

**Issue #60**

**May 2015**

**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 meeting held on May 7, 2015.

**Case #37520-False Statements During the Employment Application Process; Perjury in an Official Proceeding**

The respondent was terminated from the Crestview Police Department subsequent to an internal investigation which sustained the charges of Falsification of Employment Application and Providing False Statement During an Internal Investigation. While reviewing personnel files during October of 2013, the chief of the Crestview Police Department discovered several discrepancies in the respondent’s employment questionnaire. During further review, the respondent’s questionnaire from his employment with the agency beginning on March 24, 2011, was compared to questionnaires that he completed for employment in 1997 and 2010. Information was also gathered from the county court. On his 2011 questionnaire, the respondent failed to disclose discipline from previous agencies, adverse credit actions, small claims, civil, and child support judgments. He also failed to disclose instances where he or a family member had contact with law enforcement. When questioned about the discrepancies during his sworn interview, the respondent stated that he simply forgot several of the incidents. He further stated that he had no knowledge of other incidents until he reviewed the documents obtained as part of the investigation. The respondent stated that he was never ordered to pay child support; however, a check of the court system revealed that an order for child support was established on July 10, 2001. The respondent was also asked about his negative response to a question regarding whether any member of his immediate family had ever been arrested or convicted of a criminal offense. He stated that he did not find out about his son being arrested until the end of 2012. However, the respondent disclosed on his 2010 questionnaire that his son had been arrested in 2007. No criminal charges were filed.

**Penalty Guideline**: Suspension to Revocation; Prospective Suspension to Revocation

Staff entered into a settlement agreement with the respondent for a 12 month retroactive suspension; 90 day prospective suspension; 1 year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of a Commission-approved ethics course prior to the end of the probationary period.

**Disciplinary Action by the Commission:** The Commission accepted the settlement agreement.

**Case # 37480-Aggravated Battery with Great Bodily Harm**

The respondent resigned from the Department of Corrections subsequent to an internal investigation which sustained conduct which violates state statutes, conduct unbecoming, and failure to report arrest. On November 29, 2013, a deputy with the Taylor County Sheriff’s Office was dispatched to a bar in reference to a fight. Upon arrival, the deputy made contact with the victim and noted that the victim had blood on the side of his head and that his left ear was split. When asked what happened, the victim advised that someone in the bar hit him with a pool stick. It was later determined that the respondent caused the injuries but had left the bar. According to the victim’s written statement, he came out of the bathroom and was walking toward his wife when he was knocked unconscious for a few seconds by a blow to the left side of his head. He was able to get up, walk to his wife, and tell her what happened. The victim then left the bar to get medical attention. According to a written statement authored by a witness, the victim came out of the bathroom and the respondent hit him in the head with a pool stick. The State Attorney’s Office charged the respondent with aggravated battery with great bodily harm on April 3, 2014, and he was subsequently arrested on June 10, 2014. On September 11, 2014, the respondent was placed on deferred prosecution for twelve months. He was ordered to complete 10 hours of community service, pay restitution to the victim, have no contact with the victim, and pay court costs and fines.

**Penalty Guideline**: Prospective Suspension to Revocation

Staff recommended a 60 day prospective suspension; 1 year probation to begin at the conclusion of the suspension period; and provide staff with proof of successful completion of Commission-approved anger management counseling prior to the end of the probationary period.

**Disciplinary Action by the Commission:** The Commission rejected staff’s recommendation and revoked the respondent’s certification.

**Case # 37787-** **Excessive Use of Force**

The respondent resigned from the Manatee County Sheriff’s Office subsequent to an internal investigation which sustained conduct unbecoming. On July 19, 2014, while at the Manatee County jail, the respondent used more force than necessary when placing a hostile inmate, who was in handcuffs, into a holding cell. A video recording showed that the inmate pushed out his chest toward the respondent. In turn, the respondent pushed the inmate with both hands causing the inmate to fall back onto a bookshelf. When the inmate bounced off the bookshelf, the respondent used both hands to push the inmate into the holding cell without provocation. The push caused the inmate to fall, striking the side of his forehead against the wall, and falling to the floor. Upon review of the case, the State Attorney’s Office declined to file charges.

**Penalty Guideline**: Suspension to Revocation

Staff recommended a 30 day prospective suspension; 1 year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of Commission-approved use of force training prior to the end of the probationary period.

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

**Case # 37773-Sex on Duty**

The respondent was terminated from the Lady Lake Police Department subsequent to an internal investigation which sustained the charge of Code of Conduct/Conduct Unbecoming/Engaging in On-Duty Sexual Activity. On August 18, 2014, a written complaint was received from the respondent’s wife stating that she had discovered a CD in her home with photos depicting her husband and another officer engaged in a sex act while working. Her husband admitted to her in October of 2013 that he had been engaged in a two-year affair with the officer. The respondent’s wife provided the photos to the agency and an internal investigation was initiated. On August 20, 2014, the respondent provided a written statement in response to the preliminary investigation notice. In his statement, the respondent admitted that the complaint received from his wife was true in its entirety. The respondent stated that during the entire relationship with the officer that almost all of their sexual activity occurred while they were both on duty. It was also a regular practice for the respondent and the officer to exchange messages and sexual pictures while on duty. The other officer separated prior to the initiation of the investigation so she did not provide a statement to the investigators. On August 26, 2014, the respondent provided a sworn statement confirming that the photos on the CD were of him and the other officer. The respondent further acknowledged that he and the officer were involved in a sexual relationship and that most of the sexual activities occurred while on duty. The respondent stated he was not aware of any witnesses to their relationship or their sexual activities while on duty.

**Penalty Guideline**: Suspension to Revocation

Staff recommended a 30 day prospective suspension; 1 year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of a Commission-approved ethics course prior to the end of the probationary period.

**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.**

The Criminal Justice Standards and Training Commission is required by Section 943.1395(8)(b)2 to conduct a workshop to receive public comment and evaluate disciplinary guidelines and penalties. At the initial meeting of the 2015 Task Force held on January 21, 2015, amended language was presented in Rule 11B-27.004(11), F.A.C., related to the Commission’s ability to discipline an officer after an arbitrator overturns the sustained findings of an agency’s internal investigation. The Task Force voted against adopting the proposed language, but instead directed staff to create language related to cases involving an arbitrator overturning the agency findings when the officer had been placed on a pretrial diversion or intervention program.During the March 24, 2015, Task Force meeting, the Task Force voted not to accept the proposed language and to make no changes to the current rule. During the May 7, 2015, business meeting, the Commission discussed the Task Force’s decision and also voted make no changes to this rule.

The next Penalty Guidelines Task Force will meet in 2017.

If you have questions concerning the Officer Discipline process, or if you have any issues you would like to see addressed in the Professional Compliance Bulletin, please forward them to R. Stacy Lehman, 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: stacylehman@fdle.state.fl.us.