



# Professional Compliance Bulletin



**Issue 40**  
**May 2010**

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 meetings held on May 20, 2010.

**Case # 26530** Battery on Law Enforcement Officer; Resisting Arrest without Violence

The respondent was terminated from the Florida Department of Corrections subsequent to an internal investigation which sustained the charge of improper conduct. On March 8, 2008, the Orlando Police Department received a call that an altercation was taking place in the middle of the roadway. The responding officers observed the respondent yelling at a male and female who were attempting to leave the area by taxi. The respondent, who was intoxicated, had a second altercation with another couple. The respondent attempted to enter the taxicab against the resistance of the couple that had secured the cab. The officers told the respondent to back away as he was in the middle of the street. The respondent stated he also had a badge and a gun and then struck one officer on the left forearm as they attempted to escort the respondent out of the street. The respondent attempted to pull away until a leg sweep brought him to the ground. He was then arrested for battery on law enforcement, resisting arrest without violence, and disorderly conduct. On October 20, 2008, the respondent pled nolo contendere to the misdemeanor offense of battery and resisting an officer without violence. Adjudication was withheld and the respondent was sentenced to eighteen months probation, fifty hours of community service, investigative costs, court costs, and fines.

**Penalty Guideline:** Suspension to Revocation; Probation to Suspension.

Staff recommended 23 months retroactive suspension; 30 days prospective suspension beginning 15 days following the filing of the Final Order; 1 year probation to begin at the conclusion of the suspension period; provide staff with proof of successful completion of approved anger management and substance abuse course prior to the end of the probationary period.

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

**Case # 26220** Aggravated Assault with a Deadly Weapon

The respondent resigned from the Manatee County Sheriff's Office subsequent to an internal investigation which sustained a charge of improper exhibition of a dangerous weapon or firearm. On August 10, 2007, while off-duty and in his personal vehicle, the respondent became involved in a driving related altercation. During the course of the altercation the respondent pointed a handgun at the driver of the other vehicle and threatened to shoot him. The driver of the other vehicle called 911 and reported the incident to the Bradenton Police Department. While talking with the 911 operator, the driver relayed the respondent's vehicle information and location and a felony traffic stop was conducted. When questioned about the incident the respondent stated that he never threatened or pointed a handgun at the victim. The respondent stated that during the verbal altercation at the stop light, he displayed his department badge to the victim and yelled at him to correct his driving. The officer asked the respondent if he had a firearm in the vehicle and the respondent indicated that he did and it was located in the center console. A passenger in the victim's vehicle stated that he also observed the respondent point the firearm at the driver and overheard the respondent threaten to shoot him. The passenger and victim both stated that they never observed the respondent display a badge. A capias request for the charge of aggravated assault with a firearm was completed against the respondent, in lieu of the physical arrest. On December 14, 2007, charges were filed by the State Attorney's Office for improper exhibition of a dangerous weapon or firearm. On December 16, 2008, the respondent pled nolo contendere to the charge of improper exhibition of a dangerous weapon or firearm and adjudication was withheld. The respondent was ordered to forfeit his firearm and pay court cost and fines.

**Penalty Guideline:** Prospective Suspension to Revocation.  
Staff recommended revocation.

**Disciplinary Action by the Commission:** The Commission placed the respondent on 23-months retroactive suspension and a one-year probation to commence 15 days following filing of the final order.

**Case # 28726** Burglary of a Structure or Dwelling; Petit Theft

The respondent was terminated from the Highlands County Sheriff's Office after an internal investigation sustained the charges of code of conduct, oaths of office, and other agency policy violations. During an unrelated investigation in October 2008, information was discovered that the respondent and another officer had been running an off-duty recycling business for approximately two years. Recyclable materials were being collected by the Community Maintenance Program (CMP) and delivered to the CMP depot. The profits from this recycling program were intended for the Highlands County government. On at least two occasions, the respondent used his personal trailer to assist in the pick up of large items from the CMP for the personal recycling business. The other officer admitted that he left the gate unlocked or would use his assigned key to gain access to the depot, pick up the items in his personal vehicle, and deliver them to his residence. Additionally, several CMP participants were used to assist in the pick-up and delivery of items to and from the other officer's residence. These items were later sold and the proceeds kept by the respondent and the other officer. Both the respondent and the other officer admitted they did not have permission to be on the property to obtain the materials. As a result of these actions, the personal profit for the respondent was at least \$21,000. No criminal charges were filed in this case; however, the charges of burglary and petit theft were reviewed by the State Attorney's Office on the respondent.

**Penalty Guideline:** Suspension to Revocation; Suspension to Revocation.  
The respondent agreed to 60 days prospective suspension beginning 15 days following the filing of the Final Order; 1 year retroactive suspension; 1 year probation to begin at the conclusion of the suspension period; and the requirement to provide staff with proof of successful completion of approved ethics course prior to the end of the probationary period.

**Disciplinary action by the Commission:** The Commission accepted the terms of the settlement agreement.

**Case # 27975 Felony Battery (Domestic Battery by Strangulation)**

The respondent was terminated from the Ft. Lauderdale Police Department for failure to successfully complete the probationary period. On December 14, 2008, deputies from the Broward County Sheriff's Office were dispatched to the respondent's residence in reference to a loud disturbance. Upon arrival at the scene, the deputies made contact with the respondent who stated that he and his live-in girlfriend were involved in a verbal argument. While the deputies were speaking with the respondent, his girlfriend (victim) ran out of the house and was visibly shaking and crying. When deputies questioned the victim about the incident, she said she didn't want to get the respondent in trouble and would not talk about the incident. Deputies observed bruises and minor scratches on the victim's arms, neck and head. When asked about the injuries, the victim began to cry and stated that the respondent had given them to her. She stated that they argued about her drinking the prior night and her suspicion that the respondent was cheating on her. The respondent then became angry and threw her on the couch, held her down by her wrists, pushed her head into the couch, grabbed her by the neck, and squeezed her neck so she could not breathe. While he had his hands around her neck, she gasped for air, choked and coughed. He let go of her neck and allowed her to go to the bathroom because she felt like throwing up. When she came out of the bathroom, the respondent grabbed her again, pinned her on the bed, put his hand around her neck and covered her mouth so she could not yell or scream. The respondent was arrested and charged with domestic battery by strangulation. On April 2, 2009, the charges of felony battery (domestic strangulation) and battery were nolle prosequi.

**Penalty Guideline:** Prospective Suspension to Revocation.

Staff recommended 30 days prospective suspension beginning 15 days following the filing of the Final Order; 1 year probation to begin at the conclusion of the suspension period; and the requirement to provide staff with proof of successful completion of an approved anger management course prior to the end of the probationary period.

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

---

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

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](#)(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, statute [943.13](#)(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(2) (b), F.A.C. states that upon the conclusion of an internal investigation in which 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.

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

If you have any issues that you would like to be addressed in future Professional Compliance Bulletins, 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).