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Summary of complaints to the Constable Ethics, Standards and Training Board (CESTB) Fiscal Year 2023 Status Report 6/30/23

For the fiscal year period July 1, 2022 through June 30, 2023 a total of fifty-four (54) complaints were filed with the CESTB against constables for a variety of allegations. Two (2) complaints were withdrawn by the complainants, twenty-one (21) complaints were dismissed by the Board, three (3) cases were closed due to the constable leaving office prior to completion of investigation and eleven (11) complaints resulted in disciplinary action. The remaining 17 cases are pending as of the date of this report.

Complaints may be dismissed for a variety of reasons including but not limited to the following:

1. The complaint as submitted does not meet jurisdiction requirements per R13-14-201 of the AZ Administrative Code
 - a. the complaint is about an issue that occurred more than 4 years prior
 - b. the complaint is not against a constable currently in office
 - c. the complaint does not address any situation related to the performance of a constable's duties
2. The complaint has already been addressed by CESTB
3. Evidence was insufficient to show a constable failed to comply fully with A.R.S. § 22-131 or R13- 14-103

Complaints that resulted in disciplinary action by being taken by the CESTB were as follows:

CNA305-2023 was opened on August 22, 2022 against **Maricopa County Constable Doug Clark** by the Maricopa County Presiding Constable. The complaint detailed allegations that the constable used unreasonable force when he pointed his weapon at a subject who was exhibiting passive resistance during an eviction process. The complainant further alleged the constable failed to report or document a use of force incident as required by Maricopa County Policy and Procedures and provided false information to the Constable Ethics, Standards and Training Board about the incident.

Board members unanimously voted to place the constable on 30 days probation and asked him to resign his position. The constable resigned prior to the end of the 30-day probationary period and the case was consequently closed.

CNA306-2023 was opened on August 28, 2022 against **Yavapai County Constable Mike Harris** by the Yavapai County Presiding Constable. The complaint detailed allegations of non-feasance by the constable's failure to process and serve orders of protection in a timely manner.

After considering all the facts in this case the Board determined Constable Harris failed to process and/or serve protection orders in a timely manner, which is in violation of A.R.S. § 22-131.A.

Of further concern was Constable Harris's statement in his response to the complaint that he is a "part time" constable citing his other responsibilities as a firefighter. Board members agreed using that as justification for not completing the duties of his position as constable is not acceptable and in violation of Administrative Rules and the Code of Conduct for Constables.

Consequently, they voted to issue a Letter of Reprimand and placed Constable Harris on 30 days probation effective as of the date of this letter. A written reprimand is two steps above the minimum disciplinary action the board can administer.

The constable resigned prior to the end of the 30-day probationary period and the case was consequently closed.

CNA322-2023 was opened on November 17, 2022 against **Pima County Constable Oscar Vasquez**. The complaint alleged the constable sent unwanted and inappropriate images to the complainant through Facebook Messenger.

After considering all the facts in this case the Board determined Constable Vasquez violated the following rules and canons:

Arizona Administrative Code Title 13, Chapter 14 Section 103.A states:

A constable shall:

- 2. Act in a manner that promotes public confidence in the constable's office;*
- 3. Be honest and conscientious in all professional and personal interactions;*
- 8. Act at all times in a manner appropriate for an elected public official;*

Canon 4 A & B of the Code of Conduct for Constables also includes similar expectations as quoted below:

CANON 4

A. Constables shall maintain high professional and personal standards.

Commentary:

This canon relates to all other canons and involves the manner in which a constable approaches his or her duties. One of the hallmarks of professionalism is the willingness to follow a code of conduct in professional and personal life, and the expectation that everyone in the profession will follow similar standards.

B. Constables shall act appropriately at all times, taking into account their duties and responsibilities as elected public officials.

Commentary:

Election to public office is a sacred trust, and constables must follow the highest standards of conduct at all times by striving to meet and exceed the standards set forth in this code. Being elected does not give a public official the right to ignore the law or treat others with indifference or disrespect. To the contrary, a public official is the servant of those who elected them to office.

Consequently they voted to issue a letter of admonishment to Constable Vasquez. This letter of admonishment is 3 steps above the minimum disciplinary action the board can administer.

CNA326-2023 & CNA327-2023 were opened on January 11, 2023 against **Maricopa County Constable Byron Rhymes**. The complaints alleged the constable failed to serve two writs of restitution in a timely manner. The complainant also claimed repeated inquiries to the constable regarding the matters went unanswered. When responding to the complaints, Constable Rhymes took full responsibility for the situation citing some personal issues affecting his job performance. He apologized and pledged to do a better job in the future.

Board members concluded that Constable Rhymes did not meet his responsibilities citing the following:

1. Constables have a lawful duty to properly execute a writ of restitution, as required by A.R.S. § 22-131.A, which, in part, states:

*“Constables shall attend the courts of justices of the peace within their precincts when required, and within their counties **shall execute, serve** [emphasis added] and return all processes, warrants and notices directed or delivered to them by a justice of the peace of the county or by competent authority.”*

2. Furthermore, Constables also have a lawful duty to enforce a writ of restitution in accordance with A.R.S. § 12-1178.C, which, in part, states:

*“... The writ of restitution **shall be enforced as promptly and expeditiously as possible** [emphasis added]. The issuance or enforcement of a writ of restitution shall not be suspended, delayed or otherwise affected by the filing of a motion to set aside or vacate the judgment or similar motion unless a judge finds good cause.”*

However, at the time of adjudication, Constable Rhymes was current on his workload.

Board members voted to issue a letter of admonishment to Constable Rhymes. This letter of admonishment is 3 steps above the minimum disciplinary action the board can administer.

CNA328-2023 was opened on January 17, 2023 against **Maricopa County Constable Darlene Martinez**. The complaint alleged Constable Martinez inserted herself into the eviction process of her daughter consequently inhibiting the constable assigned to the eviction from performing her official duties. It was further alleged that Constable Martinez used her county issued equipment and vehicle for personal reasons when she responded to the eviction.

After considering all the facts in this case the Board determined Constable Martinez’s actions were in violation of Arizona Administrative Rules and the Code of Conduct for Constables as follows:

A.A.C. § R13-14-103.A.

2. Act in a manner that promotes public confidence in the constable’s office;

4. Avoid a conflict of interest, including the appearance of a conflict of interest, in the performance of constable duties;

5. Perform constable duties without:

b. Regard for kinship, social or economic status, political interests, public opinion, or fear of criticism or reprisal; and

13. Act at all times in a manner appropriate for an elected public official

Constable Code of Conduct:

CANON 1.

- A. *Constables shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the office of constable; and*
- B. *Constables shall maintain high standards of conduct in order to preserve public confidence in their offices.*

CANON 2

- A. *Constables shall not use or attempt to use their positions to secure special privileges or exemptions for themselves or any other person.*

CANON 3

- B. *Constables shall perform their duties diligently, without regard for kinship, social or economic status, political interests, public opinion or fear of criticism or reprisal.*

CANON 4

- A. *Constables shall maintain high professional and personal standards;*

Constables shall act appropriately at all times, taking into account their duties and responsibilities as elected public officials.

Consequently they voted to issue a letter of admonishment to Constable Martinez. This letter of admonishment is 3 steps above the minimum disciplinary action the board can administer.

CNA330-2023 was opened on January 28, 2023 against **Maricopa County Constable Byron Rhymes**. The complaint alleged the constable failed to serve a writ of restitution in a timely manner. The complainant also claimed repeated inquiries to the constable regarding the matters went unanswered. When responding to the complaints, Constable Rhymes took full responsibility for the situation citing some personal issues affecting his job performance. He apologized and pledged to do a better job in the future.

Board members concluded that Constable Rhymes did not meet his responsibilities citing the following:

1. Constables have a lawful duty to properly execute a writ of restitution, as required by A.R.S. § 22-131.A, which, in part, states:

*“Constables shall attend the courts of justices of the peace within their precincts when required, and within their counties **shall execute, serve** [emphasis added] and return all processes, warrants and notices directed or delivered to them by a justice of the peace of the county or by competent authority.”*

2. Furthermore, Constables also have a lawful duty to enforce a writ of restitution in accordance with A.R.S. § 12-1178.C, which, in part, states:

*“... The writ of restitution **shall be enforced as promptly and expeditiously as possible** [emphasis added]. The issuance or enforcement of a writ of restitution shall not be suspended, delayed or otherwise affected by the filing of a motion to set aside or vacate the judgment or similar motion unless a judge finds good cause.”*

However, at the time of adjudication, Constable Rhymes was current on his workload.

Board members voted to issue a letter of admonishment to Constable Rhymes.

This letter of admonishment is 3 steps above the minimum disciplinary action the board can administer.

CNA333-2023 was opened on February 22, 2023 against **Apache County Constable Roger Curtis**. The complaint alleged Constable Curtis failed to act impartially when providing a civil standby during November 2022, and again during February 2023, when Constable Curtis, without the authority to do so, denied the complainant the ability to obtain personal belongings from the residence belonging to the complainant and their estranged spouse.

After considering all the facts in this case the Board determined Constable Curtis did indeed fail to act impartially while performing his duties. Further, Board members noted derogatory comments toward the complainant made in the constable's response to the complaint were inappropriate.

They deemed the constable's actions were in violation of the following Administrative Rules and Code of Conduct for Constables:

R13-14-103. Constable Code of Conduct:

A. A constable shall:

- 2. Act in a manner that promotes public confidence in the constable's office;*
- 4. Avoid a conflict of interest, including the appearance of a conflict of interest, in the performance of constable duties;*
- 5. Perform constable duties without:*
 - a. Bias or prejudice; and*
 - b. Regard for kinship, social or economic status, political interests, public opinion, or fear of criticism or reprisal;*
- 8. Act at all times in a manner appropriate for an elected public official;*

Code of Conduct for Constables

CANON 1

- B. Constables shall maintain high standards of conduct in order to preserve public confidence in their offices.*

CANON 2

- D. Constables shall manage personal and business matters so as to avoid situations that may lead to conflicts of interest, or the appearance of such conflicts, in the performance of their duties.*

CANON 3

- A. Constables shall perform their duties without bias or prejudice, and shall not manifest by words or conduct bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.*
- B. Constables shall perform their duties diligently, without regard for kinship, social or economic status, political interests, public opinion or fear of criticism or reprisal.*

CANON 4

- A. Constables shall maintain high professional and personal standards.*
- B. Constables shall act appropriately at all times, taking into account their duties and responsibilities as elected public officials.*
- C. Constables shall be courteous, patient and respectful toward those who come in contact with their offices.*

Consequently, they voted to issue a letter of Admonishment. This letter of admonishment is 3 steps above the minimum disciplinary action the board can administer.

CNA335-2023 was opened on March 9, 2023 against **Santa Cruz County Constable Ed**

Huerta. The complaint was initiated by the CESTB when the constable failed to meet statutory training requirements during calendar year 2022. Constable Huerta also ignored the request for response to the complaint. Consequently, board members voted to request the constable's resignation from office citing not only the deficiency in training, which is of utmost importance, but deemed the lack of response to the matter as egregious.

CNA337-2023 was opened on March 14, 2023 against **Maricopa County Constable Karyn Lathan.** The complaint alleged the constable failed to report striking a fixed object while operating her county assigned vehicle and falsely reported that the accident occurred on a different date. The complaint further claimed Constable Lathan parked said vehicle in a handicap parking space.

After reviewing all of the facts in the case, board members concluded it was Constable Lathan's duty to remain at the scene and report the accident, and that she unlawfully parked in a marked handicap space in violation of the following Administrative Rules and Code of Conduct:

R13-14-103.A. A constable shall:

- 1. Comply with all federal, state, and local law;*
- 2. Act in a manner that promotes public confidence in the constable's office;*
- 3. Be honest and conscientious in all professional and personal interactions;*
- 6. Maintain accurate public information regarding the performance of the constable's duties including the daily activity log required under A.R.S. § 11-445;*
- 8. Act at all times in a manner appropriate for an elected public official;*

R13-14-103.B. A constable shall not:

- 1. Use or attempt to use the constable position to obtain a privilege or exemption for the constable or any other person;*

CANON 1

- A. Constables shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the office of constable.*
- B. Constables shall maintain high standards of conduct in order to preserve public confidence in their offices.*
- C. Constables shall maintain and observe the highest standards of integrity, honesty, and truthfulness in their professional and personal dealings.*

CANON 2

- A. Constables shall not use or attempt to use their positions to secure special privileges or exemptions for themselves or any other person.*

CANON 3

- C. Constables shall furnish accurate, timely information and shall provide access to public records according to established procedures. Constables shall not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage.*

CANON 4

- A. Constables shall maintain high professional and personal standards.*
- B. Constables shall act appropriately at all times, taking into account their duties and responsibilities as elected public officials.*

Consequently, they voted to issue a letter of Warning. A written warning is the minimum punishment the board can administer.

CNA338-2023 was opened on March 16, 2023 against **Pinal County Constable Mike Sloan.** The complaint alleged the constable committed criminal trespass when he forced his way through an electric gate in the 6 foot fence surrounding the complainant's property, which, according to the complaint, was visibly posted with a "No Trespassing" sign. In his response to the complaint,

Constable Sloan took responsibility for his actions, but cited entering the same property on a previous occurrence without issue from the complainant.

After reviewing all of the facts in the case, board members determined Constable Sloan's actions were a violation of A.A.C. § R13-14-103 and the Constable Code of Conduct which states:

A. A constable shall:

- 1. Comply with all federal, state, and local law;*
- 2. Act in a manner that promotes public confidence in the constable's office;*
- 8. Act at all times in a manner appropriate for an elected public official;*

CANON 1

- A. Constables shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the office of constable.*
- B. Constables shall maintain high standards of conduct in order to preserve public confidence in their offices.*

CANON 4

- B. Constables shall act appropriately at all times, taking into account their duties and responsibilities as elected public officials.*

Consequently, they voted to issue a letter of Warning. A written warning is the minimum punishment the board can administer.