



## Department of Public Protection

### Report of Incident

TO: Mark Swanson, Interim Director  
Department of Public Protection

FROM: David Vanis, Captain  
Public Protection Administration  
Internal Affairs

DATE: November 17, 2022

SUBJECT: IA2022-05 Director Mark Flowers

#### References:

1. Interview notes provided by Director Dana Paige-Pender (multiple dates).
2. Warden (Acting VCDC Director) Steven Smith interview (Dated October 10, 2022).
3. Captain Matthew Smith interview (Dated October 10, 2022).
4. Lieutenant Scott D'Esposito interview (Dated October 11, 2022).
5. Sergeant Michael Reyes interview (Dated October 19, 2022).
6. Sergeant Nathan Buckley interview (Dated October 19, 2022).
7. Email from Dir. Flowers to Sgt. Buckley (Dated December 8, 2021)
8. Lieutenant Michael Gallenkamp interview (Dated October 21, 2022).
9. Warden Jeremy Faircloth interview (Dated October 21, 2022).
10. Ralph Seltz interview (Dated November 4, 2022).
11. Shaquille Lynch (IM 929614) medical file (Multiple dates).
12. VCDC Policy 301.01 (Last review April 18, 2018 by Dir. Flowers).
13. Inmate Calling Solutions Suspension Histories
14. Director Flowers' text messages from his county issued cell phone (Number 386.316.3874) from August 2, 2021 through August 18, 2022.
15. Lieutenant Michael Gallenkamp follow-up interview (Dated November 16, 2022).

#### Complaint:

During the course of Human Resources Director Dana Paige-Pender's investigation into a hostile work environment complaint in the Division of Corrections, several officers, and supervisors indicated that Director Mark Flowers had ordered them to treat inmates improperly or possibly illegally. Dir. Paige-Pender notified Florida Department of Law Enforcement (FDLE) of this information due to their involvement in a separate complaint submitted by Dir. Flowers. FDLE advised Dir. Paige-Pender and me

that I should conduct an investigation into these allegations and forward the investigation to FDLE if it is determined there is a potential criminal violation. Interim Public Protection Director Mark Swanson instructed me to conduct the investigation on September 23, 2022.

On September 23, 2022, I met with Dir. Paige-Pender who advised while conducting her HR investigation, Sgt. Nathan Buckley, Warden Steven Smith, Lt. Scott D'Esposito, and Capt. Matt Smith advised her during their individual interview that Dir. Flowers had taken away privileges from inmates housed on Unit 10A without affording them their due process rights. They additionally advised her Inmate Lynch had been "four-pointed" to a concrete slab face down due to his repeated attacks on officers and staff. Dir. Paige-Pender provided me with her notes from these interviews, as they were not recorded.

**Warden (Acting VCDC Director) Steven Smith:**

I conducted a sworn and recorded interview with Warden Smith on October 10, 2022. Warden Smith is currently the Acting VCDC Director due to Dir. Flowers being placed on Administrative Leave. Warden Smith became the VCBJ Warden in January 2022. When questioned about Unit 10A, Warden Smith advised Dir. Flowers converted all of Unit 10 to a Behavior Modification Unit (BMU). The purpose of the BMU was as a disciplinary unit to house inmates who had been disciplined for a violation of the institution's rules. Unit 10A was specifically designated to house the "worst of the worst." These would be inmates who had assaulted staff or other inmates.

The standard practice for inmate discipline was for there to be a paper trail indicating the disciplined inmate had been afforded his due process rights. Warden Smith explained this process included a staff member writing a disciplinary report (DR) on the incident alleging a violation of the rules. A follow-up investigation conducted by the division's investigations section and a hearing with a Discipline Hearing Officer (DHO), and inmate, where the inmate had an opportunity to refute the allegation. The DHO would then adjudicate the inmate and determine disciplinary sanctions based on the severity of the offense. Warden Smith added that Dir. Flowers sent inmates to 10A who were never notified of the reason. Warden Smith specified Inmates Wallace, Pinkney, and Hensley as some of inmates placed in 10A by Dir. Flowers without being afforded the disciplinary process outlined above. He added that Inmate Rivera had "beat" a DR and should have been moved from 10A but remained on the unit per Dir. Flowers. Dir. Flowers would notify Warden Smith or one of the captains by phone or text message the inmate was to be moved to 10A. The inmates placed on 10A by Dir. Flowers would each have different sanctions placed on them by Dir. Flowers. Warden Smith explained each case was individual and there was no consistency with the sanctions. Warden Smith told me Dir. Flowers did not give a reason for specified sanctions for the individual inmates. When talking about the inconsistent discipline, Warden Smith told me Dir. Flowers "would use one inmate's actions, punish everybody, or put certain stipulations that this inmate can only use crayons and paper to write his attorney. There was no blanket standard for that block." When asked what length of time these inmates would remain on 10A, Warden Smith told me "It's almost...and this is my opinion that when they got moved down to 10a, it's almost like they got forgotten for the next person that draws attention." Warden Smith estimated Inmate Pinkney spent at least two months on 10A and Inmate Wallace "came and went" into 10A several times but he did not believe any more than a month at a time.

Warden Smith advised retired Lieutenant Seltz and Sergeant Buckley would have firsthand knowledge of the operation of unit 10A due to the amount of time both spent assigned to the BMU unit.

Warden Smith advised since he assumed his role as warden, he is emailed monthly reports on the status of inmates with disciplinary sanctions. Once the 30-day limit is reached, per Florida Model Jail Standards (FMJS), he and his staff evaluate the need to keep the inmate isolated for the security of the institution, but they regain their privileges at this point.

When asked if he recalled an inmate being placed in 4-point restraints, on concrete, in the prone position, Warden Smith recalled inmate Shaquille Lynch 4-pointed in this fashion at the direction of Dir. Flowers. This was due to Inmate Lynch spitting on and assaulting staff multiple times. Warden Smith advised it was not standard practice to 4-point inmates face down and added, "It's the first time in my career I've ever been told to do that. When it comes to stuff like that, I would assume that he had medical/mental health's support on it." Warden Smith did not question Dir. Flowers' order and did not confirm that medical/mental health approved of this practice. Warden Smith also stated "For Lynch, you knew it was almost a protection against himself, because if not we knew we were going to be using more force on him if he wasn't secured. But in the same sense, yes, from the outside looking in, it could be seen as a discipline."

This interview was added to the case file as item 2.

**Captain Matthew Smith:**

I conducted a sworn and recorded interview with Capt. Smith on October 10, 2022. Capt. Smith advised he was the BMU sergeant from 2017-2018. When he was a lieutenant, he was mainly assigned to the shift commander role but also oversaw the mental health unit for a short period prior to his promotion to captain. He is currently the captain that oversees the mental health unit and BMU.

Capt. Smith explained the inmate disciplinary process the same as Warden Smith. He told me the BMU is still utilized as intended with the exception of the 10A block. Once Warden Smith became the acting director, the 10A block was eliminated from the BMU. When asked how the 10A block was previously utilized, Capt. Smith told me:

*...usually it came from Director Flowers...he would usually put inmates in there for any kind of investigation purposes, anything of that nature. Many instances, it would be things that we would not even know why these inmates were locked down, and if we tried to seek guidance on why these inmates were locked down, we were usually told by the Director that it was going to have to be with just him and Intel knowing the knowledge because any kind of compromise could actually interfere with the investigation. So, a lot of us, including the Warden of the institution, would not even know why these individuals was even being housed in this 10a block.*

Capt. Smith explained the 10A inmates would get "out time" and showers but their phone privileges would be restricted. He added that this was not abnormal for 7-8 days while the inmate's alleged infraction was

investigated and they were assigned to administrative confinement. He advised during his time supervising the BMU, he had seen 6-8 inmates whose phone privileges were extended beyond 7-8 days without any type of justification. He advised when these inmates had restricted privileges, it was frustrating because the inmates would ask him why they were restricted and he was not able to provide them an answer. He told me "I like to be able to keep a good rapport with my inmates to be able to give them a little bit of information that I can give them." When asked to identify inmates who were housed on 10A without having gone through the disciplinary process, Capt. Smith told me Inmate Derease Irons was housed on 10A for a "long time" when he was assigned to the BMU as a sergeant. He also stated inmates Wallace, Rivera, and Pinkney had spent a lot of time on 10A. Capt. Smith told me he was given orders by Dir. Flowers to take these inmates to 10A and was not given a reason. He added:

*We were told...I was given direct orders...you know go get them and bring them to Unit 10a block. And no reasons given or anything, so under investigation. The inmate didn't even know why or what's going on. I'd say hey when I find out more information that I can give you, I'll give it to you. But, there was a time where Director Flowers said that he was trying to encourage other people in the community to kind of rise up against law enforcement and things like that on social media pages and things of that nature. So, I think there was a time where he was put back there for that reason where he was restricting his phone calls. But, as far as I know, that's the only reason why.*

I advised Capt. Smith that Dir. Paige-Pender's notes on his interview with her indicated he did not like the 10A block. When asked to explain this, Capt. Smith told me:

*It's because I'm left in the dark. I like to know why individuals are behind the door. They have so many questions why they're behind the door and I can't give them the proper information.*

Capt. Smith told me Lt. Gallenkamp, who leads the investigations unit, and Dir. Flowers would typically be the only ones who knew why the inmates were. Capt. Smith said he eventually learned that Inmate Wallace was housed on 10A because he was trying to get people to protest or riot at the jail. As far as Capt. Smith was aware, Inmate Pinkney had never had a disciplinary issue while in custody.

Capt. Smith advised inmates are often 4-pointed on the mental health unit (Unit 2) for their own safety. Usually the purpose of the 4-point is to prevent the inmate from harming him or herself. When asked if he had ever seen inmates 4-pointed for disciplinary reasons, he said he had not but he had seen inmates left in 4-point restraints longer than he believed necessary. He specified Inmate Lynch was left 4-pointed for an extended period because he was violent toward corrections staff. When asked if anything was odd about Inmate Lynch's 4-point, Capt. Smith told me:

*So, he even as a four point, he would also try to fight staff every time they exercised them, so....staff was always at a disadvantage every time they ever took restraints off of him or anything. He would assault them. He would spit on them. He would try to hit them. And it was just...every time staff interacted with him, they were at risk and the decision was made where they put him face down.*

Capt. Smith clarified that Dir. Flowers made the decision to 4-point Inmate Lynch face down. Capt. Smith explained that inmate Lynch was 4-pointed face down on the concrete slab where the mattress goes at Dir. Flowers directive. Capt. Smith believed Inmate Lynch was 4-pointed in this manner for at least a day. Capt. Smith explained he had not seen this technique used in his 19 years as a corrections officer and has never been trained to 4-point inmates in this manner. Capt. Smith stated that Dr. Gil-Pineda from the medical contract and Dr. Thomas from the mental health contract indicated to him that they were not comfortable with Inmate Lynch being restrained in this position.

**Lieutenant Scott D'Esposito:**

I conducted a sworn and recorded interview with Lt. D'Esposito on October 11, 2022. Inv. Manchester was also present for this interview. Lt. D'Esposito has been the Lieutenant in charge of the BMU since May 2022. Lt. D'Esposito described the BMU and inmate disciplinary process similar to the previously statements. Lt. D'Esposito told me that 10A was the unit where "special admins" were kept. He described the "special admins" as inmates who had already completed their disciplinary sanctions but were not able to be placed back into general population and could not be around other inmates. These inmates should have all there privileges but no access to other inmates. When asked about inmates that may have been housed on 10A without disciplinary reports or cause, Lt. D'Esposito told me:

*Yes, so when I first took over back in May, we had the A Block...the special admin block...and I remember there was Rivera, who had stabbed 2 inmates, and then you had Torrence, who was involved in a cell phone incident, and then we had Othal Wallace, who was here for murder. Now everyday I would go in there and it was almost like...it would give me so much anxiety because it was constantly what's happening with me, nobody talks to me. So, they didn't get a DR, nobody has spoken to them, and they've been down there for 2 months almost. The main one was Torrence. So, I would try to get with them and get with my Captain and ask what's going on and a lot of it was I was told we're waiting on the Sheriff's Office to see if we're pressing charges, this and that, but he had no privileges. He never received a DR or anything.*

He further explained there was no paper trail for these inmates indicating why they confined on 10A and they were there at the direction of Dir. Flowers. Lt. D'Esposito also clarified that Inmate Rivera did have privileges when he took over the BMU.

Lt. D'Esposito described an incident where Dir. Flowers came to the BMU and told him he wanted to visit 10A. He explained Dir. Flowers was agitated with Inmate Rivera for sending a message for another inmate. Flowers entered 10A with Lt. D'Esposito and Lt. Gallenkamp. The following discussion was taken from Lt. D'Esposito's interview:

*Vanis: Who was agitated with Rivera?*

*D'Esposito: Flowers*

*Vanis: Okay*

*D'Espositio: I guess Rivera still had the capabilities to send messages out. He sent a message out for Torrence for his attorney, basically how all these restrictions have been happening and he has capabilities and stuff like that. So, Rivera sent a letter out for him with the tablet. So, Flowers went into his cell. Now given Rivera is a 2 officer inmate, he's here for murder, he's already stabbed 2 inmates and he goes into his cell and he starts kind of kicking his stuff around like you know this is my house kind of thing. You know?*

*Vanis: Okay, I just want to make sure when you say 'he,' who are you speaking about?*

*D'Espositio: Flowers*

*Vanis: Okay*

*D'Espositio: So, he's telling me to throw certain stuff away, which I'm taking. He woke Rivera up...Flowers did...and he's just sitting up in the bed and I'm looking at him, trying to talk through my eyes like please don't do anything. You know what I'm saying? Because all I'm waiting for is for him to attack Flowers.*

*Vanis: So, is it safe to say you had a rapport with this inmate?*

*D'Espositio: Me and Rivera...yes. Me and Rivera had a decent rapport and I'm just like don't do it, you've got nothing to lose. This guy has violated life parole in New York, so he's going to do life regardless, either it's in New York or if it's here. Which he didn't. He stayed in his bed. He let Flowers kind of do his thing and then he left. Then we went over to Torrence's cell and kind of the same thing. He went with him, "This is my house" and this and that and going through his property and taking things away from him.*

*Vanis: Is that a direct quote, "This is my house"?*

*D'Espositio: Uhm...*

*Vanis: Or something along those lines...*

*D'Espositio: Something along those lines. Like I said, it was awhile ago, but it was more or less he was just trying to let them know that he's the boss. He was mad that Rivera wrote a letter out for Torrence. So, what wound up happening was they made me write a DR on Rivera for writing a letter out for Torrence, which that's not even a rule violation. Like just because we told him not to do it. Like he can write whoever he wants. You know?*

*Vanis: Right*

*D'Esposito: So, he wound up getting a disciplinary for that, which Rivera was like it is what it is. But later on that day, I went in there and talked to Rivera and he was like, "I'm telling you right now if he ever comes in my cell again, I'm going to bite his nose off." I'll never forget that. So, to me, I felt like all that was...I don't know...it was just too much.*

*Vanis: And Gallenkamp was there for all that too?*

*D'Esposito: Yeah...he was there for all that. So, that was like my first hint...*

*Vanis: About when did that happen? Pretty soon after you....*

*D'Esposito: My first week of being down there, because Seltz was still here. He hadn't retired yet.*

Lt. D'Esposito also explained that Capt. Smith received orders from Dir. Flowers to move Inmate Wallace to 10A on two occasions for approximately a week each time. Lt. D'Esposito told me there was no paperwork or documentation indicating why Inmate Wallace was to be moved. He did specify that Inmate Wallace had some privileges but not to the extent he would have in general population. Lt. D'Esposito explained it was frustrating to house these types of inmates because he did not know why they were housed in this unit and could not answer the inmate's inquiries about the reason for being there.

Regarding Inmate Torrence, Lt. D'Esposito told me he was housed on 10A for an extended period without being able to contact his family. Lt. D'Esposito was aware that Inmate Torrence had possessed contraband but there was no DR relating to this incident. He added, "Let him do his DR time and then cut him loose. And then it was shortly after I think Flowers left for leave that we wound up kicking him back to GP (General Population)." Lt. D'Esposito believed Inmate Torrence was on 10A for approximately 2 months.

Lt. D'Esposito was aware of Dir. Flowers' order to 4-point Inmate Lynch face down on a concrete slab. He believed this was done on 2A4 and lasted approximately one week. He explained he had never seen this technique before and was not trained to 4-point inmates in this fashion. Lt. D'Esposito expressed concern for the inmate's ability to breathe when 4-pointed in this manner. Lt. D'Esposito was aware that Inmate Lynch had been involved in several instances of assaulting staff and uses of force. Lt. D'Esposito told me he did not place Inmate Lynch in this 4-point but it was most like done by Sgt. Reyes at the direction of Dir. Flowers.

This interview was added to the case file as item 4.

#### **Sergeant Michael Reyes:**

I conducted a sworn and recorded interview with Sgt. Reyes on October 19, 2022. Inv. Manchester was also present for this interview. IUPA Attorney Michael Lambert was present for this interview at the request of Sgt. Reyes. Sgt. Reyes advised he has been the sergeant over the mental health unit for over 2 years. Sgt. Reyes advised inmate Lynch had been on unit 2, the mental health unit multiple times. He described him

as extremely violent and even when restrained he would try to attack or spit on corrections staff or medical staff. Sgt. Reyes told me he had been involved in multiple use of force incidents involving inmate Lynch in the past.

When asked about the application of four point restraints, Sgt. Reyes advised the decision to 4-point someone usually came from upper management, captain or above. The use of 4-point is restricted to inmates whose pose a threat to themselves or others. The 4-point is usually the last measure available to try to control an inmate. Prior to 4-pointing, the Prostraint chair (PSC) would normal be utilized to try to change the inmate's behavior. If the PSC is not effective, Sgt. Reyes would then be directed to 4-point the inmate. The bed used for 4-pointing is a concrete slab with a mattress on it. The concrete slab has four eyelets installed in it and the inmate's wrists are attached to the eyelets using handcuffs and the ankles using leg irons. The inmate is clothed and place supine on the mattress in normal situations. Upper management determines the length of time an inmate can stay 4-pointed and there is no standard for a length of time. It varies from hours to days. The most he has seen is weeks in a 4-point and this is due to the inmate's reluctance to alter their behavior. Sgt. Reyes advised the 4-pointed inmate will be offered an opportunity to exercise every 2 hours and is under constant observation.

When questioned about inmate Lynch, Sgt. Reyes advised when he was 4-pointed as described above; he would attempt to harm, or spit on, staff every time he was allowed to exercise, use the restroom, or eat. Sgt. Reyes told me Dir. Flowers was "really upset" at Lynch's continuous assaults on staff. Dir. Flowers ordered Lynch 4-pointed face down on the concrete bunk, with no mattress, and no clothes. Sgt. Reyes told me this order was directly given to Capt. Steven Smith. Capt. Steven Smith (currently Warden) and Lt. Matthew Smith (Currently Captain) gave Reyes the instructions. Lynch's legs were still attached to the eyelets with leg irons and his wrists with handcuffs. Sgt. Reyes told me this was the first time he had seen someone 4-pointed in this manner. He explained that he was uncomfortable with using this method and believed both Capt. Smith and Lt. Smith were uncomfortable. He added that medical and mental health workers involved with this incident had told him they were also uncomfortable with the situation. Sgt. Reyes could not recall what officers assisted him in placing Lynch in this 4-point. Sgt. Reyes believed this occurred in middle to late 2021. Sgt. Reyes indicated he or one of his officers should have generated a report in JMS. He advised he had recently searched JMS for this report was unable to locate the report. Sgt. Reyes indicated he believed the report might have been removed from JMS but was not sure who would have the ability to do this. Sgt. Reyes added that he told Dir. Flowers, after this occurred, that 4-pointing Lynch in this manner "didn't feel right." Dir. Flowers told him "There should be nothing we should be worried about. He had clearance from legal and he has done this in several other institutions that he's been at." Sgt. Reyes believed Lynch was 4-pointed in this manner for 1-3 days and he was returned to a normal 4-point after Dir. Flowers received an email from Dr. Thomas, the mental health director. He was not aware of the content of the email but was certain an email existed regarding this incident.

When asked if there were any other incidents, involving Dir. Flowers that made him uncomfortable. Sgt. Reyes told me following a use of force involving Inmate Caruthers, IA 2022 04, was housed on unit 2 with a non-active suicidal (NAS) watch. NAS watches are constantly monitored on video surveillance in their cell and rounds every 15 minutes by corrections staff. Dir. Flowers ordered Caruthers moved to a dorm



against standard protocols through the chain of command. Sgt. Reyes told me he told Lt. Matthew Smith and Capt. Steven Smith this made him uncomfortable since it violated their protocols. He added that mental health professional usually dictate the treatment and housing of mental health inmates. Sgt. Reyes also notified Dr. Thomas of the planned move. Reyes moved Caruthers' to the dorm and shortly after the inmate was returned to the mental health unit. Sgt. Reyes believed Dr. Thomas had a role in convincing Dir. Flowers to return the inmate to unit 2.

This interview was added to the case file as item 5.

It should be added that following this interview, I contacted Dr. Randa Matusiak who is the Beacon JMS administrator to inquire about a potential missing report regarding inmate Lynch. Dr. Matusiak advised there were no missing reports, nor deleted reports, involving inmate Lynch.

**Sergeant Nathan Buckley:**

I conducted a sworn and recorded interview with Sgt. Buckley on October 19, 2022. Inv. Manchester was also present for this interview. IUPA Attorney Michael Lambert was present for this interview at the request of Sgt. Buckley. Sgt. Buckley has been the BMU sergeant for 1.5 years.

Sgt. Buckley advised he had concerns about the treatment of some inmates on Unit 10A. He told me 10A was previously used to house inmates with Covid 19. Once the Covid unit was no longer needed, Dir. Flowers converted this block to, what Sgt. Buckley described as Dir. Flowers' block." Sgt. Buckley explained Dir. Flowers would inmates in this block that irritated him and frequently, Sgt. Buckley and his staff would have no idea why the inmate was housed on 10A. The inmates' phones and tablet access shut off preventing the inmates from contacting their family or legal representative(s). The inmates were allowed to write to their attorney but this was often done with crayons at the direction of Dir. Flowers. Sgt. Buckley advised Dir. Flowers sent the inmates on 10A to the unit, usually through the chain of command. When he would inquire about the reason for the inmates being housed on 10A without a DR, Sgt. Buckley was advised they were the subject of an investigation. Sgt. Buckley advised Inmates Pinkney, Jones, Rivera, and Wallace were inmates that spent a lot of time on 10A. Inmates would be moved off 10A when Dir. Flowers advised them the inmate could be moved back to general population. Sgt. Buckley advised when Dir. Flowers went out on leave and Warden Smith was the acting director, Warden Smith had 10A shut down and moved the inmates housed there to general population. Sgt. Buckley advised he allowed the inmates housed on 10A to take showers against the direction from Dir. Flowers.

Sgt. Buckley told me Dir. Flowers would come to 10A almost every day. He advised Dir. Flowers would antagonize the inmates or get them "riled up." Sgt. Buckley recalled an incident where Inmate Pinkney wanted his commissary and Dir. Flowers told Pinkney he was going to throw his commissary out back to the raccoons.

Sgt. Buckley also recalled an incident involving Inmate Dion Jones and Dir. Flowers. Inmate Jones had completed his disciplinary time but remained on 10A with no privileges. Inmate Jones and Dir. Flowers got into an argument on 10A while Flowers was inside the block. At some point, Inmate Jones told Dir. Flowers

to “go F’ yourself.” When Flowers exited the block, he advised Sgt. Buckley that Jones was refusing to clean his cell. Dir. Flowers instructed Sgt. Buckley to give Jones some cleaning supplies and shoot him with the pepper ball pistol when he refuses to clean. Sgt. Buckley advised Dir. Flowers there was no need to shoot him but Flowers insisted. Once Dir. Flowers left, Sgt. Buckley asked Jones to clean his cell and he complied without any force applied.

Sgt. Buckley told me this created an unsafe environment for him and his officers because after Dir. Flowers would leave, he would have to go into the block to calm the inmates. Sgt. Buckley noted most of these inmates are in jail for violent crimes, including homicide, and inmate Rivera has a history of stabbing other inmates within this jail.

Sgt. Buckley advised he would never know a reason for the inmates being housed on 10A. He advised he would contact Lt. Gallenkamp to inquire as to why the inmate was housed on 10A. Lt. Gallenkamp would typically say the inmate was there at the direction of Dir. Flowers and they were the subject of an investigation. Sgt. Buckley recalled an incident where Lt. Seltz asked Dir. Flowers why Inmate Wallace was moved to 10A for a weekend. Dir. Flowers responded, “Well sometimes you just have to let them know who’s in charge and whose house he’s in.” Sgt. Buckley advised Dir. Flowers did not like putting orders in writing and rarely would move people to 10A by verbal direction. He added that there were no policies regarding housing inmates on 10A. Sgt. Buckley acknowledged that Dir. Flowers may have had information regarding these inmates that required them to be locked down but his main concern is there was no documentation regarding the reason for the restricted housing.

Sgt. Buckley told me of an incident involving Inmate Barbati on unit 1. He advised Dir. Flowers did not like inmate Barbati. He advised Barbati had an issue with the inmate in an adjoining cell. While at a promotion ceremony, Dir. Flowers stated he was thinking about housing the two inmates in the same cell. Sgt. Buckley responded by saying he couldn’t do that because one is a protective custody (PC) and the other is a 2 officer full restraint inmate and couldn’t be housed together. Dir. Flowers insisted and one of the captains or lieutenants present asked him to put the request in writing. Dir. Flowers sent an email to Sgt. Buckley and others directing them to house the inmates together. Sgt. Buckley told me this only lasted a couple days because the two had issues in the cell and the two were separated. Sgt. Buckley agreed to provide me with this email following the interview. The email was added to the case file as item 7.

Sgt. Buckley recalled an incident involving Inmate Lynch when he was 4-pointed (normally) on unit 2. Sgt. Buckley advised Lynch had just been exercised and Dir. Flowers told Lt. Smith to get him up to exercise. Lt. Matthew Smith advised he had just done this but Flowers asked Lynch if he wanted up to exercise. Lynch responded he did not. Dir. Flowers responded by saying to get Lynch up, he needs to use the restroom. Dir. Flowers instructed Lt. Matthew Smith to put Lynch in full restraints and “if he budges, tase him.” Lt. Smith responded by saying he would not because there is no position of advantage. Flowers responded to tase him if he moves wrong. Sgt. Buckley advised this situation made him uncomfortable. Sgt. Buckley had no involvement in 4-pointing Inmate Lynch in the prone position.

This interview was added to the case file as item 6.

**Lieutenant Michael Gallenkamp:**

I conducted a sworn and recorded interview with Lt. Gallenkamp on October 21, 2022. Inv. Manchester was also present for this interview. Lt. Gallenkamp is in charge of the division's investigation unit. His responsibilities include inmate discipline investigations and acts a liaison to outside agencies. He explained the disciplinary process similarly to the previous interviews and confirmed inmates were entitled to their due process rights.

Lt. Gallenkamp confirmed he was aware of several inmates housed on 10A due to them being high profile cases. These inmates include Wallace, Rivera, Torrence, and Pinkney. Lt. Gallenkamp told me 10A is where Dir. Flowers put the most problematic inmates. They would be housed there during the investigative portion and then stay there when the investigation was complete. Lt. Gallenkamp advised there was no specified length of time they could leave inmates on 10A. He advised the inmates should have been allowed to contact their attorney by phone or "snail mail." He explained the phone system would allow the inmates to call their attorney but no one else. The inmate would have to ask for a phone through the unit's supervisor. When asked if he knew of inmates having to write to their attorneys in crayon, he was aware of this but did not know who directed this. He speculated Dir. Flowers. Lt. Gallenkamp told me he was not aware of any inmates who had their access to communicating with their attorney revoked. Lt. Gallenkamp advised he was not aware of the restrictions placed on the inmates on unit 10. Lt. Gallenkamp advised he followed Dir. Flowers instructions regarding keeping inmates on 10A during investigations. Lt. Gallenkamp told me Dir. Flowers had the ultimate authority to house and release inmates from 10A. As far as he was aware, Dir. Flowers has never written a disciplinary report.

He advised Inmate Wallace was house there for live streaming his video visits but he did not believe this was documented on a DR. Wallace was also being monitored by other law enforcement agencies and this may have resulted in him being placed on 10A by Dir. Flowers. Pinkney was housed on 10A for months because he was suspected of making a threat to staff or another inmate and another contraband issue but was not sure why there was no DR. Inmate Rivera was suspected of stabbing other inmates and Lt. Gallenkamp was not aware of DR's relating to this. These incidents were investigated by law enforcement. Inmate Torrence was housed on 10A while an incident involving contraband was investigated by VSO. Lt. Gallenkamp believed Torrence was advised of this investigation and why he was housed on 10A.

Lt. Gallenkamp was not familiar with Inmate Lynch and had no information to add regarding his incident.

This interview was added to the case file as item 8.

**Warden Jeremy Faircloth:**

I conducted a sworn and recorded interview with Warden Faircloth on October 21, 2022. Inv. Manchester was also present for this interview. Prior to being promoted to Warden, Warden Faircloth helped supervise the mental health unit.

Warden Faircloth was familiar with Inmate Lynch. Warden Faircloth recalled Lynch being placed in the 4-point face down on the concrete bunk but did not recall him being naked. This was due to Lynch repeatedly spitting on or assaulting staff. Warden Faircloth believed the purpose of 4-pointing inmates was to prevent them from harming themselves. He advised Dir. Flowers believed the 4-point should be used to control "uncontrollable inmates." Warden Faircloth recalled a morning staff meeting where Dir. Flowers gave the order to 4-point Lynch face down. Dir. Flowers did not want the mattress on the bunk because he did not want Lynch to asphyxiate. Warden Faircloth told Dir. Flowers he did not feel comfortable doing this and Dir. Flowers responded, "Well I've done it in federal prison, go do it. That's a direct order." Warden Faircloth did not recall Dir. Flowers stating this had been approved by County Legal. Warden Faircloth advised he did not participate in the actual process of 4-pointing Lynch but did discuss the matter with Lt. Matthew Smith. He told Lt. Matthew Smith to be careful because this situation did not feel appropriate. In Warden Faircloth's career, he has spent a lot of time supervising the mental health unit, as a sergeant and lieutenant, and only ever used a 4-point to control inmates who were self-harming.

Warden Faircloth believed Lynch was 4-pointed in this manner for less than a week. He stated some inmates were left in traditional 4-point longer than this in the past and there is no limit to how long someone could be restrained in this manner. Warden Faircloth recalled an inmate placed in 4-point restraints for nearly a month due to self-harm. He advised medical and mental health will frequently leave the decision to 4-point up to the security staff due to civil liability. This was the only time he had heard of an inmate being 4-pointed face down. Warden Faircloth did not believe this act was illegal but did feel the process was unethical.

Warden Faircloth recalled the incident described by Sgt. Reyes when Inmate Caruthers was moved from the mental health unit to the dorm. Warden Faircloth received a text message from Dir. Flowers instructing him to move the inmate. Warden Faircloth researched the inmate, noted that he was on a special mental health watch, and instructed the mental health lieutenant to move Caruthers once he cleared his watch. When Warden Faircloth told this to director Flowers on the same text message thread, Dir. Flowers instructed Warden Faircloth to go home. I verified this through text messages obtained through Dir. Flowers' county issued cell phone on May 13, 2022. Warden Faircloth did not believe Caruthers was ever moved because the mental health contractor got involved.

Warden Faircloth told me he had very little knowledge of the operation on 10A. He did say that he was part of text message groups where Dir. Flowers would instruct staff to move inmates to 10A without providing a reason.

This interview was added to the case file as item 9.

#### **Ralph Seltz:**

I conducted a sworn and recorded interview with Ralph Seltz on November 4, 2022. Inv. Manchester was also present for this interview. Mr. Seltz retired from the division on May 31, 2022 as the lieutenant who oversaw the BMU. He had been in that role for approximately 1.5 years. He explained that 10A had been a Covid 19 isolation unit until January 2022 when Dir. Flowers made this a special disciplinary unit. He

advised inmates would be transferred to the unit with no reason. He frequently came into work in the morning and found new inmates on 10A that had not been there before. When he asked his staff why the inmate was there, they would respond the inmate was placed there per Dir. Flowers and was usually there for some type of investigation. Mr. Seltz advised he would have expected to be notified when an inmate is moved into the BMU or 10A. Mr. Seltz advised the inmates housed on 10A would not have access to their commissary items, phone, or tablet at the direction of Dir. Flowers. They would also have very limited hygiene items. He did advise the inmates would be able to write to their attorneys or call if the attorney was registered on the inmate phone system. Mr. Seltz advised he or the unit's sergeant would have to bring a phone to the inmates on this block to contact their attorney. Mr. Seltz did recall inmate Wallace and Thomas being required to use crayons to write to their attorneys when they first arrived to 10A. In his career at corrections, Wallace and Thomas were the only inmates, not classified as mental health inmates, he had seen required to use crayons to write letters.

Mr. Seltz stated inmate Pinkney had spent a significant time on 10A at the direction of Dir. Flowers. Mr. Seltz told me when he would ask Dir. Flowers when he could be released; Dir. Flowers would respond that he would check with Lt. Gallenkamp on the status of the investigation. Mr. Seltz also recalled Inmate Rivera being housed on 10A but he had DR's on record for infractions. However, Rivera was still housed on 10A because Dir. Flowers called him a security threat. Once at this point, Rivera did have access to limited commissary, the phone and tablet.

Mr. Seltz recalled Dir. Flowers and Lt. Gallenkamp entering 10A and usually the inmates were irritated when they left. Most of the time, Dir. Flowers would visit 10A after Mr. Seltz had left for the day. Mr. Seltz advised Lt. Gallenkamp was with Dir. Flowers on 10A approximately half of the time. The inmates told Mr. Seltz "Flowers was talking his bullshit." Pinkney told Mr. Seltz that this was "his (Flowers) house. He would conform to his (Flowers) rules." Mr. Seltz later told me he had accompanied Dir. Flowers in the block on occasion. When inmates would ask why they were there, Dir. Flowers would reply that when their investigation was complete or "you know why you're here." Mr. Seltz described Dir. Flowers as being cordial with the inmates when he was in the block with him.

Mr. Seltz advised he would take the phone privileges away from the inmates on IC Solutions when there was a disciplinary report but normally Lt. Gallenkamp would remove the privileges on most of the 10A inmates that were housed there without a DR. Mr. Seltz could not reinstate the phone privileges.

This interview was added to the case file as item 10.

#### **Lieutenant Michael Gallenkamp Follow-up:**

I conducted a follow-up interview with Lt. Gallenkamp on November 16, 2022 after reviewing the ICS suspension histories for Inmates Rivera, Pinckney, Wallace, and Thomas. Lt. Gallenkamp was listed as the user who suspended their privileges on multiple occasions and no comment was listed for any of these suspensions. When questioned about the suspensions that did not correlate with discipline authorized by the DHO, Lt. Gallenkamp told me he could not recall each specific suspension. He did advise that he would

not have suspended any of the inmate's phone or visitation privileges without being ordered to by Dir. Flowers. These orders were typically in person or occasionally via text message.

This interview was added to the case file as item 15.

**Conclusion:**

Based upon a review of Inmate Shaquille Lynch's Jail Management System file, medical records, and testimony provided by the staff interviewed in this investigation, the allegation that Inmate Lynch was 4-pointed in a manner outside the normal scope of practice has been confirmed. It was also confirmed that Dir. Flowers ordered this method. Sworn statements from multiple witnesses indicate Inmate Lynch was 4-pointed in the prone position, naked, on a concrete bunk for 2-3 days. Restraint monitoring documentation contained in Lynch's medical records indicate he was 4-pointed in this position on June 10, 2021, June 11, 2021, and June 12, 2021 (Item 11). These records all indicate Inmate Lynch was restrained on his abdomen. Warden Faircloth, Warden Smith, Capt. Smith and Sgt. Reyes all indicate this is the only time in their careers they have seen an inmate 4-pointed in this manner. All expressed concerns for the inmate's health and ability to breathe while secured in the prone position. Sgt. Reyes indicated he asked Dir. Flowers about this practice and Dir. Flowers responded the method was approved by the Volusia County Legal Department. I contacted the legal department and they indicated this would not have been a practice they would have approved, as it would have violated corrections' own policies.

VCDC Policy 700.16 details the use of preventative restraints including 4-point restraints. Dir. Flowers' ordering Inmate Lynch 4-pointed in this manner violated section 700.16 (E) (2) which states "If placed in four point he/she must be restrained while lying on his/her back only."

Additionally, Jail Management System records, sworn testimony from several witnesses, and Dir. Flowers text messages indicate Dir. Flowers ordered several inmates to be housed on the 10A block without privileges and without the application of due process as indicated in Volusia County Division of Corrections Policy 301.01 (Inmate Rules and Discipline). Some of these inmates had been properly sanctioned by the division through the prescribed discipline process but remained on the block with restricted privileges after the expiration of their sentence. I reviewed Inmate Calling Solutions (ICS) Suspension Histories on the inmates to see a history of when their phone and video visitation histories were suspended (Item 13). Most of the suspensions were entered by Lt. Gallenkamp and no special notes were indicated. The entries made by Lt. Seltz or Lt. D'Esposito contained notes indicating the suspension was for a discipline or "Security concerns per Director" was listed by Lt. Seltz regarding one of Inmate Thomas' suspensions. Lt. Gallenkamp confirmed that he placed the suspensions on these inmates' account at the direction of Dir. Flowers. I reviewed Dir. Flowers' text messages from his county issued cell phone (Number 386.316.3874) from August 2, 2021 through August 18, 2022 (Item 14). Within the text messages are orders to send inmates to 10A without going through the prescribed discipline process.

Inmate Marcus Pinckney (1025787) was house on 10A block from 11/8/2021-2/2/2022 (87 days). One disciplinary report was located on Inmate Pinckney and no findings or disciplinary sanctions were listed.

Inmate Pinckney's ICS suspension history indicates his phone and video visitation access was suspended for 35 total days.

Inmate Julio Rivera (1058639) was house on 10A block from 12/14/2021-6/13/2022 (182 days). Six disciplinary reports were in JMS regarding Inmate Rivera. The DR issued to Inmate Rivera on 12/14/2021 indicates his disciplinary sanction recommended by the hearing officer was 25 days. None of the other disciplinary reports occurred during this period. Inmate Rivera's ICS suspension history indicates his phone and video visitation access was suspended for 55 total days.

Inmate Othal Wallace (1088214) was house on 10A block from 7/2/2021-8/17/2021 (47 days), 4/21/2022-4/25/2022 (4 days), and 5/8/2022-5/24/2022 (16 days). Two disciplinary reports were located on Inmate Wallace. The DR dated 8/6/2021 indicated Inmate Wallace was to receive 15 days in disciplinary housing. The DR dated 12/14/2021 indicated Inmate Wallace was to receive 20 days in disciplinary housing. It should be noted that this disciplinary housing occurred on Unit 1, which was also part of the BMU. Inmate Wallace's ICS suspension history indicates his phone and video visitation access was suspended for 53 total days. On August 6, 2021, Dir. Flowers wrote a text message to his command staff stating "Shut Wallace down. On everything" and "no visits, no tablet, no phone." On April 21, 2022, Dir. Flowers wrote a text message to his command staff stating "Lock Othal Wallace down on unit 10 until further notice. No phone, no tablet, no visitations etc. unless approved by me until further notice."

Inmate Kentay Thomas (1088488) was housed on 10A block from 8/5/2021-8/17/2021 (12 days) and 4/7/2022-4/26/2022 (19 days). The DR dated 12/14/2021 indicated Inmate Thomas was to receive 20 days in disciplinary housing. The DR dated 7/20/2021 indicated Inmate Thomas was to receive 30 days in disciplinary housing. Inmate Thomas' ICS suspension history indicates his phone and video visitation access was suspended for approximately 150 total days. On August 5, 2021, Dir. Flowers wrote a text message to his command staff stating "Looks like Thomas has circumvented his tablet restriction and is communicating through another inmate" "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." On April 7, 2021, Dir. Flowers wrote a text message to his command staff stating "Lock Kenyan Thomas down on unit 10 until further notice. No tablet, phone etc. I will deal with him tomorrow." He later corrected the name by writing "Kentay Thomas" within the same text thread.

### **Findings:**

After reviewing the case, Interim Director Swanson determined the following violations of VCDC Policies and Volusia County Merit Rules and Regulations are SUSTAINED:

*VCDC Policy 700.16 (E)(2) If placed in four point he/she must be restrained while lying on his/her back only.*

*VCDC Policy 301.01 Procedure A. When an infraction of the rules is alleged to have occurred, a disciplinary report or corrective action shall be processed. The staff member who witnessed the alleged infraction shall prepare the disciplinary report or take corrective action. If no staff member witnessed the*

*alleged infraction, then the staff member who has knowledge of the alleged infraction shall prepare the disciplinary report or take corrective action. The disciplinary report or corrective action shall be completed as soon as possible after the alleged infraction has been witnessed/reported to the officer/staff member.*

***Volusia County Merit Rules and Regulations Sec. 86-43. - Conduct of employees. (a) Code of conduct. Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.***

***Volusia County Merit Rules and Regulations Sec. 86-453. - Reasons for disciplinary action. Any of the following violations is cause for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation. These offenses are illustrative and not all-inclusive.***

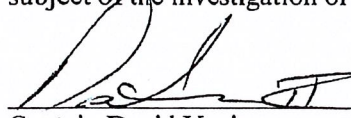
- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.***
- (2) Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules.***
- (9) Any conduct, on or off duty, that interferes with effective job performance or has an adverse effect on the county***
- (12) Incompetent or unsatisfactory performance of duties.***
- (14) Any conduct, on or off duty, that reflects unfavorably on the county as an employer***
- (22) Any other conduct or action of such seriousness that disciplinary action is considered warranted.***

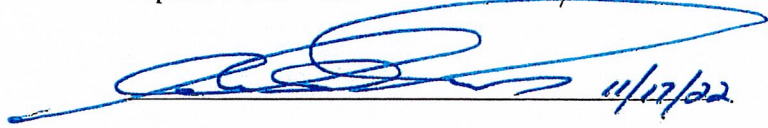


**Concluding Statement:**

Unless otherwise directed, this investigation is considered closed, and is submitted for review and action as deemed appropriate. The original attachments of interviews and other documents pertaining to this investigation remain on file with the Internal Affairs Unit.

“I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss.112.532 and 112.533, Florida Statute.”

  
Captain David Vanis      11/17/22  
Date

  
Approved      Date