



Arizona Peace Officer Standards and Training Board

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MINUTES OF THE NOVEMBER 18, 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 November 18, 2020, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

Members Present (in person):

Captain Don Bischoff, Jail Commander, Mohave County Sheriff's Office
Chief Tom Kelly, Apache Junction Police Department
Chief Alan Rodbell, Scottsdale Police Department

Members Present (via online video/telephone conferencing):

Sheriff Mark Dannels, Cochise County Sheriff's Office
Assistant Attorney General John Johnson, representing Attorney General Mark Brnovich
Ms. Jamie Kelly, Public Member
Mr. Andrew LeFevre, Faculty Member, Grand Canyon University
Deputy Director Joe Profiri, representing Director David Shinn, AZ Department of Corrections
Colonel Heston Silbert, AZ Department of Public Safety
Ms. Leesa B. Weisz, Public Member

Members Absent:

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman
Officer Matthew Medina, Prescott Police Department

Staff in Attendance (in person):

Matt Giordano, Executive Director
Ben Henry, Deputy Director
Dan Ciernia, Digital Media Supervisor
Amanda Faust, Training Program Administrator
Arlene Heckel, Compliance Specialist
Steve Jacobs, Compliance Specialist
Mike Orose, Compliance Program Administrator
Sandy Sierra, Executive Assistant
David Toporek, Compliance Specialist
Dale Wyman, Digital Media Specialist

Staff in Attendance (via online video conferencing):

Cathy Hawse, Compliance Specialist

Assistant Attorneys General:

Mark Brachtl (in person)

Jennifer LaRoque (in person)

Ben Norris (in person)

Elizabeth Campbell (via telephone)

A. Call to Order

Acting Chairman Rodbell called the meeting to order at 10:02 a.m. and asked Captain Bischoff to lead everyone in reciting the Pledge of Allegiance. A Moment of Silence was observed for former AZPOST Compliance Specialist Keith Kaminski, who passed away recently.

B. Introductions, Presentations and Announcements

Matt Giordano, Executive Director

- Roll Call was taken. Ten Board members are present today, three are here in person and seven are participating via telephone/video conferencing. Sheriff Scott Mascher and Officer Matt Medina are absent.
- Assistant Attorney General Elizabeth Campbell will provide legal advice to the Board on two final action cases – Hyrum Roundy 16-138 and Edward T. Swan 19-130.
- A plaque was presented to Chief Alan Rodbell for his over seven years of service as a member of the AZPOST Board. Chief Rodbell is retiring from the Scottsdale Police Department at the end of this month and this will be his last Board meeting. Congratulations to Chief Rodbell for a 45-year career in law enforcement, he will be greatly missed.

C. Executive Director's Report

Matt Giordano, Executive Director

- The first class of the Basic Leadership Program is in its final week. Since this is the final week, the class is being held at AZPOST. Training Manager Mandy Faust and Training Specialists Ron Bayne and Darcy Nichols have done an outstanding job launching this class and building a phenomenal curriculum.
- The Gilbert Police Department is building its own academy. AZPOST staff met with their command staff and visited the site last week. Gilbert's staff has been very proactive to ensure they are doing everything needed in order to get their academy certified and up and running. The academy will be beautiful once completed and will also include an in-door firing range and top of the line driving track. It will be a good addition to basic law enforcement training throughout the state.
- Attended the NARTA PANT Meeting in Yavapai County last week; virtually attended the PCLEA Meeting which is Pinal County; and also virtually attended the ACTIC Executive Board Meeting. By attending these meetings, either in-person or virtually, it gives me a better idea of how to direct our resources to better serve the greater Arizona law enforcement community.

- Our pending cases with the Office of Administrative Hearings (OAH) have historically hovered at around 30 cases; some of those cases have languished for years. Having these cases linger for so long is a disservice not only to the community, but to the officers involved, it hangs over their heads for years on end. Assistant Attorneys General Mark Brachtl and Jennifer LaRoque have been amazing, they jumped in with both feet and are working hard on these cases. They have reached out and are working with the counsel that represents the different officers in order to get these cases before an OAH judge. In addition, we have had six cases from the Colorado City Marshal's Office that have been on our books for quite a while. We received the cases in 2016, but did not receive the actual investigations until sometime in 2018. It is now 2020 and these cases are still pending. I worked out a deal with the Attorney General's Office and we brought Assistant Attorney General Ben Norris over to handle these cases. Ben has other assignments he works on three quarters of the time, and we have him for one quarter of his time and he is doing nothing but handling those cases. You will notice on today's agenda that two of those cases are before you. With those two being adjudicated, we will have four cases remaining. We hope that by sometime in 2021, we will have all these cases adjudicated and off of our books. We recently made an internal goal of completing a case that the Board initiates on and that goes to an OAH hearing, within one year. I am really excited about the work these three attorneys from the AG's office have done on behalf of AZPOST and the Board.
- The digital Personal History Form (PH) is now live statewide. We will accept both digital and paper applications through the end of the year, but beginning January 1, 2021, we will only accept applications on-line through the PH Form. We provided training, videos, resources and we have a help desk in order to make this transition happen. The form has been live a very short time, but it has been really well received and we are very excited to leverage technology and make things more efficient.
- Proposition 207 passed, this will make recreational marijuana legal. We anticipated this proposition might pass, so when we proposed rules that were ultimately adopted by the Board, we factored this in. Proposition 207 will have no effect on peace officer minimum qualifications, hiring or the standards we have set. Those standards will remain the same, it does not matter whether it is recreationally legal or not. All the surrounding states have had recreational marijuana for several years now and we have always held applicants who went to those states and used recreational marijuana, to our same standards and will continue to do so moving forward. I have reached out to AACOP, the ASA, APAC and HIDTA and some other possible partners about bringing in a representative from Colorado POST who is an expert in recreational marijuana. We will host a high-level executive meeting for all law enforcement agency heads in the state to get ahead of the curve. We hope to do this in early 2021 and start talking about what we should be anticipating and expecting. The executive director of Colorado POST said to learn from their mistakes, there is no sense in recreating the wheel.
- We keep talking about leveraging technology to make things more efficient. Mike Giammarino, who came onboard over a month ago, has done a phenomenal job with public records requests. He is also working on a project to digitize all our records. We had hundreds of boxes of cases dating back to the 70's in our storage room. We have digitized all these records to make them more easily accessible. We can now access these records

remotely and we no longer have a fire hazard in our back storage room due to the large number of records we had.

- Last year we created an annual report at the end of 2019. The report highlighted many of the accomplishments we completed, as well as matters the Board approved and the direction AZPOST is going. We are working on the 2020 Annual Report, my goal is by the end of January or early February we will have this completed and circulated.

Chairman Rodbell commented on recreational marijuana, specifically how to adjust to the issue of marijuana in law enforcement. He believes the next big hurdle will be if the federal government decides to legalize it nationally. It will be a big decision for police departments and for AZPOST to decide whether or not applicants who legally use marijuana are suited for law enforcement. He does not know of any other time in history when we were faced with those decisions, other than at the end of Prohibition. He believes a big discussion needs to occur and it should be a national conversation for law enforcement agencies.

Executive Director Giordano state he couldn't agree with Chief Rodbell more. He stated several chiefs have contacted him who are not in agreement with this and want to hold people to a higher standard. They are well within their rights to do so. AZPOST sets the minimum standards statewide, every agency has the ability to go above and beyond those standards.

D. Consent Agenda

Chief Kelly made a motion to accept the Consent Agenda. The motion was seconded by Captain Bischoff and passed unanimously.

The following items were approved:

1. Minutes of the Board meeting held on October 21, 2020.
2. Certification Waivers:

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| Spencer Harvey | Chandler Police Department |
| Christopher Hawley | Scottsdale Police Department |
| Christopher Lester | Gilbert Police Department |
| Alec Lund | Phoenix Police Department |
| Wardell Newell | Chandler Police Department |
| Kelsea Reed | Wickenburg Police Department |
| Raymond Soto | Kearney Police Department |
| John A. Allen | ASU Police Department |
| Daniel J. Grijalva | Pima County Sheriff's Department |
| Asa D. Myers | Peoria Police Department |
| Ryan P. Swearingen | Pinal County Sheriff's Office |

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:

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| Charles H. Carroll | 20-171 | Mesa Police Department |
| Joshua A. Carroll | 19-127 | Glendale Police Department |
| William M. Nutt | 20-038 | Central AZ College Police Department |
| Amelia J. Macmurtrie | 20-164 | Northern AZ University Police Department |
| Bryce W. Gardner | 19-007 | South Tucson Department of Public Safety |
| Wilfredo Garcia | 18-122 | La Paz County Sheriff’s Office |
| Ze’Vohn S. Carson | 20-039 | Buckeye Police Department |
| Thomas L. Ferris | 20-123 | Bullhead City Police Department |
| Michael S. Irvine | 20-075 | Goodyear Police Department |
| Jacob L. Barlow | 16-142 | Colorado City Marshal’s Office |

E. Update, Presentation and Discussion on the Job Task Analysis (JTA) Report which details entry-level peace officer training needs in the Basic Training Curriculum

The Job Task Analysis (JTA) was commissioned in 2018 to better comprehend the basic needs of a new peace officer who just graduated from an academy. A consultant was hired and worked with 15 different agencies from around the state; more than 1200 police officers and supervisors responded and gave input on what those minimum tasks and qualifications should be. We were then provided with a comprehensive report that looked at our basic training curriculum, as well as the responses of the officers and supervisors who participated. The report had 56 recommendations that we should look at in our basic training curriculum. We only accepted 18 of the recommendations. We took these recommendations and broke them out into the different Subject Matter Experts (SMEs) groups that we have from around the State. We asked for their guidance on what they felt should be incorporated into the new basic training curriculum. It may seem that we only looked at a small number of the recommendations, but if you dive into it a little bit deeper, you will see that some of the recommendations are specific to agencies. Most agencies have their post academies, so on a number of those recommendations the SMEs identified them as being more applicable being taught during their post academy training. Some recommendations were identified as being taught during FTO. Another is task not mandated is Rifle shooting. The JTA recommended curriculum for how to shoot a rifle. As you know, that is not in the basic academy curriculum. Every agency does this training differently in Advanced Officer training. This kind of explains why the SMEs only recommended accepting 18 of the 56 recommendations. Another recommendation was alternate instruction, such as on-line. Due to the pandemic, we started moving in that direction. At the beginning of the pandemic, if there was an outbreak at the academy, they would quarantine that individual at home. Instead of losing people for two weeks, they are now doing online instruction and are able to connect with those recruits remotely. Mandy Faust and her team have created a distance learning protocol on our website. We have reviewed hundreds of lesson plans from approximately 12 different vendors that now have the ability to teach remotely to Arizona peace officers and those officers are able to gain continuing training credits. Another recommendation was to have a lesson plan evaluation system. We will now have a much more deliberate plan to work with all the SME groups and

update all the individual lesson plans. We are shooting for January 2021 to have the majority of the lesson plans updated. We will then push those out to the academies. We will work on getting the instructors up to speed on the curriculum, and hopefully by July all the academies will begin using the new updated curriculum. We are anticipating the 585 will increase by at least 100 hours. All the academy commanders are onboard with this because this will create exceptional peace officers for the State of AZ. Mandy and her team are researching what the best practice is to review all the lesson plans in a timely manner. Hopefully by the time we push this out to the academies in July, we will have a more definite review schedule for all of our lesson plans. It will be either every one or two years that we will review every lesson plan. If you look at our current lesson plans, they are a bit antiquated, there has not been a significant overhaul in years. We do not want that to happen again. I will come back in mid-2021 and tell you what our review process will be.

The JTA was a really good project that unfortunately sat idle for too long. When Mandy Faust came onboard, she was identified as being the point of contact for this project. Once Mandy took this project over, she ran with it and we are happy to report that the JTA is now finally completed and closed out.

F. Review, Discussion and Possible Action on a Scottsdale Police Department Petition for a waiver pursuant to A.A.C. R13-4-103(G) for Applicant Bryan Clark

Chief Rodbell recused himself from this matter. Chief Kelly was acting Chair.

Assistant Attorney General Mark Brachtl addressed the Board regarding the Scottsdale Police Department petition for waiver pursuant to A.A.C. R13-4-103(G) for Applicant Bryan Clark. Applicant Clark used a vape pen to smoke marijuana oil one time, five years ago. Commander Patrick Regan, Scottsdale Police Department, addressed the Board to request that the petition be granted.

Captain Bischoff made a motion that based upon the information submitted by the Scottsdale Police Department, and pursuant to Rule 13-4-103(G), the Board grant the request for waiver for Applicant Bryan Clark. The motion was seconded by Sheriff Dannels and passed unanimously.

G. Final Action Cases:

1. 16-138 – Hyrum Roundy – Colorado City Marshal's Office

Mr. Johnson (AAG) and Colonel Silbert recused themselves from this case. The Board considered comments from Assistant Attorney General Ben Norris; who provided a brief overview of the case and the Findings of Fact and Conclusions of Law of the Administrative Law Judge, and from Mr. Roundy.

Ms. Weisz made a motion to accept the Administrative Law Judge's Findings of Fact and Conclusions of Law and revoke Mr. Roundy's peace officer certification. The motion was seconded by Captain Bischoff and passed unanimously.

2. 19-130 – Edward T. Swan – AZ Department of Public Safety

Colonel Silbert and Mr. Johnson (AAG) recused themselves from this case. The Board considered comments from Assistant Attorney General Mark Brachtl; who provided a brief overview of the case and the terms of the proposed Consent Agreement, and from Mr. Dale Norris, attorney for Mr. Swan.

Captain Bischoff made a motion to accept the proposed Consent Agreement, Decision and Order for a 15-month suspension of Mr. Swan's peace officer certification. The suspension shall be in effect from August 5, 2019 through November 5, 2020. The motion was seconded by Mr. LeFevre and passed unanimously.

H. New Charging Cases:

1. 20-133 – Irma E. Estrada – Tucson Police Department

The Board considered comments from Compliance Specialist Cathy Hawse, who provided a brief overview of the case. Chief Kelly made a motion to Initiate Proceedings against Ms. Estrada's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.

2. 19-208 – Manuel G. Van Santen – Pima County Sheriff's Department

Mr. Johnson (AAG) recused himself from this case. The Board considered comments from Compliance Specialist Cathy Hawse, 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. The motion was seconded by Ms. Weisz and passed unanimously.

3. 19-248 – Wence M. Arevalo – Glendale Police Department

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. Arevalos's peace officer certification. The motion was seconded by Chief Kelly and passed unanimously.

4. 20-040 – Cable R. Johnson – Gila River Police Department

The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Chief Kelly made a motion to close this case with No Action. The motion was seconded by Captain Bischoff and passed unanimously.

5. 19-233 – Cody B. Tinney – Gila River Police Department

The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Chief Kelly made a motion to Initiate Proceedings to deny peace officer certification to Mr. Tinney. The motion was seconded by Captain Bischoff and passed unanimously.

6. 20-153 – Erik M. Pearson – Phoenix Police Department

The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Captain Bischoff made a motion to Initiate Proceedings against Mr. Pearson's peace officer certification. The motion was seconded by Chief Kelly and passed unanimously.

7. 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. Captain Bischoff made a motion to Initiate Proceedings against Mr. Brotherton's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.

I. Future Agenda Items

There are no new items to add.

J. Adjournment

The meeting was adjourned at 11:38 a.m.