

January 4, 2000

Dear Fellow Law Enforcement Professional:

We all share a common concern over the seemingly never ending battle to preserve the professionalism and integrity of Arizona law enforcement. To that end, the members of the Arizona Peace Officer Standards and Training Board (AZ POST) take their duties in this area very seriously, and at each meeting, carefully review the cases brought to them.

Clearly, we all agree that all preventative measures should be pursued, therefore at the direction of the Board, AZ POST staff will be providing to you the attached "INTEGRITY BULLETIN" after AZ POST Board meetings. It will summarize some of the cases which were brought before the Board and will indicate what action the Board took in the matter.

The "INTEGRITY BULLETIN" is offered as a training aid for all of your personnel. We ask that it be shared with line personnel to advise them of the actions that have brought other individual's certification into jeopardy. It is hoped that this type of information will assist them in making the correct decision when they are faced with an ethical dilemma. Some of the suggested uses include; posting it on a Bulletin Board or other central information location, as a handout to stimulate discussions in either basic or in-service training, or republication in an internal newsletter. In addition, command staff members, may find it useful when making discipline decisions in situations where AZ POST Rules may have been violated.

This is a new program for AZ POST. Any feedback is appreciated because we want to make it a useful tool for you. Please feel free to contact either myself or Lyle Mann, Manager for Law Enforcement Training Programs. We can both be reached at (602) 223-2514.

Sincerely,

ROD COVEY  
EXECUTIVE DIRECTOR

Enclosure



***AZ POST***  
***INTEGRITY BULLETIN***  
***Volume No. 1***



The Arizona Peace Officer Standards and Training Board (AZ POST) has the legislative mandate to establish and enforce the physical, mental and moral fitness standards for all peace officers in the state. This charge, to protect the public by overseeing the integrity of Arizona's law enforcement officers, is met by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **September 29, 1999**, and **December 1, 1999**, 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 Bulletin is being published 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. The "*Editor Notes*" are historical observations and insights for training and discussion purposes only.

**CASE NO. 1**

**THEFT/FRAUD**

On five occasions, over a three month period, an officer worked his off-duty job as a security officer for a private school and his on-duty job as a police officer at the same time. He submitted time sheets to both employers and received compensation from both entities for the same hours.

He appeared before the AZ POST Board and explained that he wanted to provide his step daughters with a better life and had just bought a new house. The girls were so excited about the new house, because their old home held all the bad memories of their parents' divorce. He also explained that no calls went unanswered or delayed, and neither employer was deprived of any service by his double-dipping. After listening to his reasoning and mitigating information, the Board voted to **REVOKE** his certification for violation of AZ POST Rules which cover the commission of an offense involving dishonesty, malfeasance in office, and conduct that could damage public trust in the law enforcement profession.

*Editor's Note: The Board has consistently refused to tolerate any amount of stealing. No case of theft has ever resulted in the Board permitting the officer to retain certification. This case also had an element of dishonesty, which is another extremely serious offense for AZ POST.*

**CASE NO. 2**

**MALFEASANCE/PUBLIC TRUST**

This officer came into possession of seized money (\$972.00) that had disappeared from the locker of another officer days before. Even though he knew the money was the subject of an investigation, the officer failed to notify his supervisor, or the chief that he had the money for three days.

On the third day he returned the money to his chief, saying he found it in his locker. An Administrative

Law Judge at the Office of Administrative hearings found that the officer did not commit theft, but did commit malfeasance in office.

The Board voted to **REVOKE** his certification for malfeasance and conduct that could damage public trust in the law enforcement profession.

### **CASE NO. 3**

### **DOMESTIC VIOLENCE**

In the early morning hours, an officer came home in a state of extreme intoxication. He and his wife engaged in an argument that led to his wife kicking him (admission by wife) and then scratching him on his face. The officer responded to this by striking his wife several times in the face with his fist.

Officers from his agency responded to the scene and reported their observations regarding injuries to the wife, which included a large red bruise above her right eye, a red bruise to the side of her right eye and the area around her right eye was already starting to turn black and blue. It was also reported that she had a cut lip as a result of the assault. The wife indicated to the investigating officers that she did wish to prosecute her husband for the battery and he was placed under arrest.

The AZ POST Board voted to **REVOKE** his certification for committing an offense involving physical violence.

*Editor's Note: Assault and other physically violent offenses are not tolerated by AZ POST, even if there is mutual combat. The expectation is that officers will maintain control of their anger and not resort to unlawful violence in any setting. This, when coupled with the evolution of righteous community outrage over domestic violence, means assaultive behavior cannot be permitted. An additional problem arises even if there is not a conviction, in that prior violent behavior can sometimes be admissible in a later trial. Would you want an officer who could be impeached with his prior assaults to testify on your behalf in an excessive force trial?*

### **CASE NO. 4**

### **IMPERSONATING AN OFFICER**

On two occasions an individual represented himself as a peace officer when he was not employed with a law enforcement agency. In the first incident he was requesting a ride along at a police department and presented an ID from a former police department, leading the agency to believe that he was still employed with that agency. In the second incident he was working "off-duty" traffic control in a construction area wearing a dark blue T-shirt with the word POLICE on it in large yellow letters.

He claimed that he did not know this was wrong and appeared before the Board to present mitigating information. The Board voted to **REVOKE** his certification for violating rules which prohibit offenses involving dishonesty, misfeasance and conduct that could damage public trust in the law enforcement profession.

*Editor's Note: Peace officer certification gives an individual no personal law enforcement authority whatsoever. Peace officer authority can only be conferred by a duly empowered law enforcement agency. Officers who are between jobs are not certified peace officers, because they are not employed peace officers.*

### **CASE NO. 5**

### **DOMESTIC VIOLENCE/FAILURE TO REPORT AN ASSAULT**

This officer assaulted his wife by poking her in the eye. They were having an argument and she was backing up. When she stopped, his finger did not. Several weeks later, this officer was present, and on duty, when his wife physically attacked another woman. The officer did not report the assault, nor did he lend assistance to the other woman who was still on the ground when he and his wife departed.

The Board voted to **REVOKE** the certification for violations of rules concerning the commission of an offense involving physical violence, malfeasance and conduct that would tend to diminish public trust in the law enforcement profession.

#### **CASE NO. 6**

#### **DOMESTIC VIOLENCE**

This deputy sexually assaulted his wife. A polygraph examination taken by the wife determined that she was truthful. The officer's story was similar to his wife's except he claimed his wife consented, but he resigned prior to taking a polygraph examination.

The Board voted to **REVOKE** the certification for violation of rules concerning an offense involving physical violence and conduct that would tend to jeopardize public trust in the law enforcement profession.

#### **CASE NO. 7 MISCELLANEOUS CONDUCT/RECKLESS DISCHARGE OF FIREARM**

This officer and his wife were attending a private party being held at a golf course Club House. During the course of the evening, the officer consumed a large quantity of beer and a small quantity of tequila. Apparently, he and his wife had been having some recent difficulties with their marriage. The officer stated during a taped interview, that on this particular evening he had approached his wife and expressed a desire to leave the party. He stated that his wife ignored his initial request, so he approached her again a short time later. He stated that on the second occasion when he went to approach his wife he was told that she was in the ladies restroom.

He entered the restroom to speak with his wife, and admittedly pulled his duty weapon (Beretta, 9 mm) from his waistband and removed the clip from the weapon. He then pulled the trigger to show his wife that the weapon was empty. The gun discharged, causing the bullet to pass through the wall of the restroom. He then left the restroom and took the weapon and placed it inside his private vehicle.

The investigation revealed that the bullet traveled through several different walls, exiting the building and glancing off of an air conditioning unit attached to the Little League concession stand. Although there were numerous people present inside the Club House when the shooting occurred, no one was injured.

*Editor's Note: This was not a legitimate accidental discharge.*

The officer entered an Adult Deferred Prosecution Program. He was prohibited from possessing or controlling any firearm or deadly weapon for two years as part of the program.

The AZ POST Board voted to **REVOKE** his certification for violation of AZ POST Rules which cover the commission of a felony, commission of an offense involving physical violence, malfeasance in office and conduct that would tend to jeopardize public trust in the law enforcement profession.

*Editor's Note: Diversion programs and other deferred prosecution programs have no impact on the Board's actions. In situations such as this, the Board is concerned with the "commission" of an act, not necessarily a conviction, although a conviction for a felony results in mandatory revocation.*

**CASE NO. 8** **FALSIFICATION TO OBTAIN CERTIFICATION/ASSAULT**

This recruit failed to list a felony conviction on the AZ POST Personal History form and did not meet minimum standards as a result of this conviction for felony child abuse. While in the academy during a defensive tactics class, he used excessive physical force against his training partner, violating the instructor's commands and causing injury to that person.

The Board voted to **DENY** certification for violation of rules concerning conviction of a felony, willful falsification of information to obtain certified status, and conduct that could diminish public trust in the law enforcement profession.

*Editor's Note: Cases involving the willful provision of false information in connection with obtaining or reactivating certified status, usually involves applicants who are applying to a second agency after being turned down by another agency and attempting to hide the information which made them unsuitable for the first agency. A complete background investigation will usually reveal the discrepancies.*

**CASE NO. 9** **THEFT/FRAUD**

For more than a year, an officer made, or permitted others to make, material false statements to an insurance company, and he obtained money from another person under false pretenses. Basically, the officer sublet his leased jeep to a third party and did not tell his insurance company about it because the third party was a young male whose rates would be much higher. He then had the young man pay him back for the insurance, including the increased rate which the officer was not really paying.

The agency disciplined him for this incident, but did not report it to POST until he was terminated for other reasons in 1999.

The Board voted to **REVOKE** the certification for violation of rules concerning an offense involving dishonesty and conduct that would tend to diminish public trust in the law enforcement profession.

*Editor's Note: This, like Cases No.1 and No. 17, involves theft and as indicated, the Board does not tolerate stealing.*

**CASE NO. 10** **MALFEASANCE**

A deputy arrested a subject on a charge of interfering with a judicial proceeding. When the deputy read him the Miranda rights and the subject invoked his right to counsel. The deputy turned off the tape recorder, and an hour later had a full confession. Not surprisingly, the confession was suppressed. At the trial, upon direct testimony, the deputy testified that he had arrived at the person's residence at 10:15 a.m., that he had interviewed the person for approximately one (1) hour, and that the person had made incriminating statements that established his guilt. All of this testimony was false.

A felony complaint was issued against the deputy charging him with two counts of “perjury, a class 4 felony”. He later accepted a plea agreement which found him guilty of the class one (1) misdemeanor of committing false swearing by making a sworn statement that he believed to be false.

The AZ POST Board voted to **REVOKE** his certification for violation of AZ POST Rules which cover the commission of a felony, commission of an offense involving dishonesty, malfeasance in office and conduct that would tend to disrupt, diminish or otherwise jeopardize public trust in the law enforcement.

**CASE NO. 11**

**ASSAULT**

A deputy, while off duty and intoxicated, displayed a knife and made threatening gestures towards another deputy, after falling to the ground during horseplay. A year later, this deputy while on duty, forcibly shoved a fire chief into a refrigerator hard enough to move it two feet. The deputy was angry because the fire chief had placed his arm on the deputy’s shoulder and the deputy had asked him to remove it twice.

The Board voted to **REVOKE** the certification for violation of rules concerning an offense involving physical violence, malfeasance and conduct that could damage public trust in the law enforcement profession.

**CASE NO. 12**

**BREACH OF PUBLIC TRUST**

On two occasions during a one year period, an officer made racially derogatory statements about fellow officers. The first statement, made in response to the transfer of an African American fellow officer, was, “Good, I don’t like working with n\_\_\_\_\_.” The second statement, made several months later referred to his lieutenant, who had been very ill. During briefing, the officer asked when the lieutenant would be back. The Sergeant said it would probably still be a while. The officer said something to the effect of, “Good. I hope the n\_\_\_\_\_ dies. Maybe we should go to his house wearing white sheets and scare him to death.”

This was a matter of first impression for the Board. The Board considered this conduct to be reprehensible and utterly unacceptable for a peace officer in this state. The Board revoked the officer’s certification based on violation of the rules concerning misfeasance and malfeasance in office and breach of the public trust. The Board members stated the following in explaining their votes to revoke the officer’s certification. “Over the last several years racism ... has become a tremendous problem in law enforcement. My personal feeling and as a Board member today, is that there is no place for this in law enforcement,” stated a Board member. “We have talked a lot today about ethics and we’ve talked about how we hold our police officers in this state to a higher value and a higher level and I think this addresses what we’re talking about, with the vote we’re going to do right here,” asserted another. The Board voted unanimously to **REVOKE** the officer’s certification.

*Editor’s Note: This should send a strong message about the Board’s unwillingness to tolerate racist behavior or speech. The public must be assured that its peace officers measure them by the quality of their conduct, not the category of their ancestry.*

**CASE NO. 13**

**SEXUAL MISCONDUCT**

Over a period of several years, an officer repeatedly sexually abused his daughter by fondling her breasts. He would give her back rubs and work his way around to her breasts. On one occasion, he did the same thing to a friend of hers. When confronted he rationalized and was unrepentant. He is under indictment and his peace officer certification was **REVOKED** for committing offenses involving unlawful sexual conduct.

**CASE NO. 14**

**DISHONESTY\NONFEASANCE\MISFEASANCE**

This officer was dispatched to investigate a hit and run accident. When he arrived at the location, he was unable to locate the victim. He requested instructions and was advised to complete a contact card. While completing the card, the victim of the accident returned to the location and contacted the officer, providing details about the accident including a description of the suspect vehicle. Instead of completing a report, the officer submitted the contact card which reported that he was unable to locate the victim. The victim called to report that he might have seen the vehicle that struck him. When the report could not be found, an investigation ensued. The officer initially lied about his contact with the victim, and later admitted the truth.

The POST Board **REVOKED** his certification for nonfeasance and misfeasance in office and for committing a crime involving dishonesty when he lied to internal affairs investigators.

**CASE NO. 15**

**FELONY CONVICTION**

This officer was convicted of a felony. **REVOCAION** is mandatory upon felony conviction. In this case it involved a federal charge of Bribery, and Conspiracy to Commit Bribery Involving a Program Receiving Federal Funds.

*Editor's note: The POST rule requires mandatory, automatic revocation any time an officer is convicted of a felony. This is true even if the offense might later be designated a misdemeanor. This is one of several such cases each year.*

**CASE NO. 16**

**FAILURE TO MEET MINIMUM STANDARDS FOR DRUG USE**

This recruit failed to meet minimum standards as a result of past cocaine and marijuana use. The Board **DENIED** him certification. He had used marijuana 20 time in his life, but 15 were after age 21. He had also used cocaine at least 10 times in his life.

*Editor's note: This is one of many such cases per year where applicants have used slightly more than the "permissible" amount of drugs. That is generally no more than 5 uses of marijuana after 21 years of age and no more than 20 lifetime, and no more than one use of narcotics or dangerous drugs after 21 and no more than 5 lifetime. These cases usually come to light at the polygraph examination when it is determined that the individual was not truthful on their Personal History Form.*

**CASE NO. 17**

**THEFT**

This officer was having a house warming party when he decided he needed more firewood. Despite having had upwards of 10 beers, he felt okay to drive. He borrowed a friend's pick-up truck and went to a nearby construction site. There he took three \$6.00 sheets of plywood and loaded them in the truck. As he pulled away from the site, he noticed a car following him. He was afraid the driver might have witnessed him take the plywood, so he took evasive action, speeding and failing to stop at stop signs.

As it turns out, the car was an unmarked police vehicle, whose occupant was conducting surveillance of the construction site due to a recent string of thefts. This on-duty officer called for a marked unit to stop the pick-up, which was done. When confronted, the off duty officer was asked how much he had to drink, and because he wanted to be “a little more honest” than the usual DUI suspect, he admitted to consuming 4 to 5 beers.

Although this officer was cited and released, he paid restitution to the construction company and avoided any criminal prosecution. When his department conducted an internal investigation, he was truthful with them, admitting the driving, the theft and the minimizing of the amount of alcohol he had consumed. Given his actions, his agency terminated him.

In front of the Board, he presented testimony that this was the event that caused him to realize that he was an alcoholic. The disease of alcoholism, he argued, makes good people do bad things. Now that he no longer drinks, he assured the Board that they could count on him never to do any of these things again.

The POST Board voted unanimously to **REVOKE** his certification for violations of the rules against crimes involving dishonesty and malfeasance.

*Editor’s note: The Board has revoked the certification of 100% of the officers that have come before it after stealing something. In addition, over the last one to two years, officers appearing before the Board after lying in an official matter have been revoked. If an officer lies, shades, minimizes, downplays, or is otherwise not truthful during an internal investigation or any other official statements, that officer is placing his or her peace officer certification in serious jeopardy. Furthermore, the Board has consistently rejected alcohol consumption, alcoholism, or alcohol abuse as a mitigating factor. Alcoholism is a devastating disease and the Board has shown great personal sympathy and support for sufferers, but the public’s welfare and safety, and the integrity of Arizona law enforcement is more important than any single individual. Pleas for leniency due to: “I was drunk and not able to think clearly,” or “One of the symptoms of alcoholism is that its sufferers deny or lie about their drinking, so, I really couldn’t help lying,” or “I know it was wrong, but I have gotten help for my alcohol abuse and I am now sober and do not drink at all,” have been rejected. Problems with alcohol need to be addressed before a career-ending incident occurs.*