



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 **July and August 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.

July and August 2009

CASE NO. 1

DISHONESTY

Officer A stated in a report that he had observed Officer Z reach into a juvenile's pocket and remove a drug pipe without asking for consent. A supervisor questioned Officer A about this statement and he gave several conflicting versions of the story. The juvenile told the same story as Officer Z — that the officer asked what was in his pocket and the juvenile removed the pipe. During an internal affairs interview, after Garrity admonitions, Officer A was untruthful about related issues, such as when he charged the juvenile with possession of drug paraphernalia. The board revoked his certification for false reporting and malfeasance, misfeasance or nonfeasance in office.

CASE NO. 2

MISUSE OF AUTHORITY and DISHONESTY

Officer B contacted Ms. L at her apartment pool complex. She was swimming with her three children ages 12, 13 and 17; along with her 19 year-old nephew and his friend. Officer B found a small amount of marijuana and a pipe among the family's belongings. The nephew said the pipe was his and the friend said the marijuana was his. Officer B told them to throw it away. He cleared the call "no crime established." He returned to the apartment complex numerous times over the next few weeks and according to Ms. L, flirted with her and reminded her that he could have gotten her kids into a lot of trouble. She felt she was being blackmailed into going out with him and complained to the department about his attentions. Her kids referred to him as "that stalker cop." Officer B resigned and did not request a hearing on the AZ POST allegations. The Board revoked his peace officer certification for false reporting and misfeasance, malfeasance or nonfeasance in office.

CASE NO. 3**DISHONESTY**

Officer C while off-duty and driving his personal truck collided with a tree. He removed the vehicle from the scene, parked it in a residential area and went home. Someone reported the truck as a suspicious vehicle. Local police noticed a police department pay stub in the truck and notified Officer C's agency. His sergeant made several calls to check Officer C's welfare, but he did not answer. Officer C returned his sergeant's calls and told him the truck had been stolen. He then called the local police and made a stolen vehicle report. Officer C lied to the investigating officer about his activities that night. Eventually, Officer C admitted the truth. He was cited for leaving the scene of an accident and he resigned. The Board revoked his peace officer certification for committing an offense involving dishonesty and malfeasance in office.

CASE NO. 4**DISHONESTY**

Officer D was a passenger in his roommate's (another off-duty officer) vehicle when they were involved in a one-vehicle accident. The driver told Officer D to go home and he would take care of it. His roommate reported the vehicle stolen and Officer D backed up his story to the responding officer investigating the report. When the responding officer questioned the story's veracity, the roommate admitted the truth. Officer D had a hearing before an independent Administrative Law Judge (ALJ) of the Office of Administrative Hearings who found Officer D committed the offense of false reporting in violation of A.R.S. §13-2907.01 and misfeasance, malfeasance or nonfeasance in office. The Board adopted the ALJ's Findings of Fact and Conclusions of Law and revoked his peace officer certification.

CASE NO. 5**DISHONESTY**

Officer E was awakened one night by a man he knew banging on his door. The man told him he had just slashed someone's tires. He was drunk and Officer E gave him a ride home. Officer E shared the story with a fellow officer who assumed he would report the information to the appropriate agency. When it became apparent that Officer E did not report the information, his fellow officer wrote a memo to a supervisor with the information in it. Officer E was questioned in the criminal investigation and also in an internal investigation. He lied in both. Officer E had a hearing before an independent ALJ and was found to have committed the offense of false reporting and also misfeasance, malfeasance or nonfeasance in office. The Board adopted the Findings of Fact and Conclusions of Law and revoked his peace officer certification.

CASE NO. 6**SEX ON DUTY**

Officer F met Ms. VG when he responded to her residence on a burglary call. It was later discovered that her ex-husband had taken the property, some of which was returned to her. Ms. VG called Officer F to provide him with the new information. During this conversation, he asked her on a date. He was separated from his wife and living with his parents at the time. They had a brief relationship. He reconciled with his wife. Several weeks later, Ms. VG showed up at Officer F's home and in front of his wife disclosed that she was pregnant. Officer F contacted his supervisor and reported the matter, including the fact that he had twice engaged in sex on duty with Ms. VG during this time. He indicated he had monitored the radio and did not miss any calls. He was placed on administrative leave and he resigned. The Board found misfeasance, malfeasance and nonfeasance in office and conduct that tends to jeopardize public trust in the law enforcement profession. Officer F's certification was suspended for one year.

CASE NO. 7**DISHONESTY**

Officer G was a small part of a large federal criminal investigation into child sexual exploitation. He was identified as a subscriber to two child pornography websites. He has steadfastly denied that he subscribed to the websites, but his charge card was used, the passwords were sent to his off-shore email account that he maintained just for pornography and his IP address originated at least one of the subscriptions. (This indicates the order was placed from his computer physically located in his home.) He denied this to federal officers during the criminal investigation and to internal investigators in his department. No criminal charges were brought and no images of child pornography were found on his computer hard drive. Officer G said he securely wipes his hard drive every day, leaving no images of any kind to be found. He resigned prior to submitting to a polygraph test. The Board revoked his certification.

CASE NO. 8**DISHONESTY**

Officer H was on a performance improvement plan for poor judgment. He suspected Mr. GB in a grocery store shoplifting and went to his home. Officer H was invited in and continued to accuse GB of the crime. GB asked Officer H to leave his home. He left and stood on the walkway leading to the front door and continued to talk to GB. As GB started to close the door, Officer H forcibly entered the home. GB was afraid for his safety so he called 911 as Officer H tackled and handcuffed him. Officer H was not truthful during the investigation by saying he was inside the home with GB when GB made a furtive movement so he physically subdued him to prevent him from possibly retrieving a weapon from an adjacent room. He later admitted he forced the door open and subdued GB. It turns out there was no evidence that GB was involved in the shoplifting. The Board revoked his certification for being untruthful during a post-Garrity interview.

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 claimed no prior cocaine use on a recent application despite that he had previously disclosed to a different department that he had used cocaine 6 times.
- An officer threatened to arrest several women if they did not expose their private areas to him on the pretense of searching for drugs.
- An officer was the subject of an undisclosed federal criminal investigation.

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

- Aggravated assault, a class 3 felony stemming from a vehicle collision.
- Theft from an Organization Receiving Federal Funds and Income Tax Evasion, Class C and E felonies respectively.
- Two counts of Attempted Sexual Exploitation of a Minor, class 3 felonies.

On July 22, 2009, and August 19, 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 was careless in handling evidence and failed to follow proper procedures.
- A recruit gave a false excuse for wearing the wrong color pants during an inspection.
- An officer drove his personal vehicle under the influence of alcohol while off duty.
- A deputy told untruthful "war stories" about his background to coworkers.