



INTER-OFFICE MEMORANDUM
Department of Public Protection
Administration
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DeLand, Florida 32720
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TO: George Recktenwald, County Manager
Volusia County

DATE: August 12, 2022

FROM: Mark Flowers, Ph.D., CCE
Corrections Director
Department of Public Protection

FILE NO:

SUBJECT: Formal Written Complaint

REFERENCE:

Purpose: The purpose of the letter is to provide you with a formal written complaint regarding the illegal and/or unlawful actions taking place within the Volusia County Division of Corrections. I have repeatedly reported these illegal/unlawful actions to you many times, however these issues have not been addressed or corrected. One of my major concerns is that the officers involved in the most recent Use of Force incident have violated the Civil Rights under the 4th Amendment of inmate Caruthers. I firmly believe there was a cover up regarding this Use of Force incident specifically since you told me that I would not get a "Head shot" on this one and that the results would probably come back unsubstantiated. It is important to note that you told me this prior to the investigation even being started. I reported to both you and Mr. Swanson that I had additional videos that I am concerned about and neither of you wanted to view them. In fact, Mr. Swanson specifically told me that he was not going to watch them. As the Senior Corrections Officer in Volusia County, I am appalled that my repeated requests for help have been denied or ignored by you and Mr. Swanson. I am including several of my concerns in this letter. Additionally, I have reason to believe that my recent [REDACTED] [REDACTED] is being used to retaliate against me as I have not been allowed to go to the jail or speak with staff since I returned. Instead, I have been directed to work out of a conference room where other County employees walk by and ask me what is going on. The appearance is that I have been fired. This is not only embarrassing, but very humiliating as I have done nothing wrong here other than do my job.

Information: Mine and my entire family's life was turned upside down on May 12, 2022, after I submitted a formal request for an Internal Affairs (IA) Investigation, into to an allegation that staff had beaten up an inmate. This was approximately four weeks before I was going to encounter the biggest challenge of my wife, [REDACTED]. [REDACTED] Once the IA was submitted, I immediately came under attack from the International Union of Police Associations (IUPA), President and many of its members. I understand that numerous complaints were all of a sudden being submitted against me, from the Union President and others. As of today's date, (August 8, 2022), I have not been provided any details regarding these so-called complaints against me, so how can I to defend myself if I am not told anything? I returned from [REDACTED] and was told that I would be working out of a conference room, where several County employees would see me sitting, not knowing what has happened. This was not only very humiliating, but also embarrassing. Many of my peers have asked me what is going on as if I had done something wrong or even been fired. This is exactly what my Union President has telling staff members, but when this was reported to Mr. Swanson, I was told not "To go there". The level of stress that my family and I have been undergoing as a result of you and Mr. Swanson's failure to address the real issues is indescribable. I understand that you have told several people that I have changed as a result of my [REDACTED] instead of addressing the issues I have reported, but I assure you, although I may have been [REDACTED] I have never acted in any manner that would result in me losing my integrity or reputation in the Corrections profession.

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Below are several more of the issues that have been brought to my supervisory chain, which includes you and Mr. Swanson.

There was a Use of Force incident on April 26, 2022 involving inmate (Justin Caruthers, booking #1100188) and five correctional officers (Sergeant Nathan Buckley, Officer Everett Wetherell, Officer Aaron Winters, Sergeant Payton Moreno and Officer Eric Reigler), which I briefed you, Mr. Swanson and Deputy County Manager, Suzanne Konchan on. Although the results were not substantiated, I have serious concerns about the quality of the interviews to the point that I believe any law enforcement officer could read it and see what took place here, especially considering the investigation took more than two months to complete.

I am also concerned as to why when I asked for a copy of the findings, CPT David Vanis had to reach out to Mr. Swanson for approval, when I have always been provided a copy without asking. This has never been done before. I also want to inform you that I have received at least two emails from Judges and a few phone calls from other Correctional staff who asked me to take a look at some Use of Force incidents they were made aware of. I have identified several others and reported my concerns to Mr. Swanson, but he is not interested and told me that he did not want to see them.

Inmate Caruthers in his own words reported that "Your correctional officers beat my ass". There were two sworn Correctional Officers (Jeremy Bothelo and John Miranda) who witnessed the incident and wrote statements as required by Division policy. They both reported someone in the group grabbed the inmate by the head and pushed it into the wall. Both witnesses reported that although they could not point to any individual officer, they did observe numerous punches and strikes being delivered to inmate Caruthers' body and head.

Advanced Registered Nurse Practitioner (ARNP) Chrystal Christian also witnessed the events as they occurred. She said in her own words "They beat his ass" when I asked her what she had observed. I then asked if the inmate was spitting at staff, and she said, "No", so I asked her if she knew why he had a spit mask on, she responded by stating "The inmate was covered in blood". Based on the video and the written statements I reviewed, I referred the incident to Internal Affairs.

I sent an email out to all staff and directed that the head and face be off limits unless they were facing a deadly force situation. Although there was a lot of emotion in the email, the message was to stop hitting inmates in the face and head. I immediately came under attack by the Union President (Officer Matt Harrison). The Community Information staff assisted me in providing a second letter, which added additional information left off accidentally in my first message and took the emotion out of it, so I sent it out to clarify a couple of issues, but the Union and many of my new leaders still had questions.

I was told that Officer Harrison had submitted an e-mail to the Human Resources Director, Dana Paige-Pender as well as to Mr. Swanson. I asked Mr. Swanson specifically if I was mentioned in the email and he replied "No, it was all about me". I found out that he lied to me, after I was contacted by an officer and asked if I could leave my office right then and go to the vending machine area by visitation. They stated that I needed to see something, which ended up being a copy of the email that Officer Harrison had sent out to Union members as well as the H/R Director and Mr. Swanson. The person who contacted me wanted me to have a copy, but felt that they needed to hide the letter due to the risk of them being identified and targeted by the Union President and/or Union members. I cannot provide their name, due to the concern for their own safety.

I also had a security meeting with my Command Staff and was not very happy due to the fact that none of them had followed up and checked on the inmate involved in the Use of Force incident, especially after learning that Medical staff had placed inmate Caruthers on "Head Injury Protocols", which requires additional

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checks being made on the inmate for his own safety, which did not occur since the inmate was never moved to the Medical Clinic. I was never briefed by the Warden regarding this incident until one of the witnesses went to the Warden reporting what he had seen. When asked why the inmate was not moved to the clinic, which is normal protocol, Medical staff said Security had told them the inmate needed to stay on the unit due

to his Custody Level, which was not true. My Command staff was upset that I counseled them with a strong tone, I was upset, because the inmate could have died in our custody and none of them had checked on him.

On May 24, 2022, you came to the Branch Jail and strongly suggested that I go into the Scarbough Conference room and apologize to my Command Staff. You told me to tell them that I was [REDACTED] which was true, but not the reason I counseled them. The truth of the matter was that none of them followed through with the inmate after the incident. In fact, no one from my Command staff had checked on him until I interviewed him nine days after the incident, where he still had two black eyes.

The officers involved in this incident were removed from their original duty position and placed in Control by Mr. Swanson against my recommendation, which subjected all three witnesses to unnecessary and continuous harassment from the individuals involved as well as Union members and the President. In fact, I made three separate requests to Mr. Swanson to have these individuals re-assigned somewhere else in the County during the investigation. I explained that traditionally in Corrections, individuals being investigated are never allowed to remain in the institution. The purpose for this is so the witnesses won't be bullied or harassed during the investigation, which is exactly what happened in this case. It is also embarrassing for those being investigated, which is the other reason we do not do this. This decision alone, in which you were aware of created a hostile work environment for not only those who provided written statements of what they observed, which is required by the law and our policies, but other officers who are being bullied by IUPA's President and other Union members.

A hostile and dangerous work environment was created by Mr. Swanson's decision to leave them inside of the jail. I was even bullied through looks and expressions from the individuals being investigated as I was stared down every time I left my office and even received nasty looks from the individuals being investigated. The harassment was reported to Mr. Swanson and H/R, but once again ignored. ARNP Christian was harassed at the Branch Jail to the point that she contacted the Medical Director, Dr. Jessica Gil Pineda and requested to be transferred and re-assigned to the Correctional Facility, where the females are housed.

I had lunch with you and Deputy County Manager (DCM), Suzanne Konchan on May 13, 2022, one day after I had submitted my request for an internal affairs investigation and during lunch, you informed me that I might not get a "Head shot" as you called it and that it would probably be unsubstantiated. I explained that this was the third or fourth time one of the individuals had been investigated for the same exact thing and that there were three witnesses this time. DCM Konchan appeared to be surprised that I had witnesses. She also mentioned that she did not feel comfortable leaving the officers involved with the incident inside of the jail at Control, however she received an emergency phone call and had to leave due to a family emergency, so I did not have the chance to continue the conversation with her, but you failed to intervene, which allowed the abuse to continue.

Mr. Swanson and Mrs. Paige-Pender told me, that it would be best if I worked half-day schedules until my [REDACTED] date, due to the level of stress I was encountering. I was then told by Mr. Swanson a few days later that he decided it would be best if I worked from home. Right before I began working from home, I learned that Warden Smith and Warden Faircloth were called over to Deland to be interviewed by H/R. I also learned that all of my Captains had been scheduled for interviews with H/R without my knowledge, however they

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were cancelled the night before you came to the jail to speak with them. I was later told that some, if not all were later called to Deland and interviewed, but I cannot confirm. I was never informed of what complaints had been submitted on me, so I was never given an opportunity to defend myself, which is very upsetting, especially since I cannot fix or address any issues I do not know about.

When I returned from [REDACTED] on August 2, 2022, I was told that you wanted to meet with me on August 3, 2022. I thought the reason was that I had requested to meet with you before returning to the jail. When I set down in your office, you pulled out a list and started going down one item at a time as if I were found guilty of something without even knowing what the real issues or complaints were. It was obvious to me that I was being retaliated against for bringing issues that needed to be addressed immediately for the sake of the residents of Volusia County and the inmates who are in our custody and we are responsible for.

Prior to the Use of Force incident, I was not aware of any complaints made against me and as of today's date, August 6, 2022, I still have not been provided any information, although I have asked repeatedly about any complaints. To my knowledge, I had a great working relationship with the Union President until I told him to stop scraping materials from the jail and the most recent Use of Force incident. When I asked you if I had received complaints prior to this date, no one said anything. I have never been informed that I am under any type of investigation, however since my return, I have been told by Mr. Swanson that although I am still the Corrections Director, I can't go to the jail or have any meetings with my staff.

To date, I have never been asked to answer any questions or provide any information to clarify anything. I pointed out the fact that several of the comments contained in the Union President's email to Mrs. Paige-Pender and Mr. Swanson were not true, but you said it did not matter even though the County as well as the Division has policies regarding false statements.

Once again, you just failed to address the issues brought to your attention by me, because the Union is involved. I pointed out the fact that my Union President was going throughout the jail telling staff that the union had gotten me fired and your response was "I can't stop people from spreading rumors", but once again, you and Mr. Swanson have failed to protect staff from being bullied and/or harassed in the work place and the Division has policies for such behavior, but I was told by Mr. Swanson "not to go there", I have no idea what that means other than once again, he is ignoring the real issues.

I explained during the meeting that I had with you what happens in a correctional setting where the inmate's feel they are being mistreated, abused or harassed and warned you that someone could be hurt or killed as the result of such actions, and your comment was "I will take full responsibility if that occurs".

Conclusion:

Mr. Recktenwald, here is the truth of the matter. You and Mr. Swanson have simply failed to address or correct any of the issues presented to you.

The purpose of this memorandum is to offer in good faith my request for assistance to ensure that the people in our custody and under my watch are not being abused or mistreated. As the highest ranking Correctional Officer in Volusia County, I am entrusted by the Public to provide an environment where the safety, custody, care and well-being of those we are responsible for being provided as required by the Constitution of the United States. As the Corrections Director, my job is provide a safe and secure environment for both staff and inmates alike.

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No one deserves to come to jail to be beaten by our officers. They are for the most part not bad people, but have made bad decisions. The majority of our staff are superb, however it is the small percentage that makes the job very difficult for the rest of us.

I am once again asking you for assistance.

Not only am I being bullied by the Union, but our staff is as well and I am confident that you are, because you do not want to address the real issues here. If we do the right thing, who can pass judgement against us. In case, I question whether or not you and your team are doing the right thing in regards to the issues I have brought to your attention, yet once again. You can chose to ignore and overlook the facts I have presented as you have done before. The bottom line is that the Volusia County Division of Corrections has some real issues, which have been brought to your attention and you are ignoring them. The residents of Volusia County have entrusted us to be transparent and they should be able to have confidence that we are doing the right thing.

Respectfully,



Dr. Mark Flowers
Corrections Director
Volusia County Division of Corrections

cc: County Chairman, Jeff Brower
 Council Member, Ben Johnson
 Council Member, Billie Wheeler
 Council Member, Barbara Girtman
 Council Member, Danny Robbins
 Council Member, Heather Post
 Suzanne Konchan, Deputy County Manager
 Michael Dyer, County Attorney
 Mark Swanson, Interim Public Protection Director
 Dana Paige-Pender, Human Resources Director