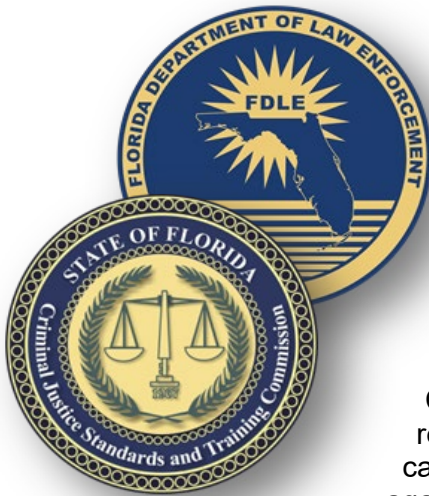


Professional Compliance Bulletin

November 2021

Issue #82



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 4, 2021.

Case #46674 - Excessive Use of Force

The respondent was terminated from the Brevard County Sheriff’s Office subsequent to an internal investigation which sustained excessive use of force, untruthfulness and various agency policy violations. On May 26, 2020, the respondent arrived as backup during a traffic stop. The driver was seated in the vehicle and the victim was standing in the doorway of the front passenger door. After taking the victim’s driver’s license, the respondent immediately grabbed the victim and pushed him against the vehicle. The victim placed both hands on the vehicle but turned his head to speak to the respondent and there was an exchange of words. The respondent conducted a pat-down search and did not discover any weapons. He then escorted the victim to the front of the vehicle, lifted him up by his shorts, and slammed him onto the hood of the vehicle. The respondent grabbed the victim’s neck and held him down on the hood of the vehicle. The victim repeatedly questioned the respondent about his actions. The respondent then pulled the victim to his feet, handcuffed him, and placed him in the back of the other deputy’s vehicle. The victim asked to speak to the respondent’s supervisor. The driver and the victim were queried for active warrants and none were found. Subsequently, the victim was let out of the car, released from handcuffs, and told to sit on the curb while the traffic stop was completed. The driver and the victim were released from the scene without any charges. The respondent did not check for injuries, take photographs of the victim, nor did he complete a response-to-resistance form. The respondent contacted a sergeant by phone to advise that there may be a complaint from the victim. The respondent provided him with a brief explanation of what had occurred, but failed to tell the sergeant that he had handcuffed the victim and placed him in the back of a patrol vehicle. The sergeant directed the respondent to prepare a supplemental report, response-to-resistance form, and document his use of force against the victim. That evening, the victim contacted the sheriff’s office and submitted a complaint along with pictures of abrasions on his back. On June 3, 2020, a sworn statement was taken from the first deputy, who advised that she had performed a traffic stop due to the driver’s failure to stop at a stop sign. The passenger exited the vehicle to

enter a business, and she advised him to stay with the vehicle. She stated that the respondent arrived on scene, conducted a pat-down of the victim, and escorted him to the front of the vehicle because he was yelling, making it difficult for her to speak with the driver. On June 24, 2020, during the respondent's sworn interview, he advised that the first deputy did not tell him why she asked the driver to get out of the vehicle. He stated that he had one hand on the victim's lower back when he tensed up and asked why he was being grabbed. The respondent denied lifting the victim by his shorts, stating that he could not lift that much weight with one arm. He stated that he had a grip on the victim's waistband and released his grip before reaching the front of the vehicle. The respondent advised that the victim was a distraction for the first deputy, so he moved him away from the area. During the encounter, the victim attempted to turn around, and in fear of being struck, the respondent put the victim on the hood of the vehicle. When asked why he placed the victim in handcuffs, the respondent advised that it was due to his refusal to calm down. Video surveillance from a nearby business, and body worn camera video were reviewed and were contrary and inconsistent with the respondent's statements of events. The respondent could be seen lifting the victim by his pants and pushing him onto the hood of the vehicle. The video did not support the statement that the victim was disruptive or confrontational. No criminal charges were filed.

Penalty Guideline: Suspension to Revocation

FDLE Prosecution requested a 30-day prospective suspension; 1-year probation to begin at the conclusion of the suspension period.

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

Case # 47605 - Sex on Duty

The respondent resigned from the Jackson County Sheriff's Office (JCSO) while under investigation for the sustained charge of sexual misconduct. On March 31, 2021, an investigation was initiated due to an allegation of sexual misconduct between the respondent and the complainant's wife, who also was employed by JCSO. The complainant provided text messages he had discovered on his wife's phone which were sexual in nature. When he confronted his wife, she admitted to the relationship with the respondent. On April 1, 2021, during her sworn statement, the complainant's wife admitted that she had been involved in a sexual relationship with the respondent for approximately a year. She advised she and the respondent had sexual intercourse approximately eight times and that some of the encounters occurred during work hours and in his agency vehicle. She stated that the sexual encounters were consensual and that she never felt threatened or forced to have sex with the respondent. Contact was made with the respondent at his residence. He was advised of the allegations against him and he immediately submitted his resignation. Due to his resignation, the respondent was not requested to be interviewed. No criminal charges were filed.

Penalty Guideline: Suspension to Revocation

FDLE Prosecution requested an 8-month retroactive suspension, a 6-month 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 course 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 # 46450 - Petit Theft

The respondent resigned from the Santa Rosa County Sheriff's Office (SRCO) prior to the conclusion of an investigation which sustained the charge of improper and unlawful conduct. On March 13, 2020, a clerk with the SRCO was advised that the respondent did not pay for the lunch that she received that day in the lunch room. Additionally, the same behavior had been documented on several other occasions. Surveillance footage of the lunch room was viewed for the prior six weeks. The video showed that the respondent visited nearly every week during the period of February 15, 2020 through March 27, 2020. On some days, the respondent failed to sign her name on the lunch withholding authorization form, and other days she would leave with two lunches and sign the form indicating she was purchasing only one. There were multiple days that the respondent would stop and make the appearance of signing the lunch room sheet, although her name was not located on it afterward. During the six-week period, the respondent visited the lunchroom sixteen times and failed to sign the sheet three times, took more lunches than she signed for three times, and gave the appearance that she signed the sheet three times. The total was ten stolen lunches totaling \$30.00. On May 20, 2020, a sworn interview was conducted with the respondent and she was allowed to review all documentation regarding the case. The respondent stated that she never intended to steal any food, but had become distracted by employees talking with her while she attempted to sign the sheet. She also stated that one day, a kitchen staff member had allowed her to place her food in two boxes to prevent her food from touching each other. The respondent stated that any footage of her taking two meals would be one meal separated into two boxes. Three lunch room personnel, a co-worker, and a bondsman were interviewed. All of them had witnessed the respondent obtaining food without paying or signing her name on various days. Lunch room personnel observed her on multiple days leaving with two and sometimes three meals. The bondsman was interviewed and advised that the respondent brought him lunch one day. He attempted to pay her for it, but she refused the money. He advised that the respondent had only provided his lunch on one occasion. No criminal charges were filed.

Penalty Guideline: Suspension to Revocation

FDLE Prosecution requested a 1-year retroactive suspension, a 120-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 settlement agreement.

Case # 46192 – Battery - Domestic Violence (slight to moderate injury)

The respondent is currently employed by the Department of Corrections. He received no discipline subsequent to an internal investigation that sustained conduct unbecoming and conduct which violates state statute. On December 21, 2018, an officer with the Valdosta, Georgia police department responded to a residence in reference to a domestic incident. Upon arrival, the officer contacted the victim, the respondent's girlfriend, who was sitting in the parking lot of her residence. She advised that she and the respondent lived together and were involved in an argument. She stated that during the argument, the respondent hit her in the left arm, chest, and on the left side of her head. He then locked her out of her residence. The officer observed bruising to the victim's left arm and slight swelling of her bottom lip. She also stated that her head hurt, but refused to have her injuries photographed. The officer questioned the respondent, who admitted that he and the victim were arguing; however, he refused to give any further information. The respondent advised that any marks on the victim were due to him restraining her from attacking him. He

advised that he did not have any physical injuries. Due to the victim's injuries, the respondent was placed under arrest for domestic violence battery. On January 31, 2020, the state attorney's office closed the case with nolle prosequi at the discretion of the prosecutor.

Penalty Guideline: Prospective Suspension to Revocation

FDLE Prosecution requested a 6-month 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 anger management course prior to the end of the probationary period.

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

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

Section 943.1395(8)(d), F. S., requires Commission staff to review cases in which an employing agency has disciplined an officer and the officer's employment is continued or reinstated by the employing agency. Subsection (7) of Rule 11B-27.004, F.A.C., directs staff to determine if the agency has taken "significant agency action" in disciplining the officer. Staff reviews the case to determine if the employing agency's sustained disciplinary charges and disciplinary penalty conforms to the disciplinary penalties prescribed by Commission rule. If staff determines that the employing agency's penalty conforms to the Commission's disciplinary penalty, staff is required to issue a Letter of Acknowledgement (LOA) to the officer and employing agency. No further action is authorized on such cases and they are not presented to the Commission. Subsection (8) of Rule 11B-27.004, F.A.C., further outlines requirements related to LOA's. This rule states that officers are not eligible to receive an LOA if they have been issued an LOA within the prior three years, a Letter of Guidance within the prior five years, or received Commission discipline within the prior eight years. An officer is also prohibited from receiving an LOA when the Commission's discipline for the charge is Prospective Suspension to Revocation, or if the Commission is charging the officer with multiple counts or more than one offense. Agencies in the process of determining discipline for an officer can contact staff for more information related to discipline which might result in the issuance of an LOA.

If you have any issues that you would like to be 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