

State of Arizona
CONSTABLE ETHICS,
STANDARDS & TRAINING BOARD

MINUTES

April 20, 2016

A subcommittee committee meeting of the Constable Ethics, Standards and Training Board (CESTB) was called to order by Constable Mike Cobb at 9:03 a.m. on April 20, 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, Constable Scott Tipton, and Sheriff Adam Shepherd. Members participating via teleconference included Judge Barbara Brown. Also present was staff Tracy Unmacht and CESTB Chairman Ken Sumner. Members of the public present included Constable Doug Clark.

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

Call to the Public

No statements were made.

Discussion & Possible Recommendation for Open Investigation

CNA180-2016 – Canez: The complaint was initiated by the CESTB because the constable did not meet the training requirements in 2015. After the complaint was filed the constable submitted proof of training to meet the requirement. However, the certificates were not received within 30 days as required by statute. It was pointed out that the constable went on medical leave shortly after the training was completed, and remains so, and relied on someone else to submit the certificate on his behalf. Discussion ensued to determine if the certificate should be accepted. Sheriff Shepherd pointed out based on his experience with AZPOST precedence that agencies such as this are allowed to accept even if beyond the period stated in statute. Constable Tipton made a motion to accept the training certificate and recommend to the board this complaint be dismissed. Sheriff Shepherd seconded the motion. The motion carried unanimously without further discussion.

CNA184-2016 – Clark: Constable Cobb outlined the complaint to the subcommittee. Most of the previous complaint investigations related to this new complaint took place prior to current subcommittee members' tenure on the board, so Constables Sumner and Tipton reviewed the history. The CESTB hired John Waugh of Lochmoor Investigations in hopes of receiving an unbiased objective report regarding complaints CNA145-2015, CNA146-2015, CNA155-2015 and CNA157-2015. Mr. Waugh subcontracted with Doug Hopkins to assist in the investigation.

In CNA184-20169, the complainant states that Mr. Hopkins had a conflict of interest and should have recused himself from the investigation because the complainant had filed a complaint against Hopkins through DPS in 2012. The complainant also states Constable Clark made statements prior to the closure of the investigation about having the investigators testify on his behalf in a civil case brought against Constable Clark by the complainant. The complaint claims information was leaked by the CESTB about the investigation. And the complainant submitted new video evidence that he claims shows Constable Clark lied about his activities in July of 2014 that the original complaints centered around.

Constables Tipton, Sumner and Cobb interviewed each of the investigators. Mr. Hopkins stated he did not know Mr. Rucker when the investigation was opened, and was not aware prior to his involvement in the investigation that Mr. Rucker had filed a complaint against him in 2012. He knew a complaint was filed, which was later dismissed, but DPS standard procedure does not identify the complainant to the investigator. He recently conducted a public records request into that complaint, and only then did he learn it was made by Mr. Rucker. Based on this testimony, the subcommittee agreed there was not a conflict of interest on the part of Mr. Hopkins going into the investigation.

Both investigators were asked if they leaked any information to Constable Clark and both denied this.

Both investigators did admit at some point during the investigation they mentioned to Constable Clark they would work for him following the investigation if he chose to hire them. They both stated Constable Clark did not respond or commit one way or the other to them when they made those statements. No contract was ever made between the investigators and Constable Clark.

The subcommittee concluded that the investigators lost their objectivity during their investigation and the investigation is tainted because of it. Because previous complaints were adjudicated based on the investigative report, those cases may need to be reinvestigated.

The subcommittee also concluded the CESTB board did not act inappropriately in this matter. They were unaware at the time of the investigation of the conduct of the investigators. The CESTB has no involvement in the civil case. They found no evidence that Constable Clark misused his position during the investigation – his conversations with his attorneys with regards to the civil case are outside the purvue of the board, as is any disciplinary action against the investigators.

For the record it should be noted at this point in the meeting (9:24 am), member of the public Mr. William Rucker joined the meeting.

Constable Tipton made a motion to recommend to the CESTB board that the original investigative report for CNA145-2015, CNA146-2015, CNA155-2015 and CNA157-2015 by Lochmoor Investigations be disregarded, those complaints be reopened, and a new investigation completed for those complaints as well as the new video testimony submitted in CNA184-2016. Sheriff Shepherd seconded the motion. The motion carried unanimously with no further discussion.

Adjournment

There being no further business the subcommittee adjourned at 9:36 a.m.