**Professional Compliance Bulletin**

**Issue #66**

**November 2016**

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 the Commission heard at its meeting held on November 3, 2016.

**Case #39978- Misuse of Electronic Database – FCIC/NCIC (2 counts)**

The respondent received a 40-hour suspension and training from the Gainesville Police Department subsequent to an internal investigation which sustained the charges of Immoral, Unlawful, Improper Conduct and Personal Use of Public Property. On July 9, 2015, the Gainesville Police Department received a complaint alleging that the respondent misused FCIC/NCIC by searching the database for information on a former Gilchrist County Sheriff’s deputy and a firefighter. The complaint alleged that the respondent provided the deputy’s address to the estranged wife of a man that the deputy was living with. The respondent also searched a firefighter in FCIC/NCIC. The firefigher was the former roommate of the citizen’s estranged husband. During the investigation, screenshots of text messages between the respondent and the citizen were obtained. In the messages, the citizen asked the respondent to send her the information. The respondent responded and told her that he was going to his car and would send the information once he ran it. The respondent later sent the citizen the deputy’s name, date of birth, and the city in which she resides. The woman asked for the address but there was no text message showing that the respondent provided her with the address. A Transaction Archive Report revealed that the respondent ran a license plate which returned the deputy’s vehicle, driver’s license, and emergency contact information. The respondent also ran the firefighter’s driver’s license number which returned his full driving record. The respondent did not provide a sworn statement, but agreed to the proposed agency discipline through an expedited disposition process. No criminal charges were filed.

**Penalty Guideline**: Probation to Suspension (each counts)

FDLE Prosecution requested a 10-day suspension; 1 year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of a Commission-approved ethics course prior to the end of the probationary period.

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

**Case # 39280-** **Purchasing Prostitution Services**

The respondent resigned from the Brevard County Sheriff’s Office (BCSO) prior to the conclusion of an internal investigation which sustained charges for Unprofessional Relationship with a Person Involved in a Criminal Pattern of Behavior (Prostitution) and Disclosure or Use of Confidential Criminal Justice Information. On August 20, 2015, during a separate investigation, it was discovered that the respondent was possibly associated with a known prostitute as a customer. Text messages obtained from the phones of the respondent and the prostitute revealed coded messages in which they discussed the cost of sex for various lengths of time. Text messages also revealed that the respondent and the prostitute discussed the alleged sexual encounter after it had taken place. The respondent and the prostitute also exchanged several explicit photographs through text messages. On September 4, 2015, in a sworn, non-custodial interview, the respondent initially denied knowing the prostitute. Later in the interview, he provided detailed information regarding his association with her. He advised he met her through an adult escort website and could understand why it appeared he was looking for sexual relations since the website was designed for adults. The respondent stated he did not pay for sex, but the text messages may imply that he did. When questioned regarding money changing hands, the respondent stated he kept the money since she never charged him. He stated he looked out for her and admitted he provided her with information such as how to protect herself from law enforcement by backing the cars in the driveway so no one could see the tags. At the end of the interview, the respondent submitted his resignation. On September 15, 2015, the respondent declined to provide a formal interview related to the administrative investigation. On September 15, 2015, a member of the BCSO authored a capias request charging the respondent with Prohibiting Prostitution and Related Acts. On November 16, 2015, the State Attorney’s Office determined the available evidence was insufficient to prove the charge beyond a reasonable doubt. No criminal charges were filed.

**Penalty Guideline**: Prospective Suspension and Probation with training to Revocation

FDLE Prosecution requested revocation of the respondent’s certification.

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

**Case # 38699- Battery on a Law Enforcement Officer;**

 **Resisting or Obstructing an Officer Without Violence**

The respondent resigned from the Florida Department of Corrections subsequent to an internal investigation which sustained the charges of Conduct Unbecoming a Public Employee and Conduct Which Violates State Statute. On March 8, 2015, a sergeant with the Holmes County Sheriff’s Office observed a silver sports utility vehicle driving at an excessive speed. The sergeant was operating a moving radar and verified the vehicle’s speed at 21 miles per hour over the posted speed limit. When the sergeant activated his emergency lights and siren, the vehicle ran off of the roadway on a curve and crashed into a wooded area. As he pulled up to the scene, the sergeant observed the respondent exit the driver’s side window. The sergeant drew his pistol and ordered the respondent to the ground several times. The respondent refused the order and started to advance on the sergeant. The sergeant drew his dart firing stun gun and warned the respondent that if he kept advancing he would be shot with the taser. The respondent continued toward the sergeant and was subsequently tased. Upon falling to the ground, the respondent was restrained with handcuffs. The respondent lifted both of his feet and kicked a uniformed, back-up deputy in the upper body. The sergeant noticed a strong odor of an alcoholic beverage coming from the respondent and that he was talking with slurred speech. The respondent was transported to the local hospital. On November 23, 2015, the State Attorney’s Office filed nolle prosequi for the charges of resisting officer without violence and battery on a law enforcement.

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

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 accepted the requested penalty.

**Case # 37936-** **Fraudulent Insurance Claim**

The respondent was terminated from the Escambia County Corrections prior to the conclusion of an internal investigation which sustained improper conduct, false and fraudulent insurance claim, and violation of motor vehicle liability policies. Between April 29, 2014, and April 30, 2014, Escambia County experienced severe weather that caused flooding and property damage throughout the county, including damage to the respondent’s vehicle that was parked in the Escambia County Jail parking lot. During this period of time, the respondent purchased an insurance policy for his uninsured vehicle. Later that day, the respondent filed an insurance claim for his vehicle, which prompted an investigation by the Florida Department of Financial Services. At the conclusion of the investigation, it was found that on April 30, 2014, at 1:59 a.m., while on duty at the Escambia County Jail, the respondent attempted to purchase an insurance policy for his uninsured vehicle. He spent a few minutes online but did not purchase the insurance policy for his vehicle at this time. At 5:55 a.m., the respondent and his sister contacted the insurance company to purchase the policy for the respondent’s vehicle. During the phone call, both the respondent and his sister asked for coverage clarification, and more specifically, if the insurance policy covered flooding. At this time, the respondent’s sister made the initial payment to the insurance company. The insurance company representative advised the respondent and his sister that the policy would be effective the same day, April 30, 2014, at 6:02 a.m. Again, the respondent’s sister asked for clarification of the time the policy would be in effect and the representative reiterated the time the policy would be in effect. A photograph of the parking lot taken on April 30, 2014, around 7:15 a.m. by another jail employee showed that the respondent’s vehicle was sitting in approximately two feet of water. At 10:27 a.m., when the respondent contacted the insurance company to file a claim for flood damage to his vehicle, the respondent initially informed the representative that he first noticed the damage to his vehicle around 2:00 a.m., but then the respondent stated that when he looked at his vehicle at 2:00 a.m., it was fine. He also stated that when he came out at 7:00 a.m., his vehicle was damaged. On May 1, 2014, during another call to the insurance company, the respondent indicated to the representative that he completed the application process about 2:00 a.m., while at work, and reiterated this two more times during the call. The respondent also stated that he initially noticed the damage to his vehicle around 7:00 a.m. He also stated that the employees were advised to move their vehicles at 5:00 a.m., but his vehicle had already been damaged. The insurance representative then asked the respondent if he was advised when the policy would be in effect. He stated that he guessed that the policy was in effect around 5 or 6 a.m. The respondent advised the representative that this was the third time that the jail flooded. According to the insurance company investigator, the value of the respondent’s 2008 vehicle was $12,341.73 and would have received a replacement value of the same amount. The respondent withdrew his claim during the investigation. As a result of the investigation, the respondent was charged with grand theft and two counts of insurance fraud. On April 21, 2015, the respondent pled nolo contendere to one count of insurance fraud and adjudication was withheld. As part of a plea agreement, the respondent was referred to a pretrial intervention program, and upon successful completion of the program, the plea will be withdrawn. As part of the pretrial intervention program, the respondent agreed to pay prosecution and investigation fees and complete 50 hours of community service work. During his internal investigation interview, the respondent denied knowing his vehicle was flooded before obtaining the insurance policy. He stated he needed insurance and agreed that it was a coincidence.

**Penalty Guideline**: Suspension to Revocation

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

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

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

Section 943.1395(7)(a)-(e), F.S., authorizes the Criminal Justice Standards and Training Commission to impose disciplinary action against an officer’s certification ranging from the issuance of a reprimand to revocation of certification. The Commission has established general and specific penalty guidelines under Rule 11B-27.005(5), Florida Administrative Code, for felony offenses, specific enumerated misdemeanor offenses, non-criminal offenses, and violations involving the unlawful use of controlled substances. The Commission uses these penalty guidelines to determine appropriate disciplinary recommendations regarding the certification of sworn officers in the state of Florida. Additionally, Section 943.1395(8)(b)2, F.S. states:

On or before July 1 of each odd-numbered year, the Commission shall conduct a workshop to receive public comment and evaluate disciplinary guidelines and penalties. The commission chair shall appoint a 12-member advisory panel, composed of six officers and six representatives of criminal justice management positions, to make recommendations to the commission concerning disciplinary guidelines.

The Commission will conduct this workshop as a Penalty Guidelines Task Force meeting on Thursday, February 9, 2017, beginning at 8:30 a.m., at the Seminole State College, Sanford/Lake Mary Campus, 100 Weldon Boulevard, Room AT102, Automotive Building, Sanford, Florida 32773.

If you have any issues that you would like to be addressed in the Quarterly 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.