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 May 9, 2012.

**Case #31498 False and Misleading Insurance Information, F.S. 817.234(1)(a)3.a – 2 counts**

The respondent resigned from the Miami-Dade Corrections & Rehabilitation Department subsequent to an internal investigation which sustained the charge of Departmental Misconduct/Falsification. While conducting an investigation regarding a separate matter, investigations discovered the respondent had submitted documentation on September 14, 2009, in which he identified a woman as his wife. On September 29, 2009, contact was made with this woman who advised that the respondent was her live-in boyfriend. She further stated that she and the respondent were not married because she was receiving a monthly supplemental security income (SSI) check and did not want that income to be compromised. An in-depth review of the respondent’s personnel file was conducted including an inquiry of his employee dependent insurance. Investigators discovered that on December 15, 2008, the respondent falsified an official application for vision insurance coverage by claiming that he was married. The respondent listed a woman’s name on the insurance documentation as his wife. On December 28, 2008, the respondent falsified an official application for dental insurance coverage by claiming that he was married. The respondent listed a woman’s name on the insurance documentation as his wife. On December 28, 2008, the respondent falsified an official application for dental insurance coverage by claiming that he was married. On April 7, 2010, the state attorney’s office issued a “Prior to Letter” to be delivered to the respondent advising him of an investigation into a possible fraudulent insurance application. The State Attorney’s Office afforded the respondent the opportunity to discuss his version of events. On April 28, 2010, the respondent’s attorney provided the State Attorney’s Office with a photocopy of the application to marry; filed for the respondent and the woman identified as a dependent on his insurance policies. The application to marry was filed with the court on April 14, 2010, and a certified marriage record was filed on April 17, 2010. On June 10, 2010, the assistant state attorney handling the case advised the agency that the state would not pursue charges against the respondent citing the lack of claims filed on behalf of the alleged wife. The ASA further stated that neither of the two insurance carriers reported financial losses due to the false or misleading information provided by the respondent.
Penalty Guideline: Suspension to Revocation (both counts)
Staff recommended revocation.

Disciplinary Action by the Commission: The Commission rejected Staff’s recommendation and placed the respondent’s certification on one year retroactive suspension; one year prospective suspension to begin 15 days following the filing of the of the Final Order; one 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.

Case #29929 Unlawful Compensation or Reward for Official Behavior; Offenses Against Intellectual Property
The respondent was terminated by the Lakeland Police Department subsequent to his arrest on charges of Unlawful Compensation or Reward for Official Behavior and Offenses Against Intellectual Property. In December of 2009, the Polk County Sheriff’s Office initiated an investigation into allegations that the respondent was giving confidential information to a female citizen. While investigating an unrelated matter, detectives obtained the female's permission to search her telephone. A search of the phone uncovered text messages sent between the female and the respondent. The text messages indicated that between September 8, 2009, and November 9, 2009, the female asked the respondent to run vehicle tag information on several different vehicles. Further investigation revealed that the respondent had accessed the Driver and Vehicle information Database (DAVID) and/or FCIC/NCIC to query the tag information provided by the female via text message. On December 8, 2009, detectives conducted an interview with the female. The female told detectives that she had been introduced to the respondent through a mutual acquaintance. The female stated that she paid the respondent on several occasions for "law enforcement type services", including vehicle tag information and answering legal questions. She told detectives that the respondent provided her with the names and addresses of the vehicles’ owners. She also alleged that the respondent contacted her in November of 2009, and asked her to purchase a plane ticket for his daughter. She said that the respondent told her that they could use the purchase as a form of credit for any future investigative work he completed for her. On January 6, 2010, the respondent was interviewed by detectives. The respondent admitted that he ran vehicle tags for the female and disseminated the information to her. He stated that he limited the information he provided to the vehicle owners’ race, sex, and residing city. He also admitted that he asked the female to purchase an airline ticket for his daughter. He stated that he initially told the female he would pay her back for the ticket; however, he also suggested that they consider the purchase as payment for various types of assistance he provided to her; including the legal information he provided as well as information on vehicle tags which he ran at her request. The respondent said that the purchase was intended to "make them even". On January 25, 2010, the respondent was arrested for Unlawful Compensation, and Misuse of Confidential Information. On June 16, 2011, the case was dropped or abandoned by the State Attorney's Office due to the female’s refusal to testify against the respondent.
Penalty Guideline: Suspension to Revocation; Suspension to Revocation
Staff recommended one year prospective suspension to begin 15 days following the filing of the
Final Order; two years 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 accepted the settlement agreement.

Case # 31854 Cruelty to Animals
The respondent was not employed with a criminal justice agency at the time of her arrest and
criminal charges for Conservation-Animals: Cause Cruel Death/Pain and Suffering. On December 6, 2010, Alachua County Animal Services responded to a complaint regarding the respondent’s dogs being constantly at large and on the complainant’s property. When Animal Services arrived at the respondent’s residence, they observed a dog staggering across the yard and barely able to walk. The officer observed the dog fall down and noted that the animal was unable to get up. The dog was impounded and underwent a medical examination. The results of the examination revealed that the animal suffered from cruel neglect, with conditions including severe muscle wasting, severe flea infestation, and being 20-30 pounds underweight. An investigation determined that the dogs at the respondent’s residence belonged to the respondent’s adult son, but were left at her residence after he became incarcerated. On January 27, 2011, the respondent was arrested on an outstanding warrant for a criminal charge of “Conservation – Animals, Causing Cruel Death, Pain, and Suffering” initiated by the Animal Services Investigation Division and executed through the Alachua County Sheriff’s Office. The respondent stated that, according to their lease agreement, her son was solely responsible for the total care of the animals until he signed the animals over to Animal Services and his subsequent incarceration. At that time she purchased food for the animals once or twice and asked her two teenage sons to feed them, but was not able to be at home to check on the animals due to her busy schedule with church and fishing. On May 25, 2011, the respondent entered a plea of “Nolo Contendere” to a lesser-included offense of “Cruelty to Animals” (misdemeanor) and adjudication of guilt was withheld. She was ordered to one-year probation, fifty hours community service, not allowed to keep, own, or harbor any animals, and ordered to pay various court costs and fines.

Penalty Guideline: Probation to Suspension
Staff recommended a 90-day prospective suspension to begin 15 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 Commission approved ethics training prior to
the end of the probationary period.

Disciplinary Action by the Commission: The Commission accepted the settlement agreement.
Case #32784 Introduction of Contraband

The respondent was terminated by the Department of Corrections subsequent to an internal investigation which sustained a charge of Improper Conduct and Introduction of Contraband at State Correctional Institution. On May 15, 2011, a DOC Inspector and his canine partner conducted an inspection of the main parking lot at the Marion Correctional Institution. During the inspection, the canine alerted to the presence of a narcotic odor emanating from a vehicle identified as belonging to the respondent. The respondent was contacted and reported to his vehicle where he was advised that his vehicle would be searched based on the canine alert. The respondent stated to the inspector that his vehicle would possess K2 Spice (synthetic marijuana) and that it was given to him by another correctional officer to smoke. A search of the vehicle recovered a green leafy substance inside a plastic cup which was placed into evidence. When questioned, the respondent refused to identify the officer that had given him the K2. Immediately after the incident, the respondent's lunch box was recovered from behind the secure perimeter of the institution. A physical search of the lunchbox revealed a combination of prescription and over-the-counter drugs including seventeen Hydrocodone pills (narcotic controlled substance), thirty-seven pills of Methocarbamol (prescription drug), fifteen pills of Meloxicam (prescription drug) and one hundred and eleven Ibuprofen pills (OTC drug). When questioned, the respondent advised that he was "passed through" during staff searches. He later changed his story to indicate that he was not challenged by staff about the pills upon entering the institution. The prescription pills found in the respondent's lunch box were in valid prescription containers and were prescribed to the respondent. No criminal charges were filed.

Penalty Guideline: Revocation
Staff recommended a 60-day prospective suspension to begin 15 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 Commission approved substance abuse counseling prior to the end of the probationary period.

NOTE: The pills the respondent introduced into the facility were prescribed to him and there was no evidence that he made any attempt to supply inmates with the medications. Additionally, the respondent was not charged with possession of K2 Spice because it was not a controlled substance at the time the offense occurred. Therefore, Staff made a recommendation below the penalty guideline based on the mitigating circumstance pursuant Rule 11B-27.005(6)(b) F.A.C.: Lack of severity of the misconduct.

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

The following information is provided to facilitate an understanding of the Professional Compliance process.
Effective May 21, 2012, numerous changes were made to the Florida Administrative Code Rule Chapters promulgated by the Commission. Several of these changes affect the Commission's
Professional Compliance process. New offense categories will be used for moral character violations occurring on or after May 21, 2012. A summary of the Professional Compliance changes appear below. The full rule language can be accessed at the FDLE web site located at www.fdle.state.fl.us.

Item #1
Commission rule did not include “engaging in a romantic relationship” as part of the rule addressing unprofessional relationships. However, these relationships likely create an officer safety risk within the institutions.

Rule 11B-27.0011 Moral Character.
3. Having an unprofessional relationship with an inmate, detainee, probationer or parolee, or community controlee. An unprofessional relationship is defined as:
   a. Having written or oral communication with an inmate, detainee, probationer or parolee, or community controlee that is intended to facilitate conduct prohibited by this rule section; or
   b. Engaging in physical contact not required in the performance of official duties, and is defined as kissing, fondling of the genital area, buttocks, or breasts, massaging or similar touching, holding hands, any other physical contact normally associated with the demonstration of affection or sexual misconduct as applied to all certifications, which is defined in Section 944.35(3), F.S.
   c. Engaging in a romantic association with an inmate, detainee, probationer, parolee, or community controlee. “Romantic association” is defined as the exchange of telephone calls, pictures, letters, greeting cards, or any other form of oral or written communication which expresses feelings or thoughts of affection or the desire to engage in a romantic relationship whether emotional or physical.

Item #2
This change added two new charges to the list of enumerated misdemeanors. Obscene and harassing phone calls are often an element in other cases (i.e. stalking, battery-domestic violence), however, were not presented to the Commission. Additionally, cases involving providing false information to law enforcement were not eligible for Commission review. These cases present officer safety issues and warrant review by the Commission.

(b) Except as otherwise provided in Section 943.13(4), F.S., a plea of guilty or a verdict of guilty after a criminal trial for any of the following misdemeanor or criminal offenses, notwithstanding any suspension of sentence or withholding of adjudication, or the perpetration by an officer of an act that would constitute any of the following misdemeanor or criminal offenses whether criminally prosecuted or not:

1. Sections 316.193, 327.35, 365.16(1)(c)(d), 414.39, 741.31, 784.011, 784.03, 784.047, 784.048, 784.05, 784.046(15), 790.01, 790.10, 790.15, 790.27, 794.027, 796.07, 800.02, 800.03, 806.101, 806.13, 810.08, 810.14, 810.145, 812.014, 812.015, 812.14, 817.235, 817.49,
365.16(1)(c)-(d) Obscene or harassing telephone calls.
(1) Whoever: (c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or (d) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number.

901.36 Prohibition against giving false name or false identification by person arrested or lawfully detained; penalties; court orders.
(1) It is unlawful for a person who has been arrested or lawfully detained by a law enforcement officer to give a false name, or otherwise falsely identify himself or herself in any way, to the law enforcement officer or any county jail personnel.

Item #3
Respondent in disciplinary are served an Administrative Complaint by the Commission. Respondents failing to respond to the complaint proceed in a default status. When making a penalty recommendation for these cases, staff utilizes the highest penalty outlined in rule. However, many charges do not include revocation. In such cases, the recommendation is for a period of probation and/or suspension, and often times, the respondent again fails to respond. These cases then return to the entire disciplinary process as Violation of Commission Ordered Probation. This rule change adds failure to respond to the Administrative Complaint as an aggravator for recommending revocation in default status cases.

Rule 11B-27.005(a) Revocation or Disciplinary Actions.
(a) Aggravating circumstances:
1. Whether the certified officer used official authority to facilitate the misconduct.
2. Whether the misconduct was committed while the certified officer was performing other duties.
3. The number of violations found by the Commission.
4. The number and severity of prior disciplinary actions taken against the certified officer by the Commission, provided the officer was previously disciplined by the Commission within the preceding eight years or received a Letter of Guidance within the preceding five years.
5. The severity of the misconduct.
6. The danger to the public.
7. The actual damage, physical or otherwise, caused by the misconduct.
8. The lack of deterrent effect of the penalty imposed by the employing agency.
9. The pecuniary benefit or self-gain to the officer realized by the misconduct.
10. Whether the misconduct was motivated by unlawful discrimination.
11. Any behavior constituting “domestic violence” defined by Section 741.28(1), F.S.
12. Whether the certified officer has previously received a Letter of Acknowledgment within the preceding three years.

13. The certified officer has not filed any answer to the Administrative Complaint or otherwise responded to the allegations of misconduct alleged by the Commission.

**Item #4**

Commission’s rule on a recanted statement was clarified by defining a completed internal investigation as occurring upon the investigator’s execution of the statement required by Section 112.533(1)(a)2., F.S.

Rule 11B-27.0011 Moral Character.

(5) A certified officer’s failure to maintain good moral character as defined in subsection (4) of this rule section by committing a violation involving perjury or false statement in a court proceeding, shall not include a statement which was recanted. If the violation involving perjury or false statement is alleged to have occurred in the performance of regularly required work duties or the course of an administrative or disciplinary investigation, a certified officer’s failure to maintain good moral character as defined in subsection (4) of this rule section shall not include a statement in which the officer making the statement conceded such statement to be false prior to the employing agency’s conclusion of the internal affairs investigation in which the false statement related to a material fact final disciplinary determination as provided for in Section 112.532(4)(b), F.S. For purposes of this subsection, the employing agency’s internal affairs investigation shall be deemed to be at a conclusion upon the investigator’s execution of the statement required by Section 112.533(1)(a)2., F.S.

If you have questions concerning the Penalty Guidelines Task Force or suggestions for items to be discussed when the task force convenes in 2013, 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.