



# Professional Compliance Bulletin



**Issue 39**  
**October 2009 and February 2010**

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 29, 2009, and February 4, 2010.

**Case # 28112** Purchasing Prostitution Services

The respondent received a demotion in rank and received 172-hour unpaid suspension from the Daytona Beach Shores Department of Public Safety for the sustained charges of conduct unbecoming and knowledge of and obedience to laws. On November 20, 2008, officers from the Daytona Beach Shores Department of Public Safety were conducting surveillance on a home for activity relating to prostitution. During the surveillance several males were stopped after leaving the residence and provided statements indicating they had received a sexual favor in exchange for money. During the surveillance, the respondent was observed entering the residence and exiting seventeen minutes later. Once the respondent committed several traffic violations, he was stopped and shortly after being stopped he was questioned by two detectives about his visit to the residence. The respondent admitted to receiving a sexual favor from a female in exchange for \$100. The residence has no signage indicating that there is any type of legitimate message therapy/spa business in operation. When interviewed as part of the internal investigation, the respondent indicated he found an advertisement indicating this was a full body massage. No criminal charges were filed.

**Penalty Guideline:** Prospective suspension and probation with counseling to revocation  
Staff recommended 172 hour retroactive suspension, 15 day prospective suspension to be served within 180 days of the filing of the Final Order; 1 year probation to commence at the conclusion of the prospective suspension; provide staff with proof of successful completion of Commission approved AIDS Awareness and ethics training prior to the conclusion of the probationary period.

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

**Case # 25321** Withholding Information from a Practitioner (21 Counts)

The respondent was terminated from the Leon County Sheriff’s Office subsequent to his arrest for the charge of Withholding Information from a Practitioner. On May 31, 2007, the Florida Department of Law Enforcement (FDLE) was contacted regarding a complaint filed with the Leon County Sheriff’s Office alleging that the respondent and his wife were both addicted to prescription pain medications. As a result of this information a joint investigation was launched. Investigators compiled data which indicated that between February 2006 and June 2007, the respondent received

38 prescriptions for narcotics, primarily Oxycodone and Hydrocodone, from a total of eight doctors. At the conclusion of all the physician interviews it was determined that the respondent's primary care physicians were unaware that he was going to other doctors to obtain pain medications. The respondent had signed a pain management agreement which lays out the rules that a patient must follow at their clinic to be prescribed narcotics. The pain management agreement specifically states that a patient is not allowed to go to any other doctor to receive narcotic analgesic medications. Analysis of the dates the prescriptions were filled and the physicians who wrote them revealed 31 potential violations of F.S. 893.13 (8) or Withholding Information from a Practitioner. Investigators concentrated on a one year time period from July 2006 to June 2007. During this period the respondent went to seven different doctors to obtain 25 different prescriptions for pain medications that totaled 1640 pills. By withholding information from his doctor, the respondent was able to obtain similar pain medication from previous doctors within 30 days prior to the second visit. On June 29, 2007, the respondent was arrested by the Leon County Sheriffs Office and charged with Withholding Information from a Practitioner (21 counts). On September 21, 2007, prosecution was deferred and the respondent entered into a Felony Drug Intervention Pretrial Program for a minimum of twelve months with a maximum of eighteen months. On September 19, 2008, the charges against the respondent were dismissed.

**Penalty Guideline:** Suspension to revocation  
The respondent voluntarily relinquished his certification.

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

**Case # 27579** Aggravated Assault with a Deadly Weapon

The respondent was terminated from the Bay Correctional Facility subsequent to his arrest for aggravated assault. On September 15, 2008, the respondent, while in his vehicle, approached from behind a vehicle being driven by his wife. The respondent locked up his breaks and slide, almost hitting his wife's vehicle. The respondent then drove around his wife's vehicle two times and slid just short of hitting her driver's door while she was still in the vehicle. The victim stated that she and the respondent had a verbal altercation prior to the incident. The respondent was arrested and charged with aggravated assault. On October 31, 2008, the respondent pled nolo contendere and was adjudicated guilty of the reduced charge of reckless driving. He was sentenced to nine months probation, submit to random drug and alcohol testing, attend ninety alcoholics anonymous meetings in 180 days, complete a batterer's intervention program, and pay various court costs and fines.

**Penalty Guideline:** Prospective suspension to revocation  
Staff recommended 1 year retroactive suspension; 30 day prospective suspension to commence 15 days after the filing of the Final Order; 1 year probation to commence at the conclusion of the prospective suspension; provide staff with proof of successful completion of Commission approved anger management course and substance abuse counseling prior to the end of the probationary period.

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

**Case # 26437 Battery; Failure to Report Use of Force**

The respondent was dismissed from the Department of Corrections pursuant to an internal investigation which sustained Physical Abuse, Conduct Unbecoming, Unauthorized Use of Force, and Failure to Report Use of Force. On February 11, 2008, a Correctional Sergeant notified DOC upper management that she had witnessed the respondent, a DOC Captain, hit an inmate on February 9, 2008.

Investigators learned that on February 9, 2008, the respondent had ordered an inmate – who was en route to a pre-confinement physical for allegedly threatening a staff nurse – brought to his office so that a statement could be taken regarding the inmate's encounter with the nurse. After reading the inmate's statement, Parker asked the inmate about the alleged threat to a member of the medical staff. After a discussion with the inmate, the respondent approached the inmate and began striking him in the upper head, face and neck areas while verbally berating the inmate for the tone of his last answer. The Correctional Sergeant further stated that as the respondent continued to strike the inmate, the inmate screamed and covered his head trying to protect his face. The inmate then sat down on a desk against the wall, after which he was immediately ordered by the respondent to get back up. After the inmate complied and started walking toward the door, the respondent resumed striking the inmate. The respondent ordered the inmate to turn around (which the inmate did); placed hand restraints on the inmate; then ordered another officer to escort the inmate to the medical department for the pre-confinement physical. Investigators found that the respondent failed to report the incident. No criminal charges were brought against the respondent.

**Penalty Guideline:** Suspension; Probation to Suspension

Staff recommended the enhanced penalty of revocation. Pursuant to Rule 118-27.005(6)(a), Florida Administrative Code, the Commission is authorized to deviate from the guideline penalty based upon a finding of one or more aggravating circumstances and/or upon a finding of severity of the misconduct charged. As a captain, the respondent used his authority facilitate administering corporal punishment on an inmate. Additionally, he engaged in flagrant physical abuse of an inmate in the presence of a sergeant and an officer who was still in training.

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

February 2010 Discipline Hearing

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**Case # 27248 Perjury during an Official Proceeding**

The respondent was terminated from the Gadsden County Sheriff's Office subsequent to his arrest on charges of Criminal use of personal identification information (11 counts), Grand Theft and Perjury during an Official Proceeding. On May 2, 2008, the Gadsden County Sheriff's Office received information from personnel of the Quincy Police Department that the respondent had been seen at the Gadsden County Government Fuel Facility pumping government fuel into personal fuel containers that were stored in the trunk of his marked patrol car. It is alleged that the respondent fraudulently utilized other government agency employees' personal identification numbers to obtain the fuel from the County fuel station. Over the course of one year from May 2007 to May 2008, GCSO estimated that the respondent obtained county fuel valued in excess of ten thousand dollars. GCSO also found that the respondent committed two hundred and thirty five counts of unauthorized use of personal identification information, which allowed him to obtain the fuel. The respondent provided sworn testimony denying that he committed any of the listed offenses. His testimony was not only in conflict with the evidence in the case, but conflicted with the testimony of seven separate law enforcement officers. When confronted with the conflict in testimony, the respondent said that the other officers were either mistaken with their information or that they deliberately committed perjury. The charges for the respondent of Grand Theft and Criminal Use of Personal Identification could not be established by Staff due to the lack of evidence to prove that the respondent appropriated the fuel for his own use or benefit or for the benefit of someone else not entitled to utilize the fuel

**Penalty Guideline:** Prospective suspension to revocation

The respondent agreed to a 30 day prospective suspension, 1 year probation and the requirement to 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 accepted the terms of the settlement agreement.

**Case # 25633** Child Abuse

The respondent was issued a letter of reprimand from the Department of Corrections for the charge of Improper Conduct: Employee Arrest/Cruelty toward a Child. On July 20, 2007, the respondent used a belt to punish his seven year old adopted son because the son was playing and hit a car with a rock. During the investigation it was revealed that the respondent had punished his children numerous times using a belt. The son was examined by medical doctor and the doctor observed two large bruises in the mid-portion of his left thigh and another reddish-blue bruise was on his thigh. In addition, the child's buttocks revealed old and fresh lesions with a large area of scarring. The doctor described these as "recent acute injury." On March 27, 2008, the respondent entered into a deferred prosecution agreement with the State. The respondent's case was deferred for ten months during which time he was to complete a family counseling program and insure the children enter into individual counseling program, in addition to the paying the cost of his supervision.

**Penalty Guideline:** Suspension to revocation

The respondent agreed to a two year probation and requirement to provide staff with proof of successful completion of approved parenting counseling prior to the end of the probationary period.

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

**Case # 28321** Improper Exhibition of Dangerous Weapon

The respondent was suspended by the Department of Corrections for 20 days for conduct unbecoming, negligence, and violation of procedure. On September 1, 2008, the respondent was patrolling the prison perimeter in a DOC van. The respondent pulled up next to another DOC van which contained two correctional officers and five inmates. The driver of the other van realized it was the respondent and started to roll up her window at which point the respondent opened her door. She attempted to pull the door shut several times but the respondent refused to let it go. The driver was finally able to get her door closed at which point she drove away. She observed in the rear view mirror the respondent's van chasing them and approaching very quickly. The respondent then stopped his van directly in front of them causing the driver to slam on brakes to avoid hitting his van. The driver then locked her door and turned her head in the opposite direction, refusing to acknowledge the respondent approaching the vehicle. The front passenger stated that she observed the respondent playing with his DOC issued .38-caliber pistol; pulling it in and out of the holster and pointing in their direction. She and the inmates then told the driver that the respondent had his gun out. When the driver turned around to look at the respondent, she observed him tapping on the van's driver's side window with the pistol and pointing it in her direction. In light of DOC procedure the driver assumed that the pistol was loaded. The vehicle's occupants stated that they believed the respondent was only joking and he had taken the joke too far. Both correctional officers stated that they did not hear the respondent make any threats and denied being in fear. The respondent admitted to joking around with the driver of the other van, but denied that the pistol was loaded or that his finger was on the trigger or inside the trigger guard. The respondent indicated that the barrel of the gun was pointed upwards and not directly at them. The respondent stated that he jokes and plays around a lot to keep his mind off his personal problems and would never intentionally harm or scare anyone. No criminal charges were filed.

**Penalty Guideline:** Probation with Training

Staff recommended 1 year probation and the requirement to provide staff with proof of successful completion of approved remedial firearms training prior to the end of the probationary period.

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

**Case # 27389** Aggravated Stalking

The respondent was not employed at the time of his arrest for Aggravating Stalking and Harassing Communication. On May 13, 2008, an officer with the Seminole County Sheriffs Office made contact with the respondent's estranged wife in reference to harassing phone calls and text messages she had been receiving from the respondent over the past several months. She advised the officer that she and the respondent were separated, but still have contact with each other due to their children. The victim stated that on August 15, 2007, the court had dissolved an injunction for protection because she and the respondent made an agreement in court as part of dissolution of marriage. Part of the agreement stated that neither party shall intimidate, harm or use any other form of verbal abuse against each other. On February 26, 2008, the General Magistrate signed a recommendation to the order which ordered that neither party shall make disparaging or critical remarks about the other party in the presence of their children. The magistrate also ordered both parties to only communicate by telephone and authorized them to make audio recordings of any telephone communications they had with each other. The victim provided investigators with a CD containing recordings of several phone calls, and a notebook that contained copies of text messages and emails she received from the respondent. Included in the notebook is: a text message that was sent on January 28, 2008, stating "just don't have the money for a hit-man today. I am being nice for your anniversary, we're still married". On April 21, 2008, the respondent sent a fake Claim of Lien on the victim's property; and other intimidating and harassing communications. On August 3, 2008, the victim filed another police report in reference to two letters she had received in the mail, the day before, which were sent by the respondent. One letter was addressed from "Master of the Universe" and included derogatory comments about her. The second letter contained a cut out picture of movie character Jabba the Hut, which is what she says the respondent calls her in front of her children and in other communications between them. The victim stated that the letters served no other purpose than to harass and cause her mental grief. On August 21, 2008, the respondent was arrested on a warrant for Aggravated Stalking. On January 14, 2009, the respondent pled nolo contendere to three counts of Harassing Phone Calls. Adjudication was withheld and the respondent was placed on 18 months probation, required to perform 25 hours of community service, receive psychological evaluation treatment and ordered to pay court costs and fines. The respondent was ordered to have no contact with victim except for family court rulings.

**Penalty Guideline:** Revocation

**Disciplinary Action by the Commission:** The Commission did not accept staff's recommendation and remanded the case to the Division of Administrative Hearings.

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

Commission Rule 11B-27.002 (6), F.A.C. states:

A completed Affidavit of Separation Supplement form CJSTC-61A, shall be submitted to Commission staff, along with form CJSTC-61, whenever there is a separation involving a violation of Section 943.13(4), F.S., or while being investigated for an alleged moral character violation.

Additionally, Commission Rule 11B-27.003(2)(a), F.A.C. states that upon the conclusion of an internal investigation:

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.

When an officer is separated for violating statute or Commission rule, the form CJSTC 61/61A should be included with the internal investigation sent for staff review. When an investigation sustains allegations of a violation, and the officer is retained, the form CJSTC 78 should be included with the investigation. The Commission requires the inclusion of the applicable form in all discipline packages. Frequently, internal investigations received by Commission staff do not include either form. Staff must then contact the agency in an attempt to obtain the form, often slowing down the discipline review process.

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