

Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



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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 January 29, 2009.

Case # 25713 Introduction of Contraband; False Official Statement

The respondent resigned from the Department of Corrections while under investigation for numerous violations of agency policy and moral character standards. On September 8, 2007, a contraband interdiction operation was conducted at the respondent's place of employment. A search was conducted of all employees entering or leaving the institution. Letters were confiscated from her lunch bag, which appeared to have been written from an inmate to an officer. When questioned about the letters she stated that they belonged to her cousin. She stated that her cousin must have placed the letters in her lunch bag over the weekend. On the same date she authored an incident report in which she wrote that the letters were written to her cousin, and had been placed in her lunch bag without her knowledge. On September 12, 2007, the respondent provided DC officials with a typed note allegedly written and signed by her cousin. The note stated that the letters found in the respondent's lunch bag were hers. She stated that she had put them in the respondent's bag over the weekend without her knowledge. It was further documented that the letters were written by an inmate named "Cooper" from Panama City. On November 8, 2007, DC officials contacted the respondent and asked for contact information for her cousin. The respondent advised that she had spoken with her cousin the night before and that she was going to call DC. On November 9, 2007, a female contacted DC identifying herself as the respondent's cousin. She told the inspector that she was calling on behalf of the respondent and that the letters were hers. She stated that the letters were from Inmate Dexter Dukes. Investigators requested that she come to DC and give a formal statement. On November 13, 2007, she was interviewed at DC. During her taped statement she admitted that she had made the above telephone call to DC. She stated that she had been untruthful about the above letters and that she did not know the inmate. She stated that she was just trying to help her friend. On November 13, 2007, the respondent gave a sworn statement in which she admitted that she did not have a cousin by that name and that another cousin had told her that she had been corresponding with the inmate using another name. The respondent advised that she had submitted her incident report as written because that was what her cousin had told her to say. DC officials noted that according to prior intelligence and to current inmate testimony the respondent was involved in a personal relationship with Dexter Dukes. Therefore, officials began to monitor Inmate Duke's outgoing mail. They retrieved three letters from the inmate to Destiny Daniels at the home address provided by her cousin. These letters were compared to the letters confiscated from the respondent's lunch bag and it was determined that the handwriting was the same. No criminal charges were filed.

Penalty Guideline: Revocation; Prospective suspension to revocation — The respondent agreed to voluntarily relinquish her correctional certification.

Disciplinary Action by the Commission: The Commission accepted the respondent's voluntary relinquishment.

Case # 27220 Misuse of Official Position

The respondent resigned from his employment with the Boca Raton Public Services Department prior to the conclusion of an internal investigation wherein allegations that he acted outside of the scope of his police jurisdiction and that he was untruthful during an inter-agency investigation were ultimately sustained against him. On the night of March 12, 2008, the respondent was at a bar/grill establishment in an off duty, civilian capacity. During the evening, the respondent was involved in an altercation with another patron which resulted in mutual combat between the two individuals. The respondent identified himself as a police officer and showed the individual and the establishment manager his police issued ID card. Witnesses could not positively identify who started the altercation, and witness statements differed as to the extent of the physical contact. The respondent left the establishment and by his own admission proceeded to his residence, put on his official "field force" police uniform to include duty belt and returned to the establishment in question. The respondent confronted the same individual and asked for his personal information so he could pursue filing battery charges. The respondent later admitted that he never pursued filing battery charges against the individual. Witness statements corroborate that the respondent returned in his police uniform and drove his police issued vehicle, however the statements are not clear as to what exactly transpired during the second contact. During a sworn interview, the respondent admitted that his actions were not proper police procedure and that he had acted out of his jurisdictional authority. Criminal charges of battery, aggravated assault, unlawful use of a police badge or other indicia of authority and criminal actions under the color of law were filed; however, the State Attorney's Office opted to "No File" the charges on the basis that the key witness/victim lacked credibility.

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

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

Case # 25374 Cruelty to Animals

The respondent was terminated from his employment with the Department of Corrections as a result of an internal investigation wherein allegations of employee arrest were sustained against him. On July 18, 2007, the respondent was arrested by the Highlands County Sheriff's Office and charged with Conservation-Animals, Cause Cruel Death, Pain and Suffering. In the arrest report, statements were taken from a female who was inside the residence and saw the respondent choke a 12 week old kitten with his hands while kneeling in his daughter's bedroom. The female witness further stated that she heard the kitten screaming and gasping for air while the respondent continued to choke it until it died.

The arrest report went on to state that a neighbor then witnessed him carrying the kitten out of the residence by its feet. The neighbor went on to state that the respondent threw the kitten's body against another neighbor's exterior wall and also that she observed him kicking the kitten's body. The neighbor stated that she finally witnessed him place the kitten's body in a bag and then he departed from the area. When he was confronted by the Highland's County Sheriff's deputy, he led the deputy to the kitten's body. The deputy stated in his report that upon examining the kitten, he determined that there was blood emitting from its nose and that the kitten showed no signs of life.

On August 31, 2007, the respondent entered a plea of Not Guilty to the aforementioned charge and subsequently entered into a Pre-Trial Diversion Program. The respondent successfully completed the Diversion Program and on January 23, 2008 and the court issued a Notice of Nolle Prosequi, thereby dismissing the criminal case against him.

Penalty Guideline: Suspension to revocation — Staff recommended that the Commission revoke the respondent's certification.

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

Case # 26795 Introduction of Contraband into Detention Facility

The respondent resigned from the Hillsborough County Sheriff's Office while under an internal investigation which ultimately sustained charges of Commission of a Felony, Negligence, and Failure to Follow Standard Operating Procedures. An internal investigation was opened in March, 2008 alleging that on December 15, 2007 the respondent introduced a loaded handgun into the Orient Road Jail Facility. The internal investigation determined that on that date, the respondent entered the jail's housing unit with a loaded handgun in his personal satchel. After arriving in the housing unit, the respondent placed the satchel behind the deputy's work station. Later in the shift, the respondent left the common area to conduct searches of the inmate cells. During that time, an inmate discovered the firearm in the satchel. The inmate removed the firearm and pointed it at the other inmates in a jokingly manner before returning it to the bag. Later, the inmate removed the firearm a second time and again pointed it at other inmates and shouted, "Freeze." The inmate once again returned the firearm to the satchel. Another inmate requested that the inmate remove it a third time but the inmate refused. This incident was confirmed by the testimony of numerous inmates who were able to describe the make and model of the respondent's firearm. At no time did the respondent realize that an inmate had discovered his firearm. Later in the shift, the respondent discovered that the firearm was inside the satchel. He then removed the firearm from the common area, disassembled it, and secured it in the employee restroom. He waited over three hours to remove the firearm from the facility, despite having the opportunity when he was relieved by a sergeant. The respondent did not notify any supervisors or make any documentation of this incident. During his internal investigation, the respondent indicated that he originally brought the firearm because he thought he had hospital duty during that shift. He then forgot that the firearm was in his bag until later in the shift. He indicated that he did not report it because he did not want to get anyone else involved in his mistake. The state attorney's office declined prosecution in this case.

Penalty Guideline: Suspension to revocation — Staff recommended that the Commission revoke the respondent's certification.

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

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

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 conducted this workshop as a Penalty Guidelines Task Force meeting on Tuesday, February 17, 2009 in Ocala, Florida. The following members were appointed by the Commission Chairman and Vice-Chairman to serve on the task force: Director Ralph Kiessig, Florida Department of Corrections; Sergeant John Rivera, Miami-Dade Police Department; Chief Jim Troiano, High Springs Police Department; Sergeant Mick McHale, Sarasota Police Department; Chief Gerald Monahan, Port Orange Police Department; Chief Richard Perez, Wilton Manors Police Department; Sergeant John Kazanjian, Palm Beach County Sheriff's Office; Captain James Mann, Office of the Attorney General; Detective Kevin Durkin, Tampa Police Department; Officer Belinda Murvin, Palm Beach County Sheriff's Office; Chief Edward Overman, Deland Police Department; Chief Rick Davis, Madison Police Department.

The following topics were discussed by the group:

- Incorporating a statute of limitations on old moral character violations
- Revising language for positive drug tests
- Adding two additional moral character violations – Section 784.046, FS and Section 810.145, FS

- Establishing dollar amount for timesheet violations
- Amending language under the non-criminal charge of "any overt, conspicuous, or public act of a sexual or simulated sexual nature which is likely to be observed by others" (i.e. cases involving public nudity that might not fit under the indecent exposure or lewd and lascivious criminal charges)
- Amending current language concerning non-criminal "sex on duty" charge
- Adding specific penalty recommendation for bribery and unlawful compensation
- Granting FDLE investigative authority in cases where an impartial investigation cannot be conducted
- Clarification of the term "prospective suspension"
- Pardons as extraordinary circumstances
- Domestic violence without physical contact
- Review of the recantation rule

The topics above were discussed in great detail by the task force. Some of the issues above will require revised rule language that will be completed by Commission staff and presented to the task force via teleconference and for final presentation to the Commission at its May 2009 Commission meeting in Tampa, Florida. ●

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

Fishing Tale

It was well known that a certain lake was very poor for fishing up north, but a game warden named Matt happened to notice that one guy, Mark, kept coming home with his limit of fish on several occasions.

Matt asked Mark: "How is it that you are catching fish out of that lake when no one else can?"

Mark replied: "Well, I am going back up there tomorrow, why don't you come along?"

And, so the warden did. They were in the boat when Mark reached over and lit a stick of dynamite and then tossed it overboard.

BOOM!!! There were fish floating to the surface all over! Matt, the game warden, freaked out, and said: "You can't do that! That's illegal!"

Mark reached over and lit another stick, handed it to Matt, and said: "Are you going to fish, or talk?"

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