



AZ POST
INTEGRITY BULLETIN
Volume No. 60



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 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.

May and June 2012

CASE NO. 1

VIOLATING CIVIL RIGHTS/DISHONESTY

Officer A was approached by a woman who was distraught because her daughter was living with a man who used and sold drugs and had a warrant. She told him she had called the police department but could get no response. Officer A had a working relationship with a security guard at a nearby apartment complex. He asked the guard to call 911, gave him the address and told him what to say. He suggested the guard use a pay phone so they could not identify him. The guard did as requested and on the third call, finally gave dispatch enough information to justify a call for service, which Officer A and Officer B took. The story Officer A concocted was a loud party and strong smell of marijuana outside the home. When he arrived he made entry to conduct a "protective sweep," and based upon observations made during this sweep, he obtained a search warrant for the contents of the home. He drafted and swore to a false search warrant affidavit that gave the facts he provided to the guard as coming from an anonymous call from a person with personal knowledge of the facts asserted. Officer A denied knowing how to contact the caller when later asked by his sergeant. The Board revoked Officer A's peace officer certification for committing offenses involving dishonesty (false swearing and false reporting) and malfeasance in office.

CASE NO. 2

NONFEASANCE and DISHONESTY

Officer B was aware of and present for most of the events described in the scenario for Officer A above. He did not do anything to prevent Officer A from conspiring to make a false report and he did not report the deeds. He did not participate in any way with the false creation and filing of the search warrant affidavit, but he was untruthful with their sergeant when he denied knowing who placed the loud party/odor of marijuana call. Officer B admitted his misconduct and made no excuses for himself. The Board suspended his peace officer certification for two years and five months for misfeasance, malfeasance and nonfeasance in office.

CASE NO. 3**DISORDERLY CONDUCT and UNSAFE WEAPON HANDLING**

Deputy C was out with friends at a club. They left and when he tried to re-enter, security refused him entry and asked him to leave. He would not leave even after numerous requests to leave by bar personnel and by responding police officers. A police officer grabbed him by the arm in an "escort hold" in order to walk him off the property. Officer C attempted to break away from the officer and a scuffle ensued. Officer C was profane, belligerent and combative to the responding officers, the emergency medical personnel and the nurses at the emergency room. He eventually pleaded guilty to trespass out of the incident. A second cause for discipline came about when Deputy C was drunk and depressed. He attempted to commit suicide with his duty weapon by placing it against his head in the parking lot of a convenience store. He moved the muzzle before squeezing the trigger and discharged a round through the windshield of his vehicle. He became fearful of what he might have done and drove to another location to hide until he felt it was safe to leave. When interviewed about the incident, he disclosed several other times when he had recklessly handled his duty weapon. The Board revoked his peace officer certification for malfeasance in office and committing a crime involving physical violence.

CASE NO. 4**ASSAULT**

Officer D was at the end of a relationship with her boyfriend, but she was not convinced that it was over. Early one morning she went to his home and banged on the door and the window. When there was no response she let herself in through the unlocked front door. Officer D went to his bedroom and found him there along with another woman. All three were peace officers. She was enraged at the sight of the other woman and so she hit her in the eye with a closed fist, causing a cut under the eye and swelling around it. Officer D was forthright about her conduct and entered into a deferred prosecution agreement, completed anger management counseling and had the charges dismissed. The Board adopted a Consent Agreement calling for a one year suspension of her peace officer certification.

CASE NO. 5**DISHONESTY**

Officer E was a peace officer for Department X when his patrol car collided with a school bus because he had fallen asleep. He stated in the accident report that he had misjudged the distance and did not mention that he was sleeping. He resigned from Department X a few months later prior to completing his probationary period. Approximately two years later, he applied for a position as a peace officer with Department Y. He revealed his dishonesty during the background investigation. The Board revoked his peace officer certification for committing a crime involving dishonesty and malfeasance in office.

CASE NO. 6**EXCESSIVE FORCE**

Sergeant F was assisting a fellow officer with a prisoner that was handcuffed behind his back. The prisoner had been pepper sprayed in the back seat of the patrol car for what appeared to be spite, dragged out and thrown to the ground. Sergeant F failed to intervene while the other officer abused the prisoner and in fact he stood with his full weight on the prisoner's leg for a prolonged period of time because the prisoner was voicing his displeasure. Eventually, Sergeant F picked up the prisoner by the back of his pants and carried him in to the holding facility. If another officer had not come along and lifted his shoulder, the prisoner's head would have been dragged across the ground. The Board revoked his peace officer certification for malfeasance in office.

CASE NO. 7**SEX WITH AN INFORMANT**

Officer G was assigned an informant to work drug deals. He developed a relationship with her and engaged in sex with her. The Board revoked his peace officer certification for malfeasance in office.

CASE NO. 8**DISHONESTY**

Officer H was the subject of a complaint involving the mishandling of \$300 he had impounded. The complaint led to an audit of his record-keeping practices. The audit discovered that Officer H had recorded erroneous times and dates on property control forms in order to make it appear that he had submitted money more promptly than he did. He also erroneously recorded the ethnicity of drivers he stopped (indicating White rather than Hispanic) after being directed to spend less time pursuing illegal aliens and transporting them to ICE. The department initially terminated his employment, but he was reinstated with a one year suspension following appeal. POST adopted the Findings of Fact and Conclusions of Law of an Independent Administrative Law Judge and also suspended his certification for a period of one year for dishonesty and malfeasance in office.

CASE NO. 9**DUI**

Sergeant I was recently divorced, had filed for bankruptcy and was facing the foreclosure of his home. He became intoxicated and drove badly with his young sons in the car. He was stopped for speeding and weaving. His blood alcohol content was approximately 0.17 percent. He pled guilty to aggravated and extreme DUI, which were both designated misdemeanors. Immediately upon release from custody following his arrest, Sergeant I checked himself into an in-patient alcohol treatment program. He has been sober every day since. He is actively committed to his alcohol abstinence program and helps other officers recognize and deal with alcohol problems. The Board was presented with a Consent Agreement that called for a four month suspension of certification. The Board modified the agreement and ordered a one year suspension of certification for malfeasance in office and conduct that tends to jeopardize public trust in the law enforcement profession.

CASE NO. 10**SEX ON DUTY**

Officer J was the subject of a citizen complaint that he may have engaged in sex on duty. The complainant provided the department with text messages that suggested as much. When questioned, Officer J admitted that he was having a sexual relationship with a woman and that he had engaged in sex on duty with her once in her home. The Board adopted a Consent Agreement providing a six month suspension of certification for malfeasance in office.

CASE NO. 11**SEX ON DUTY**

Officer K's wife made a complaint that her husband was having an affair with a woman in the workplace. The woman admitted the affair but insisted that all sex took place off duty. Officer K admitted the affair and stated that some of it took place while both were on duty. He was terminated from the department and the Board suspended his peace officer certification for six months for malfeasance in office.

CASE NO. 12**EXCESSIVE FORCE**

Officer L transported a prisoner to a detention facility where a video camera recorded the following events. Officer L exited the patrol vehicle, opened the left rear door and pepper sprayed the prisoner. She replaced the pepper spray in her duty belt and put on a pair of gloves before reaching into the back seat, grabbing the prisoner around the neck and shoulder area and throwing him to the ground. She kicked him twice in the ribs and twice in the groin, and punched him in the head. Officer L was convicted of Violating Constitutional Rights under Color of Law and sentenced to six months in prison, six months of home arrest and one year of supervised probation. The Board revoked her peace officer certification for the commission of an offense involving physical violence and 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 authored a false report charging aggravated assault.
- An officer assaulted two off duty co-workers at a bar.
- An officer assaulted his 17-year old step-daughter and handcuffed her to the bed while her mother cut her hair.
- An officer used excessive force.
- An officer admitted to using marijuana.
- An officer converted a found \$100 bill to his own use.
- An officer committed aggravated DUI and caused a motor vehicle accident with his three-year old child in the car.
- An officer committed DUI on duty in a marked patrol car.

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

- Conspiracy to Possess with Intent to Distribute Cocaine, a Class B federal felony.

On May 16, and June 20, 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 deputy met women during the course of his duties and entered into relationships with some of them.
- A sergeant violated his agency's off duty work policy by running an adult website with his wife.
- A deputy made reckless statements that could have been interpreted as threats against another deputy.
- An officer may have hidden a bank deposit bag full of money in order to be a hero by later locating it.
- A deputy became intoxicated and unruly at his daughter's graduation party and made verbal threats to "kick the shit out of someone."