



*Hal
Johnson*

Discussing Career Issues from Your PBA General Counsel

Task Force To Consider Adjustments To CJSTC Disciplinary Rules

Every two years the Criminal Justice Standards and Training Commission (CJSTC) reviews its disciplinary rules to consider if they need to be modified. On February 17, 2009 the Penalty Guidelines Task Force will begin this review and consider issues that have been identified as requiring review.

The Florida PBA has four representatives serving on the twelve-member task force, including **Association President John Rivera, Palm Beach County PBA President John Kazanjian, Southwest Florida PBA President Mick McHale** and **West Central Florida PBA President Kevin Durkin**. Additionally, **Association**

Treasurer Ernest George, General Counsel Hal Johnson and **Dade County PBA Executive Director Blanca Greenwood** will actively participate.

The Florida PBA has submitted a full agenda of issues that it would like to see the task force address at its February 17th meeting. The issues are designed to deal with a number of concerns the PBA has identified over the past several years with the CJSTC disciplinary rules and procedures. It feels changes in these areas will best serve our members. The PBA memorandum identifying these issues is attached for your information.

The Top Ten Signs you're way out of shape

1. You get winded if you change the channels fast.
2. You haven't been able to see your own feet while standing since 1987.
3. Your time in the 40-yard dash is 27 seconds.
4. Taco Bell sends you "Thank you" notes.
5. There is no combination of bread and cheese that you wouldn't kill a man for.
6. You and your patrol partner are the same height, but when you're both in the cruiser, she appears to be a foot taller because of the vehicle's tilt due to the weight differential.
7. The last time you worked out, people were talking about his new thing called "aerobics."
8. If you add your blood pressure reading to your cholesterol count, you get a number between seven and eight hundred... thousand.
9. You get dizzy getting out of the car.
10. You think vegetables qualify as cruel and unusual punishment, which you are sworn to help prevent.



FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

The Voice of Florida's Law Enforcement Officers
Post Office Box 11239 ♦ Tallahassee, Florida 32302

To: Penalty Guidelines Task Force Members
 Via: Glen Hopkins, Professional Compliance Section Manager
 From: G. "Hal" Johnson, General Counsel
 Date: February 11, 2009
 Re: Penalty Guidelines Task Force Issues

The following is a summary of issues which the Florida P.B.A. has compiled for consideration by the Penalty Guidelines Task Force.

- (1) Statute of Limitations for Old Offenses. Comment — This item is already on the schedule for discussion, but a firm example might be helpful. In 1995, a local officer is arrested for solicitation. Subsequently, he enters PTI. His agency gives him 40 hours off. In August, 2007, CJSTC discovers this arrest and issues an administrative complaint in February, 2008. This type of offense should be dismissed especially since the agency has retained the officer during the period of time since the offense.
- (2) Granting FDLE Investigative Authority. Comment — This issue continues to reoccur on a regular basis. FDLE should have the authority to investigate potential disciplinary cases especially in those instances where it is not likely that an impartial investigation can be, or was, conducted by the law enforcement agency involved. Resolving this issue may require legislation.
- (3) Clarification of the Term "Prospective Suspension". Comment — This issue is becoming a concern for our members, who are disciplined by the agency and then given a prospective suspension by CJSTC, especially when the disciplined officer's agency requires the officer to serve the suspension during "work time". While some agencies cooperate with the officer, others do not, leaving the officer in the posture of being disciplined twice for the same offense. Additionally, Commission orders, unless negotiated otherwise, provide that the prospective suspension must be served consecutively beginning 15 days after receipt of the final order. In many instances this creates a significant financial hardship on the officer. More flexibility should be provided to the disciplined officer in serving a prospective suspension.
- (4) Pardons as Extraordinary Circumstances. Comment — The issue of reconsideration of a previous CJSTC final disciplinary order is limited to "extraordinary circumstances." The Association suggests that the Commission make it clear that if a disciplined officer receives a pardon for an offense underlying its disciplinary order the pardon is sufficient, itself, to constitute "extraordinary circumstance" for purposes of reconsideration of the final order.
- (5) Domestic Violence without Physical Contact. Comment — Recently several CJSTC probable cause panels have considered these types of cases, i.e. officer arrested after a loud and heated argument with his or her spouse, but no physical contact. It is suggested that this type of case receive a separate violation category and have a penalty range of "written reprimand to suspension." This will permit staff to issue a letter of acknowledgement in most instances. Alternatively, the Commission might want to direct staff not to bring these "no physical contact" cases forward for probable cause.
- (6) Review of Recantation Rule. This item is for discussion purposes only in order to determine if there is a problem with the manner in which the recantation rule is being interpreted. WE ARE NOT SUGGESTING THE RULE BE MODIFIED OR THAT IMPLEMENTATION OF THE RULE BE DELAYED! It should be noted that the rule was adopted in August 7, 2008 by the full Commission with only one "no" vote. It should not be changed at this point in time.

Thank you in advance for your consideration of these issues.

GHJ/mkb

We will keep you posted on the results of the task force meeting and progress being made on revising the CJSTC disciplinary rules in late editions of the *Roll Call*. ●