

Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



Professional Compliance Bulletin Issue 29 - February 2007



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 February 1, 2007.

Case #23582—Taking Contraband out of a Correctional Facility

The respondent resigned as a result of an internal investigation that sustained allegations of staff/offender relationship and removal of written communication from a correctional facility. The investigation revealed that the respondent was corresponding with an inmate housed within the facility. One of the pieces of correspondence contained information of a personal nature about the inmate. With approval of the State Attorney's Office, investigators handed the inmate a letter to give to the respondent. The respondent took the letter from the inmate to mail for him. She left the facility with the letter on her person, and was met by an inspector who instructed her to go to the Major's office. When questioned as to whether or not she had the letter from the inmate, she pulled the letter from her clothing and handed it to the investigator. The State Attorney's Office declined to criminally prosecute the case.

Penalty guideline: Suspension to revocation

Staff recommended revocation as a penalty in this case.

Disciplinary Action by the Commission: The Commission rejected staff's recommendation and imposed a ninety-day prospective suspension, to be followed by a one-year probationary period, and ordered the respondent to complete an ethics course prior to the expiration of the probationary period.

Case #23440—Transmission of Material Harmful to Minors by Electronic Device or Equipment; Any Overt, Conspicuous, or Public Act of a Sexual or Simulated Sexual Nature which is Likely to be Observed by Others

The respondent resigned subsequent to allegations of conduct unbecoming. Allegations were made by another officer that the respondent was performing sexual acts over the internet for juvenile females. The complaining officer stated that he was aware that the respondent was on-line speaking with underage females looking for sexual partners. The investigation further revealed that the complainant created a fictitious profile on the internet, using photographs of his own fifteen year old daughter, to entice the respondent. The complainant stated that he did this out of concern for his daughter's safety. It turned out that the respondent was married to the complainant's ex-wife. The respondent made contact with the fictitious profile, and the conversation turned to discussions of a sexual nature. The respondent masturbated in front of a web camera, and the complainant was able to capture screen shots of the activity. The complainant's daughter observed one of the photographs and identified the background as her mother's apartment. The respondent denied that he had any knowledge that the individual he sent the images to was a minor; however, he suspected that the individual may not have been an adult, but did not make any attempts to verify this. The State Attorney's Office declined to criminally

prosecute the case due to the manner in which the information was gathered and due to the fact that the respondent did not clearly admit that he knew the individual was a minor.

Penalty Guideline: Suspension to revocation (each count)

Staff recommended that the Commission accept the respondent's decision to voluntarily relinquish his correctional certification.

Disciplinary Action by the Commission: Accepted voluntary relinquishment.

Case #22514—Obtaining Drugs from a Physician by Withholding (2 counts)

The respondent resigned as a result of his arrest on charges of Obtaining Drugs from a Physician by Withholding. The investigation revealed that the respondent withheld information from four different healthcare professionals in order to obtain sixteen prescriptions for a controlled substance. Subsequently, he had the prescriptions filled at several different pharmacies. The respondent entered into a Pre-Trial Intervention Program for eighteen months, where he agreed to complete the Drug Court Program, which included an evaluation, counseling, random urinalysis, and any other treatment deemed necessary by the program administrator.

Penalty Guideline: Suspension to revocation (each count)

Staff recommended revocation of respondent's correctional and law enforcement certifications.

Disciplinary action by the Commission: Accepted staff recommendation.

Case #22909—Official Misconduct

The respondent resigned subsequent to an internal investigation which sustained charges for falsification of records, conduct unbecoming an employee, and inefficiency. The investigation revealed that over a period of three years, the respondent accessed the department's case management system, and changed the case follow-up statuses on several cases that were assigned to him. The respondent's supervisor conducted an audit of his case file, where it was determined that he did not do follow ups as indicated on 215 cases. When interviewed, the respondent stated that he changed the case statuses because he got buried with his caseload. No criminal charges were filed in this case.

Penalty Guidelines: Suspension to revocation

Staff recommended revocation of respondent's law enforcement certification.

Disciplinary Action by the Commission: Accepted staff recommendation.

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

Effective March 21, 2007, a few minor rule changes were made to Rule 11B-27, F.A.C. The changes are outlined below. You can access the current version of this rule at the Florida Department of State's website which is www.flrules.org.

11B-27.0011 Moral Character

To update the department's website address.

11B-27.002 Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers

To make housekeeping revisions to the Physician's Assessment form CJSTC-75 and Affidavit of Applicant form CJSTC-68.

To clarify the conditions for obtaining employment or appointment when an officer has not completed training within the specified time frame.

11B-27.0021 High School Graduation or Equivalent

To change requirement for a "standard high school diploma" to a "high school diploma".

To clarify existing rule language regarding accrediting organizations and diplomas issued by private schools.

To clarify that a transcript verification shall be verified by an institution accredited by an accrediting body.

11B-27.00212 Maintenance of Officer Certification

To revise the Mandatory Retraining Report form CJSTC-74 by removing the hourly requirement for human diversity training.

To remove Weapons of Mass Destruction training as part of an officer's mandatory retraining requirement.

To rewrite the Law Enforcement Officer Firearms Qualification Standard form CJSTC-86A.

To make technical changes to and rule reference updates to the Mandatory Firearms Training Report form CJSTC-86.

11B-27.0022 Background Investigations

To revise the Authority for Release of Information form CJSTC-58 to reflect statutory changes.

11B-27.005 Revocation or Disciplinary Actions; Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

To clarify rule language concerning "Conduct that Subverts or Attempts to Subvert the State Officer Certification Examination Process".

11B-27.013 Canine Team Certification

To make housekeeping revisions to the Patrol Duty Canine Team Proficiency Examination and Equivalency form CJSTC-83.

If you have any issues that you would like to see addressed in upcoming bulletins, 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, Florida 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.