an agency to administer a polygraph examination to assist in determining whether an individual, seeking appointment, meets the Board's minimum qualification standards. The term "polygraph examination" is not defined in either the Board's rules or in its statutes. In addition, the term "polygraph" is not defined in Arizona statute.

ASPOST reached out to experts in the polygraph field for their input and provided them with this new technology. Their response was that this is indeed a polygraph, with another level added to it. In their opinion, it is equal to a polygraph examination.

Since our rules do not include a definition of polygraph, what we need is a Substantive Policy Statement that would provide a definition and which would allow this new technology to be included. As we look at future rule changes, we will include a definition of what is a polygraph.

Some concerns were raised by Board members regarding the new polygraph method. Can individuals request to take a polygraph without the new technology? Would it be unfair for new hires to take a polygraph which requires the extra level that the new technology offers? Is this new enhanced technology used in other states?

Executive Director Giordano stated that AZPOST rules require an applicant, during the pre-employment process, submit to a polygraph examination. The rules do not state that the individual has to pass the examination, just that they must take a polygraph examination. It would be up to the individual agencies to determine which technology they want to use, it would be agency discretion. Several Arizona agencies have asked about this new technology and wanting to bring this technology in. There are several agencies around the country currently using this new enhanced technology.

Assistant Attorney General Mark Brachtl stated this issue developed because there are emerging technologies that are claiming that they can measure an individual's honesty or

dishonesty. His role was to clarify what the definition of a polygraph examination is. He found that in Arizona, there is no definition. He looked to other jurisdictions to see how they had tackled this issue and found that other states, within their statutes, have defined what is and is not a polygraph examination. Since Arizona does not have a definition in statute, he surveyed federal legislation and found that there is a definition of what is a polygraph examination in federal legislation. The definition that AZPOST is proposing in the Substantive Policy Statement, is based off of federal legislation.

Chief Vasquez made a motion that the Substantive Policy Statement as reflected in this discussion, be adopted and published in accordance with the Arizona Administrative Procedures Act. The motion was seconded by Detective Krajcer and passed unanimously.

- G. Review, Discussion and Possible Action on a Maricopa County Sheriff's Office Petition pursuant to A.A.C. R13-4-103(G) requesting a restriction of peace officer certification for Executive Chief Michael Caputo.

Assistant Attorney General Mark Brachtl addressed the Board regarding a Maricopa County Sheriff's Office petition for a restricted certification for Executive Chief Michael Caputo. Chief Caputo will be restricted from being assigned any duty likely to result in the need to apply physical force.

Ms. Weisz made a motion that based upon the information submitted by the Maricopa County Sheriff's Office and pursuant to Rule 13-4-103(G), the Board grant a restricted peace officer certification to Chief Michael Caputo. This certification restricts Chief Caputo from being assigned any duty likely to result in the need to apply physical force. The motion was seconded by Interim Director Hunter and passed unanimously.

H. Final Action Cases:

1. 2021-154 – Christopher M. Pantin – Central AZ College Police Department
Attorney General Mayes recused herself from this case. The Board heard oral argument on the Request for Rehearing from Assistant Attorney General Mark Brachtl, attorney for the Arizona Peace Officer Standards and Training Board; and from Mr. Pantin, who represented himself. Assistant Attorney General Jeanne Galvin provided legal advice to the Board. Professor Robinson made a motion to deny Respondent's Request for Rehearing and affirm the Board's Decision and Order to revoke certification. The motion was seconded by Chief Vasquez and passed unanimously.
2. 2021-124 – Conner W. Orth-Smith – Phoenix Police Department
The Board considered comments from Assistant Attorney General Gino Duran, attorney for the Arizona Peace Officer Standards and Training Board, who provided a brief overview of the proposed consent agreement; a video was also presented. The Board also considered comments from Cassidy Bacon, attorney for Mr. Orth-Smith and from Mr. Orth-Smith.

After review of the proposed consent agreement, consideration of arguments made by the parties, including follow-up questions, Chief Vasquez made a motion to reject the proposed

consent agreement. The motion was seconded by Attorney General Mayes and passed unanimously.

3. 2020-178 – Brandon M. Warren – Jerome/Clarkdale Police Departments

The Board considered comments from Assistant Attorney General Gino Duran, attorney for the Arizona Peace Officer Standards and Training Board, who provided a brief overview of the proposed consent agreement. Mr. Edmundo Robaina, attorney for Mr. Warren, was available for questions. AAG Duran explained to the Board that an incorrect date was listed on the consent agreement, the ending date for suspension should be May 26, 2023, and not May 26, 2022. Chief Vasquez made a motion to accept the proposed consent agreement for a 30-month suspension of Mr. Warren's peace officer certification. The suspension shall be in effect beginning November 26, 2020, and ending May 26, 2023. The motion was seconded by Detective Krajcer and passed unanimously.

4. 2021-209 – Cody D. Molzan – Yavapai County Sheriff's Office

The Board considered comments from Assistant Attorney General Gino Duran, attorney for the Arizona Peace Officer Standards and Training Board, who provided a brief overview of the proposed consent agreement. Mr. Edmundo Robaina, attorney for Mr. Molzan, was available for questions. Interim Director Hunter made a motion to accept the proposed consent agreement for a 12-month suspension of Mr. Molzan's' peace officer certification. The suspension shall be in effect beginning November 5, 2021, and ending November 5, 2022. The motion was seconded by Chief Vasquez and passed unanimously.

5. 2022-103 – Adrian Barrios – Phoenix Police Department

The Board considered comments from Assistant Attorney General Gino Duran, attorney for the Arizona Peace Officer Standards and Training Board, who provided a brief overview of the proposed consent agreement and from Mr. Steve Serbalik, attorney for Mr. Barrios. Ms. Weisz made a motion to accept the proposed consent agreement for a 12-month suspension of Mr. Barrios' peace officer certification. The suspension shall be in effect beginning October 3, 2022, and ending October 3, 2023. The motion was seconded by Chief Vasquez and passed unanimously.

6. 2022-109 – Marco A. Canez – AZ Department of Transportation - ECD

The Board considered comments from Assistant Attorney General Gino Duran, attorney for the Arizona Peace Officer Standards and Training Board, who provided a brief overview of the proposed consent agreement. Mr. Steve Serbalik, attorney for Mr. Canez, was available for questions. Chief Vasquez made a motion to accept the proposed consent agreement for a 40-hour suspension of Mr. Canez's peace officer certification. The suspension shall be in effect beginning June 7, 2022, and ending June 10, 2022. The motion was seconded by Attorney General Mayes and passed unanimously.

7. 2022-111 – Garrett R. Smith – Prescott Police Department

The Board considered comments from Assistant Attorney General Gino Duran, attorney for the Arizona Peace Officer Standards and Training Board, who provided a brief overview of the proposed consent agreement; and from Ms. Donna McDaniel, attorney for Mr. Smith. Ms. Weisz made a motion to accept the proposed consent agreement for a 24-month suspension of Mr. Smith's peace officer certification. The suspension shall be in

effect beginning June 11, 2022, and ending June 11, 2024. The motion was seconded by Interim Director Hunter and passed unanimously.

8. 2021-206 – Kelly B. Leonard – Maricopa County Sheriff’s Office

The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case. Detective Krajcer made a motion to accept the Findings of Fact and Conclusions of Law and suspend Mr. Leonard’s peace officer certification for 36 months, beginning September 30, 2021, and ending September 30, 2024; at which time his peace officer certification will lapse. The motion was seconded by Ms. Weisz and passed unanimously.

Due to a Board member having to leave the meeting early, new case #5 2022-030 Justin W. Flores was taken out of order and presented at this time; to ensure a quorum was available.

9. 2022-084 – Kyle W. Selinsky – Avondale Police Department

The Board considered comments from Compliance Specialist Darcy Nichols, who provided a brief overview of the case. Interim Director Hunter made a motion to accept the Findings of Fact and Conclusions of Law and suspend Mr. Selinsky’s peace officer certification for 12 months, beginning November 16, 2022, and ending November 16, 2023. The motion was seconded by Chief Vasquez and passed unanimously.

I. New Charging Cases:

1. 2022-192 – Aldo S. Ortega – Surprise Police Department

This case was tabled.

2. 2022-184 – Brandon R. Benson – Phoenix Police Department

The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case. Ms. Weisz made a motion to close this case with No Action. The motion was seconded by Attorney General Mayes and passed by a vote of 6-2. Two nay votes were recorded for Detective Krajcer and Chief Vasquez.

Professor Robinson left at the meeting at this time.

3. 2022-166 – Carlos A. Montoya – Tucson Airport Authority Police Department

The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case. Chief Vasquez made a motion to Initiate Proceedings against Mr. Montoya’s peace officer certification. The motion was seconded by Interim Director Hunter and passed unanimously.

4. 2022-200 – David P. Rodriguez – Phoenix Police Department

The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case. Detective Krajcer made a motion to Initiate Proceedings against Mr. Rodriguez’s peace officer certification. The motion was seconded by Attorney General Mayes and passed unanimously.

5. 2022-030 – Justin W. Flores – AZ Department of Public Safety
Interim Director Hunter recused himself from this case. The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case; a short video was also presented. Professor Robinson made a motion to Initiate Proceedings against Mr. Flores' peace officer certification. The motion was seconded by Ms. Weisz and passed unanimously.
6. 2022-112 – Ian U. Murton – Surprise Police Department
The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Chief Vasquez made a motion to Initiate Proceedings against Mr. Murton's peace officer certification. The motion was seconded by Ms. Weisz and passed by a vote of 6-1. One nay vote was recorded for Detective Krajcer.
7. 2022-179 – Keith G. Thompson – Miami Police Department
The Board considered comments from Compliance Specialist Darcy Nichols, who provided a brief overview of the case. Ms. Weisz made a motion to Initiate Proceedings against Mr. Thompson's peace officer certification. The motion was seconded by Interim Director Hunter and passed unanimously.
8. 2022-162 – Jesus M. Salomon-Hull – Tohono O'odham Nation Police Department
This case was tabled.
9. 2022-139 – Jesse T. Calugcugan – Ak-Chin Police Department
The Board considered comments from Compliance Specialist Tim Shay, who provided a brief overview of the case. Chief Vasquez made a motion to Initiate Proceedings against Mr. Calugcugan's peace officer certification. The motion failed due to lack of a second. Detective Krajcer made a motion to close this case with No Action with Agency Discretion. The motion was seconded by Attorney General Mayes and passed unanimously.
10. 2022-163 – Charles A. Santini Jr. – Yuma Police Department
The Board considered comments from Compliance Specialist Tim Shay, who provided a brief overview of the case. Chief Vasquez made a motion to Initiate Proceedings against Mr. Santini's peace officer certification. The motion was seconded by Ms. Weisz and passed unanimously.

J. Future Agenda Items

There are no items to add.

K. Adjournment

The meeting was adjourned at 12:33 p.m.