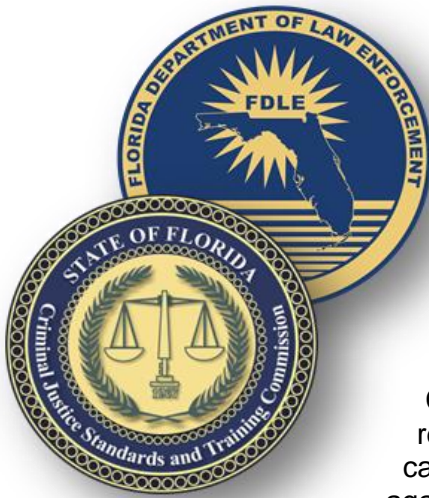


Professional Compliance Bulletin

November 2020

Issue #78



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 the hearings held on November 5, 2020.

Case #45954 Marijuana Possession (not more than 20 grams)

The respondent was terminated from the Madison Police Department subsequent to an internal investigation which sustained violation of agency policy. On January 25, 2020, a lieutenant was told that the respondent asked a convenience store employee to sell cannabis oil. The lieutenant made contact with the store employee who witnessed the conversation and confirmed the allegations against the respondent. In a sworn statement, the witness told the lieutenant that on January 15, 2020, the respondent asked him and two other store employees if they were interested in selling vaporized cannabis oil. The respondent said she would buy the equipment to make the oil. The witness stated that the next week, he observed the respondent hand someone a bottle of the oil. He said she talked with the store employee that the respondent initially contacted about selling the oil and that the respondent gave the store employee ten bottles of vaporized cannabis oil. The lieutenant made contact with that store employee who confirmed the witness’s statement. She also gave a sworn statement that the respondent approached her, while in uniform, and asked her if she wanted to start a business with the respondent and some of the other store employees. The employee said she felt pressured to agree. The respondent asked her to obtain the cannabis; afterwards, she met the respondent in the store’s parking lot. She told the respondent that she paid \$70 for the cannabis. The respondent told her she would pay her back from the profits of their sales. The respondent took the cannabis and made a sample bottle of cannabis oil and gave it to the store employee. The respondent told the employee she also had some in a vaping pod. The employee said that the respondent gave her eleven more bottles to sell but she got scared and wanted out of the arrangement. She tried to give the bottles back to the respondent but she would not take them, so the employee gave them to someone else. The store employee provided text messages of her communication with the respondent regarding the production and sale of the oil and pictures of how she was making oil. She also gave sworn testimony that she observed the respondent use a vaping device. The person the store employee gave the cannabis oil to confirmed her testimony. He gave a sworn statement that she approached

him with the respondent and gave him the oil that she did not want to sell. He said that the respondent told him she wanted someone to test the quality of her product to see if it was worth selling. She also told him she was selling the oil because she was having financial difficulties. In a sworn interview, he said that the respondent told him she was trying to use the oil to help those with mental illnesses, such as post-traumatic stress disorder (PTSD). Another witness said that the respondent showed her videos of the respondent making and vaping the oil. She said that when the respondent was disciplined by her agency, she asked her who “snitched” on her. The witness told her she did not know anything. The respondent’s sworn testimony regarding the allegations was inconsistent. She initially said that she was approached by some of the witnesses as to whether someone could have a concealed weapons permit if they had a medical marijuana card. She said any discussion of producing cannabis oil was for her personal consumption and not to sell to others. At one point, the respondent denied being in possession of marijuana and said she made a tea that did not contain marijuana, and put the tea in bottles. She said she was joking around with the witnesses about selling cannabis oil and did not expect them to take her seriously. At another point in her testimony, the respondent admitted she mentioned producing and selling cannabis oil to help those suffering from PTSD. She started crying and admitted possessing marijuana and attempting to make cannabis oil. She said her doctor told her how she could extract ingredients from the marijuana so that it would not affect a person’s urine test. She admitted that she got the marijuana from the store employee but said she did not purchase it, nor did she have any intention of selling it. The respondent also admitted to asking one of the witnesses the identity of who “snitched” on her after she received agency discipline. No criminal charges were filed.

Penalty Guideline: Revocation

FDLE Prosecution requested a 30-day prospective suspension; 2-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.

Disciplinary Action by the Commission: The Commission rejected the settlement agreement and directed staff to seek revocation or schedule the case for an administrative hearing.

Case #44500 – Perjury in an Official Proceeding; False Official Statement

The respondent was terminated by the Department of Corrections subsequent to an internal investigation which sustained conduct unbecoming, falsification of forms or records, false statements, and other agency policy violations. On September 17, 2017, the respondent and another officer were involved in a use of force incident where a chemical agent was used on an inmate. Both the respondent and the other officer submitted incident reports where both indicated that the other officer applied the chemical agent. A video of the incident showed that the respondent applied the chemical agent to the inmate. During his sworn interview, the respondent admitted that he applied the chemical agent to the inmate. He stated that when he was completing the incident reports, he realized that his firearms certification had expired. He stated that he did not want to have to go to remedial training for allowing his firearms card to elapse, so he spoke with the other officer and he agreed to list himself as the one who applied the chemical agent. On August 17, 2018, during his sworn interview, the other officer remained untruthful and indicated that he applied the chemical agent to the inmate. No criminal charges were filed.

Penalty Guideline: Prospective Suspension to Revocation (both charges)

FDLE Prosecution requested a 90-day prospective suspension; 1-year probation following 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 penalty and revoked the respondent's certification.

Case # 44318 – Possession of a Hoax Bomb

The respondent resigned from the Pinellas County Sheriff's Office the day before he was arrested for delivering a hoax bomb to the Pinellas County Sheriff's Office. No internal investigation was completed. On January 8, 2018, the Pinellas County Sheriff's Office was notified of a possible bomb. After evacuation of the immediate area, the bomb squad responded and determined the device was a toy bomb. The respondent had arranged for a box to be delivered to the office, and upon opening the box, a piece of paper with the word "BOOM" was lying on top of a device with attached wires and the appearance of a possible bomb. While personnel were verifying the validity of the bomb, the respondent was alerted of the possible bomb threat via an agency wide email. The respondent informed a co-worker that he had purchased the toy bomb from a retail store, manufactured the package, and sent it to a lieutenant as a joke. The respondent then contacted the agency and advised that he had sent the box as part of ongoing banter between himself and the lieutenant. He stated that there was a history of joking between the two of them and he apologized, stating that it was a joke that got out of control and it was a dumb thing to do. When the lieutenant was questioned during the investigation, he advised that he had known the respondent for approximately thirty years and they had worked in various departments throughout the agency during that time. He advised that when he was transferred out of the respondent's unit, he would encounter the respondent on occasion and the respondent made several comments to him, such as "you're dead to me", and "better watch your car". He believed the comments were made in a joking manner and he laughed them off. On June 5, 2019, the respondent entered into a pre-trial intervention program with the State Attorney's Office for a period of twelve months. He was ordered to report in person on a monthly basis, not to purchase or possess a firearm, to perform 50 hours of community service and to pay all court costs and fines.

Penalty Guideline: 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 accepted the requested penalty.

Case # 42944– False Official Statement

The respondent was terminated from the Orange County Corrections Department for the sustained charges of code of conduct and use of force. On November 1, 2018, the respondent was involved in a use of force incident that occurred when he redirected an inmate while the inmate was sitting on his bunk. The fixed wing video showed that the inmate was sitting on a bunk in a common area. The respondent approached the inmate and shoved him to the floor. He then appeared to kick the inmate and then pulled his hair before walking away. Two other officers approached and handcuffed the inmate. The respondent quickly returned, grabbed the inmate and shoved him, all while the inmate was handcuffed. No criminal charges were filed.

Penalty Guideline: Suspension to Revocation

FDLE Prosecution requested a 45-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 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 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 plans to conduct this workshop as a Penalty Guidelines Task Force meeting during the early part of 2021. If you have any issues that you would like to be considered by this group, 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.

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.