**Professional Compliance Bulletin**

**Issue #70**

**February 2018**

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 hearings, 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 the Commission heard at hearings held on February 1, 2018.

**Case # 41236- Misuse of Official Position**

The respondent resigned from the Titusville Police Department prior to the conclusion of an internal investigation which sustained the charges of abuse of position, moral character and neglect in performing job duties. On December 13, 2016, a sergeant with the Titusville Police Department met with the victim. The victim stated that she and the respondent exchanged multiple text messages and phone calls in reference to her assistance with one of the respondent’s investigations. In exchange for her cooperation, the respondent would take care of her criminal charge. When the respondent’s investigation was complete, the victim believed her criminal charge was taken care of until she received a notice to appear. The victim contacted the respondent and he requested sexy photos to entice him to help with her criminal charge. The respondent was not interviewed. No criminal charges were filed against the respondent.

**Penalty Guideline**: Suspension to Revocation

FDLE Prosecution requested revocation.

**Disciplinary Action by the Commission:** The Commission accepted the requested penalty.

**Case # 41267-Excessive Use of Force**

The respondent resigned from the Department of Corrections subsequent to an internal investigation which sustained the charges of failure to safeguard. On August 25, 2016, an inmate was being transferred from the Franklin Correctional Institution to the Gulf Correctional Institution. While transferring the inmate, he began to kick the windows of the van and was trying to escape. A warden with the Franklin Correctional Institution advised the staff transporting the inmate to detour the van to the Gulf Forest Camp in order to get the inmate inside a secure gate. Upon arrival at the Gulf Forest Camp, the respondent and another officer witnessed the inmate being loud and beating on the van. A warden advised the respondent that if the inmate continued to try and kick the windows of the van to use chemical agents to prevent damage to the property. The warden was later advised that the inmate was continuing his behavior and again he advised staff to use chemical agents if the inmate continued to be disorderly. The respondent stated she told the other officer to give the inmate a lawful order, and if he refused, to use chemical agents. The respondent indicated that the officer gave the inmate several loud, verbal orders to cease his behavior but the inmate refused to comply. The respondent observed the officer administer the chemical agent. During her interview, the respondent stated that when she spoke with the warden she was advised to use chemical agents if the inmate was being combative. The respondent believed a use of force was justified in order to compel the inmate to cease his disruptive behavior and restore order. She indicated that even though the inmate ceased his action, he would have continued acting out had chemical agents not been used. The officer was interviewed and admitted that the inmate was not destroying state property, injuring himself, or doing anything wrong when chemical agents were administered. He stated that the only reason he used chemical agents was because he was directed by the respondent to do so. He was told to walk up to the inmate as if to counsel him then administer chemical agents. A video recording shows the officer spraying the inmate, but he was not actively destroying state property. No criminal charges were filed against the respondent.

**Penalty Guideline**: Suspension to Revocation

FDLE Prosecution requested 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 anger management counseling prior to the end of the probationary period.

**Disciplinary Action by the Commission:** The Commission dismissed the charge against the respondent.

**Case # 41557- False Official Statement**

The respondent resigned from the Okaloosa County Sheriff’s Office subsequent to an internal investigation which sustained untruthfulness. On January 29, 2017, the respondent was dispatched to a local residence in reference to trespassing, and upon arrival, asked the victim for her ID. The respondent indicated in his offense report that the victim told him her purse was inside the residence. Additionally, the respondent stated in his report that he read the victim her Miranda Rights prior to asking any questions. The respondent then agreed to enter the residence to retrieve the victim’s ID from her purse. A video recording captured the victim stating that she did not have her ID and at no time did she give permission for the respondent to enter the residence to retrieve her ID. It also showed the respondent reading the victim her Miranda Rights after questioning the suspect, then he continued questioning her. In an interview with the respondent, he admitted that his offense report and probable cause affidavit were false statements. He admitted that the actual events were not even close to what he wrote in his reports and that he had no reason to go into the victim’s purse. No criminal charges were filed against the respondent.

**Penalty Guideline:** Prospective Suspension to Revocation

FDLE Prosecution requested 1-year prospective suspension; 1-year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of Commission-approved ethics training prior to the end of the probationary period.

**Disciplinary Action by the Commission:** The Commission revoked the respondent’s certification.

**Case # 40935-Unprofessional Relationship with an Inmate-Romantic Association**

The respondent resigned from the Department of Corrections subsequent to an internal investigation which sustained the charges of failure to maintain a professional relationship and failure to report. On September 20, 2016, the respondent submitted to a pat search as she was coming on duty. The correctional officer conducting the search discovered “love letters” in the respondent’s pant leg. The officer escorted the respondent to her lieutenant and informed him of what she found. The respondent stated that the letters came from a staff member and that they wrote letters rather than communicating via text messages. The letters were turned over to the Office of the Inspector General who initiated an internal investigation. It was determined that the letters were written to an inmate, but he refused to participate in the investigation. The respondent provided a sworn statement during the investigation, in which she admitted writing letters to the inmate. She admitted to writing to the inmate that she was obsessed with him and could not stop staring at him. She also admitted to writing to him that she wanted to hug and kiss him. The respondent advised that she was playing on the inmate’s weaknesses in an attempt to garner sensitive information that she could report. No criminal charges were filed against the respondent.

**Penalty Guideline**: Revocation

FDLE Prosecution requested revocation.

**Disciplinary Action by the Commission:** The Commission accepted the requested penalty.

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

Frequently, officers under investigation for possible violations of the Commission’s moral character standard will resign or retire prior to the conclusion of the investigation. Additionally, some agencies administratively separate an officer suspected of a violation rather than conduct an investigation into the allegations. Regardless of the officer’s employment status with the agency following the alleged violation, Florida Statutes and Commission rule require that an investigation be completed and sustained allegations forwarded to the Commission.

Chapter 943.1395(5), Florida Statutes, states:

The employing agency must conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, statute [943.13](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0943/Sec13.HTM)(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, statute [943.13](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0943/Sec13.HTM)(4) or (7), the employing agency must submit the investigative findings and supporting information and documentation to the commission in accordance with rules adopted by the commission. The commission may inspect and copy an employing agency's records to ensure compliance with this subsection.

Additionally, Commission Rule 11B-27.003, F.A.C. states:

(1) Pursuant to Section 943.1395(5), F.S., an employing agency shall conduct an investigation when having cause to suspect that an officer it employs or employed at the time of the alleged violation, or employed on a Temporary Employment Authorization (TEA) pursuant to Section 943.131, F.S., does not comply with Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C. An investigation shall be conducted and concluded when the employing agency has cause to suspect that an officer is in violation of Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C. The agency’s investigation shall contain an official disposition, which shall be reported to Commission staff pursuant to subsection (2) of this rule section.

(2) Upon concluding the investigation:

(a) If the allegations are sustained, the employing agency shall complete an Internal Investigation Report, form CJSTC-78, revised November 8, 2007, hereby incorporated by reference, regardless of whether any civil service appeal, arbitration, employment hearing, administrative, civil, or criminal action is pending or contemplated. Form CJSTC-78 can be obtained at the following FDLE Internet address: [http://www.fdle.state.fl.us/Content/
CJST/Publications/Professionalism-Program-Forms.aspx](http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx), or by contacting Commission staff at (850) 410-8600.

(b) If the allegations are sustained, and are a violation of Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C., the employing agency shall forward to Commission staff the complete investigative package, which shall include the following, no later than 45 days after the allegations are sustained:

1. A completed Internal Investigation Report form CJSTC-78.

2. The allegations.

3. A summary of the facts.

4. Names of witnesses.

5. Witness statements and depositions.

6. Certified court documents.

7. Any other supportive documentation or information.

(c) If the allegations are not sustained, unfounded, or the officer has been exonerated, or the allegations that are sustained are only violations of the employing agency’s policies, and are not violations of Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C., the employing agency shall complete form CJSTC-78 and maintain the form on file at the agency.

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4. Names of witnesses.

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6. Certified court documents.

7. Any other supportive documentation or information.

Regardless of whether or not there is a successful criminal action taken in a case, the agency still must conduct an internal investigation and render an official administrative disposition in that matter. In addition, the agency must complete the required forms and submit all of the required supporting documentation, in accordance with applicable statute and rule.

If you have any issues that you would like to be 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.