



Professional Compliance Bulletin Issue 45 August 2011



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 August 11, 2011.

Case # 30016 Burning to Defraud Insurer; Resisting an Officer without Violence

The respondent was terminated from the Putnam County Sheriff’s Office subsequent to his arrest for the charges of Arson, Burning to Defraud an Insurer, and Resisting an Officer without Violence. On January 23, 2010, the respondent and a friend were discussing ways to destroy his friend’s vehicle to collect insurance money in order to have the vehicle paid off. The respondent’s friend decided that he was going to burn his vehicle and make a claim that the vehicle was stolen. The friend gave the respondent a gas container and \$20 with instructions to buy some gas and meet him at a prearranged location. The respondent followed the friend to another location and his friend took the gas and set fire to his vehicle. The respondent watched his friend torch his truck and then gave him a ride home. The friend then called and made a report that his vehicle was stolen. The truck was discovered by police and an investigation began into the theft and arson of the vehicle. The respondent and his friend made several statements to police concerning the alleged theft. On February 4, 2010, the respondent admitted to officials the truth and was then arrested for charge of Resisting an Officer without Violence. On February 5, 2010, the State Attorney filed charges on the respondent for arson and burning to defraud an insurer. On March 11, 2010, the State filed “no information” on the charge of arson. On November 10, 2010, the charge of Principal to Burning to Defraud an Insurer was amended to Principal to Criminal Mischief-Damage more than \$200, but less than \$1000 and the respondent pled nolo contendere and adjudication was withheld. He was sentenced to one year probation, court costs, and fines. On November 22, 2010, the respondent pled nolo contendere to the charge of Resisting an Officer without Violence and adjudication of guilty was withheld. He was sentenced to one year probation and various costs and fines.

Penalty Guideline: Suspension to Revocation; Probation to Suspension.
Staff recommended Revocation.

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

Case # 31641 Perjury; Misuse of Official Position

The respondent was terminated by the Sarasota Police Department subsequent to an internal investigation, which sustained a charge of Perjury in an Official Proceeding, Misuse of Official Position and multiple agency policy violations. An internal investigation was initiated in February 2010 after the Sarasota Police Department received information from the North Port Police Department. The investigation involved a home invasion robbery that occurred in the jurisdiction of North Port in Sarasota County. Investigators in the case were informed that the victim of the home invasion robbery was involved in a feud with another man and an associate who was the respondent’s cousin. It was alleged

that the respondent provided the home address to the cousin who in turn gave it to the defendants who committed the crime. During 2009, a brewing rivalry occurred between two men in the township of Newton. The violence escalated when someone firebombed a home belonging to one of the men's relatives. In retaliation for the act, police believe the other involved man committed a violent home invasion against the family. During a recorded conversation, detectives learned that the home address was provided through a third party, the respondent's cousin. The cousin admitted he called the respondent on her cell phone on January 4, 2010, while on duty and informed her of the situation. The respondent used the driver's license database (DAVID) to look up one of the men and provided the current address to her cousin. In November 2010, investigators were notified of the search results from the Florida Department of Highway Safety and Motor Vehicles on the respondent. Search results indicated the respondent ran a query to access the driver's license information and residential address while on duty on January 4, 2010. On February 25, 2010, during her sworn testimony, the respondent denied that she accessed the DAVID system for the purpose of providing her cousin with the home address of the victim in the home invasion robbery. When the respondent was questioned if she ran the address, the respondent stated, "And I ran his name, I didn't even pay attention to the address, I was trying to see if he had a warrant, for his arrest, to be picked up." The respondent stated she did not provide her cousin with the North Port address and that her cousin retrieved the address by looking on a public web site that showed recent arrests in Sarasota County. A review of the website showed the site did not have the current address of the victim and it had not been updated since his release date in 2006. Investigators were able to provide evidence that the respondent clicked on a box indicating she requested the address of the victim and provided the address to her cousin, misspelling the name of the street. The misspelling of the street was discovered when the defendant in the case admitted that the respondent provided the name of the misspelled street during his interrogation with police. No criminal charges were filed.

Penalty Guideline: Prospective Suspension to Revocation, Suspension.

Staff recommended seven months retroactive suspension, sixty 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 ethics course prior to the end of the probationary period.

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

Case # 28748 Driving Under the Influence with Property Damage/Personal Injury

The respondent resigned from the Miami-Dade County Department of Corrections & Rehabilitation subsequent to an internal investigation which sustained the charges of standard of conduct and conduct unbecoming an officer. On March 7, 2009, an officer with the Bay Harbor Isle Police Department observed the respondent standing next to a vehicle that he was operating. The officer noted that the respondent was unsteady on his feet, his speech was slurred, his face was flushed, and his breath emitted a smell of an alcoholic beverage. The respondent failed to perform the standardized field sobriety test conducted by the officer. The respondent was subsequently arrested and charged with driving under the influence. Investigators later discovered that the respondent failed to complete a left turn, and continued traveling which resulted in him crashing into the north side of an apartment complex. On September 29, 2009, the respondent pled nolo contendere to the charge of Driving Under the Influence with Property Damage/Personal Injury and was adjudicated of guilty.

Penalty Guideline: Probation with substance abuse counseling.

Staff recommended six month probation beginning fifteen days following the filing of the Final Order; provide staff with proof of successful completion of approved substance abuse counseling prior to the end of the probationary period.

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

Case # 30158 Public Assistance Fraud (4 counts)

The respondent was terminated from the Department of Corrections subsequent to his arrest for public assistance fraud. On January 23, 2010, the respondent made a purchase at a warehouse store in Tallahassee in the amount of \$93.54 using an EBT card fraudulently issued to another person. On January 23, 2010, the respondent made a purchase at a retail store in Tallahassee in the amount of \$138.23 using an EBT card fraudulently issued to another person. On January 23, 2010, the respondent made a purchase at a grocery store in Tallahassee in the amount of \$47.52 using an EBT card fraudulently issued to another person. On February 9, 2010, the respondent made a purchase at a retail store in Tallahassee in the amount of \$137.60 using an EBT card fraudulently issued to another person. The respondent was arrested by FDLE for four counts of Public Assistance Fraud. The respondent entered into a Deferred Prosecution Agreement with the Leon County State Attorney's Office.

Penalty Guideline: Suspension to Revocation (each count).
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.

In 2009, the Commission adopted the policy of placing first time DUI respondents in a Probable Cause Intervention (PCI) program in lieu of a finding of Probable Cause. This program placed the respondent on six months probation and required the completion of substance abuse counseling by the end of probation. If the respondent completed the counseling, a Letter of Guidance was issued at the end of the probationary period. Often, respondents placed on a PCI would not complete the required counseling and would not respond to any other correspondence. Their case then progressed through the normal sequence of Probable Cause followed by a Disciplinary Hearing. Since the penalty guideline for a first time DUI was probation with substance abuse counseling, the respondent received the same sanctions imposed in the original PCI. Again, large numbers of the respondents would fail to complete the counseling or respond to any correspondence, which would ultimately end with revocation due to a charge of violating the terms of their Commission ordered probation.

Due to the large number of respondents failing to complete the terms of the PCI, Commission staff made a recommendation at the August 2010 Commission meeting that the Commission adopt the use of an "Acceptance Form" to be completed by respondents requesting participation in a PCI program following a first time DUI. The acceptance form requires a signature from the respondent specifying that they wish to participate in the PCI program and acknowledges the terms and conditions of the PCI. The form is sent to the respondent with the letter notifying them of their scheduled Probable Cause Hearing date. The lack of response from a respondent is interpreted as a respondent declining to participate in PCI and they are then presented to a Probable Cause panel with a staff recommendation for a finding of Probable Cause.

After approximately one year of the form's use, it appears that the intended purpose is being realized. Respondents requesting participation in the PCI program are much more likely to complete the requirements than those previously placed in the program automatically. This allows those desiring to continue with their career to move through the disciplinary process at a quicker pace. Additionally, it shortens the length of time spent in the disciplinary process for those those who have no intent on continuing their career as an officer.

If you have questions concerning the Officer Discipline process, 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.