



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 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.

July and August 2012

CASE NO. 1

NEGLECT OF DUTY

Deputy A responded to a "check welfare" call regarding an elderly man whose out-of-state daughter had been unable to reach him and was worried about his safety. He went to the man's residence, a trailer, and knocked on the door. A naked elderly woman opened the door. He asked her about her husband and she said he was fine. Deputy A made no effort to contact the man and simply took the woman's word for it. He returned to the station, called the man's daughter and reported that everything was okay. He told her he would stop back at the residence the next day to check on him, but he got busy and did not return to the residence. One week later, the department received a second "check welfare" for the man, this time by Arizona Adult Protective Services. Again Deputy A went to the trailer and knocked. Again the elderly naked woman answered the door. She told him the man was in another trailer on the property. He checked the trailer and found the man had been deceased for a considerable period of time. A sergeant responded to the scene and found the naked woman to be confused, disoriented, and in need of psychological intervention. The trailer was in deplorable condition with no electricity or running water. Deputy A remained at the scene to assist responding deputies and Medical Examiner personnel, but he did not reveal to anyone that he had been at the location to check welfare a week earlier. The Board adopted a Consent Agreement calling for a one year suspension of certification for misfeasance, malfeasance and nonfeasance in office.

CASE NO. 2

SEX ON DUTY

Officer B was seeking employment as a peace officer with a different agency. During his background investigation he disclosed to the polygraph examiner that he had engaged in sex on duty in his patrol car a couple of times about 18 months previously. Follow-up investigation revealed that he had taken a longtime friend on unauthorized ride-alongs. He picked her up in his patrol car, drove to a secluded desert location and they had sex. He also admitted to viewing pornography on his personal laptop while on duty on two other occasions. The Board adopted a Consent Agreement calling for a one year suspension of 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. 3**WEAPON MISHANDLING**

Reserve Officer C was intoxicated at a large family party. He lost control and custody of his off-duty weapon during an altercation with a cousin. The cousin alleged that Officer C pointed the gun at him. Nonetheless, the cousin declined to prosecute and other family members said no gun pointing occurred. Family members hid the gun and gave it to responding officers who took it for safekeeping. Criminal charges were not filed. The Board revoked Officer C's peace officer certification for misfeasance, malfeasance and nonfeasance in office.

CASE NO. 4**SEX with a MINOR**

Officer D investigated the sexual assault of a 16-year old girl. He developed a relationship with the girl that became sexual. The criminal case against the initial sexual assault offender was dismissed as a result. While still in Arizona the girl became pregnant with his child. They moved to another state and got married. The Board revoked his certification for the commission of a felony or an offense involving unlawful sexual conduct and malfeasance in office.

CASE NO. 5**POSTING PHOTOS and WEAPON MISUSE**

Officer E had been a member of a Narcotics Taskforce for over two years. His agency moved him to another assignment contrary to his wishes. In tribute to the Taskforce and his fellow members, he posted two photographs of Taskforce members on his Facebook page. In the photos, one officer held a tactical shield and other officers wore clothing identifying them as police officers. Several of the officers were in undercover assignments. The postings were available to the public at large and could have impeded investigations and put the officers in danger of retribution by drug criminals. When notified to remove the photos, Officer E did so. During the department's investigation of the Facebook postings, it became aware of an incident of firearm mishandling. Following a verbal exchange with his roommate, Officer E pulled his firearm from its holster and pointed it at the ground in front of his roommate, calling him a name. The gun was out of its holster approximately three to four seconds before Officer E re-holstered it. There were a number of mitigating circumstances, including unusual stressors in his life at the time. Officer E volunteered to undergo a psychological fitness for duty examination that found him fit for duty. The Board suspended his peace officer certification for 6 months for malfeasance in office.

CASE NO. 6**DISHONESTY**

Deputy F completed a change of address form for his department giving his address at a location where he occupied a borrowed trailer parked on a dirt lot. The owner took the trailer back about a week and a half later. From that time, Deputy F began commuting from his home in another city to a police substation, picking up his "take-home" patrol vehicle for work and leaving it at the substation at the end of shift. One day a sergeant was trying to reach Deputy F by phone and when he was unable to do so, he sent a deputy to the address to contact him. The deputy found a dirt lot with no residential structure on it. The lieutenant asked Deputy F about his current address and he initially gave him the address of the dirt lot. He later admitted that he did not live there any longer. He was truthful during the subsequent internal affairs investigation. The Board suspended his certification for six months for initially lying to the lieutenant.

CASE NO. 7**DISHONESTY and UNPROFESSIONAL CONDUCT**

Lieutenant G made frequent derogatory and insensitive racial and sexual orientation comments in the presence of others in the workplace. A subordinate complained and the city Human Resources Department conducted an investigation. Lt. G denied making the comments. He made the same false denials multiple times during internal investigations following Garrity admonitions. The Board revoked his certification for committing false reporting 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 drove a department vehicle after having consumed alcoholic beverages and then lied about it.
- A specialty officer engaged in “road rage” type behavior off duty; while armed and in uniform, and frightened a driver who cut him off in traffic with his loud yelling and angry gestures.

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

- none

On July 18, and August 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 cadet submitted written homework that he had actually copied from another cadet as his own.
- An officer was rude and unprofessional to a victim of domestic violence and her victim advocate.
- A detective failed to adequately complete several investigations.
- An Assistant Chief, while intoxicated, removed a decoration from a bar and subsequently, while sober, returned it.
- A reserve officer had inconsistencies in his application.
- A recruit had an affair with a Recruit Training Officer.