

Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



Professional Compliance Bulletin Issue 27 - August 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 August 3, 2006.

Case # 22308 Excessive Use of Force

The respondent resigned as a result of an internal investigation that sustained improper use of force. The investigation revealed that while on patrol, the respondent was dispatched to a hit and run accident. While on scene interviewing witnesses, the hit and run vehicle was observed leaving the scene. The driver exited the vehicle and attempted to run from the scene. Subsequently, the respondent deployed her taser after issuing commands for him to stop. The suspect was arrested and taken to the local jail. While in booking, the respondent deployed her taser again when the suspect continued to be loud and verbally abusive. The respondent instructed the suspect to calm down, and deployed the taser when he failed to comply.

Penalty guideline: Suspension to revocation

Staff recommended a six-month retroactive suspension, forty-five day prospective suspension, and a one-year period of probation to begin immediately following the prospective suspension. Staff also recommended use of force training to be completed prior to the end of the probationary period.

Disciplinary Action by the Commission: Accepted staff penalty recommendation.

Case # 18623 Found Guilty of Contributing to the Delinquency of a Minor

The respondent was terminated subsequent to his arrest on charges of lewd and lascivious behavior and contributing to the delinquency of a minor. While on patrol, the respondent approached a fifteen-year old male juvenile as he was walking away from a local convenience store around midnight. During the juvenile's interview with investigators, he stated that the respondent said, "Wow, I never considered being with someone so young." The juvenile stated that the respondent asked him about his sexual fantasies and preferences. They engaged in a graphic sexual discussion for an hour or more during which time the respondent gave the juvenile cigarettes. The respondent also asked the juvenile if he ever engaged in sex for money and that he (the respondent) would not mind paying for sex. The juvenile stated in his interview that he engaged in the sexually explicit conversation because he was afraid of being arrested for a curfew violation. During his sworn interview, the respondent admitted having the sexual conversation with the juvenile and that he took no action regarding the curfew violation. Criminal charges were filed, and the respondent was found guilty of contributing to the delinquency of a minor. Subsequently, he was acquitted of the lewd and lascivious conduct charge.

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 undergo a fitness for duty evaluation prior to any future employment.

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

Case # 22255 Unprofessional Relationship with an Inmate

The respondent resigned her position as a result of a sustained internal investigation surrounding allegations of her maintaining an unprofessional relationship with an inmate. During his interview, the inmate stated that the respondent brought him marijuana and food, that they kissed three times, and that he touched her breast. The inmate also provided investigators with personal information about the respondent. The respondent denied the allegations of an unprofessional relationship; however, she confirmed some of the personal information that the inmate revealed to investigators. The inmate also produced letters which were determined to have been written by the respondent as proof that an ongoing physical relationship existed between him and the respondent.

Penalty Guideline: Revocation

Staff recommended revocation as the penalty in this case.

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

Case # 21789 Perjury in an Official Proceeding

The respondent resigned while under investigation for corresponding with an inmate. The investigation revealed that mailroom staff at the prison discovered three letters recently mailed by an inmate. The letters expressed a romantic interest in the intended recipient. The letters also indicated that the recipient was a correctional officer at the prison. On the same day, mailroom staff received two additional letters that were sent to the inmate, both of which had the same return address as the first three letters discovered. Another letter was discovered the next day, and all three of the letters contained sexually explicit comments directed at the inmate. The investigation determined that the respondent was the probable source of the letters. Investigators compared the handwriting of the letters to several institutional reports that were written by the respondent, and determined that the handwriting appeared to be the same. The respondent denied sending any correspondence to the inmate during her sworn interview, and resigned her position when requested to provide handwriting samples.

Penalty Guidelines: Prospective suspension to revocation

Staff recommended revocation as the penalty in this case.

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

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 at a Penalty Guidelines Task Force meeting during the first quarter of calendar year 2007.

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



**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.

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

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