

Minutes of Public Meeting of the Constable Ethics, Standards and Training Board May 16, 2018

A public meeting of the Constables Ethics, Standards and Training Board (CESTB) was convened on May 16, 2018 at 10:03 a.m. at the offices of Capitol Consulting 818 North First Street Phoenix, AZ 85004. Present were the following members of the CESTB: Chairman Mike Cobb, Valerie Beckett, and Constable David Lester. Present via teleconference were the following members of the CESTB: Sheriff Adam Shepherd. CESTB members absent were Christine Shipley and Judge Barbara Brown. The following staff was present – Tracy Unmacht. Members of the public in attendance included Tim Moder, Constable Ben Crow, Constable Ed Malles, Frederick Schultz. Guest participating via teleconference was Kristin Cipolla.

A quorum was reached and the following matters were discussed and decided at the meeting:

Minutes of Previous Meetings:

Corrections: None

Constable Lester made a motion to approve the minutes as presented from the April 18, 2018 CESTB meeting. Valerie Beckett seconded the motion. The motion passed unanimously.

Financial Report: Staff reviewed the April FY 18 reports from the Department of Administration Central Services Bureau (CSB) and noted we did not receive a deposit from Maricopa County in April. CSB reported the payment was received late and will be added to the May report. Valerie Beckett made a motion to approve the April financial report and Sheriff Shepherd seconded. The motion passed unanimously.

Call to the Public: Constable Ed Malles played an audio recording of the incident referenced in complaint CNA227-2018.

Constable Complaints:

Initial Screening of new Constable Complaints:

Complaint received 5-3-18 AZ Constables Association v Cullison – Chairman Cobb reviewed the nature of the complaint with the Board. Valerie Beckett made a motion to initiate the complaint process and Constable Lester seconded. The motion passed with Chairman Cobb abstaining.

CNA227-2018 Malles - Constable Cobb introduced the complaint regarding a Write of Restitution served by Constable Malles. The complainant claimed the constable made deals with the defendants without consulting the landlord, giving them an excessive amount of time to move. Complainant also claims the constable intervened follow the execution of the writ when he should not have been involved at that point.

Constable Malles claimed that the complainant began destroying property of the defendants and caused an unsafe situation. The Constable also claimed he was using discretion that he is afforded in determining how to handle the volatile situation. Board members discussed at length and asked additional questions of the complainant and the constable. It was pointed out the Constable Malles is mistaken in his conclusion that the defendants could be allowed to collect belongs from outside the residence once it was locked out. An eviction is from the property as a whole, so the constable erred in allowing the defendants on the property. Board members also concluded that the service took longer than it should have. Sheriff Shepherd questioned how much discretion constables actually have in these situations. Chairman Cobb stated that most defendants have ample notice prior to a writ being served, so the eviction process should be completed quickly.

Clarification was made regarding future service when Mr. Schultz requests it – he is not required to utilize Constable Malles and can work with the presiding constable for his court to have someone else conduct future service. Mr. Shultz was amenable to this.

Chairman Cobb reviewed the courses of action available to the Board.

Sheriff Shepherd stated that because discretion is not spelled out in law, he believed the least severe consequence should be given in this case. Sheriff Shepherd made a motion to issue a letter of warning to Constable Malles. Motion failed for lack of a second.

Constable Lester made a motion to dismiss. Motion failed for lack of a second.

Valerie Beckett asked if constables are expected to know what the limits and boundaries of a property are, since Constable Malles clearly understood a different interpretation than what the law states. Chairman Cobb said every constable should know – it is covered at the bi-annual training events every year.

Valerie Beckett made a motion to issue a warning to Constable Malles and Sheriff Shepherd seconded. The motion passed unanimously without further discussion.

CNA228-2018 Crow - Constable Cobb introduced the complaint which accused the constable if not completing a writ of restitution in a timely manner. Sheriff Shepherd raised the question and concern about discretion again. While the constable was using discretion dealing with an elderly person, the eviction took a week to complete and the police were required to complete the eviction.

Sheriff Shepherd made a motion to issue a letter of warning to Constable Crow and Constable Lester seconded. The motion passed unanimously without further discussion.

FY 2019 Budget Discussion: Staff provided the Board with an updated draft budget showing projected income/expenses based on FY18 experience to date. Final budget approval will occur at the June meeting.

Administration Report:

Chairman Cobb & staff attended the GRRC (Governor's Rule Review Council) study session on April 24th and Council meeting on May 1st. Rules were approved without any questions. Rules will take effect July 1.

With the passage of the rules, staff will begin making the necessary updates to the in-house administrative procedures.

Staff reviewed the FY19 Board meeting schedule. All meeting will continue on the third Wednesday of each month with the exception of September and January. The latter two will be conducted in conjunction with the bi-annual constable training events. September's meeting will be held in Flagstaff on September 10th. We are awaiting on firm dates for the January training in Tubac.

Staff reviewed the FY19 Grant cycles. Chairman Cobb requested the two equipment grant cycles be moved to follow each of the bi-annual training events. Staff will send the board a revised schedule and will post the schedule to the website.

Chairman Cobb announced the resignation of Dan Ryan from the Board. Staff has contacted the Governor's office requesting a swift replacement.

Chairman Cobb also stated that with the passage of SB1113 that changed language in directing how writ fees are collected, staff needs to contact the justice courts of rural counties informing them of the change, which is effective 90 days following sine die of the 2018 legislative session.

Adjournment: Constable Lester made a motion to adjourn the meeting and Sheriff Shepher seconded. The motion passed unanimously. Meeting was adjourned at 10:58 a.m.

Dated this 18 day of JULY, 2017
Constable Ethics, Standards and Training Board

By 

Chairman Mike Cobb