



***AZ POST***  
***INTEGRITY BULLETIN***  
***Volume No. 63***



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 **November and December 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.

**November and December 2012**

**CASE NO. 1**

**FAILURE TO REPORT USE OF FORCE**

Officer A was involved in a large scale attempt to apprehend a juvenile offender with a history of eluding police. The chase had gone on for most of the morning in and out of residential yards, jumping walls and running through washes. He escaped capture following a Taser deployment. Officer A and a deputy located the juvenile in a backyard adjacent to the one they occupied. The juvenile declared, "I'm done," and placed his hands on his head. Officer A ordered him, at gunpoint, to lie face down and extend his hands out in front of him. He complied. The deputy placed his left knee on the juvenile's right buttock and cuffed his right hand. Officer A joined them and roughly put his right knee on the juvenile's left buttock. As he reached for the juvenile's left hand, Officer A delivered a sharp blow to the juvenile between the shoulder blades and he was taken into custody without further incident. The deputy felt the strike was unreasonable. When the agency began to look into the nature of the strike, they found that Officer A had not included any information about the use of force in the supplemental report and had not completed a use of force document. The agency found the strike unreasonable and appropriately terminated the officer's employment. POST found that although the strike was unnecessary, it was not unconstitutionally excessive to disorient the boy at a critical moment in handcuffing him, given his propensity to pretend surrender and escape. There was an appearance of cover-up, however, since he did not report it properly. POST accepted a Consent Agreement for a six month suspension of peace officer certification for malfeasance and nonfeasance in office.

**CASE NO. 2**

**DISHONESTY**

The law provides that under certain circumstances a juvenile may be held up to six hours in a facility before being transported to a juvenile detention center. A juvenile had been held at an agency's holding facility for about seven and a half hours. Sergeant B altered a log to indicate that a juvenile had been held just under six hours. The Board revoked his certification for committing tampering with a public record, a crime involving dishonesty.

**CASE NO. 3****INAPPROPRIATE TOUCHING**

Detective C responded to a suspicious person call at a church. It was his church and he met with a woman at the church he had known since she was a child. They were accustomed to greeting each other with a hug. After handling the call, he spoke with her, hugged her twice (with his hands possibly brushing the sides of her breasts and buttocks) and held her hand. She was upset and reported his forward behavior to her boss, Father TD. A criminal investigation failed to result in criminal charges. Detective C maintains his touching was not intended to be sexual, but he acknowledges she could have interpreted it as sexually harassing. When this incident was being investigated, a co-worker came forward with allegations of unwanted sexual advances by Detective C some five and six years before. Detective C stated that the two of them had "a thing" and that when he found out the advances were unwanted, he quit making them. The Board adopted a Consent Agreement calling for a one year suspension of peace officer certification for malfeasance in office and conduct that tends to disrupt public trust in the profession.

**CASE NO. 4****DISHONESTY**

Deputy D recorded unworked time on his time sheets. He lied to officers conducting a criminal investigation about whether he continued to go home early after being told by his sergeant that he could no longer leave early. The Board revoked his certification for malfeasance in office.

**CASE NO. 5****ASSAULT**

Lieutenant E was living with his estranged wife. The couple had been tolerating each other and only speaking when necessary. One morning, Lt. E was on his front porch texting when his wife made some comment about him hiding texts from her. He became angry and tried to make her look at the texts he had been sending and receiving. She became angry and refused to look. Over a period of about five minutes he threw the phone toward her, grabbed her chin and tried to force her to read the text, swung his hand across the front of her face either slapping her or swiping the glasses off her head, and pinned her briefly to a bed. There were no injuries. Their seven year old daughter witnessed these actions and physically intervened to try and make him stop. Lt. E entered into a deferred prosecution program whereby charges will be dismissed if he completes all the requirements of the domestic violence assessments, screenings and follow-up within six months. The department demoted him to Sergeant and placed him in non-law enforcement duties pending completion of the deferred prosecution program. The department's Chief of Police reported the incident to POST. The Board adopted a Consent Agreement that calls for a suspension of peace officer certification prospectively, from the date of the Board action forward for six months if he successfully completes the program in a timely manner. Otherwise the suspension is for one year.

**CASE NO. 6****ASSAULT**

Officer F and her husband were separated and living apart at times. One evening they had a discussion that escalated into an argument. There was physical contact in the form of pushing, but it was incidental to Officer F's attempt to get past her husband when he had blocked her path out and later, her attempt to get into the house while he tried to hold the door closed on her. Officer F reported the incident to her supervisor. Criminal and administrative investigations ensued. She pled guilty to criminal nuisance, completed a 26-session anger management treatment program, paid a fine and performed community service. Her one year term of probation was terminated nearly five months early. The Board adopted a Consent Agreement calling for a six month suspension of certification from the date of her termination from the agency.

**CASE NO. 7****ACJIS VIOLATIONS and ABUSE of AUTHORITY**

Officer G repeatedly accessed criminal history record information in furtherance of his pursuit to establish social relationships with women. A female high school student complained to the department that Officer G was persistently contacting and annoying her without any law enforcement purpose. She also wondered how he knew her address since she had not given it to him. A criminal investigation discovered that he was pursuing and pestering multiple young women, making questionable stops and asking them to "hang out." Officer G was indicted on four counts of Unauthorized Access to Criminal History and one count of Harassment. He pled guilty to one ACJIS violation and the other counts were dismissed. The Board revoked his certification for committing a felony and malfeasance in office.

**CASE NO. 8****DUI and CRIMINAL DAMAGE**

Deputy H committed hit and run while under the influence of alcohol. A month later, he placed a loaded firearm toward his head in the presence of his wife. His wife had him served with an Order of Protection. He was heavily intoxicated at the time and was taken to a hospital for evaluation. Upon being released from the hospital, Deputy H obtained a room at a hotel. The hotel called for police assistance. Responding officers found Deputy H naked in the bathtub with the water running and overflowing onto the floor. The toilet had been broken and was also spilling water onto the floor. Several rooms were damaged. Deputy H was charged with and convicted of Criminal Damage. He received a sentence of one year probation and restitution of \$13,000.00. The Board revoked his peace officer certification.

---

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 had sex on duty and lied about it during the investigation.
- An officer failed to complete reports and covered it up by changing the computerized tracking code to indicate no report was necessary.
- An officer engaged in a pattern of stalking a 19 year old woman (including stopping her vehicle without reasonable suspicion), causing her to fear for her safety.
- An officer engaged in sex acts with two underage males.

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

- Sexual Abuse

On November 14, and December 19, 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.

- An officer failed to return a search warrant to the court as required under A.R.S. 13-3918(A).
- An officer failed to complete a police report regarding a hit and run incident.
- An officer had a history of poor work performance.
- A sergeant and a deputy violated department policies concerning the documentation and use of confidential informants.
- Five officers and one sergeant made a complaint to Arizona POST about conduct of their Chief of Police after the Chief had been found not to have committed crimes in a criminal investigation. Several of these officers had inaccurately accounted for their time while delivering the complaint.