

Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



Professional Compliance Bulletin Issue 34 - August 2008



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 meetings held on August 7, 2008.

Case #25494 – Burglary; Grand Theft

The respondent resigned from the Department of Corrections pursuant to a sustained allegation of improper conduct. In July 2007, the respondent was arrested by the Bradford County Sheriff's Office on charges of burglary and grand theft. She and a co-defendant gained entry into a residence through an unlocked door and took a television set valued at \$300. The television was placed into the respondent's vehicle and was later recovered from her mother's residence. The burglary charge was dismissed by the State's Attorney's Office due to insufficient evidence to prove. The grand theft charge was reduced to the misdemeanor charge of accessory after the fact. The charges were nolle prossed after she completed the terms of a deferred prosecution agreement.

Penalty Guideline: Suspension to revocation; Revocation — Staff recommended a sixty day prospective suspension, a one year probationary period, and required respondent to provide staff with proof of successful completion of approved ethics.

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

Case #25732 – Battery on a Law Enforcement Officer

The respondent was terminated as a probationary employee from her employment with the Department of Corrections pursuant to a sustained investigation of allegations of employee arrest—battery on a law enforcement officer. On June 14, 2006, the respondent observed her cousin being pulled over by a police officer. She stopped her car, got out, and confronted the officer. An altercation ensued, in which the respondent pushed the officer with her chest and her hands. The respondent was placed into custody with minimal force, though she was tensing and refusing to put her hands behind her back. When her cousin joined the altercation, the officer called for backup. The respondent was taken to the Dade County Jail and charged with one count of battery on a law enforcement officer. On August 21, 2007, the case against the respondent was closed with a nolle prosequi after she successfully completed an advocate program.

Penalty Guideline: Suspension to revocation — Staff recommended that the Commission impose an eighteen month retroactive suspension, a ninety day prospective suspension, and a one-year period of probation. Additionally, staff recommended that the respondent complete an anger management course prior to the end of the probationary period.

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

Case # 25076 – Sex on Duty (6 counts); Perjury in an Official Proceeding

The respondent was terminated from the Lee County Sheriff's Office subsequent to an internal investigation which sustained charges of conduct unbecoming an officer (6 counts) and untruthfulness. On March 21, 2007, investigators received information that the respondent was having a sexual relationship with a store clerk while on duty. Investigators met with the complainant who advised she and the respondent were previously involved in a romantic relationship to include several sexual encounters while he was on duty. The complainant's sister was interviewed and advised she witnessed the respondent at their shared residence more specifically in her sister's bedroom late at night while he was in uniform and on duty. The complainant stated she was told by another store clerk that she had performed oral sex on him while he was on duty. The second store clerk was interviewed and advised that she and the respondent had a sexual encounter but that he was off duty and in his personal vehicle at the time of the encounter. On March 29, 2007, in a sworn interview, the respondent stated the oral sex encounter did in fact take place; however, he maintained he was off duty at the time. He stated he ended duty around 4:30 a.m. and while still in uniform and in his marked patrol vehicle, he drove to the store. After striking up a conversation with the store clerk, he followed her to the rear of the business where she performed oral sex on him. He then stated that he previously had a relationship with the

complainant and visited her home while on duty. He advised that on one occasion he began rubbing the complainant's body, which caused him to become sexually aroused; however, he stopped the interaction because he was on duty. He submitted to a Computer Voice Stress Analysis in which the results showed he was deceptive in his answers. He was questioned further, admitted that on five or six occasions he visited the complainant's house, and admitted to digitally penetrating the complainant while he was on duty. He stated he did not feel the actions were inappropriate because there was no sexual intercourse and that no sexual encounters occurred in his patrol vehicle. Subsequent to his admissions, the complainant was re-interviewed and advised she withheld information because she did not want to get him in trouble. She advised that he would come to her house and on three or four occasions sexual encounters occurred to include digital penetration and oral sex. She stated that several of these acts occurred in his patrol vehicle in her driveway.

Penalty Guideline: Suspension to revocation (each count); Prospective suspension to revocation — Staff recommended revocation in this case.

Disciplinary action by the Commission: The Commission rejected Staff's recommendation, dismissed the perjury charge, and imposed a six month prospective suspension, a one year probationary period, and required the respondent to complete an ethics course.

Case # 25356 – Misuse of Official Position; Perjury in an Official Proceeding

The respondent resigned from the Department of Corrections pursuant to sustained allegations of identity theft, false statements and numerous violations of agency policy. On March 30, 2007, DC officials were contacted by an out of state law enforcement agency. They were advised that an individual in their state had been contacted by Citibank regarding his recent request for a credit card to a business. He had not made such a request, thus an investigation was initiated. It was determined that the request had been generated from a computer workstation at a DC institution using a screen name associated with the respondent. The online application was submitted on March 7, 2007 at 7:46 P.M. from a workstation utilized by the control room officer. The respondent was identified among the officers scheduled to work at that station during that time period. A check of internet usage showed that she had entered the website for the business, which contained an online application for a credit card during this timeframe. It was also determined that the address given for the credit card was the same as her grandmother's address. The above e-mail address was identified as belonging to the respondent by Yahoo Account Management. The victim advised that he had spent eighteen months working for FEMA and visiting Florida correctional institutions regarding hurricane claims made to FEMA. He stated that prior to each visit to a facility he had to provide his identifying information in order for clearance to enter the facility. A check of the area around the respondent's computer revealed a three ring binder with a tab labeled "FEMA Project Officer." Inside the binder was an e-mail with all of the victim's identifying information that was used to apply for the online credit card. On April 3, 2007, during a sworn interview, the respondent denied that the above e-mail address belonged to her. She denied knowing the victim. She indicated that she did not believe that she had applied for a credit card online using the DC computer. She could not recall applying for a credit card with this business. She admitted that she had utilized her work computer to pay bills online. She stated that she had posted her user-id on a post it note on the computer so that staff in training could access the computer. The case was referred to the State Attorney's Office for review; however, no criminal charges were filed.

Penalty Guideline: Suspension; Prospective suspension to revocation — Staff recommended revocation in this case.

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

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 plans to conduct this workshop as a Penalty Guidelines Task Force meeting during the first quarter of calendar year 2009.

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, Florida 32302 or via e-mail at 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



"I'm sorry. I have to give you a ticket because the frog you kissed, the one that turned into a prince, was an endangered species."

Questions and comments concerning the Professional Compliance Bulletin can be directed to:

glenhopkins@fdle.state.fl.us