



***AZ POST***  
***INTEGRITY BULLETIN***  
***Volume No. 45***



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 **September and October 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.

**September and October 2009**

**CASE NO. 1**

**OFF DUTY DUI**

Officer A left work in his fully marked patrol vehicle and parked it at his friend's house while they went out drinking. Upon his return, he attempted to drive home. Shortly after 3:30 a.m., a concerned citizen called in a report of a patrol vehicle stopped in the middle of the street with its motor running and its lights on. A second citizen knocked on the window to see if the driver needed assistance. Officer A woke up and drove off. He was stopped a short distance away by responding officers. Officer A had a BAC of .145 percent. He pled guilty to DUI. The Board revoked his certification for misfeasance, malfeasance and nonfeasance in office and conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

**CASE NO. 2**

**DISHONESTY**

Deputy B worked an off duty job in a peace officer capacity. The sergeant received a complaint about his conduct during the off duty job. The trouble was that Deputy B had not followed department policy by first obtaining permission to perform the off duty job and by not notifying dispatch. Additionally, Deputy B told his supervisor that this was the first time he had worked an off duty job in the district. The lieutenant had informed him that he did not want him working off duty jobs there. When the matter went to internal affairs, Deputy B admitted that he had in fact worked around 30 off duty jobs in the district. He said he lied because he knew he would not be allowed to work them and he was afraid his lieutenant would try to have him fired. The Board found the following three aggravating factors. Deputy B, in effect, lied 30 times because of his efforts to conceal his off duty work; he unilaterally exposed the agency to potential liability without the agency's permission; and, by not notifying dispatch he may have placed other officers in harm's way. The Board revoked his certification.

**CASE NO. 3****DISHONESTY, FRAUD**

Officer C reported his SUV stolen. It was located by local police and the driver was taken into custody. The driver admitted that he and another man were hired by Officer C to take the car so Officer C could collect insurance money. The men were to receive \$300.00 after the insurance company paid off. Officer C admitted that what the driver said was true. He had financial difficulties and chose insurance fraud as a remedy. The Board revoked his certification for committing a felony and false reporting.

**CASE NO. 4****MARIJUANA TRAFFICKING**

Officer D allowed a marijuana trafficker to use her car to haul a load. During a pursuit, the driver crashed her car and several large bundles of marijuana were located in the vehicle. Eventually, Officer D admitted that she was to be paid for the use of her car, that the driver may have smuggled marijuana in her car one other time. She also admitted that the driver had previously brought marijuana to her home to break it into smaller quantities. She stated she was a single mother and struggling financially. The Board revoked her peace officer certification for misfeasance, malfeasance and nonfeasance in office and committing the felony offense of facilitating the transportation of marijuana for sale.

**CASE NO. 5****SEX ON DUTY, ABUSE OF AUTHORITY**

Officer E was on duty when he contacted a motorist in a parked car. The female motorist was highly intoxicated. Officer E did not arrest her or provide for her safety. Instead, he had sex with her. The next day, the motorist called in a report that she had possibly been raped and robbed by Officer E between 9:00 and 11:00 the night before. Investigators determined that there was insufficient evidence of rape or robbery, but Officer E admitted that he had consensual sex with the intoxicated motorist. The Board revoked his certification for malfeasance in office and conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

**CASE NO. 6****DISHONESTY**

Officer F responded to a loud noise disturbance call. After he knocked on the door, he saw four people exit through the rear door of the home. When a man opened the door, Officer F smelled the odor of burning marijuana and saw a water bong on the coffee table. He entered the house to prevent evidence from being destroyed. After asking the four people to return into the house, Officer F looked at each person's identification. He took two glass bongs and a metal pipe to his patrol car intending to impound them. He entered a disposition code that indicated no contact was made at the residence. When his sergeant called and asked whether he had contacted anyone at the call, he stated that he had knocked on the door but there was no answer. Officer F explains that he was in a hurry to get off the phone with his sergeant because he had just entered a building on an audible alarm call. He states he did not intend to mislead him, but just wanted off the phone. Upon being asked again later, Officer F told the truth and stated he had "messed up." The Board adopted a consent agreement calling for a one year suspension of certification for malfeasance, misfeasance and nonfeasance in office.

**CASE NO. 7****DISREGARD FOR LAW**

Captain G was convicted three times over a two year period — first, of violating a court order, second, of violating his probation, and third, of interference with judicial proceedings. All of these offenses arose out of interaction with his ex-wife and custody sharing of a child. Additionally, Captain G used his position to access, copy and disclose un-redacted personal and confidential information from an agency background file for personal reasons. He sought to embarrass the subject of the file or discredit her testimony in one of the court proceedings. The Board revoked his certification for malfeasance, misfeasance or nonfeasance in office.

**CASE NO. 8****INTOXICATED IN CONNECTION WITH DUTY**

Sergeant H was an intoxicated passenger in a department vehicle in which the driver had been drinking. Her BAC was .279 percent. The vehicle rolled over and both were taken to the hospital. In the particular jurisdiction, possession and consumption of alcohol is illegal. The two had large quantities of alcoholic beverages in the vehicle, some open, some empty and some still sealed. It was unclear if the two were officially on duty, although the department reports they were scheduled to be on duty at the time. The Board suspended Sergeant H's peace officer certification until lapse, three years from the date she resigned from the department.

**CASE NO. 9****DUI IN DEPARTMENT VEHICLE**

Lieutenant I was the driver of a department vehicle that was involved in a one-vehicle rollover accident. He had alcohol on his breath. He and his passenger were both hospitalized with significant injuries. Lieutenant I was in a jurisdiction in which the possession and consumption of alcohol is illegal. The two had large quantities of alcoholic beverages in the vehicle, some open, some empty and some still sealed. It was unclear if the two were officially on duty although the department reports they were scheduled to be on duty at the time. The Board revoked his certification for DUI in a department vehicle.

**CASE NO. 10****CHILD MOLESTATION**

Officer J became a peace officer in 2008. He successfully concealed that between 2003 and 2007 he had engaged in repeated sexual contact with a girl, then 10 to 15 years of age. Officer J was arrested after the girl disclosed the contact. He is being prosecuted in another state. The Board revoked his peace officer certification for committing offenses involving unlawful sexual conduct.

**CASE NO. 11****UNDER INFLUENCE OF ALCOHOL**

Sergeant K was participating in remedial firearms training when an instructor smelled alcohol on his breath. A blood test indicated a blood alcohol content of .120 percent. Sergeant K admitted drinking earlier in the day and taking Nyquil. The Board revoked his peace officer certification for misfeasance, malfeasance and nonfeasance in office.

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 committed DUI three separate times in two years.
- An officer lied about having sex on duty and falsified time sheets.
- An officer discharged a firearm into a rental house's ceiling during a domestic dispute.

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

- Fraudulent schemes, five counts, class 5 felonies.

On September 16, 2009, and October 21, 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.

- A recruit advised academy staff that he had studied the night before when he had not.
- An officer called in sick to work when she was actually at a job interview for another police agency.
- An officer erroneously accused another department employee of spying on him.
- An officer may have used the services of an escort service at his home numerous times.
- An officer's interview tapes were missing from property.
- A sergeant started inaccurate rumors of other officers having affairs.