



Professional Compliance Bulletin



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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 October 28, 2010.

Case # 29034 Sex on Duty

The respondent was dismissed from the Miami-Dade Police Department (MDPD) subsequent to an internal investigation which sustained departmental misconduct and conduct unbecoming. On September 28, 2007, MDPD management received a complaint from a woman who advised she had been raped by an MDPD officer, later identified by the complainant via a police lineup as the respondent. The complainant advised investigators that she was stopped by the respondent who was in uniform, and driving a marked police vehicle. She was subsequently asked by the respondent for her name and date of birth. The respondent then instructed her to empty the contents of her purse on the trunk of his police vehicle. The respondent then conducted a record check on the complainant. He advised that she was a missing person and instructed her to get into his police vehicle as he was going to drive her to her residence to verify that she was not a missing person. However, instead of driving her to her residence, the respondent proceeded to drive around a warehouse area for about 15 minutes while informing her that there was a warrant out for her arrest. The complainant advised the respondent that she had paperwork in her room that could prove she was just released from jail and, therefore, there could not be an arrest warrant out for her. The respondent subsequently drove her to her room at an inn where she produced paperwork showing that she was not wanted. The respondent then began to engage in the sexual touching of her while directing her toward the bed. The respondent then removed his uniform and they engaged in sexual relations, after which the respondent asked her “what was the best way to keep a secret.” She replied “not telling anyone,” The respondent then took out a \$20 bill, placed it on the bed, and left. The respondent stated to investigators that he and the complainant had engaged in consensual sex. He denied asking the complainant what was the best way to keep a secret. He also stated that he gave the complainant \$20 because the complainant said she had not eaten for a couple of days, and not because they had sex. No criminal charges were brought by the State Attorney’s Office because the complainant had become a reluctant and uncooperative witness.

Penalty Guideline: Suspension to Revocation.

Staff recommended 6 months retroactive suspension; 14 day prospective suspension beginning fifteen days following the filing of the Final Order; 1 year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of approved ethics course prior to the end of the probationary period.

Disciplinary Action by the Commission: The Commission rejected the settlement agreement and remanded case over for formal hearing.

Case # 27543 Grand Theft

The respondent was terminated from the Department of Corrections following an internal investigation which sustained Improper Conduct – Employee Arrest (Grand Theft). On September 16, 2008, the respondent entered a retail store and was witnessed by store security personnel selecting several clothing items and concealing them in store-brand shopping bags. She was then observed to attempt to leave the store, passing all points of purchase without making any attempt to buy the selected items. Upon approaching the exit doors, the respondent was stopped by store security and brought to the Loss Prevention Office to await the arrival of law enforcement. Store Security recovered \$302.72 worth of merchandise and the respondent was subsequently arrested and charged with Grand Theft. On December 15, 2008, the respondent was placed in a Pre-Trial Intervention (PTI) Program which required the completion of 25 hours of community service, completion of a 4 hour Theft Abatement Program and payment of \$50 in prosecution costs. The respondent successfully completed the PTI Program on February 26, 2009 and the Grand Theft charge was subsequently Nolle Prossed on March 3, 2009.

Penalty Guideline: Revocation.
Staff recommended revocation.

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

Case # 30291 Battery on an Emergency/Medical Provider

The respondent was not employed with a criminal justice agency at the time of his arrest on the charge of felony battery on an emergency or medical provider. On March 13, 2010, the respondent was brought to the Halifax Medical Center by emergency personnel after being found at a hotel pool with lacerations and facial abrasions. He had no identification on his person and would not identify himself, although he was conscious. Upon arrival at the Medical Center, the respondent became combative with the medical staff for no reason and had to be restrained. After his facial lacerations were attended to by medical staff, a CT scan was ordered for further evaluation. When the respondent was transferred to the CT machine and the arm restraints were removed, he swung at a member of the medical staff, causing a minor laceration to the victim's lip. The respondent was then placed back into the hand restraints and sedated so that the CT scan could be performed. The exam revealed that the respondent had no brain injuries that would contribute to his aggressive behavior. The victim in the incident, completed a sworn statement and requested to press charges against the respondent for battery. Upon his discharge, the respondent was taken into custody and charged with felony battery on an emergency/medical personnel. On April 19, 2009, the case was dropped/abandoned by the State Attorney's Office for no information.

Penalty Guideline: Suspension to Revocation.
Staff recommended fifteen days prospective suspension beginning fifteen days following the filing of the Final Order; one year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of approved anger management course prior to the end of the probationary period.

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

Case # 29188 Controlled Substances – Sale, Manufacture, Deliver, or Possess with Intent (3 counts)
The respondent was terminated from the Dixie County Sheriff's Office subsequent to his arrest for the charge of Sell/Deliver/Purchase Controlled Substance (3 counts). The Dixie County Sheriff's Office conducted three separate controlled drug purchases in which the respondent sold a controlled substance to two informants during the month of June 2009. On June 12, 2009, the respondent sold three pills of Oxycodone to the informants for \$60 dollars. On June 18, 2009, the respondent sold two pills of

Oxycontin to the informants. On June 29, 2009, the respondent sold four pills of Oxycodone to the informants for \$40 dollars. Each transaction was captured on video and audio recordings. On August 13, 2009, the respondent was arrested by the Dixie County Sheriff's Office for the charge of sell/deliver/purchase controlled substance (3 counts). On January 6, 2010, the respondent entered into a Pretrial Intervention Program deferred prosecution agreement with the State Attorney's Office for the charge of sale of a controlled substance. Prosecution was deferred for a period of 12 months. The respondent was ordered to perform 100 hours of community service and pay court costs and fees.

Penalty Guideline: Revocation.
Staff recommended revocation.

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.

Chapter 943.1395(8)(d) F.S. states: When an employing agency disciplines an officer and the officer's employment is continued or reinstated by the agency, the Criminal Justice Professionalism Program shall review the sustained disciplinary charges and disciplinary penalty to determine whether the penalty conforms to the disciplinary penalties prescribed by commission rule, and, in writing, notify the employing agency and officer of the results of the review. If the penalty conforms to the disciplinary penalty provided by rule, the officer and employing agency shall be notified, by a letter of acknowledgment, that no further action shall be taken. If the penalty does not conform to such disciplinary penalty prescribed by rule, the officer and employer shall be notified, in writing, of further action to be taken. The commission shall adopt rules establishing procedures for administering this subsection.

Florida Statute and Commission rules directs Commission staff to issue a Letter of Acknowledgement (LOA) when the penalty imposed by the employing agency for misconduct conforms to the penalty guidelines set forth in Commission rules. In the case of first time DUI offenses, Commission rule calls for a term of probation and substance abuse counseling.

To be eligible to receive an LOA for an offense requiring probation, Commission rule defines "Significant agency action" as, "Any documented or written formal action, any change in assignment or duties that results in reduction in compensation, or termination from employment". For the substance abuse counseling penalty, the Commission currently requires Level II counseling which must include a substance abuse evaluation and counseling with a licensed mental health counselor.

In cases involving first time DUIs, most agencies take action meeting the "significant action" requirement for the imposition of probation. However, the agency or court imposed substance abuse counseling portion of the sanctions frequently fails to meet the Commission's requirement. As such, the case is moved forward for possible presentation to a Probable Cause panel.

When considering penalties for a first time DUI offense, agencies should consider the inclusion of Level II counseling in addition to any other penalties. If the other requirements of the "significant agency action" are met, these officers will likely be candidates for the issuance of an LOA.

If you have questions concerning the issuance of an LOA, or if you have any issued 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](mailto:stacylehman@fdle.state.fl.us).