



AZ POST
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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **April and May 2008**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

April and May 2008

CASE NO. 1

IMPROPER EXPLOSIVES STORAGE

Officer A is a gun enthusiast who enjoys restoring antique canons and artillery pieces. He takes them to shows and, along with other enthusiasts, shoots them off. In furtherance of his hobby, Officer A purchased about 18,000 pounds of M30 Propellant, erroneously thinking it was smokeless gunpowder and not classified as an explosive. He stored half in his garage. ATF agents approached Officer A and upon learning the true nature of the Propellant, he abandoned it to them. He pled guilty to Improper Storage of Explosive Materials, a Class A misdemeanor offense. He was sentenced to a \$2,000.00 fine and one year supervised probation. The Board adopted a consent agreement calling for a one year suspension of peace officer certification (concurrent with his probation) for misfeasance and conduct that tends to diminish public trust in the law enforcement profession.

CASE NO. 2

SEXUAL MISCONDUCT ON DUTY

Deputy B investigated a spousal sexual assault and found there was probable cause to arrest the husband. While at the residence with the wife he began to show a sexual interest in the wife, complimenting her and showing her a cell phone photo of his penis. They engaged in consensual oral sex. About two weeks later, the wife contacted Deputy B to say she had received a postcard from her jailed husband in violation of the Protective order. He responded to her home to pick up the postcard and the two ended up having sexual intercourse. A few weeks later, the wife recorded a conversation she had with Deputy B during which he made numerous admissions about their interactions. As a result of the sexual relationship between the wife and Deputy B, all criminal charges were dismissed against the husband. The Board revoked his peace officer certification for malfeasance in office and conduct that jeopardizes public trust.

CASE NO. 3**FALSE REPORTING**

Officer C stopped by his mother's house while on patrol and left the patrol car running in the driveway. While he was inside, a drunk female pedestrian saw the car and wanted a ride. No one answered when she knocked on the door so she decided to drive the patrol car to her destination. Officer C noticed the car leaving and ran after it. He made an emergency distress call and reported that a male, armed with a handgun had assaulted him, stolen his vehicle and struck him with the vehicle while escaping. He was airlifted to a hospital where no evidence of injury was found. He made several inconsistent statements during the investigation that followed. The Board revoked his peace officer certification for committing an offense involving dishonesty (false reporting) and malfeasance in office.

CASE NO. 4**LYING ON MEDICAL FORM**

Officer D used steroids. He stopped using steroids prior to seeking lateral employment with a neighboring agency. Upon application to that agency, he denied the unlawful use of steroids on applications. He denied taking any medication or being under a doctor's care within the past year on his POST Medical History Questionnaire. These denials were false. After getting the job with the second agency, Officer D resumed his steroid use. He obtained an internet prescription for it. When the agency discovered his use, it began a professional standards investigation. During the investigation, Officer D claimed he was lawfully using steroids for high blood pressure and depression, and he made statements that were inconsistent with his answers to the medical history questionnaire he had filled out months before. The Board revoked his peace officer certification for lying on his medical form and/or lying in the investigation.

CASE NO. 5**DISHONESTY**

Officer E lied during two different internal affairs interviews about whether she had conversed with fellow officers about her case. The Board revoked her peace officer certification.

CASE NO. 6**MISFEASANCE**

Officer F received a check from a class action settlement with an insurance company regarding a house he had previously owned with his wife. They were divorced, he purchased her interest in the home and she later passed away. The settlement check was in both the name of the officer and his deceased ex-wife. He signed his name and went about finding someone to sign his ex-wife's name to endorse the check. The first two people he asked refused, and one of them called the bank to determine the proper way to handle the situation. Officer F found that the proper method was far too inconvenient, so he called a fellow officer who signed the check for him in his ex-wife's name. The Board found that although there was no theft or actionable forgery involved, the act violated the POST rules regarding misfeasance, malfeasance or nonfeasance in office and constituted conduct that tends to diminish public trust in the profession. It suspended his certification for six months.

CASE NO. 7**SEX ON DUTY**

Officer G received oral sex while on duty. He was truthful about the incident when questioned by internal affairs. The Board suspended his certification for one year for malfeasance in office.

CASE NO. 8**SEX ON DUTY AND LYING**

Officer H arrived at a location to meet two acquaintances and a fellow officer. He agreed to take the female acquaintance to pick up her friend at a nearby club and return them to the local restaurant while the male acquaintance (her husband) and the other officer waited. Instead he drove her to a remote location and attempted to have sexual intercourse with her. She said it was coerced and she resisted by keeping her thighs tightly together, preventing penetration. Officer H said they did have intercourse, but it was consensual. When an investigation began, he resigned. About two years later, he applied for a job with Agency Z. The department rejected his application, but the civil authority ordered the department to put him to work. During the POST investigation of the allegations, Officer H made mutually exclusive inconsistent statements about his relationship with the female acquaintance. It was also discovered that he had a pattern of pursuing romantic relationships while on duty. The Board revoked his peace officer certification for dishonesty and malfeasance.

CASE NO. 9**SEX ON DUTY**

Officer I had sex on duty while on a break during his shift. Agency policy indicated that he was on duty and subject to call even during his break. The officer was basically truthful during the investigation, although he indicated he had gone out of service when he had not actually done so. The Board suspended his certification for one year from the date of his termination.

CASE NO. 10**DISHONESTY**

Officer J was on administrative leave for investigation of several racially insensitive comments and behaviors. While on leave he was assigned to his home. A supervisor asked him to come to the office for an interview and Officer J responded that he could not because he was sick. In fact, he was visiting family out of state at the time. The Board revoked his certification for dishonesty and malfeasance.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situations. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An Officer used his state vehicle for personal use, and worked off duty jobs while on duty.
- An Officer failed to take a report in the sexual assault of a 13 year old girl when a report may have stopped a serial rapist.
- An Officer repeatedly struck and injured his 14 year old daughter.
- An officer made up a false story about cheating on his POPAT, claiming conspiracy, to cover up poor performance on his part.
- A deputy lied to IA after Garrity admonitions about contacting the subjects of the investigation.

The Board entered mandatory revocations for the conviction of the following felonies:

- Conspiracy to Falsify Records with the Intent to Impede a Federal Investigation, a Class D felony.

On April 16, 2008, and May 21, 2008, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer tased a prisoner who was restrained to a hospital gurney because he perceived a threat from his thrashing about.
- An officer operated a motor vehicle while his license was suspended.
- An office failed to provide a report and collect evidence in a timely fashion.
- A cadet may have been untruthful about her agency's pepper spray policies to avoid being exposed to OC spray a second time in training.
- Two officers failed to attend court as subpoenaed.
- A supervisor failed to investigate why officers assigned to his squad missed court.
- An officer sent sexually suggestive text messages on his department issued phone.
- A recruit committed Extreme DUI.
- An officer failed to report a police contact to his chain of command.