

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

ICE

We would all hope to never need either of these services, but they're good ones.

First, if you go to the Dept. of Highway Safety's website at www.hsmv.state.fl.us and click on the Emergency Contact Registration, it will allow you to enter two people who you would want first responders to call in an emergency on the road. They run your license number, and the two names are immediately available. It takes two minutes.

Second, if you have a cell phone, enter in your "Contacts" menu ICE (which stands for In Case of Emergency) and then the name(s) and number(s) of your first choice(s) for contacts in case of emergency. For example: ICE Jane Doe (with phone #)

Questions and comments concerning the Professional Compliance Bulletin can be directed to:
glenhopkins@fdle.state.fl.us

Professional Compliance Bulletin from Criminal Justice Standards and Training Commission



Professional Compliance Bulletin

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 May 14, 2009 and August 6, 2009.



Issue 37 - May 2009

Case # 26344 Aggravated Assault with a Deadly Weapon

The respondent received a reprimand from the Department of Corrections after an investigation sustained an allegation of conduct unbecoming. On November 16, 2006, a deputy responded to a domestic disturbance. The respondent and her ex-husband were involved in a verbal argument over childcare issues. The argument escalated when the respondent went into the kitchen and picked up a large kitchen knife and told her ex-husband to get out of the residence while brandishing the knife in a threatening manner. A struggle ensued for control of the knife and the ex-husband received a small laceration on the top of his left hand and the respondent received a small laceration to her right index finger. The ex-husband gained control of the knife and went outside into the front yard. The respondent was subsequently arrested for aggravated assault with a deadly weapon. The ex-husband requested that the respondent not be prosecuted for Aggravated Assault with a Deadly Weapon. The state attorney nolle prossed the case.

Penalty Guideline: Prospective suspension to revocation — The respondent agreed to a thirty-day prospective suspension to be followed by a one year period of probation and provide staff with proof of successful completion of anger management course prior to the end of the probationary period.

Disciplinary Action by the Commission: The Commission accepted the terms of the settlement agreement.

Case # 26803 Unprofessional Relationship with an Inmate; Introduction of Contraband at a County Detention Facility

The respondent resigned from the Escambia County Sheriff's Office during an internal investigation which ultimately sustained charges of Failure to Follow General Orders, Contraband Control, Staff Sexual Misconduct, Association with Criminals, and various other violations. On October 10, 2007, an internal investigation was opened based on a supervisor receiving information that a correctional officer was possibly providing an inmate with cigarettes. Supervisors conducted a search of the involved inmates' bunks and discovered cigarettes and lighters. During questioning, one of the inmates stated that the cigarettes were brought into the facility by the respondent. At that time, the respondent denied any involvement in introducing contraband. No further investigation was conducted at that time. On April 28, 2008, another internal investigation was opened based on an anonymous report that the respondent was having an unprofessional relationship with an inmate. The investigation uncovered numerous monetary deposits to the same inmate who was previously found with contraband cigarettes. These deposits were made by a woman named "Lisa Jones" which was later discovered to be an alias used by the respondent. An audit of the inmate's phone conversations revealed conversations in which the respondent states that she would deposit money in the inmate's account. A further audit of phone conversations discovered numerous phone conversations between the respondent and another inmate. During one of those conversations, the respondent and the inmate discuss a sexual encounter which recently occurred between them. In the conversation, they graphically discuss how the inmate manually stimulated the respondent's genitalia and anus. During another of their conversations, the respondent indicates that the other inmate was put in disciplinary confinement since he would not admit that she brought him cigarettes. The investigation revealed that she had an unprofessional relationship with inmates from approximately August, 2007 until April, 2008. The respondent appeared for an interview with internal investigators on April 14, 2008 with legal counsel. However, after being presented with the evidence, she resigned in lieu of participating in an internal interview. No criminal charges were filed in this case.

Penalty Guideline: Revocation; Suspension to revocation — The respondent agreed to voluntarily relinquish her criminal justice certification.

Disciplinary Action by the Commission: The Commission accepted the voluntary relinquishment.

Case # 27034 Excessive Use of Force by a Law Enforcement Officer

The respondent was terminated from the Lee County Sheriff's Office subsequent to an investigation which sustained charges of Excessive Use of Force and Battery. On December 29, 2007, the respondent conducted a traffic stop which resulted in an arrest for Driving Under the Influence. The subject was taken into custody and placed in the rear passenger's seat of the respondent's patrol vehicle. The respondent returned to the front passenger's seat and began to complete his paperwork. According to statements given by the respondent and a trainee who witnessed the incident, the subject began to make very derogatory remarks about the respondent's skin color, repeatedly referred to the respondent using a racial slur and made comments referencing having sex with a member of the respondent's family. During a barrage of expletives, the respondent got out of the vehicle and opened the rear passenger door, said something to the subject, and then struck him in the mouth area with what was described as a back fist. On May 29, 2008, the respondent was interviewed as a part of the investigation and stated that he put his hand in the subject's face and told him that he needed to shut his mouth. The respondent said that the subject began using the racial slur again and yelling for the respondent to hit him. The respondent stated that he "flicked" the subject's nose and lip with three fingers. He admitted to losing his cool, but never struck the subject with the back of his hand or closed fist. On June 5, 2008, the respondent was contacted by investigators in an effort to clarify his earlier statement. The respondent again admitted to losing his temper. He stated that he was unsure if he accurately remembers the degree of force he used with the subject. The respondent stated that he may not have realized how hard he hit the subject because he was so angry. No criminal charges were filed in this case.

Penalty Guideline: Suspension to revocation — Staff recommended a six month retroactive suspension, a thirty day prospective suspension to be followed by a one year period of probation and provide staff with proof of successful completion of an anger management course prior to the completion of the probationary period.

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

Case # 26904 Improper Exhibition of a Dangerous Weapon or Firearm

The respondent received a written reprimand from the Department of Corrections, subsequent to his arrest on a charge of Child Abuse without great bodily harm. On May 14, 2008, the respondent was having a discussion with his daughter, when she stated that she was going to leave. The respondent retrieved his pistol and fired one round into a vehicle, which was driven by his daughter, striking the right rear tire. The daughter and his two grandchildren were in the vicinity of the unoccupied vehicle. A deputy with Lee County Sheriff's Office was dispatched to the scene after receiving a complaint that shots were fired. Upon arrival, the respondent was no longer at the residence. A witness advised that the respondent stated that he shot the tire of the vehicle to prevent his daughter from leaving.

At the time of the shooting, the respondent was approximately ten feet away from the truck. His daughter was approximately six feet away from the truck, holding her nine month old infant. Her two year old son was playing nearby in the grass on the opposite side of the truck. On May 23, 2008, during his sworn interview the respondent admitted to firing two shots at the tire of his daughter's vehicle.

The respondent was subsequently arrested for child abuse without great bodily harm. On June 11, 2008, the State Attorney's office declined to file charges due to insufficient evidence.

Penalty Guideline: Probation with training — Staff recommended a thirty day prospective suspension to be followed by a one year period of probation and provide staff with proof of successful completion of anger management prior to the completion of the probationary period.

Disciplinary Action by the Commission: The Commission rejected staff's recommendation of the thirty day prospective suspension, but accepted the one year probationary period and completion of anger management.

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

Effective April 16, 2009, Rule 11B-27.001(5), F.A.C. was amended as follows:

A certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section by committing a violation involving perjury or false statement in a court proceeding, shall not include a statement which was recanted. If the violation involving perjury or false statement is alleged to have occurred in the performance of regularly required work duties or the course of an administrative or disciplinary investigation, a certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section shall not include a statement in which the officer making the statement conceded such statement to be false prior to the employing agency's final disciplinary determination as provided for in Section 112.532(4)(b), F.S.

This rule change will directly impact cases involving false statements made during the course of an internal investigation. At the direction of the Commission, staff will monitor cases involving recantation to ensure that staff is applying the new rule in accordance with the desires of the Commission.

If you have any issues that you would like to be addressed in future Professional Compliance 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.

Issue 38 - August 2009

Case # 26367 Resisting an Officer without Violence; Perjury in an Official Proceeding

The respondent resigned from his employment with the Venice Police Department pursuant to a sustained investigation of allegations of conformance to laws, use of alcohol - off duty, insubordination, courtesy, truthfulness and a number of other charges. On January 12, 2008, the respondent was involved in an altercation in a restaurant. He was having a dispute with his wife, which incited a broader dispute. His wife threw a cup of ice at him, and a few of the cubes hit a bystander, who grew irate. Another officer stepped between the two and quieted them down. The dispute flared back up with multiple participants and the man struck by the ice swung at the respondent's brother-in-law, but missed and hit a nearby woman by mistake. The respondent, who knew his brother-in-law had been the target, started shouting obscenities. Management of the restaurant tried to get the respondent to leave, but he struggled and fought back. Another patron and friend of the respondent grabbed him and escorted him outside. While struggling, the respondent shouted and cursed. He then entered the restaurant again and was removed by restaurant staff. Once outside, he tried repeatedly to get back inside, even after being told that he was not welcome in the establishment again. He fought with restaurant staff and told the manager he was going to kill him. On the third time he tried to re-enter the door, he swung at restaurant staff but hit a bystander,

then shouted that he had a gun and a badge in his car and again threatened to kill the manager. The police were called. When the respondent heard the police arrive, he took off his sports team shirt in order to hide his identity. He admitted that this was his motivation to another officer who was a friend of his. When the arriving officers asked him for information, he was argumentative and refused to answer the officers' questions. In a sworn interview on January 28, 2008, the respondent was hostile and uncooperative, and he made a number of statements which were contradicted by both video surveillance evidence and the testimony of the other participants. The case was referred to the State Attorney's Office, but the primary victim did not want to prosecute. For that reason, no criminal charges were filed in this case.

Penalty Guideline: Probation to suspension; Prospective suspension to revocation — The respondent agreed to a one year retroactive suspension and a ninety-day prospective suspension to be followed by a one year period of probation and provide staff with proof of successful completion of an anger management course prior to the end of the probationary period.

Disciplinary Action by the Commission: The Commission accepted the terms of the settlement agreement.