





HUMAN RESOURCES DIVISION
An Equal Opportunity Employer

DATE: October 31, 2022
Updated November 29, 2022

TO: George Recktenwald, County Manager

FROM: Dana Paige-Pender, Human Resources Director 
David Vanis, Internal Affairs Investigator 

RE: Summary Finding for Dr. Mark Flowers's Hostile Work Environment Investigation

In May 2022, several Corrections Officers came to Human Resources (HR) demanding to be heard regarding their concerns of an alleged hostile work environment. Due to the number of officers that were present, they were seen by several HR Administrators. Additionally union leadership met with the County Manager's office. All expressed concern that Dr. Mark Flowers continued behaviors towards them created a hostile work environment. While many were concerned about his recent behaviors leading up to an Internal Affairs (IA) investigation regarding a Use of Force incident, many of the concerns dated back to several instances that occurred over the last 24 months. Allegations included threatening employees about their jobs; yelling at employees; coercing employees to do things they were not comfortable doing; and a general loss of trust in his leadership.

Allegation 1:

Dr. Flowers sent emails to all staff on several occasions, most recently on the use of force, that ended with "if you...you will face discipline up to and including termination." Dr. Flowers also met with command staff on two occasions surrounding the use of force where he told all staff, including those who had nothing to do with the incident in question, that they were probationary employees.

Dr. Flowers admitted that he did send the emails. He stated that he was told "decades ago, including by the previous County HR Director, that he should include that language because it warns employees that they could lose their job." He stated that it is not meant as a threat. Dr. Flowers stated that while he did not remember telling the command staff that they were probationary, he was not denying that he did. He indicated that "with the exception of one employee, [his] entire command staff was new, and they were learning each other." He stated that he himself was "an outsider and that all of [his] command staff were friends."

Dr. Flowers further stated that none of the command staff checked on the inmate subject to the use of force incident and he “chewed their asses for not following protocol.” He stated that he was “extremely pissed and [he] would chew them again today.” He stated that “[h]is job is to protect the public. It was not his cancer - they were incompetent.” In fact, medical records show that the inmate was seen by medical staff immediately after the use of force, and several times from the time of the injury until he was cleared from head injury protocol later the next day. It is noted that the meeting with the command staff took place May 11, 2022, two weeks after the use of force incident.

Finding: Substantiated.

Allegation 2:

Dr. Flowers tainted the use of force investigation by sharing the video with many members of his staff prior to the IA investigation. The video of the use of force incident was shared with nurses, officers who were not on duty the day of the incident, command staff and the Assistant Director, Administration, Laura Bounds. In addition, Dr. Flowers failed to share a memo in which he cleared the officers involved in the use of force, contradicting his later statements regarding the incident.

Dr. Flowers stated that he only showed the video to the medical staff and did not know what the others were talking about. He indicated that the videos were available to every officer in the jail and that there were shared passwords and log-ins. He did not indicate that as director, he did anything to stop this behavior, despite the fact that it is a violation of Corrections Division Policy 5.7.2 “Passwords and other authenticators are considered confidential and should not be shared with others”.

Dr. Flowers also issued a memo dated May 9, 2022, clearing the officers of an inappropriate use of force. This memo, signed by Dr. Flowers, only became known when the Union’s attorney provided it to the County after the Internal Affairs investigation (requested by Dr. Flowers on May 12, 2022) had begun. The first time Dr. Flowers was asked about this memo, his response was that someone had to get into his office to access the memo, however, he did not address the drastic change between the May 9 memo and the May 12 memo. When asked again about the memo on October 12, 2022, Dr. Flowers indicated that the reason why the memo changed was because Ray Manchester, Activity Project Manager, was waiting for him when he arrived at work on May 10, 2022, and “guaranteed him that what happened in the cell was not by the cell mate.” It is noted that Mr. Manchester met with the inmate regarding the incident on April 27, 2022. He indicated that Mr. Manchester was also present when Dr. Flowers met with others at later dates during his “fact finding” on this incident. When Dr. Flowers was asked why Mr. Manchester waited so long between his interview and bringing his concerns forward, Dr. Flowers stated that Mr. Manchester did not know the rules of the jail. It is noted that according to Dr. Flowers, Mr. Manchester is a member of his Intel and Investigation team.

The May 9, 2022, memo from Dr. Flowers states “After interviewing Carruthers, reviewing all of the submitted paperwork, and watching the video camera footage, I do not have any concerns that the use of force used in this situation exceeded the level of resistance being offered by Carruthers.” Dr. Flowers goes on to state “I am confident after reviewing the video and reading the initiating officers’ statements that clear directions were given to inmate Carruthers.” Dr. Flowers closes with “This review is a classic example of why we conduct these types of reviews before automatically sending to Internal Affairs for a complete and thorough investigation, which in this case would have been unfounded at best and wasted a lot of resources.” The May 12, 2022, memo eliminated the above statements and states that he spoke with Ray Manchester on May 10, 2022, and Officer Amaral on May 11, 2022. The memo concludes “Based on all of the reports I

observed and the video I observed, I am requesting an investigation into the matter to obtain the facts based on the actions of the following officers..." The memo then lists the officers.

When Ray Manchester was asked about his May 10 conversation with Dr. Flowers, he did not recall that specific incident and stated that he often walked in from the parking lot with Dr. Flowers. He stated that he did not and would not use the word guaranteed. He also stated that in his role dealing with inmate discipline, he met with Carruthers and his cell mate. His cell mate admitted to Mr. Manchester that he punched Carruthers in the face at least twice; Mr. Manchester stated after that he had nothing additional to report.

Mr. Manchester indicated that Dr. Flowers showed the video to him and asked what he saw. Mr. Manchester did not see some things the way Dr. Flowers saw them. Dr. Flowers was agitated.

Finding: Substantiated

Allegation 3:

Dr. Flowers tried to coerce officers who were not on duty at the time of the use of force to write statements about the incident. In particular, Dr. Flowers seemed to predetermine that Sgt. Moreno was guilty of an inappropriate use of force prior to the completion of the internal affairs investigation.

One officer (Harrison) indicated that he was called into Dr. Flowers's office and was asked about the use of force. Dr. Flowers allegedly asked, "[h]ave you seen it. You know what happened." He then allegedly started yelling that "they beat his ass. Payton Moreno beat his ass. You know who did it; just say it. Sgt. Miller made them leave. Officer Moreno beat his ass." This officer was not on duty on the date of the incident.

Another officer (Amaral) stated that he was called into Dr. Flowers's office and Dr. Flowers allegedly said and did the following:

Told him how he was doing a good job - wants to pick him as number one (to promote) - cannot because of HR. Thought he was being promoted. Showed the officer the promotion list. He allegedly told him that if he could pick him, he would. He was doing a good job. He allegedly then told him, by the way, I need this from you first. Dr. Flowers then puts pictures on his desk. The pictures were of the other officers and the inmate. The officer allegedly asked Dr. Flowers "What's the question?" The officer indicated that while he was not on shift the date of the incident, he did work after the incident occurred and witnessed that the inmate had black eyes. Dr. Flowers allegedly asked the officer (about the black eyes) "how did he get them?" The officer told him what he read in Beacon. Dr. Flowers then allegedly mentioned Sgt. Moreno and asked the officer if he ever had interaction with him? He allegedly told the officer that Sgt. Moreno was a violent man who has a violent history. Dr. Flowers allegedly then told the officer "[y]ou are going to write a 401."

When asked about the above allegations, Dr. Flowers responded that one officer was a "straight up lie." Regarding the other officer, Dr. Flowers indicated that he heard rumors as to the promotional conversation. He stated that he only asked the officer to write what he observed. He further stated that the officer was lying and that he does not pick or promote people. He stated that his "leadership team (command staff) picks the people that they want to promote, and he simply tallies the scores. He and the assistant director are the tie breakers." He did admit to asking the officer to write a statement about the inmate having black eyes.

Mr. Manchester's recollection corroborated Officer Amaral's statements. When Mr. Manchester shared with Dr. Flowers that he ran into the inmate and Officer Amaral was there, he stated that Dr. Flowers told him he was going to call Officer Amaral in under the pretense of the Sergeant position and then lead into the use of force conversation. While Mr. Manchester was not there for the actual conversation, he stated what Dr. Flowers was going to do was "pretty crappy."

When asked about these allegations, Dr. Flowers stated that he "did not know about the use of force until it came to his attention and that he looked into it and is guilty of doing his job." Dr. Flowers did state later in the interview that Peyton Moreno was his only concern. He stated that Moreno was previously before HR three years ago due to an incident. After that incident Dr. Flowers asked Joe Pozzo (former Public Protection Director) to find another place in the county for him. Dr. Flowers stated that he continues to hear and see videos that Moreno is involved in uses of force.

When Dr. Flowers was asked why there was no disciplinary action against Sgt. Moreno over the last 2 1/2 years and why he was recently promoted, he responded "they doctored statements, and none were validated." It is not clear who he believes doctored the statements.

Dr. Flowers indicated previously this summer that he had an issue with uses of force. He was asked during this interview if he ever made surprise visits out to the jail to observe behaviors. He responded that the uses of force happened when he was not there. He was then asked again if he made surprise visits during nights and weekends to observe behaviors. He said he did, however, he was not sure how many or how often. He was then asked if he ever requested that Mr. Pozzo or Mr. Swanson (current interim Public Protection Director) investigate his concerns. He stated that he asked Mr. Swanson two or three times and that he, "showed Pozzo videos of uses of force before." He also stated that he was "the manager of the jail, he does not own the jail." Mr. Swanson denies that such allegations were presented to him.

Dr. Flowers indicated that he was upset with Mr. Swanson's leadership because he left the six individuals involved in the use of force with inmate Carruthers at the jail instead of moving them to another facility. Text messages show Dr. Flowers himself was looking for positions within the jail for the individuals being investigated, and Dr. Flowers asked someone what positions were open in control and in the mailroom to move the individuals to. HR worked to find spots for the six individuals outside of the Corrections Division but was told to stand down.

Finding: Substantiated.

Allegation 4:

Dr. Flowers allegedly ordered that an inmate on Non-Active Suicide watch (NAS) be moved to a dorm where there is one officer and many inmates. When the warden (Faircloth) refused to move the inmate due to the NAS status and stated that he would note to move the inmate pending clearing of NAS, Dr. Flowers allegedly got angry and sent the warden home for the day.

When asked about this incident, Dr. Flowers stated that his intent was to put the inmate in an area with cameras. He admitted that the only people who could change NAS status was the medical team. He also admitted that the warden did tell him that the inmate was on NAS status. When asked why and under what authority he sent the warden home, he stated that he was "tired of bickering with him via text and gave him the rest of the day off." He also stated that the warden just told him about the NAS status and did not indicate how serious it was. He also stated that he later "texted the warden and told him they would talk about it on

Monday.” A review of the text messages regarding this incident shows that when the warden shared that the inmate was on NAS, Dr. Flowers’s response to the warden was “the only response I expect from you is ‘yes sir’.” The decision to send the warden home appears to be unwarranted and in direct contrast to the incident that occurred.

As part of this investigation, over 15,000 text messages to and from Dr. Flowers’s County cell phone over the last twelve (12) months were reviewed. This review raised many concerns as to the content as well as the management of Corrections via text message.

Finding: Substantiated.

Allegation 5:

Dr. Flowers allegedly engaged in conduct and ordered staff within the Corrections Department to engage in conduct with regard to inmates that is inconsistent with both the Florida Model Jail Standards (adopted by Volusia County in 400.2.3) and the policies of the Volusia County Corrections Division.

During the course of the investigation, officers expressed concerns about civil rights and due process violations of inmates at Dr. Flowers’s command. They indicated that there were instances of inmates being held in four-point restraints for extended periods of time; inmate(s) being four-pointed in a prone position naked for several days.; inmates being held in unit 10a, which was referred to as Dr. Flower’s administrative unit without reason and with loss of privileges for extended periods of time. These concerns were turned over to internal affairs for a full investigation.

Findings of that investigation included information from sworn statements of command staff as well as corrections officers. A review of text messages and the jail mail system corroborated much of the information found during the IA investigation.

Policy 100.4.4.1 of the Corrections Division states “It shall be the responsibility of the Corrections Director to manage and direct the operations of the Division in accordance with state and Federal law, Division policies, County policies and judicial decisions.”

Several staff members indicated that an inmate was placed face down in restraints on a concrete slab. Those staff members stated that the inmate was placed in restraints in that manner per instructions from Dr. Flowers. More than one member of staff questioned Dr. Flowers on this practice, but he assured them that it was acceptable. Placing an inmate face down in restraints is in direct contravention of Volusia County Corrections Division Policy 700.16 which states that individuals who are four-pointed are to be “restrained while lying on their back only.” Based on the statements, the inmate was kept in this position for possibly as long as a week.

Several of the staff members that provided sworn statements indicated that Dr. Flowers sent inmates to Unit 10A, which was part of the Behavioral Modification Unit. Some inmates were sent there without any cause provided as to why the inmate was removed from the general population and without following proper procedures for removal to a special unit. Several staff also expressed concern that once sent to that unit, inmates were kept on that unit for extended periods of time, also without following proper procedure. Several text messages were found from Dr. Flowers to command staff that confirmed the assertion that inmates were sent to that unit under his direction. Some examples:

Text message from Dr. Flowers on 8/5/21 regarding inmate Thomas "I knew it wouldn't take long. Lets move him back to 10. He can live on 10A. We will see what Wallace is willing to do for him."

Text message from Dr. Flowers on 4/21/22 "Lock Othal Wallace down on unit 10 until further notice. No phone, no tablet, no visitations etc. unless approved by me until further notice. "

According to the sworn statements and the investigation of disciplinary documents by Captain Vanis, several inmates were held in 10a either without any disciplinary referrals or if there was a disciplinary referral, they were held beyond the time period allowed in the referral. Inmates and staff both expressed that they were not aware of why many inmates were placed on the unit and, if they asked Dr. Flowers, the response was that the inmate was under investigation. This practice is not in compliance with Corrections Division Policies or the Florida Model Jail Standards (FMJS).

Policy 305.2.3.2 "The Operations Captain, Shift Commander may order immediate segregation of an inmate when deemed necessary to protect the inmate or others. The authority to order such a temporary move is limited to the Officer in charge of the facility at the time of the move. A report shall be forwarded to the facility Operations Captain and Investigative Unit, and the action shall be reviewed within 72-hours by the appropriate committee."

305.2.3.4 Specifications for Assignment to Disciplinary Confinement – An inmate shall be placed in Disciplinary Confinement only by direction of the Disciplinary Hearing Officer (DHO). This assignment shall only take place after a hearing in which the DHO determines that the inmate committed an act that warrants this sanction.

305.2.3.5 Sanctioning of Inmates for Rule Violations – Scheduled guidelines for rule violations shall be used by the DHO to determine appropriate sanctions for inmates. Guidelines shall be proportionate to the offense. An inmate shall not be ordered to serve more than thirty (30) days in Disciplinary Confinement for violations arising out of one incident.

305.2.8.2 A report detailing the reason(s) for placing an inmate in Administrative Segregation or Protective Custody shall be prepared by the Officer initiating the housing. A copy of the report shall be forwarded to the Shift Commander and the Case Management Section.

400.18.7.3.1 When a rule violation is alleged, an appropriate investigation of facts shall begin within 24 hours of the time the violation is reported and is completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.

400.18.7.3.4 Inmates charged with rule violations shall be provided a hearing as soon as practical, but within the seven (7) working days after the incident.In no circumstance may the hearing be postponed beyond ten (10) working days after the incident.

FMJS 13.5 "When an infraction of the rules is alleged to have occurred, a disciplinary report shall be processed as required by the Officer in Charge or designee".

FMJS 13.7 "Inmates accused of infractions, who face disciplinary action, will be notified in writing of the charges against them and given at least 24 hours written notice prior to the hearing of such charges to prepare their defense."

According to the IA report, a review of a sample of records of inmates who were sent to 10A showed the following:

- No disciplinary sanctions – assigned to 10A 87 days; no phone or visitation for 35 days
- Six disciplinary reports with a sanction of 25 days – actual days was 182; no phone or visitation for 55 days.
- Two disciplinary reports with sanctions totaling 50 days – actual days was 31; no phone or visitation for 150 days.

Several staff members also indicated that inmates sent to Unit 10a were often denied communication privileges, commissary privileges and basic hygiene items per direction from Dr. Flowers. One staff member indicated that he allowed the inmates in his care to shower even though Dr. Flowers had ordered him not to allow that. More than one staff member indicated that some inmates placed on 10a were given a crayon in order to communicate with their attorneys. Review of Grievances filed by several inmates through the electronic system provided for that function contain statements such as “I am being held in AC segregation without any privileges, including communication with my family & attorney....I was never issued a DR nor was a hearing conducted informing of my privileges being suspended”, “I would like to place on record the situation that has taken place again I wapull(sic) from general population by 4 officers and moved to unit 10/admin lockdown dorm with all privileges taken, I have yet to be made aware the situation why this I taken place...I was told the director will speak to me about wats going on but its day 3 and I haven’t been addressed by him yet”. At least one staff member reported that he was ordered to write a Disciplinary Referral (DR) for an inmate that sent a communication to an attorney on behalf of another inmate who was unable to communicate directly with his attorney, despite the fact that there was no rule that had been violated.

These practices are in violation of several policies of the Corrections Division as listed below.

202.2.2 No mail restrictions or censorship will be imposed except where such restrictions are directly related to safety and security interests. These limitations shall be no greater than is necessary to protect the safety and security interests.

305.2.9 Rights and Privileges of Special Management Inmates – Inmates in Special Management Units shall be afforded the same general privileges given inmates in general population, as is consistent with existing resources available and the security needs of the unit. The DHO may, however, revoke privileges of inmates in Disciplinary Confinement

305.2.9.2 Each inmate shall be provided the same opportunities for personal hygiene available to general population inmates. Exceptions are permitted only when determined necessary, any exception shall be recorded in the unit log and justified in writing.

305.2.9.5 Inmates in special management units shall have access to courts and legal counsel, as well as to legal materials and other reading materials.

305.2.9.6 Inmates in special management units shall be permitted to write letters and receive mail on the same basis as general population inmates.

305.2.9.8 Special Management inmates shall be allowed commissary privileges unless sound reasons exist for denying certain items from the commissary.

305.2.9.9 Inmates housed in Disciplinary Confinement may receive limited commissary privileges. Any and all necessary hygiene items shall be provided as needed

Finding: Substantiated.

Conclusion/Findings

“A hostile work environment is created when harassing or discriminatory conduct is so severe and pervasive it interferes with an individual's ability to perform their job; creates an intimidating, offensive, threatening or humiliating work environment; or causes a situation where a person's psychological well-being is adversely affected.”¹

In interviewing the staff, they shared concerns about being ordered to do things that they had concerns about. One staff member shared a concern about going into the cell of a dangerous inmate without properly securing the inmate while Dr. Flowers tossed the inmate's possessions and berated the inmate. Corrections staff shared concerns about inmates questioning why they were sent to unit 10A and not having answers.

Dr. Flowers's stated that he had concerns about the lack of ability of his command staff, but he himself violated his own policies as well as due process for inmates.

In addition, there is concern about Dr. Flowers's ability to manage. When asked if he made unannounced visits to the jail or spoke with his supervisors about his concerns, his initial response was “I manage the jail, I don't own the jail.” He speaks of a command team that is new and on probation, who failed to do their duties during a use of force, but the conclusions of the IA regarding the use of force do not confirm this statement. Additionally, it is the same command staff that he allows to choose future leaders as he removes himself from the promotional process except as a tie breaker.

Information collected from staff and inmates indicates that Dr. Flowers continuously violated the policies of the Corrections Division and ordered staff that reported to him to also violate those policies, making staff uncomfortable in performing their duties and risking their safety in dealing with inmates who were not being treated in accordance with established practices.

During the course of the investigation, we heard Dr. Flowers has a history of rapidly changing directives and orders. One of the command staff stated that “Dr. Flowers has the nickname of ‘Five-minute Mark’ because if you wait five minutes, he will change things.” We heard concerns of him making changes in the midst of anger. This is evidenced in the recent use of force. Before the investigation even began, all staff received an email with a change to the use of force policy “effective immediately.” The policy had not been vetted by legal nor had the union received notice as required by the collective bargaining agreement. Another example of decisions apparently made hastily and in anger is when Dr. Flowers sent home a member of command staff because he did not agree with the movement of an inmate until provided clearance from the medical staff.

Dr. Flowers indicated that it was Mr. Manchester's comments that had significant bearing on him changing his mind about opening an IA investigation into the use of force incident. Yet, Mr. Manchester, according to

¹ <https://www.shrm.org/resourcesandtools/tools-and-samples/hr-glossary/pages/hostile-work-environment.aspx>

Dr. Flowers, “does not know the rules of the jail.” It is noted that Mr. Manchester is on Dr. Flowers’s Intel and Investigation committee and was the person who interviewed the inmate during this use of force as well as sat in on the interviews of the medical staff and others regarding the use of force. Most importantly, Mr. Manchester did not substantiate Dr. Flowers’ claim about their May 10, 2022 conversation, thereby undermining Dr. Flowers’ alleged justification for changing his mind about opening an IA investigation.

Dr. Flowers indicated during the interview with him that complaints about him did not begin until the use of force subject to the May 2022 memos and request for an IA investigation. When he was reminded that Council received a stack of letters via email in March 2021 complaining about how he administers overtime; that there were complaints to HR and Council about his disrespectful and threatening tone towards staff in emails; the amount of overtime that officers had to work; and, there were complaints about his show of favoritism towards some individuals in the jail, he waved them off. These behaviors contributed to what a reasonable person could deem to be a hostile environment at VCDC.

It appears that Dr. Flowers has lost the trust of his command staff and many of the officers. When Dr. Flowers was asked how he saw a path forward to regain the trust and respect of his command staff and the officers in his division, his response was that it was up to us (County.) He offered no suggestions or opportunities for moving forward. When the command staff was asked the same question, many stated they were provided opportunities under Dr. Flowers, however, none stated that the path forward included him as Director. Even if Dr. Flowers did not violate policies as addressed above, the fact remains that Dr. Flowers’ ability to continue leading the Corrections Department has been irreparably damaged by his behaviors.

Cc: George Recktenwald, County Manager
Heather Wallace, Deputy County Attorney
Suzanne Konchan, Deputy County Manager