



AZ POST
INTEGRITY BULLETIN
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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 **May and June 2009**, 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.

May and June 2009

CASE NO. 1

PROSTITUTION

Deputy A was out of town at a three-day POST school with a fellow deputy. They went to a topless club and Deputy A drank a lot of beer, purchased several table dances and several private dances. During the evening, he asked a dancer what it would cost for them to engage in oral sex. She told him \$300.00. He arranged for her to come by his hotel room. She arrived, he sent his roommate away and they engaged in oral sex and he paid her \$300.00. The next morning, he discussed it with his roommate who suggested he tell his sergeant. He called his sergeant and reported his conduct. An internal investigation began after they returned and the fellow deputy reported the misconduct. The agency terminated Deputy A and the POST Board revoked certification for the commission of an offense involving unlawful sexual conduct, malfeasance in office and conduct that tends to disrupt or diminish public trust.

CASE NO. 2

UNPROFESSIONAL CONDUCT

Motor Officer B entered the highway and observed a man smoking a cigar. The officer thought it was a "blunt" (cigar stuffed with marijuana) and pulled the vehicle over. The driver took his time moving across several lanes of traffic to stop. Officer B pulled next to the driver's window, pointed his handgun at the driver and began yelling instructions. Part of this conversation was captured on the driver's wife's voice mail. Officer B yelled "I'll frickin' blow you full of f---ing holes, bitch ... put your hands on the God damn window. I'll bitch slap the shit out of you right now, dumb ass." Officer B grabbed the cell phone from the driver's hand and threw it into the car with adequate force to chip the windshield. The officer asked if the driver had flicked his "blunt" at him. The driver told him it was a "black and mild" cigar. Officer B terminated the stop without documenting the traffic stop in any fashion. The agency has a strict policy of documenting all stops to comply with a court order dealing with racial profiling. The driver was a black male. Officer B also did not write the required use of force report. Officer B resigned and did not provide a statement explaining his reasonable suspicion to pull the car over or his failure to document the stop. The Board revoked his peace officer certification for misfeasance, malfeasance and nonfeasance in office.

CASE NO. 3**SEX ON DUTY**

Deputy C and a civilian employee of the department were texting and calling each other about getting together later that night when the deputy was on duty. At about 0300 hours they met at a secluded location and began talking. Talking led to kissing which led to sexual contact. The civilian employee felt guilty and told her husband what they had done. Her husband who is also a deputy with the same department forwarded a memo through the chain of command and an internal investigation was conducted. Deputy C was truthful throughout the investigation. There were no missed calls for service as a result of the encounter. Deputy C resigned. The Board suspended his certification for one year from the date of termination for malfeasance, misfeasance and nonfeasance in office.

CASE NO. 4**FALSE ENTRY on TRAINING ROSTER**

Sergeant D was on limited duty status following major surgery and an extended recovery period. He engaged in a casual conversation with a fellow officer who was on his way to turn in a roster from a driver's training class completed earlier in the week. Sergeant D suggested he add his name to the roster to avoid risking injury by participating in the training. He borrowed a pen and signed his name to the roster. The officer turned the roster in and left a note for them to contact him if there were any questions. The Training Center had questions because the sergeant was not on the list of those attending training and his name was in a different color ink than the other entries. During the subsequent internal investigation, Sergeant D was completely truthful and took full responsibility for his actions. He stated he was on pain medication and it might have contributed to his lapse in judgment. He said if he had taken a moment to reflect, he would have realized this was not honest. The agency allowed the sergeant to retire in lieu of termination four months later following his 25th anniversary. The Board suspended his peace officer certification for three years for committing an offense involving dishonesty and malfeasance in office.

CASE NO. 5**FALSE INFO to OBTAIN CERTIFICATION**

Applicant E denied any traffic offenses, arrests or contacts with law enforcement on his AZ POST Statement of Personal History and Application for Certification. In reality, he had been cited for 19 traffic offenses between 1987 and 2006 and faced charges of five criminal offenses including threatening, reckless driving and criminal damage. The Board permanently denied him peace officer certification.

CASE NO. 6**UNAUTHORIZED USE of DEPARTMENT DATABASE**

Officer F entered the police station on his day off to retrieve his subpoenas and to check his email. While there, he logged onto a department computer and conducted inquiries in an internal data base about a female he had recently met and wanted to know better. After making the checks, he spoke with a co-worker about the information he discovered. The co-worker told him he could be fired for misusing the department computer to run an acquaintance. Officer F contacted his supervisor and the professional standards bureau and reported the incident. He resigned during the investigation. The Board adopted a consent agreement providing for a 30 day suspension of peace officer certification for malfeasance, misfeasance or nonfeasance in office.

CASE NO. 7**UNPROFESSIONAL CONDUCT WITH A MINOR**

Deputy G conducted a traffic stop on a 17-year old female, Ms. CB, for no reason other than “to mess with her.” About a month later, he saw her driving in a parking lot and turned on his emergency lights. She stopped and asked what he wanted. He asked her to drive over to his location and join him and another officer, which she did. This visit in the parking lot lasted from 12:30 a.m. until 3:00 a.m. when her parents arrived and ordered her home. During this contact, Deputy G asked for Ms. CB’s cell phone number. He showed her how he could run checks on people and he ran her name and her sister’s name. He also showed her a picture on his cell phone of a nude female bent over exposing her backside and genitals. A few months later, Ms. CB was working at a fast-food place and preparing to close for the night. She saw Deputy G drive by the window of the business. Soon she received a text message from him. They engaged in a texting conversation during which Deputy G’s messages became increasingly sexual in nature. The messages were explicit and told her some of the sexual things he would like to do with her. He told the internal investigator that he was just joking, but he admitted that he did have a sexual interest in the girl and that he knew she was 17 years old. There was no sexual touching at all. The Board revoked Deputy G’s peace officer certification for malfeasance in office and conduct or a pattern of conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 8**DUI and DISHONESTY**

Officer H, while off duty and driving his personal vehicle, drove under the influence of alcohol. He collided with a fixture along the road and left the scene without notifying the owner. When peace officers located him, he claimed he was jumped by six drunken subjects and forced to drink alcohol. This story is false. The Board revoked his peace officer certification for the commission of an offense involving dishonesty and malfeasance in office.

CASES NO. 9 & 10**FIGHTING**

Officers I and J were involved in an off-duty fight in the parking lot of a bar along with a fellow officer. Witnesses stated they held the victim down while the other officer punched and kicked him, causing serious injury. Officer I was charged with assault and disorderly conduct/fighting and Officer J was charged with facilitation. Both entered diversion programs. The other officer was the primary assailant. He was arrested for aggravated assault and relinquished his peace officer certification. The Board revoked the certifications of Officers I and J for the commission of offenses involving physical violence and conduct that damages public trust.

CASE NO. 11**ACJIS VIOLATIONS**

Officer K became the subject of an investigation for his off-duty interference with a police response to a fight in the parking lot of a “gentleman’s club.” Information surfaced that Officer K was close to the owner and many of the dancers of the club and appeared to be providing them protection from police scrutiny. An audit of his ACJIS use showed he made at least 13 unauthorized inquiries on associates and friends. He disseminated confidential information from these searches to unauthorized people. The Board revoked his certification for committing a felony offense 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 misused ACJIS for personal reasons and was dishonest when questioned about it.
- An officer was involved in a collision in a mall parking lot. He left a note on the windshield of the other car with false information about his identity.
- An officer reported his vehicle stolen and when interviewed about it, he made material untruthful statements.
- A recruit stole a DVD from a car in the impound lot.
- An officer sexually abused his then 12-year-old step-daughter.
- A sergeant acted in an erratic and paranoid fashion in public and refused to submit to a drug screening.
- A detective masqueraded as another detective and obtained a disclosure order from a judge for his wife's cell phone records.

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

- Making False Statements and Violating Constitutional Rights under Color of Law, Class D and A federal felonies respectively.
- Aggravated assault, a class 3 felony.

On May 20, 2009, and June 17, 2009, 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 matter 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 published a book of humorous and potentially embarrassing cop stories without advance review by his department.
- A sergeant made statements about conversations he had with other officers that his department viewed as untruthful.
- An officer used force his department found unnecessary when he took a female to the ground after she kicked him and twisted her cuffs so that his finger was being pinched.
- An officer drove his personal vehicle under the influence of alcohol while off duty.
- An officer failed to complete some reports in a timely fashion.
- An officer drove his personal vehicle under the influence of alcohol while off duty.
- An officer failed to properly complete three investigations.
- An officer pocketed a golf ball that was hit into his group by a golfer in the following group.
- An officer took a raffle ticket as a practical joke and failed to replace it after the ticket was eaten by another officer at his table.
- An officer may or may not have harassed his former wife.

Editor's Note:

The Board has typically not initiated proceedings in isolated cases of an off-duty officer driving his personal vehicle under the influence of alcohol. The decisions not to bring a disciplinary case have come by closer and closer votes. There is a growing minority on the Board that believes POST should take disciplinary action any time an officer drives while impaired. At the May meeting, such a case failed to proceed to discipline by a tied vote of five to five for initiation. The fact is that driving while impaired places the public safety in jeopardy more than almost anything else people do. Peace officers are no safer drunk drivers than anyone else. The very same officer who arrests John Q. Public one day for DUI damages public trust in the profession by committing it the next. The reluctance to bring disciplinary cases against officers who commit off duty DUI should not be seen as a statement that off duty DUI doesn't violate the Board's rules or offend Board members. Nothing could be further from the truth. Off duty DUI clearly constitutes malfeasance, misfeasance and nonfeasance in office and is conduct that tends to diminish, disrupt or otherwise jeopardize public trust in the law enforcement profession. On this, the Board is unanimous. Officers should be aware that the Board has the authority and discretion to impose sanctions against their peace officer certifications for driving under the influence of alcohol.