



AZ POST
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Editor's Note:

Faithful readers of the Integrity Bulletin will know that the Board has, in the past, most often not initiated disciplinary action in cases of first time, off-duty, personal vehicle DUI. The Board is not bound by these prior decisions and change is occurring. Board members have made numerous statements during public meetings over the past year that should alert officers to the fact that discipline will be imposed in some cases involving DUI. The Board will look at the totality of the circumstances to determine if certification discipline is warranted in each case. Some of the factors that are important to Board members include such things as a past history of DUI or other alcohol related poor judgment, high blood alcohol levels, the presence of children or others, bad driving, uncooperative behavior toward responding officers or seeking special treatment from law enforcement.

There is little that a peace officer can do that puts the public in greater danger than driving while impaired by alcohol or other drugs. The Board does not want any misconception that it takes DUI lightly. Officers are on notice that their certifications may be subject to suspension or revocation if they drive while impaired, even in their personal vehicles when they are not on duty.

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 2012**, 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 2012

CASE NO. 1

NONFEASANCE and DISHONESTY

Deputy A was dispatched to a child abuse call at a local high school at 1403 hours. At 1413 hours, he preempted himself to investigate a non-reportable traffic accident. At 1423, a supervisor re-routed him back to the child abuse call and directed him to disregard other calls for service. At 1425 hours, he preempted himself again, this time to go to a dead body call 20 miles in the opposite direction. He was again re-routed to the school. At 1511 hours, Deputy A arrived at the high school. He walked around, not entering the Administration Building, and cleared the call at 1534 hours, indicating the office was locked and he had left a phone message for the principal. It was not and he had not. His defense both at his Civil Service Board hearing and his Arizona POST hearing was that he was very ill, with a high fever and vomiting. His reticence to take the call and his misstatements of fact were, according to him, due to his illness. The Civil Service

Board reinstated him to his position with the Sheriff's Office. Arizona POST suspended his peace officer certification for one year for nonfeasance and malfeasance in office.

CASE NO. 2

DISHONESTY

Captain B had a personal relationship with a civilian police department employee (Ms. Z) that included at least one instance of kissing and touching her breasts. It included hundreds of text messages and emails about intimate details of his life, past sexual relationships, his sexual interest in her and feelings that he shared with no one else. Rumors were circulating about the relationship between Captain B and Ms. Z. Supervisors met with Ms. Z to discuss their concerns about her relationship with Captain B—specifically, concerns about fraternization or harassment. She told them she was not dating him and he was not bothering or harassing her. Captain B went to the Chief of Police to discuss the rumors in an attempt to obstruct an investigation. During this meeting, Captain B insisted their relationship was strictly professional and platonic. He stated he had never met with Ms. Z outside of the workplace. Later that day Ms. Z attempted suicide. During an investigation into whether her suicide attempt was related to her employment with the department, Captain B again misrepresented the nature and extent of their relationship. This case was heard by an independent Administrative Law Judge who found that Captain B had committed false reporting and had given false or misleading statements to the Chief and to the investigator. The Board adopted the findings and revoked his peace officer certification.

CASE NO. 3

TRESPASS

Officer C received a text message from a man who claimed he was having an affair with Officer D's wife and was the biological father of their son. Understandably upset, off-duty Officer D went to the home where the man was located and asked to speak with him. The man would not come out and the volume of conversation rose. The homeowner repeatedly asked Officer D to leave. He left and went to the street in front of the house. Several people followed him and a disturbance resulted in several calls from the neighbors to the Sheriff's Office. Officer D was cooperative with officers and was arrested for trespass and disorderly conduct. He pled guilty to trespass, a class 3 misdemeanor and the disorderly conduct charge was dismissed. The Board adopted a Consent Agreement calling for a six month suspension of peace officer certification for misfeasance or malfeasance in office.

CASE NO. 4

DISHONESTY

Deputy D got into an argument with her boyfriend (a local police officer) and told him to leave her apartment. He did not leave after being told to do so several times. She called 911 and reported that a man had entered her apartment and refused to leave. Each time the 911 Operator asked if she knew the man, Deputy D denied knowing who he was. Responding police officers recognized both parties. Deputy D told a police supervisor that she lied to dispatch because she believed if she said she did not know the subject in her apartment, the police response would be expedited. The Board revoked her certification for committing false reporting, an offense involving dishonesty.

CASE NO. 5

CHEATING

Recruit E was one week into a basic academy when he took a quiz and was observed looking at other people's papers. He was again observed looking around the room during a test about two weeks later. One week after that, the academy staff surreptitiously videotaped a test that demonstrated Recruit E's wandering eyes. He was dismissed from the academy. Recruit E appeared before the Board and took responsibility for his conduct. The Board recognized his youth and ordered a five-year delay in his eligibility to apply for peace officer certification in lieu of denial.

CASE NO. 6**NONFEASANCE**

An internal audit revealed that Officer F had failed to complete 116 active reports and mishandled evidence in at least six cases. Officer F received discipline and was placed on supplemental probation for one year. After that time, he again fell behind on his reports. He was transferred to another shift and a new supervisor in order to help him succeed. Several months later, Officer F inadvertently left his department AR-15 on the hood of his patrol car in an open parking lot accessible to the public. It was found there several hours later by a coworker. Officer F acknowledged that he had a pattern of failures, but he stated he did not wish to work overtime in order to catch up because he wanted to be with his family. The Board revoked his certification for a pattern of nonfeasance.

CASE NO. 7**SEX ON DUTY**

Sergeant G held various ranks, including Lieutenant and Assistant Chief, during a six year time period. Throughout most of this time, he was engaged in an on-going sexual relationship with a subordinate employee. Their encounters sometimes took place on department or municipal property. Sergeant G was truthful during the investigations, however the Board specifically asked about the supervisory relationship and revoked his peace officer certification.

CASE NO. 8**DISHONESTY**

Officer H was scheduled to attend mandatory department training from 0800 to 1600 hours. The training was on a regular day off, so Officer H received overtime for the training. He did not return to the training following lunch and skipped the afternoon portion. He submitted a timesheet with the full day as overtime and got paid \$165.15 too much as a result. When questioned about it, Officer H made up a false excuse for missing the afternoon training and then lied during the internal affairs investigation. The Board revoked his peace officer certification for malfeasance in office.

The Board adopted consent agreements calling for a voluntary relinquishment of certification 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 committed mortgage fraud.

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

- Aggravated assault with a deadly weapon/DV, a class 3 felony.

On January 18, and February 15, 2012, 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 reserve deputy inadvertently violated a number of range safety rules while attempting to qualify with his service weapon.
- An officer met five women on duty (not suspects, victims or witnesses) with whom he later had personal relationships.
- A commander prematurely disclosed a grand jury indictment due to negligence rather than intentional misconduct.
- A male recruit was too touchy with female recruits including grabbing hands, rubbing something off a face, adjusting belt keepers, and smacking one on the rear end.
- A sergeant, because of poor communication with another officer, supervised an arrest that lacked sufficient documentation.
- A sergeant violated the admonishment not to talk with anyone about the internal investigation until it was complete.
- An officer failed to complete written reports as required by department policy.
- An officer continued to investigate the welfare of a child contrary to the direction of her supervisor.
- An officer was verbally abusive and physically combative with EMS and police personnel who responded to assist him through a medical crisis.
- A detective was accused of performance mistakes in the investigation of an accidental death.
- A sergeant was accused of performance mistakes in the investigation of an accidental death.
- A lieutenant was accused of inadequate supervision in the follow-up of an accidental death investigation.
- A sergeant humanely dispatched an injured elk.
- A lieutenant did not assign an internal control number in an internal investigation and failed to communicate clearly with the complainants.
- An undersheriff failed to write a timely report on an internal investigation he conducted and the discipline he imposed.