



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 **January and February 2010**, 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.

January and February 2010

CASE NO. 1

VIOLATING COURT ORDERS

AND DISCLOSING CONFIDENTIAL INFORMATION

Captain A was convicted of three misdemeanors that occurred in a period of about 18 months in connection with his separation and divorce — violating an Order of Protection, Violating Probation imposed as a result of the first conviction and Interference with Judicial Proceedings. Additionally, Captain A used his position as commander of the Human Resources section to access, copy and take records containing personal and confidential information about an officer who testified in his personal matters. He gave these documents to his lawyer who used them to cross-examine the testifying officer. The Board revoked his certification for misfeasance, malfeasance and nonfeasance in office and a pattern of conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 2

DISHONESTY

Deputy B was riding a bicycle that was going to be used in surveillance that night. He went off the curb, fell and injured his knee. When he reported the injury to his supervisors and in his Report of Industrial Injury, he falsely stated he had stepped off a curb and injured the knee rather than that he biked off a curb and injured his knee. He was entitled to workers compensation for the injury even if he was dishonest about the means of injury. When he was confronted about the discrepancy between witness' observations and what he reported, he admitted that the witnesses were correct and he had been untruthful about the event. He was truthful when the matter went to internal affairs; he apologized in writing and resigned from the department. The Board adopted a Consent Agreement for a two year suspension of peace officer certification, beginning on the date of the Board meeting.

CASE NO. 3**ACJIS VIOLATIONS AND DISHONESTY**

Deputy C was interviewed as a witness in an internal affairs investigation into the conduct of a fellow deputy. ACJIS audit history revealed that Deputy C had made inquiries on the fellow deputy's girlfriend and her ex-husband. He made false statements during two different interviews about making these inquiries. He had also made unauthorized inquiries into family members through ACJIS a few times and gave false information in connection with these inquiries as well. The Board adopted a consent agreement setting forth the facts and revoked his peace officer certification.

CASE NO. 4**DISHONESTY**

Officer D transported a female prisoner to a holding facility for another officer. Detention personnel searched the prisoner and located additional contraband which they turned over to Officer D. When interviewed as a witness regarding the search at the holding facility during an investigation into the conduct of the arresting officer, Officer D said there were no items found that would be illegal to possess. In a later interview he changed his story and admitted he had thrown away a vial with white powdery residue in it. The Board revoked his certification.

CASE NO. 5**MALFEASANCE/DISHONESTY**

Specialty Officer E was tasked with the job of inspecting vehicles to determine if they were eligible for clear title or required a salvage title pursuant to law. A customer service representative (CSR) at MVD noticed that Specialty Officer E had issued an inspection form to a customer that noted "vehicle has no salvage history, can be issued clear title, vehicle in good condition." The CSR noticed that the vehicle registration documents indicated that a salvage title had been issued. It appeared that the erroneous information was deliberate because the office copy did not contain the same comments written on the customer copy. This prompted the agency to audit Specialty Officer E's work. It found five additional incidents of improper inspections or documentation. The Board revoked the certification of Specialty Officer E.

CASE NO. 6**FALSE INFO TO OBTAIN CERTIFICATION**

Applicant F had a criminal past that included criminal trespass, theft, and assault, most of which occurred when she was 15 years old. She failed to disclose her criminal past on her POST Personal History Form and she provided false information to background investigators when asked about it during her background investigation and polygraph. The Board denied her certification.

CASE NO. 7**DISHONESTY**

Officer G gave a voluntary "informal interview" to a defense attorney in a DUI case. The attorney asked him if he had ever been accused of DUI. He said no. The truth was that he had a pending DUI charge at that time. The attorney knew this and complained to the department. Officer G was suspended for 80 hours without pay by his department and the case against the attorney's client was dismissed. This took place in 2006. In 2007, Officer G voluntarily left the agency and went to work in California. In 2009, Officer G returned to his former department and was again hired. It was not until the background audit in 2009 that AZ POST learned of the dishonesty to the defense attorney in 2006. POST brought a case for discipline against Officer G's certification. Following a hearing before an independent Administrative Law Judge of the Office of Administrative Hearings, the Board adopted findings that Officer G had been dishonest. He presented testimony that he was young in 2006 and he has since grown up, lost his father and become a

father himself. He contends he has better judgment now. His Chief of Police testified on his behalf. The Board suspended his certification for one year.

CASE NO. 8

PATTERN OF DUI

Officer H was involved in a minor accident off duty. He had been drinking but since he left the scene of the accident, there was no measurement of his blood alcohol content. Approximately 14 months later, Officer H left the scene of another minor vehicle accident. Eight months later, he was arrested and later convicted for DUI. His blood alcohol content was .291 percent. The Board revoked his peace officer certification for malfeasance and engaging in a pattern of conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 9

BURGLARY

Applicant I was appointed by an agency. AZ POST audited his background file and discovered that during the polygraph examination, Applicant I revealed he had been the lookout in a burglary three years before. The burglary involved \$48,000.00 of computer equipment that was stolen from the local high school and sold on the internet. The cost of replacing the equipment, installation and warranties was estimated at \$91,768.00. The crime had not been previously solved. The Board denied Applicant I certification as a peace officer.

CASE NO. 10

PATTERN OF MALFEASANCE

Officer J committed several acts of malfeasance during a two and a half year period of time. First, he drove DUI with a 3 year old child in the car and was belligerent toward the responding officers. He became disorderly with a girlfriend while intoxicated. He became intoxicated and started pounding on the door of a female stranger at 2:00 in the morning. He also engaged in sex on duty on at least three occasions during the same time frame. He appeared before the Board and requested that his certification be suspended rather than revoked. The Board revoked his certification.

CASE NO. 11

PORNOGRAPHY ON DUTY

Officer K used a city computer to view and download sexually graphic images and videos on multiple occasions over a two month period of time. When asked about it, Officer K was truthful and forthright and admitted his conduct. He also admitted he knew it was contrary to policy. He stated that it was a commonplace practice in the military where he worked a year before, so he did not realize it was that serious of an infraction. The agency terminated his employment and the Board suspended his peace officer certification for one year for malfeasance in office and engaging in a pattern of conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 12

RACIAL SLURS AND DISHONESTY

Deputy L was under investigation for making sexually inappropriate comments to women in the workplace. During this investigation, it came to light that he had also repeatedly used the racial epithet "nigger" when discussing people of color. He falsely denied using the terminology during an internal affairs interview after Garrity admonitions. The Board revoked his certification.

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

- An officer assaulted two co-workers while intoxicated during a camp-out.
- An officer pled guilty to an ACJIS violation.
- An officer gave untruthful answers during two post-Garrity interviews.
- An officer falsified her time sheets by claiming work time when she did not work and lied about it to IA.

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

- None this issue

On January 20, and February 17, 2010, 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 failed to perform all the standard quality assurance checks on an intoxilyzer.
- Three different cadets from three different agencies made repeated overt sexual remarks to a fellow cadet.
- A cadet was deemed insubordinate by her agency for refusing to put a complaint she had made in writing.
- An officer gave dubious answers to questions about his efforts to conceal his identity from photo speed enforcement cameras.
- A deputy failed to immediately repay overpayments made to him in per diem checks.
- An officer gave confusing testimony in a DUI case involving a peace officer as defendant.
- An officer committed off duty DUI in his personal vehicle.