

**Issue #63**

**January 2016**

**Professional Compliance Bulletin**

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 meeting held on January 28, 2016.

**Case #36555- Prohibited Use of Computer Services**

The respondent resigned from the Miami-Dade County Public Schools Police Department subsequent to an internal investigation which sustained the charge of Improper Conduct. On April 17, 2013, a principal at a local high school contacted the Miami-Dade County Public Schools Police Department and advised that the respondent, the school resource officer, had sent inappropriate text messages to a student at the school. The principal indicated that the student showed the messages to a teacher and that the messages were sexual in nature. An internal investigation was initiated and the student was interviewed. The student stated that on April 3, 2013, she skipped school and returned home the following day. While she was away, she began receiving text messages from an unknown number. The person sending the messages was asking for her location and asking if she was okay. Through follow-up text messages, the student was able to determine that the sender of the text messages was the respondent. The respondent came to her home after she returned and asked her questions about what happened while she was away. On April 5, 2013, the student received more text messages from the respondent containing questions that were sexually explicit. The student’s father was interviewed and he stated that on the day his daughter skipped school, he reported to the school that she was missing. The respondent informed him that he needed to contact the local police to file a report. According to the father, the respondent later came to his residence and asked about his daughter. He told the respondent that his daughter had not returned and that he had tried calling her but she was not answering his calls. He provided the respondent with his daughter’s phone number and the respondent gave his phone number to the father. The father stated that he witnessed the respondent use his department-issued laptop to send a text message to his daughter’s phone. During his sworn interview, the respondent stated that he took it upon himself to follow-up with the student’s father after he reported her missing. The respondent stated that he gave the father his phone number which he obtained through an internet based service that provides free phone calling and text messaging capabilities. He stated that he used his laptop to send the student text messages using his internet based phone number. The messages were sent in an attempt to locate the student. The respondent stated that he sent the student text messages after she returned only to check on her well-being. When questioned, the respondent stated that he did not recall sending sexually explicit text messages to the student. No criminal charges were filed.

**Penalty Guideline**: Suspension to Revocation

Staff recommended a 1 year retroactive suspension, 1 year prospective suspension; 2 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.

**Case # 37300-Perjury by Contradictory Statements**

The respondent was terminated from the Port St. Lucie Police Department for violations of a last chance employment contract resulting from a previous investigation. On January 8, 2014, an internal investigation was initiated based on contradictory statements the respondent made during a grievance hearing. The grievance hearing was based on a previous internal investigation which alleged that the respondent used abusive language towards a fellow police officer while investigating a traffic accident. During her initial sworn interview as part of the first internal investigation, the respondent stated that she did not use profanity towards a fellow officer or anyone else at the accident scene. She indicated that she was not sure why the officer stated that she used profanity. The outcome of the investigation resulted in the respondent being terminated from the Port St. Lucie Police Department. During the respondent’s grievance hearing interview on November 21, 2013, and in her written grievance statement, the respondent admitted that she used profanity while interacting with fellow officers but stated that she was never approached afterwards that the language was offensive towards them. The respondent admitted that she did use profanity towards the fellow officer when asking for paperwork. The respondent agreed that denying she used profanity was a lie if, in fact, she made that statement in her initial interview. She further stated that she did not recall ever telling anyone during the internal investigation interview that she did not use profanity. No criminal charges were filed. Prior to presentation to the Commission, the respondent indicated to staff that she did not care what happened to her certification.

**Penalty Guideline**: Prospective Suspension to Revocation

Staff recommended revocation.

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

**Case # 38279-** **Possession of Not More than 20 Grams of Cannabis;**

 **Controlled Substances – Possession- Clindamycin;**

 **Controlled Substances – Possession- Hydrocodone**

The respondent resigned from the Bradford County Sheriff’s Office prior to the conclusion of an internal investigation which sustained the charge of Conduct Unbecoming. On January 4, 2015, an officer with the Gainesville Police Department initiated a routine traffic stop. Upon making contact with the driver, later identified as the respondent, the officer detected the strong odor of cannabis emitting from the vehicle. The respondent appeared extremely nervous and the respondent and the passenger were asked to exit the vehicle. The officer could smell a strong odor of cannabis emitting from the respondent. A second officer assisted with a pat down of the respondent and a small bag of cannabis fell out of the respondent’s left pant leg. A search of the vehicle was performed and a one gram cannabis cigarette was located as well as a small envelope containing Clindamycin and half of a Hydrocodone pill. Post Miranda, the respondent admitted that the cannabis found on his person and the cannabis in the vehicle were his. The respondent stated that he had obtained the pills through a friend, that he did not have a prescription for either, and that they were for his abscessed tooth. The respondent was arrested for possession of cannabis less than 20 grams, possession of legend drugs, and possession of a controlled substance. On February 5, 2015, the respondent entered into a Pre-trial Intervention Program. The program required the respondent to complete six months supervision, 50 hours community service, and pay court fines and costs.

**Penalty Guideline**: Revocation; Revocation; Revocation

Staff recommended revocation.

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

**Case # 38773-** **Food Stamp or Medicaid Fraud More than $200**

The respondent was not employed by a criminal justice agency at the time of her arrest for Public Assistance Fraud. In early 2015, the Department of Financial Services initiated an investigation into the public assistance received by the respondent. The investigator believed that the respondent had failed to disclose her employment status, allowing her to qualify for public assistance. The investigation revealed that the respondent failed to report her income on two applications dated February 25, 2013 and August 20, 2013. On these occasions the respondent acknowledged the rights and responsibilities page that clearly states the recipient must provide accurate information. The respondent did not disclose that she was employed with the Gadsden Correctional Facility from January 14, 2013 to October 31, 2013. She also failed to disclose that she was employed in a civilian position with the Department of Highway Safety and Motor Vehicles from November 15, 2013 to November 30, 2014. During this time period, the respondent received $4,299.00 from the Food Stamp Program and $817.87 in Medicaid Program benefits. On February 10, 2015, the respondent admitted to failing to disclose her employment on the applications, acknowledging the rights and responsibilities page, and receiving the public assistance. On March 12, 2015, a warrant was issued by the State Attorney’s Office for the respondent for the charge of Public Assistance Fraud. On May 8, 2015, the respondent entered into a Pre-Trial Intervention Program which required her to serve 24 months probation, complete 75 hours of community service, and pay restitution.

**Penalty Guideline**: Suspension to Revocation

Staff recommended a 180 day 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 rejected staff’s recommendation and revoked the respondent’s certification.

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

Frequently, officers under investigation for possible violations of the Commission’s moral character standard will resign or retire prior to the conclusion of the investigation. Additionally, some agencies administratively separate an officer suspected of a violation rather than conduct an investigation into the allegations. Regardless of the officer’s employment status with the agency following the alleged violation, Florida Statutes and Commission rule require that an investigation be completed and sustained allegations forwarded to Commission.

Chapter 943.1395(5), Florida Statutes, states:

The employing agency must conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, statute [943.13](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0943/Sec13.HTM)(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, statute [943.13](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0943/Sec13.HTM)(4) or (7), the employing agency must submit the investigative findings and supporting information and documentation to the commission in accordance with rules adopted by the commission. The commission may inspect and copy an employing agency's records to ensure compliance with this subsection.

Additionally, Commission Rule 11B-27.003, F.A.C. states:

(1) Pursuant to Section 943.1395(5), F.S., an employing agency shall conduct an investigation when having cause to suspect that an officer it employs or employed at the time of the alleged violation, or employed on a Temporary Employment Authorization (TEA) pursuant to Section 943.131, F.S., does not comply with Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C. An investigation shall be conducted and concluded when the employing agency has cause to suspect that an officer is in violation of Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C. The agency’s investigation shall contain an official disposition, which shall be reported to Commission staff pursuant to subsection (2) of this rule section.

(2) Upon concluding the investigation:

(a) 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. Form CJSTC-78 can be obtained at the following FDLE Internet address: [http://www.fdle.state.fl.us/Content/
CJST/Publications/Professionalism-Program-Forms.aspx](http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx), or by contacting Commission staff at (850) 410-8600.

(b) If the allegations are sustained, and are a violation of Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C., the employing agency shall forward to Commission staff the complete investigative package, which shall include the following, no later than 45 days after the allegations are sustained:

1. A completed Internal Investigation Report form CJSTC-78.

2. The allegations.

3. A summary of the facts.

4. Names of witnesses.

5. Witness statements and depositions.

6. Certified court documents.

7. Any other supportive documentation or information.

(c) If the allegations are not sustained, unfounded, or the officer has been exonerated, or the allegations that are sustained are only violations of the employing agency’s policies, and are not violations of Section 943.13(4) or (7), F.S., or subsection 11B-27.0011(4), F.A.C., the employing agency shall complete form CJSTC-78 and maintain the form on file at the agency.

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1. A completed Internal Investigation Report form CJSTC-78.

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3. A summary of the facts.

4. Names of witnesses.

5. Witness statements and depositions.

6. Certified court documents.

7. Any other supportive documentation or information.

Regardless of whether or not there is a successful criminal action taken in a case, the agency still must conduct an internal investigation and render an official administrative disposition in that matter. In addition, the agency must complete the required forms and submit all of the required supporting documentation, in accordance with applicable statute and rule.

If you have questions concerning the Officer Discipline process, or if you have any issues 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.