

**State of Arizona**  
**CONSTABLE ETHICS,**  
**STANDARDS & TRAINING BOARD**

**MINUTES**

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*August 17, 2016*

A subcommittee committee meeting of the Constable Ethics, Standards and Training Board (CESTB) was called to order by Constable Mike Cobb at 9:33 a.m. on August 17, 2016. The meeting was held in the Capitol Consulting office located at 818 North First Street, Phoenix AZ 85004. Members participating were Constable Mike Cobb and Constable David Lester. Members participating via teleconference included Judge Barbara Brown and Constable Scott Tipton. Also present was staff Tracy Unmacht. Members of the public present included Gilbert Zermeno CBS 5 News, Constable Doug Clark and Constable John Acton.

**Call to the Public**

No statements were made.

The following matters were discussed, considered and decided at the meeting:

**Discussion & Possible Recommendation for Open Investigation**

**CNA145-2015, CNA146-2015, CNA155-2015, CNA157-2015 and CNA184-2016 – Clark:** Constable Cobb reviewed the history of the complaints, all centered around the activities of Constable Clark at the time of his July 2014 accident. The complaints from 2015 had been investigated and closed. CNA184-2016 brought to light the possibility that the investigation into those complaints might have been tainted. On April 20, 2016 the CESTB Board voted to reopen the previously closed cases and ordered a new investigation to be completed.

The subcommittee reviewed the report from the new investigation and concluded that the findings upheld the original disposition of all the previous complaints. The investigator found no evidence pointing toward wrongdoing by the constable in regards to his activities at the time of his accident.

Constable Tipton made a motion to recommend to the CESTB board that CNA145-2015, CNA146-2015, CNA155-2015, CNA157-2015 and CNA184-2016 all be dismissed and the issue closed. Constable Cobb seconded the motion. Discussion: the subcommittee asked if Constable Clark had any comments, and he expressed his opinion that the whole issue was politically motivated and not related to his job performance. His reputation has been unfairly damaged and he requests the CESTB issue a press release letting the public know he has been cleared of these allegations. The motion carried unanimously with no further discussion.

**CNA186-2016 – Malles:** Constable Cobb reviewed the nature of the complaint, which was initiated by the CESTB in response to a letter it received from a constituent in Constable Malles' district, Ms Roberta Kubic. Cobb also reviewed the timeline of the complaint process, which was relevant due to a late response received from Constable Malles:

- The CESTB received the letter on May 17<sup>th</sup>. It was noted that Ms. Kubic was not submitting a formal complaint.
- The letter was reviewed by the CESTB and on June 15<sup>th</sup> 2016 the board voted to initiate a complaint against Constable Malles
- June 23, 2016 the CESTB sent a letter to Constable Malles informing him of the complaint and affording him 20 days to respond
- Mail tracking shows the letter was delivered on June 27, 2016.
- On July 13 the CESTB received a letter from Constable Malles' district justice, Cecil Ash stating he was in receipt of the CESTB letter for Constable Malles who was on vacation and wouldn't be returning until July 11<sup>th</sup>. Judge Ash also stated he had also received a copy of the letter from Ms. Kubic and he responded to her. He heard nothing more from her and considered the matter resolved.
- On August 17<sup>th</sup> Constable Malles submitted a response to the CESTB stating he had given permission to Judge Ash to respond on his behalf and urged the CESTB to accept that response and consider the matter closed.
- Constable Malles requested the ability to respond should the CESTB decide to pursue the complaint further

The subcommittee reviewed this timeline and agreed that Constable Malles had ample time upon his return to submit a response to the CESTB and therefore decided to move forward with its investigation/discussion of the complaint.

Constable Tipton referred to Canons 1 and 4 of the Code of Conduct for Constables and pointed out the behavior of Constable Malles did not meet the high standards of conduct expected of Constables. Judge Brown pointed out that elected officials are bound by these canons and need to hold themselves up to a higher standard. She stated Constable Malles crossed the line and violated the public trust when he used contact information obtained while acting in his capacity of Constable and then used that contact information for personal gains. It was also pointed out this incident showed a continuing pattern of behavior since Constable Malles was removed from the AZ Constables Association following a similar incident.

Constable Tipton made a motion to recommend the CESTB board issue a letter of reprimand, require Constable Malles to attend ethics training, and suggest the Constable seek counseling. Judge Brown seconded the motion. The motion carried unanimously without further discussion.

**Adjournment**

There being no further business the subcommittee adjourned at 9:57 a.m.