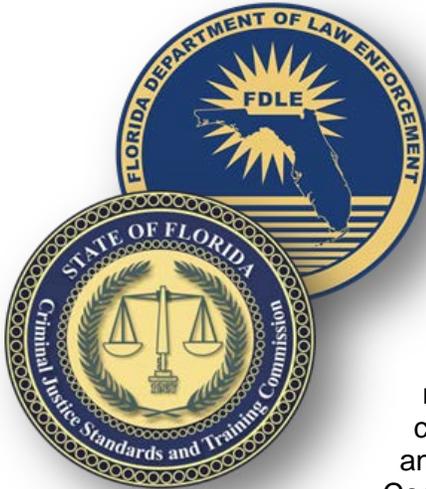


Professional Compliance Bulletin

August 2019 – Issue #74



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 hearings, 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 hearings held on August 7, 2019.

Case # 40776-Felony Battery

The respondent was terminated from the Department of Corrections subsequent to an internal investigation which sustained the charges of conduct unbecoming and violation of state statute. On October 5, 2016, a sergeant with the Wauchula Police Department conducted a traffic stop on the respondent’s wife, the victim. The officer observed her to have a bloody face and hands. She stated that earlier that night the respondent was driving them home from a local bar. While driving, he punched her several times with a closed fist. When questioned later at the hospital, the victim also disclosed she suffered a broken nose. The sergeant made contact with the respondent. The respondent stated the victim was cheating on him so he packed her belongings and sent her on her way. He stated that when she left the apartment complex she hit a vehicle in the parking lot. The sergeant observed a blood spot on the respondent’s chest and armpit which he said came from the victim spitting on him. He further stated that he did not touch the victim. An inspection of the victim’s vehicle revealed blood on the steering wheel consistent with the victim driving the vehicle during the traffic stop. Blood was also found on the front passenger door consistent with the victim being in the passenger seat when she was struck in the face. The respondent was arrested for felony battery resulting in bodily harm. On January 23, 2017, the charge for felony battery great bodily harm was terminated and dismissed.

Penalty Guideline: Prospective suspension to Revocation

FDLE Prosecution requested 2 years prospective suspension; 2 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 approved the settlement agreement.

Case # 40861- False Statement on an Employment Application

The respondent was terminated from the Niceville Police Department subsequent to an internal investigation which sustained the charge of false information on an employment application. On September 27, 2016, the respondent submitted an application for employment to the Okaloosa County Sheriff's Office (OCSO). During the subsequent background investigation it was determined that the respondent was not completely truthful on parts of his application. On both the OSCO application, and his initial application for the Niceville Police Department, he indicated that he served in the United States Air Force. While serving in the Air Force, he stated that he was reduced in rank and disciplined for having a false identification. It was later learned that he was actually reprimanded, reduced in rank, and received thirty days in correctional custody for the charge of disobeying a lawful order and false official statement. Additionally, on his application for employment with OCSO, the respondent indicated that he never received any disciplinary action. This was an untruthful answer based upon his history with the Air Force. No criminal charges were filed.

Penalty Guideline: Suspension to Revocation

FDLE Prosecution requested 30 days prospective suspension; 1 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 rejected the requested penalty and revoked the respondent's certification.

Case # 38441-Official Misconduct

The respondent was demoted to a civilian position and transferred to the Wakulla County Sheriff's Office detention facility subsequent to his arrest for fraud. The transfer caused him to lose his high risk status. The respondent was employed as a lieutenant with Wakulla County Sheriff's Office (WCSO) as a civil process server. On several occasions, the respondent's captain provided him with several official documents that needed to be served in order to execute due process. On January 6, 2014, another lieutenant with WCSO was closing out files, and discovered three summonses that were not returned. When questioned about the summonses, the respondent stated that he had not received them, but that he would check his desk. He left the civil division and returned a short while later advising that he could not find them. The respondent asked for a copy of the summonses so that he could serve them, but then stated that he would mark the documents as not served. Another lieutenant requested that the captain check video surveillance in the area of the shredder. Upon checking the video, it was discovered that the respondent walked towards the entrance of the shredder room with documents in his hands. The video then showed him walk towards his office with no papers in hands. A crime scene technician reassembled the shredded paper which revealed that they were the documents in question. On February 7, 2017, the respondent entered into a deferred prosecution program for a period of two years. As part of the agreement, the respondent was ordered to refrain from violating any laws, agree to not be employed as a law enforcement officer and pay various court costs and fines.

Penalty Guideline: Prospective Suspension to Revocation

FDLE Prosecution requested revocation.

Disciplinary Action by the Commission: The Commission accepted the requested discipline.

Case # 43652-False Official Statement

The respondent resigned from the Lake County Sheriff's Office subsequent to an internal investigation which sustained the charges of untruthfulness and false statement. On May 10, 2018, the respondent submitted a report stating that he and another deputy were escorting an inmate to a room, where he attempted to restrain the inmate. He said he was able to get one handcuff on when the inmate aggressively pulled away. He grabbed the inmate and redirected him to the floor where the inmate continued to actively resist being restrained. He delivered three distraction blows to the inmate before successfully restraining him. There was no video of the incident. The respondent completed a use of force report, and a report of extraordinary occurrence, that mirrored his initial report. In an interview on June 12, 2018, the respondent conceded that he was not truthful on his reports and admitted that the inmate was restrained when he was taken to the ground. He said he delivered approximately three strikes to the inmate's ribs after the inmate refused to roll onto his stomach. The respondent did not have an explanation as to why he did not tell the truth from the very beginning. No criminal charges were filed.

Penalty Guideline: Prospective Suspension to Revocation

FDLE Prosecution requested 30 days prospective suspension; 1 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 requested discipline.

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

As outlined in Florida Statutes and Florida Administrative Code, the first step of the professional compliance process begins when the Probable Cause Determination Panel determines that an officer has failed to maintain compliance with Section 943.13 (4) or (7), F.S., and, therefore, enters a Finding of Probable Cause. Upon a finding of Probable Cause the officer receives an Administrative Complaint, which functions as the Commission's charging document, along with an Election of Rights form. The Election of Rights allows the officer select an option for the next step in the disciplinary process

- If the officer disputes the facts recorded in the Administrative Complaint, the officer may elect to have a formal hearing in front of an Administrative Law Judge with the Division of Administrative Hearings. The officer may choose to be represented by legal counsel, or represent themselves, and present evidence and/or witnesses. The Commission is represented by FDLE Prosecution, and may also present evidence and/or witnesses. The Administrative Law Judge will then render a decision on the case after the presentation of all evidence, which is issued in the form of a Recommended Order. The Recommended Order is ultimately presented to the Commission to be adopted or rejected.
- If the officer does not dispute the facts of the case, they may request an Informal Hearing, which provides the opportunity to appear before the full Commission and present any mitigating factors for the Commission to consider before taking disciplinary action against the officer's certification.

- An officer may also section the option to voluntarily relinquish their certification. The officer can voluntarily relinquish certification and admit to the facts of the case, or voluntarily relinquish certification and not admit to the facts to the case. Voluntary relinquishments are presented to the Commission for acceptance.

In all cases in which the Commission makes a final determination on an officer's certification, Commission staff will issue a Final Order, outlining the action taken, which is sent to the officer. If the officer was employed at the time of the misconduct, a copy of the Final Order will also be sent to the employing agency.

If you have any issues that you would like to be address in this 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.