

# Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



## Professional Compliance Bulletin Issue 32 - February 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 February 7, 2008.

### Case # 25540 Positive Drug Test for Cocaine

The respondent was referred to the Employee Assistance Program for drug treatment by the Department of Corrections pursuant to a positive drug test for cocaine. On August 14, 2007, the respondent submitted a urine sample during random drug testing at his facility. The test results showed positive results for cocaine metabolites. On August 14, 2007, the respondent submitted an incident report to DOC in which he admitted that he had a substance abuse problem. He stated that he had an alcohol problem that had recently escalated into the use of cocaine. He stated that he had used cocaine on two recent occasions prior to the drug testing. He indicated that he had already enrolled in an outpatient substance abuse program at a local hospital on August 9, 2007.

**Penalty Guideline:** Prospective suspension to revocation

Staff recommended revocation of his correctional officer certification.

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

### Case # 24265 Sexual Harassment (2 counts)

The respondent was terminated from his employment with the Department of Corrections pursuant to a sustained investigation into allegations of Sexual Harassment. Between October 1, 2004 and October 12, 2006, the respondent sexually harassed a number of women with whom he worked. On October 11, 2006, a woman who worked for the respondent filed an official complaint, claiming that in the past he had behaved inappropriately, in that he repeatedly spoke to her of sexual matters and touched her. He would talk about the sexual acts he experienced with his girlfriend and go into detail concerning what she would do for him. He described a dream he had where he and the complainant were doing it "doggie style," then he came up behind her, grabbed her hair on the back of her head and said, "Yeah, that's just how it was in my dream." He spoke of certain medications he could not take because he would "stay hard for hours and the girls couldn't handle it." He would sneak up behind her, and then pull the back of her pants out to examine her underwear. On the day of the complaint, the respondent had spent the entire workday with her, refusing to leave her alone, following her when she left the office, all the while declaring his love for her. The initial complaint encouraged another woman to file. She claimed that in October of 2004, during the time when the respondent was her supervisor and she was new to her job, he lured her into the vault, where he grabbed her buttocks, pushed the door shut, and forced her up against the wall. He grabbed her breasts and tried to stick his hand down her pants, while putting his tongue into her mouth. She did not file a complaint at the time out of fear of retaliation. He did not do that again, but would look down her blouse or, on the pretext of checking the printer behind her, stand behind her and pull the waistband of her pants out to look at her underwear. This grew to the point where she had to relocate the printer. Finally, she was forced to request a transfer, so that she no longer had to work for him. She also testified that she witnessed the respondent pinching the first complainant and pulling at her bra strap. Another woman testified that he made inappropriate comments in her presence. During the investigation, it was discovered that several other women were made uncomfortable by the respondent. It was also known that the

inmates in the canteen had complained about the sexual nature of his conversation. The respondent had repeatedly been advised to stop his harassment, both by co-workers and by the Warden. In October of 2005, two women had complained officially about his sexual conversations and on October 10, 2005, he had been counseled about inappropriate behavior by the Warden and warned that it must completely stop or there would be "substantial disciplinary action." On October 9, 2006, the respondent denied the charges of sexual harassment and claimed in his defense that the first complainant was "crazy." He refused a formal interview and was terminated from his employment. No criminal charges were filed in this case.

**Penalty Guideline:** Probation with training to suspension

Staff recommended that the Commission impose a thirty-day prospective suspension, a one-year retroactive suspension, followed by a one-year period of probation. Additionally, staff recommended that the respondent complete sexual harassment training prior to the end of the probationary period.

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

### Case # 22454 Criminal Mischief, Affray

The respondent was terminated from the Department of Corrections pursuant to her arrest on charges of felony Criminal Mischief and Affray. On October 5, 2004, the respondent and five other individuals were involved in a fight at a local Dixie County bar. Pool cues, balls and a possible knife were used as weapons. Several people were injured and required medical attention. Lights, light fixtures, pool cues and pool table covers were damaged during the barroom brawl. The respondent was not present at the time Dixie County deputies arrived. However, their investigation led to an arrest warrant being issued for her on November 22, 2004 charging her with the above offenses. On April 29, 2005, Dixie County Deputies and officers of the Cross City Police Department responded to a disturbance at a residence. The respondent was present. During a routine FCIC/NCIC check officials present became aware of the above warrant. The respondent was arrested on the warrant and transported to the Dixie County jail. On March 14, 2006, she entered into a six month Deferred Prosecution Agreement with the State Attorney's Office regarding the charges of Criminal Mischief and Affray. She was ordered to make restitution. The respondent was not certified at the time of the above incident; however, she was employed on a TEA. A warrant for Armed Burglary was issued for her arrest as a result of the investigation into the disturbance at the Cross City residence. However, the State Attorney's Office declined to file charges due to insufficient evidence and conflicting witness statements.

**Penalty Guideline:** Suspension to revocation, Probation to suspension

Staff recommended a two-week retroactive suspension and six-month period of probation and provide Commission staff with proof of successful completion of an ethics course prior to the completion of the probationary period.

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

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

During a Commission workshop on February 6, 2008, Commission members and Commission staff discussed the issue involving "suspensions" and how individual agencies assessed these penalties levied by the Commission against an officer's criminal justice certification. Some Commission members expressed some concerns that some agencies were allowing officers to serve these suspensions during regularly scheduled days off.

Section 943.1395(7)(b), Florida Statutes authorizes the Commission to suspend certification for a period not to exceed two years. However, it does not establish any provisions as to how that suspension should be served. The Commission understands the potential hardship on the agency when a suspension is levied against a currently employed officer's certification.

**During the course of suspension, criminal justice agencies**

**must be aware that the officer cannot perform the duties of a criminal justice officer.** While the Commission hopes that this suspension would serve as a punitive measure, aimed at reinforcing positive behavior, it is not the Commission's desire to mandate the manner in which a suspension is served. That decision will be left to the discretion of the officer's employing agency as to how the suspension should be served. The Commission only has the authority to suspend the officer's certification.

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](mailto: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

## Hearing voices

A man walked into a bar and sat down, and ordered a beer. As he sipped the beer, he heard a soothing voice say "nice tie!" Looking around, he noticed that the bar was empty except for himself and the bartender at the end of the bar. A few sips later the voice said "beautiful shirt."

At this, the man called the bartender over. "Hey...I must be losing my mind," he told the bartender. "I keep hearing these voices saying nice things, and there's not a soul in here but us."

"It's the peanuts," answered the bartender.

"Say what?"

"You heard me," said the barkeep. "It's the peanuts... they're complimentary."

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

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