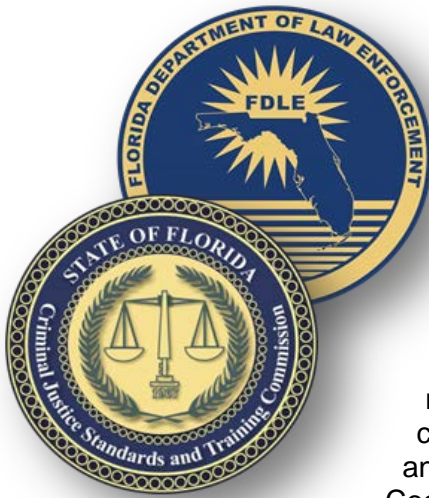


# Professional Compliance Bulletin

## January 2020 – Issue #76



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 January 30, 2020.

### **Case # 44128 – False Official Statement**

The respondent was suspended by the Florida Highway Patrol for 120 hours, without pay, for the sustained charges of poor performance and conduct unbecoming a public employee. On May 31, 2018, a complaint was received alleging that the respondent had an unauthorized passenger in his patrol car, visited a residence for extended periods of time during regular duty, and was beginning and ending his shift at an unauthorized location. The respondent confirmed that he allowed his wife to ride in his patrol car multiple times without permission from his supervisor. The investigation also revealed that from April 1, 2018, to July 3, 2018, the respondent visited his girlfriend’s residence on 35 occasions, for 30 minutes or more, for a total of 48 hours and 20 minutes. He reported them as work hours on his official timesheet. Time spent at the residence less than 30 minutes was not counted in the total hours submitted. He did not have permission from a supervisor and he did not check out via CAD or his radio while at the residence during his shift. During the investigation it was determined that a sergeant counseled him about spending time at the residence. The respondent told the sergeant that he was at his in-law’s residence because he did not want anyone to know he was having an affair. Additionally, his supervisor counseled him about spending time at the residence but he continued to spend time there regularly after being counseled. The respondent told investigators that he was visiting his girlfriend, eating a meal, using the restroom, and working on reports while at the residence. He said that he did not notify anyone of his location. A review of the respondent’s computer usage from June 21, 2018, through July 3, 2018, revealed that he did not use his computer to complete any work while at his girlfriend’s house. No criminal charges were filed.

### **Penalty Guideline: Prospective suspension to Revocation**

FDLE Prosecution requested a 60 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 ethics training prior to the end of the probationary period.

**Disciplinary Action by the Commission:** The Commission voted to change the 60 day suspension to a 120 day retroactive suspension and accept the remainder of the requested penalty.

**Case #41882 – Excessive Use of Force by Law Enforcement**

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The respondent resigned from the Jacksonville Sheriff's Office subsequent to an internal investigation which sustained the charges of commission of conduct supporting criminal acts – battery, and conduct unbecoming. On June 10, 2017, the respondent responded to a deputy's call for assistance at a convenience store. The victim and his brother were handcuffed and placed in the back of the respondent's marked patrol vehicle without incident. The respondent was in the front seat and asked the victim for identifying information. The victim alleged that the respondent became angry because he did not know his Social Security number. They had a verbal exchange and the respondent went around to the back seat, grabbed him by the neck, and punched him twice in the face. The other deputy checked the victim and did not observe any marks on his face that would be consistent with being punched. He also checked the respondent's hands and did not observe anything consistent with him punching the victim. The respondent returned to the driver's seat and the victim spit at him. The respondent then again went around to the back seat, removed the victim from the vehicle, directed him to the ground, and punched him several times. The other individual in the vehicle jumped on the respondent. The other deputy restrained the individual while the respondent put the victim back in the patrol car. He then leaned into the back seat and struck the victim several times with his fist. The respondent stated that the victim was kicking at him and attempting to bite him. The other deputy observed the respondent striking the victim and ordered him to stop several times. He observed facial injuries on the victim that were consistent with battery. There was also blood on the back seat of the patrol car. Two witnesses stated they observed the incident and that the respondent struck the victim. Security video from the store was reviewed. The respondent could be seen removing the victim from the vehicle and an apparent struggle taking place. The respondent placed the victim back inside the vehicle. There was no video that clearly showed the respondent striking the victim. The respondent was arrested and charged with battery. On July 23, 2018, the respondent entered a non-prosecution agreement and was required to resign from the Jacksonville Sheriff's Office. He was also prohibited from law enforcement employment in the Fourth Judicial Circuit or any position requiring a valid certification issued by the Florida Department of Law Enforcement. The respondent was required to complete 50 hours of community service and an anger management program, pay court fees, and not violate any federal, state, or local laws.

**Penalty Guideline:** Suspension to Revocation

FDLE Prosecution requested a 1 year retroactive suspension; 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 approved the settlement agreement.

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### **Case # 43618 – Unprofessional Relationship with an Inmate-Romantic Association**

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The respondent resigned from the Orange County Corrections Department subsequent to an internal investigation which sustained the charge of code of conduct-fraternizing with an inmate. On January 29, 2018, a complaint was received alleging that the respondent was fraternizing with an inmate. The complaint stated that the respondent was passing notes, giving books to, and using sign language with the inmate, and that at least one other officer was aware of the relationship. Additionally, numerous witnesses confirmed that the respondent was likely the female voice on the receiving end of phone calls made by the inmate on or between December 1, 2017, and March 5, 2018. On January 30, 2018, a tactical search was conducted of the inmate's property. During the search a hand written letter, proclaiming love for the inmate, and multiple greeting cards were located and photographed as evidence. A forensic examination of the handwriting concluded that the respondent authored the cards and letter discovered in the inmate's cell. In an interview, an officer testified that she observed the respondent drop a note into the inmate's cell. She said she felt that the respondent treated the inmate differently than other inmates and that she observed the respondent give the inmate a book that appeared to have been brought in from outside the jail. In addition, she testified that she observed the respondent using sign language with the inmate. An examination of the respondent's personal calendar revealed entries linked to the inmate. In an interview, the inmate denied having a relationship with the respondent. The respondent was given the opportunity for an interview but she declined. No criminal charges were filed.

**Penalty Guideline:** Revocation  
FDLE Prosecution requested revocation.

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

### **Case # 43712 – Battery-Domestic Violence, Child Abuse**

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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 June 21, 2018, an officer responded to a residence in reference to a domestic disturbance. The victim stated that she and the respondent had been arguing. As she was talking to her sister on the phone, the respondent grabbed the phone from her hand, scratching her neck. During the argument, a 10 month old child knocked something over in the bathroom. The respondent picked up the child by the throat and carried her into the bedroom and put her in a crib. A witness said he saw the respondent carry the child by the neck. The respondent was arrested and taken to the local jail. Medical personnel were called to the scene to evaluate the victims. On August 7, 2018, the respondent entered into an agreement for the charge of domestic assault. He was ordered to pay costs, continue mental health treatment, and not get into more trouble.

**Penalty Guideline:** Suspension, Prospective Suspension to Revocation  
FDLE Prosecution requested revocation.

**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.**

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When determining appropriate charges for presentation to the Commission for possible disciplinary action, staff takes into account many factors. One such factor is outlined by Commission Rule 11B-27.004(12)(b), Florida Administrative Code, which states that:

Commission staff's characterization of misconduct based upon the facts as presented shall control processing of misconduct cases under the rules of the Commission.

This rule has multiple applications for staff determining appropriate charges. First, this rule applies when an agency sustains a charge against an officer that is not labeled a moral character violation, such as conduct unbecoming. If staff review of the case determines that the facts used to sustain the charge constitute a moral character violation, then that moral character violation becomes the charge used in the Commission's case. For example, an agency may sustain conduct unbecoming, but the underlying facts support that the officer committed the moral character violation of False Official Statement, then that becomes the charge presented to the Commission. The rule also applies when an individual enters a plea to a lesser offense that is not a moral character violation. For example, individuals arrested for Driving Under the Influence, a moral character violation, often plea to the lesser of charge of Reckless Driving, which is not a moral character violation. However, if the facts of the case support the charge, then staff presents the case to the Commission for the charge of Driving Under the Influence. This rule also applies when an individual enters a plea to a lesser offense that is a moral character violation. An individual arrested for Grand Theft may enter a plea to the reduced charge of Petit Theft. If the facts of the case support the initial charge of Grand Theft, then Commission staff will proceed with the Grand Theft charge. This rule is also applicable when determining charges in cases where no criminal charges are filed, are dismissed, or are nolle prossed.

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If you have any issues that you would like to be addressed 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](mailto:stacylehman@fdle.state.fl.us).