



Integrity Bulletin

Volume 17

June 2014

IDAHO PEACE OFFICER STANDARDS AND TRAINING

Special Points of Interest

- **Page 1**, 2014 Legislature
- **Page 2**, Recruit Found Wanted
- **Page 3**, Decertification Actions I
- **Page 4**, Importance-POST Records
- **Page 3**, Decertification Actions
- **Page 5**, What Would It Take
- **Page 6**, Decertification Actions II
- **Page 7**, Articles/Books of Interest
- **Page 7**, POST Records Request
- **Page 7**, Decertification Actions II
- **Page 8**, Decertification Actions III

Note From the POST Administrator

This June 2014 edition of the POST Integrity Bulletin focuses on the our continuing effort to study acts of misconduct that Idaho law enforcement agency administrators believe constitute an action that should result in decertification. The 2014 Idaho Legislature acted on new POST rulemaking applicable to employment of Idaho officers. The rulemaking defines moral turpitude, identifies a uniform standard for individuals with prior drug use, and sets forth improved DUI standards, and acts related to juvenile conduct. We trust the information herein will bring attention on our profession's ability to deter official misconduct, improve the public perception of Idaho's law enforcement officers, and promote responsible, ethical discourse within your agency or department.



Before The 2014 Idaho Legislature

Decertification Matters:

Prison Contraband	Pg. 3
False Documents	Pg. 3
Lying to POST Coord.	Pg. 3
Solicitation	Pg. 3
Felony Public Funds	Pg. 3
False Documentation	Pg. 3
Felony Public Funds	Pg. 3
Sex & Dishonesty	Pg. 3
Theft From Inmate	Pg. 7
Misd. Conviction	Pg. 7
Misuse of ILETS	Pg. 8
False Statements	Pg. 8

During the past year, POST Council met and discussed new standards to better define the employment standards that the Idaho law enforcement expects from those entering our profession. The amendments were reviewed by the Idaho Sheriff's Association and Idaho Chiefs of Police Association, and representatives of various state agencies. POST presented the new standards before the 2014 Idaho Legislature, and they were passed by with some modification in March of this year.

POST published the character amendments in our January 2013 Integrity Bulletin, and are doing so again to make sure our communication lines are open about this issue.

At the focus of the IDAPA rule amendments are the definition of moral turpitude, and background criminal and drug issues defining character responsibilities of Idaho law enforcement agencies.

We thank the Sheriffs, Chiefs and other administrators for supporting POST with these rule amendments, as they will assist all of us in our professional determinations regarding minimum employment criteria and the process for applicants who may wish to challenge POST actions.

(Continued on Page 2)

Pittsburgh Officials Resisted Hiring Police Recruit Later Found Wanted in Massachusetts

By Margaret Harding, TribLIVE News, May 10, 2014

City officials tried to stop a Pittsburgh police recruit from joining the force, but he won his appeal to be reconsidered for a job. The officer was disqualified because of an arrest for domestic violence and a failed lie detector test. After winning his appeal, he began training as a recruit on March 17. the Executive Director of the Citizens Police Review Board said, the city has a zero tolerance policy on domestic violence for officers that should apply to recruits, and “[e]verything that’s been alleged about his background are major flags.”

Pittsburgh police fired the officer on May 8th, about a month after discovering his decade-old felony warrant for an arrest in Massachusetts. Despite conducting a background check, the city didn’t find the arrest warrant for violating a restraining order and witness intimidation until the officer tried to purchase a service weapon from a gun store and was denied because of a background check.

The officer’s domestic violence incident resulting in an arrest of simple assault and false identification to law enforcement; the charges were withdrawn.

Massachusetts submits all state arrest warrants to the federal database used by gun sellers to conduct background checks, but it’s up to local departments to put those same arrest warrants into a separate national law enforcement database that the city and other agencies use. Massachusetts has been one of the states that’s traditionally had challenges with local departments putting warrant into the national database.

.....
NOTE: This case raises the question about checking the federal firearms database against the names of prospective law enforcement officers. While Idaho agencies do not necessarily make officers purchase their duty weapon, agencies do place a governmentally-acquired firearm in the hands of their officers. It would seem practical to validate the officer’s possession of a firearm through the national firearms database as a precautionary measure, given the findings of the Pittsburgh Police in the matter above.

The Federal Firearms Database can be accessed through the ILETS system. The Idaho ATF Office supports this use of the Federal Firearms Database for verifying background information on law enforcement officers.

Before The 2014 Idaho Legislature

(Continued from page 1)

The amended administrative language involves the initial employment standards for patrol, detention, state parole & probation, juvenile and misdemeanor or probation officers, and includes the following:

- (1) The definition of ‘moral turpitude’ means conduct that is contrary to justice, honesty, or morality; (such as in IDAPA 11.11.01.055—Character); this may include charged or uncharged conduct;
- (2) Applicants cannot have unlawfully used marijuana for a minimum of three (3) years; while employed as a law enforcement officer, or on a regular, confirmed basis within the past five years;
- (3) Applicants cannot have unlawfully used any other schedule (I) through (IV) controlled substance for a minimum of five (5) years; while employed as a law enforcement officer, or on more than a minimal and experimental basis during the applicant’s lifetime;
- (4) Applicants cannot have unlawfully used prescription drug within three (3) years;
- (5) Drug trafficking, manufacturing, and related offenses have specific provisions rejecting or waiving such conduct;
- (6) Applicants cannot have one DUI arrest and conviction within two years of employment ; two DUI convictions within five years of employment; an applicant with one or more DUIs within ten years of employment may be waived under conditions;
- (7) Juvenile misdemeanors will not be considered ; felony juvenile crimes are prohibited, but may be waived after 10 years have passed and with full knowledge of the crime the agency administrator petitions POST for a waiver of the crime.

“ . . the police must obey the law while enforcing the law; that , in the end, life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals, as from actual criminals themselves.”

— Spano v. New York, 360 U.S. 321 (1954)

Chief Justice Earl Warren



Decertification Actions

Incident #1 **Felony Convictions:** **Smuggling Contraband into** **Prison and Witness Intimidation**

A former correction officer was charged and later plead guilty to one count of smuggling controlled substances cigarettes/marijuana into the state prison, and one count of witness intimidation — a felony offense in the State of Idaho. The officer was sentenced to the custody of the Idaho Department of Corrections for a period of five years.

Violation: Idaho Code §19-5109 and POST IDAPA Rule 11.11.01.055.02(e) and .091.03.(3)a.

Incident #2 **Falsification of Documents**

A former Juvenile Probation Officer prepared three letters of recommendation and applied false signatures of his supervisors to the letters. The officer later sent the letters to a tribal police department in pursuit of employment. The officer stipulated to the decertification of his Juvenile Probation Officer Certification during the POST investigation.

Violation: POST IDAPA Rule 11.11.01.091(3)/(4).

Incident #3 **Dishonesty to POST** **Academy Coordinator**

A former Reserve Level I Patrol Officer was attending the POST Patrol Academy, and provided false information to his POST Academy Coordinator. The employing agency removed the officer from Academy. During the legal process of the decertification, the officer signed a stipulation voluntarily revoking his certification.

Violation: POST IDAPA Rule 11.11.01.063.02; 11.11.01.091.04(k).

Incident #4 **Conviction** **Solicitation to Commit Crime**

An officer went to a hotel to engage in sex with a prostitute. The officer was confronted by police and arrested for solicitation. During the search, officers found a white powdery substance that tested positive for cocaine. The officer was convicted of the solicitation charge; the controlled substance charge was dropped due to an error in the laboratory testing of the white substance. During the POST decertification investigation, the officer signed a stipulation to decertification of his Patrol Officer Certification during the POST investigation. Violation: POST IDAPA Rule 11.11.01.091.03/.04.

Incident #5 **Felony Conviction:** **Misuse of Public Funds**

Former Sheriff with Patrol Officer certifications was found to have fraudulently used a county credit card for his personal use and that of another employee. He was convicted of a felony offense withheld judgment, and sentenced to 90 days in jail and 3 years probation.

Violation: Idaho Code §19-5109 and POST IDAPA Rule 11.11.01.055.02 e and .091.03.(3)a.

Incident #6 **Improper Sex, Dishonesty IA,** **Uncooperative During POST** **Investigation**

A former Detention Deputy engaged in sex with a known felony probationer; then denied the sexual conduct to the internal investigator. The probationer admitted the sexual conduct to the IA investigator. Once the deputy learned that the probationer had admitted sexual conduct with the deputy to IA, the deputy admitted his multiple improper sexual acts to the investigator.

Violations: POST IDAPA Rules 11.11.01.063.02; 11.11.01.063.04, and 11.11.01.091.04(k).



Agency Background Investigations and POST Training and Certification Applications



“Society’s demands for moral authority and character increase as the importance of the position increases.”

— *President John Adams*

There is a congruence between the employing agency and POST, that serves the community and state equally, in their effort to ensure proper adherence to the law is afforded to all individuals subject to the law. The congruence is the matching belief is about the need for the lawful character of the public officials who stand guard upholding the law. The manner of achieving men and women of strong character, is set forth in the POST IDAPA Rules that guide law enforcement administrators in their hiring practices. Of the standardized criteria for Idaho law enforcement, an individual’s character, criminal history, traffic history, education, age, employment history and military service cause the greatest variance in acceptability between employer and regulator of the profession.

POST Council and our professional leaders have worked to more closely align the circumstances that could raise questions of professional acceptability between the employers and POST. This Integrity Bulletin outlines some of the recent amendments to align the requirements.

While completing a POST application, the areas that bring most questions, and should be given close attention by administrators, includes: traffic violations, criminal arrests and convictions, acknowledgements of character, and military service forms.

One of the most common issues facing POST records specialists while reviewing applications, is that of applications with incomplete criminal and traffic histories. POST has tried to provide understandable instructions for individuals completing our forms. It should be emphasized by the employer’s representatives, that complete checks be conducted using state and national criminal history records and the web-based *Idaho Repository*.

These checks should identify any criminal or traffic records that POST staff will uncover during their records reviews. POST is not concerned about most delinquent acts committed by juveniles. Although, serious juvenile conduct will be reviewed if the conduct rises to felony or serious misdemeanor levels and is committed in the 16 to 18 year old age range. Minor criminal conduct that is more than five years old will probably be considered with deference to the employer’s consideration of the facts and circumstances; however POST does reserve the right to ask questions or request clarification from the employer.

On criminal arrests where the case is dismissed, POST staff read the police reports to ascertain the cause of the arrest and individual’s conduct with the arresting officials. The police reports may cause POST to check with the employing agency about the conduct.

The POST Character Disclosure Form is probably the most misunderstood part of the application process. This form is used to ascertain prior drug use and conduct. The most important part of this form is the acknowledgment of the agency administrator to information provided by the applicant. Generally, if the information requested is complete, with complete applicant explanations, and the agency administrator indicates his/her knowledge of the conduct as being acceptable for the employing agency, POST does not interfere in this area. What causes POST staff to question the information provided on the Character Disclosure Form are incomplete answers, lack of information provided to required responses, or invalid agency acknowledgment signatures. Regarding Character Disclosure Form questions 4 through 13, for answers indicating “yes,” POST is looking for written responses that answer: what, when, where, how, why, how many times, and how often. If the applicant will answer those questions using these precursor variables, POST will probably not have to contact the agency for further information.

It is important to note that, unless the individual has a felony conviction, is not of age, or of United States citizenship, the POST review of applications contains the opportunity for the agency and applicant to have POST Council Hearing Board review.

Of all the properties which belong to honorable men, not one is so highly prized as that of character.

Henry Clay statesman (1777-1852)



***What would it take to persuade you to
abandon your values?***

New Mexico — A former corrections officer was sentenced to serve 15 months in federal prison for his conviction on obstruction of justice and falsification of records charges. The officer and others were charged with various crimes related to an inmate assault at a detention center, and subsequent attempts to cover up and impede the investigation of the assault. According to evidence at trial, the victim was verbally uncooperative during the booking process, but was not a physical threat to anyone. The officer became angry at the victim and walked him to the shower room where there were no surveillance cameras. Several other corrections officers followed them to the shower room. There, the officer physically assaulted the victim, striking him multiple times, and choking him. The officer falsely stated to a county investigator that the victim was not assaulted in the shower room, the victim was not bleeding, and they only brought the victim to the shower room to ask him to change out of his clothes. The officer falsified his report when he wrote that he saw blood on the victim's clothes, but did not know where the blood came from. Other officers witnessed the assault and lied to conceal the conduct. The officer later testified that he beat the victim "in a blind rage" and then had to wash the victim's blood off his hands. He testified the victim did not do anything to justify the beating. A former inmate in the hallway outside the shower room, overheard groans and sounds consistent with the assault coming from the shower room; he was tasked with cleaning the blood that was on the floors and walls of the shower room.

"Law enforcement officers who lie and obstruct justice to cover a fellow officer's criminal acts do a disservice to the community that they swore to serve and protect," said Acting Assistant Attorney General for Civil Rights Jocelyn Samuels. "A correction officer who actively covers up illegal violence perpetrated by another officer . . . undermines the public's confidence in the justice system and fosters a belief that correction officer violence perpetrated on inmates will be met with impunity rather than justice . . . such a culture cannot, and will not, be tolerated," said U.S. Attorney Steven C. Yarbrough.

New Mexico — A former County Sheriff's Office Deputy pleaded guilty to conspiring to use his law enforcement authority to unlawfully detain and take money from motorists. The deputy admitted he conspired with two civilians to subject Hispanic motorists to unlawful traffic stops so that the conspirators could demand the motorists pay money in order to avoid arrest and/or deportation. One of the motorists, identified in the plea documents by the initials T.C., was unlawfully detained by the deputy and then approached by his two Spanish-speaking co-conspirators, who explained to T.C. that he would be sent to jail or deported if he did not pay \$500. When T.C. responded that he did not have \$500 in his car, the co-conspirators drove T.C. to his residence and took \$300 in cash from him. The deputy and the two co-conspirators divided the \$300 among them. "[The deputy] admitted he conspired to use his badge to unlawfully detain and take money from motorists." This "is another example of the zero tolerance the Department of Justice has for law enforcement officers who violate individuals' civil rights," said U.S. Attorney Michael J. Moore for the Middle District of Georgia.

UTAH — A female contacted police to report someone had sent seven unwanted text messages to her cell phone containing sexually explicit language. The victim said she found the text messages "very offensive" and wanted the incident investigated. The criminal investigation determined an officer was the owner of the cell phone number associated with the sexually explicit text messages. Later, the female received additional sexually explicit text messages including the image of male genitalia. The officer was charged with one count of electronic communication harassment, a class B misdemeanor. The officer entered into a plea in abeyance to the charge. In two separate department *Garrity* statements, the officer lied and refused to answer questions related to the department's administrative investigation. He also refused to participate in the POST investigation process. POST Council voted to revoke the officer's certification.

POST Website:

In the **Professional Standards Portal**, we have included: (1) this Integrity Bulletin has been posted to the portal; (2) updated statistics about our decertification investigations and POST Council actions; (3) legislative amendments to IDAPA rules from the 2014 Idaho Legislature.

These initiatives are made to generate better communications between POST and our Idaho law enforcement community.



The Importance of Accurate POST Records

Everyday, officers complete government forms in performance of their duties. The records completed become the records of those that we serve, that we bring before the courts, that are needed for citizens' medical and property insurance claims, that explain our job responsibilities, and for many other purposes. Accurate reports and forms are a necessary part of law enforcement responsibilities.

Among the first forms completed during an officer's career, are the employer's job application, and POST training and certification applications. The accuracy of these documents are more important than one may consider at the time they are completed. This article will explore the accuracy of POST records to the officer's career.

The importance of POST documents is based upon public records law, and the need to ensure applicants are of good character and have met the minimum legal requirements for employment within our profession. It's not just about checking or filling out the application page, in the manner the individual chooses to provide or not provide information to POST. It's about the accuracy of the record and the sense of responsible duty.

It has not been uncommon for POST to make adverse decisions based upon an individual's lack of candor in completing POST documents. The lack of information on POST applications has also led to hearings before the POST Council, and even decertification investigations against serving officers who failed in their responsibility to submit properly completed forms. In our attempt to bring attention to accuracy, POST has placed affirmations on some documents that inform the responsible signatory that submission of inaccurate or incomplete information is a violation of Idaho law.

Our Idaho Legislature has written laws that all public servants and the public have to comply with when submitting a written record to any public office. And who in law enforcement would not think that a law enforcement record would need to be accurate? We work in an atmosphere that requires accuracy. We expect the public to provide us with accurate information. If they do not, we have laws about providing false information to a law enforcement officer. Why would any law enforcement officer not believe they are required to provide accurate information to the public agency that regulates law enforcement employment and training standards?

The POST training application and related docu-

ments are where POST finds the most omissions or inaccurate information. This causes POST to contact the employer to receive additional information, or results in our sending the applicant before the POST Hearing Board to explain why he/she did not provide POST with accurate information. It takes time for the employer or other public officials to bring the records to an acceptable resolution or denial of application. This results in time wasted for all involved.

When reviewing applications, POST finds a common problem in the reporting of past criminal conduct. Applicants often state they did not know the information was needed because they could not find the record on the Idaho Repository. They know they committed the act; they were cited or arrested for an event, but couldn't find a record of the conduct. At times, they allege they forgot the citation or arrest. As you can imagine, these are, generally, not acceptable responses. Other common problems include, not providing military discharge information on discharges under less than Honorable conditions; submission of documents of false education; or submission of inaccurate explanations about character or criminal conduct.

Under Idaho law, in accordance with Sections 18-3201, 18-3202 and 18-3203 of the Idaho Code, it is a crime for any public officer, law enforcement officer or person to falsify an official governmental or public record, or provide any false or forged instrument to be filed, registered or recorded in any public office within the state.

Recently, POST investigated an inaccurate record incident that led to the revision of the POST PRT Testing Record. The employer caught the inaccurate form and terminated

the officer. The event led to a decertification proceeding, and ultimately resulted in POST's adding clarification to the evaluator's responsibilities in conducting the testing process. It also resulted in POST including the legal affirmation upon the PRT testing form, to remind the signatory of his/her legal responsibility when signing the document.

The Bottom Line:

POST expects accuracy and completeness in the reported employment and training applications. There is a responsibility for all officers to ensure POST receives accurate records. Accurate records become more important when you consider the increased number of public records requests that are being made to law enforcement agencies. The public records requests made to POST have increased substantially over the past few years; and they are so prevalent, now, that POST has included a statistical indication on its dashboard about records requests (*see chart on Page 7*). These requests are fairly complete records about officers, their employment and training histories. POST demands accuracy in our records, to assure the public that we are responsible to the law and to public safety.



Articles/Books Advocating Law Enforcement Professionalism

“Improving Officer Safety and Citizen Support: Solving the Puzzle,” By Mike Masterson, *FBI Bulletin*, May 2014, <http://leb.fbi.gov/2014/may/perspective-improving-officer-safety-and-citizen-support-solving-the-puzzle>

“Law Enforcement Ethics: Classic and Contemporary Issues,” Brian D. Fitch, *Sage Publications*, 2014

“Should an Officer’s Willingness to Deceive Result in Automatic Certification Revocation? Ethical Defensibility Part 4,” Thomas Martinelli, *The Police Chief* 81 (February 2014): pp.24-29;

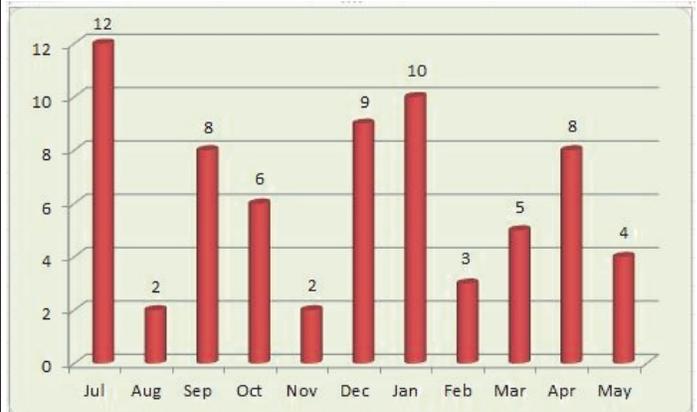
Incident #7 Theft from Inmate False Information During IA

Probation and Parole Officer was charged and plead guilty to stealing medication from a client. The officer took medication from the client's prescription for hydrocodone during an office visit. The officer failed a polygraph and later admitted the conduct to investigators. The officer signed a stipulation forfeiting his peace officer certification.

Violation of POST IDAPA 11.11.01.063.

POST 2014 RECORDS REQUESTS

Below are statistics of FY2014 records requests. They are substantial requests that include officers employment and training.

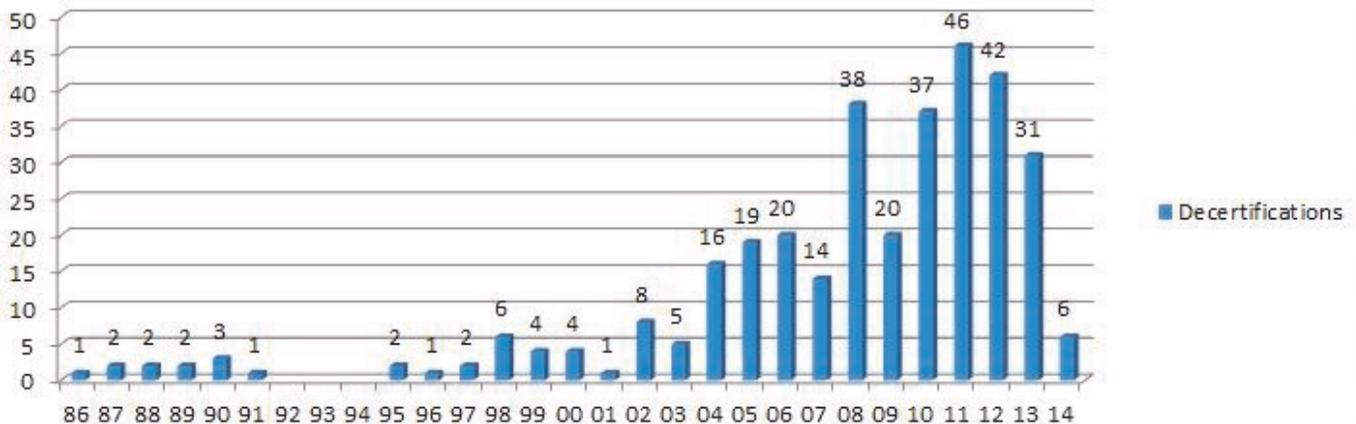


Incident #8 Misdemeanor Conviction, Untruthfulness During IA

Former Detention Deputy convicted of Disturbing the Peace as a plea agreement from misdemeanor injury to child. During the investigation, the deputy admitted not being truthful during the investigation. The deputy was terminated from employment. The deputy failed to respond to the POST complaint for decertification and a default order was filed and approved: the POST Council decertified the deputy.

Violation: POST IDAPA 11.11.01.063/.091(3)(b)

Decertification Actions 1986 through the Present



Idaho Peace Officer Standards and Training
700 South Stratford Drive
Meridian, Idaho 83642
Tel. (208) 884-7250, Fax (208) 884-7295

**INTEGRITY BULLETIN
A PUBLICATION OF POST'S
OFFICE OF PROFESSIONAL RESPONSIBILITY**

William L. Flink
POST Division Administrator
T. Michael Dillon
Manager, Office of Professional Responsibility
Tel. (208) 884-7324
Fax (208) 884-7295
mike.dillon@post.idaho.gov

The Idaho Legislature formally established the Idaho Peace Officers Standards and Training Council (POST Council) for the purpose, among others, of setting requirements for employment, retention, and training of peace officers, including formulating standards of moral character, and other such matters as relate to the competence and reliability of peace officers. The POST Council also has the power to decertify peace officers upon findings that a peace officer is in violation of certain specified standards, including criminal offenses, or violation of any of the standards of conduct as established by the Council's Code of Ethics. Idaho Code also requires that when a peace officer resigns his employment or is terminated as a result of any disciplinary action, the employing law enforcement agency shall report the employment action to the POST Council within 30 days.

IDAPA 11, Title 11, Chapter 01

POST's Office of Professional Responsibility

The Office of Professional Responsibility (OPR) is one of three bureaus within the Idaho Division of Peace Officer Standards and Training. OPR is staffed by OPR Manager Mike Dillon, former FBI Supervisory Special Agent, and twelve contract investigators from throughout the State of Idaho. All of the investigators are former federal, state and local law enforcement officers. POST investigators endeavor to complete thorough, competent investigations to ensure the entire story is presented during the reporting of allegations against peace officers and others we certify. It is a mainstay of POST's mission to maintain an ethical and lawful law enforcement profession for the people of Idaho.



Decertification Actions

(Continued from Page 7)

Incident #9

Untruthfulness, Inappropriate Sex, & Misuse of ILETS

A former Patrol Deputy used the ILETS System for unauthorized purposes, including to gain information about attractive females and for other reasons. He also engaged in an inappropriate sexual relationship with a female domestic violence complainant that lasted up to 10 weeks, which involved sexual intercourse and other sexual contact while the officer was off-duty and on-duty at the home of the female. The deputy later lied to his supervisor about a duty-related matter. The criminal complaint against the domestic violence suspect had to be dismissed by the prosecutor due to the inappropriate relationship of the officer and the female complainant.

Violation: the deputies conduct violates the provisions of Idaho Code § 19-5202; (2) the POST Council's Code of Ethics under POST IDAPA Rule 11.11.01.055; and (3) 11.11.01.091.04.

Incident #10

False Statements During Internal Investigation

Former officer had been terminated for cheating on a firearms qualification test and lying about it during an internal investigation. The officer admitted to encouraging another officer to cheat on the test, but he denied cheating himself. When shown a video tape of the firearms qualification test, he admitted he cheated but did not realize it. When administered a polygraph test, his response indicated deception. In a subsequent interview he admitted he purposefully cheated on the firearms test. The deputy signed a stipulation forfeiting his peace officer certification during the POST investigation. Violation of POST IDAPA Rule 11.11.01.063.04.