

Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



Professional Compliance Bulletin Issue 28 - November 2006



The Criminal Justice Standards and Training Commission has as its mission "to ensure that the citizens of the State of Florida are served by the most qualified, well trained, competent and ethical criminal justice officers in the nation." The Commission meets quarterly in an open forum to address issues relating to criminal justice. As a part of these quarterly meetings, cases regarding officer misconduct are reviewed and action is taken against the officer's criminal justice certification. Disciplinary action is based on the facts of each case and is guided by both Florida Statute and Florida Administrative Code. The following is a sample of the cases that were heard by the Commission at its meeting held on November 16, 2006.

Case # 22800—Introduction of Contraband into a Correctional Facility

The respondent resigned as a result of an internal investigation that sustained possession of a weapon, improper conduct, and failure to protect and safeguard inmates and employees. The investigation revealed that the respondent placed a homemade knife, known as a "shank", under an inmate's bunk. Three other inmates witnessed this event. The respondent also admitted during the investigation that he placed the weapon under the inmate's mattress to scare him because he was a constant discipline problem.

Penalty guideline: Revocation

Staff recommended revocation as a penalty in this case.

Disciplinary Action by the Commission: Accepted staff penalty recommendation.

Case # 22674—Conspiracy to Distribute a Controlled Substance

The respondent resigned subsequent to an internal investigation that sustained violation of law. During the course of a separate wire tap investigation, it was revealed that the respondent was involved in the distribution of illegal narcotics. The respondent's brother was subsequently arrested, and provided information to investigators that he had provided narcotics to the respondent's girlfriends. He also stated that the respondent would contact him for the drugs and that they would meet for the transactions. The respondent admitted in his sworn statement that he went to night clubs with females who wanted drugs and that he contacted his brother to make the arrangements for the transactions.

Penalty Guideline: Probation to suspension

Staff recommended that the Commission suspend the respondent's certification for two years to be followed immediately by two years of probation. Staff also recommended that the respondent complete an ethics course during the probationary period.

Disciplinary Action by the Commission: The Commission denied staff recommendation and the respondent's certification was revoked.

Case # 21040—Lewd or Lascivious Battery; Lewd or Lascivious Molestation

The respondent was terminated as a result of his arrest for fifteen counts of Lewd or Lascivious Molestation and six counts of Lewd or Lascivious Battery. An internal investigation was initiated as a result of a report from a thirteen year old girl's parents that she was

engaged in a relationship with the respondent. It was determined that the respondent met the girl while she was riding her bike in an area where the respondent was on patrol. The girl indicated that the respondent touched her private parts, including her breasts and in her vaginal area outside of her clothes on at least fifteen occasions. She also indicated that she spent the night at the respondent's residence and that he knew her age. She also stated that she told the respondent that it was not right for him to touch her in those areas. Investigators placed a controlled phone call from the victim to the respondent where he expressed concern to her about the fact that she was revealing too much information concerning their relationship and that she could get him in trouble. He also told her how he liked her breasts and that he liked it when she performed certain sexual acts on him. The State Attorney's Office nolle prossed the case as a result of the victim's recantation of her previous statements regarding her relationship with the respondent.

Penalty Guideline: Suspension to revocation

Staff recommended acceptance of the respondent's voluntary relinquishment of his certification.

Disciplinary action by the Commission: The Commission accepted staff recommendation.

Case # 23166—Battery

The respondent resigned subsequent to an internal investigation which sustained charges for conduct unbecoming and battery. The investigation revealed that the respondent was involved in a verbal argument with his wife and that he struck her in the head with a closed fist after she attempted to disengage herself from the dispute by retreating into a bedroom. Both officers responding to the scene indicated that they observed marks on the wife's face, chest, and arms, which were consistent with her account of what took place. During his sworn interview, the respondent admitted to punching his wife in the face several times with a closed fist. No criminal charges were filed due to the fact that the wife signed a waiver of prosecution with the State Attorney's Office.

Penalty Guidelines: Suspension

Staff recommended a nine-month retroactive suspension and a forty-five day prospective suspension, immediately followed by a one-year period of probation and provide staff with proof of successful completion of an anger management course prior to the expiration of his probationary period.

Disciplinary Action by the Commission: The Commission accepted staff recommendation.

The following information is provided to facilitate an understanding of the Professional Compliance process.

The Criminal Justice Standards and Training Commission has established general and specific penalty guidelines under Rule 11B-27.005(5), Florida Administrative Code for felony offenses, specific enumerated misdemeanor offenses, non-criminal offenses, and violations involving the unlawful use of controlled substances. The Commission uses these penalty guidelines in determining appropriate disciplinary recommendations regarding the certification of sworn officers in the state of Florida. Section 943.1395(7)(a)-(e), Florida Statutes authorizes the Commission to impose disciplinary action ranging from the issuance of a reprimand to revocation.

In order to ensure consistency by the Commission when determining penalties for various offenses, legislation was passed requiring the Commission to evaluate these disciplinary guidelines. Section 943.1395(8)(b)2, Florida Statutes requires the Criminal Justice Standards and Training Commission to conduct a workshop on or before July 1 of each odd-numbered year to receive public comment and to evaluate disciplinary guidelines and penalties concerning certified officers and/or certified instructors. The Commission will conduct this workshop as a Penalty Guidelines Task Force meeting on January 18, 2007 at the Sawgrass Marriott Resort, 1000 PGA Tour Boulevard, Ponte Vedra Beach, Florida.

The following individuals were appointed to serve on the 2007 Penalty Guidelines Task Force: Chief Brian Lock, West Melbourne Police Department; Colonel Christopher Knight, Florida Highway Patrol; Deputy Secretary Laura Bedard, Florida Department of Corrections; Major Robert Chapman, Alachua County Sheriff's Office; Sheriff Bob Milner, Bradford County Sheriff's Office; Chief Gerald Monahan, Port Orange Police Department; Officer Nelson Cuba, Jacksonville Sheriff's Office; Detective Kevin Durkin, Tampa Police Department; Sergeant John Rivera, Miami-Dade Police Department; Sergeant Cynthia Klee, Coral Springs Police Department; Officer Vincent Champion, Ormond Beach Police Department; Sergeant Mike McHale, Sarasota Police Department.

If you have any issues that you would like to be considered by this group, please forward them to Glen W. Hopkins, Professional Compliance Section Manager in the Bureau of Standards, at the Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, FL 32302 or via e-mail at glenhopkins@fdle.state.fl.us

Questions and comments can be directed to:
glenhopkins@fdle.state.fl.us

For many years the Florida PBA's newsletter has carried reports on the standards of discipline adopted and used by the Criminal Justice Standards and Training Commission to discipline law enforcement, correctional and correctional probation officers who have allegedly engaged in misconduct. Recently, the CJSTC has started a quarterly bulletin designed to inform officers of the types of misconduct cases the Commission is reviewing and the punishment taken against officers engaging in the misconduct.

The Florida PBA wants to thank the Commission for agreeing to permit the Association to republish the bulletin in the *Roll Call*. Officers should understand the Commission's penalty rules provide a range of discipline as a guide and the penalty taken against the officer will vary depending on the individual circumstances of the case.

—Hal Johnson
Florida PBA
General Counsel



**The PBA
"Support Law
Enforcement"
tags are here!**



The Florida PBA "Support Law Enforcement" license tags are now available for purchase at your county tax offices. The proceeds from the sale of this tag go into the Florida PBA Heart Fund to help fallen officers and their families—and it's tax-deductible. So help your fellow law enforcement officers and families out (and show your support for the PBA) by purchasing one or more of these license tags for your vehicle or vehicles.

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