



Department of Public Protection

Report of Incident

TO: Terry Sanders, Director
Department of Public Protection

FROM: David Vanis, Captain
Public Protection Administration
Internal Affairs

DATE: May 25, 2017

SUBJECT: IA 2017-05, Sergeant Darlene Capps, Volusia County Division of Corrections

References:

1. VCDC 401 authored by Sgt. Capps (Dated March 23, 2017).
2. Notice of Internal Investigation (Dated April 20, 2017).
3. Request for internal investigation authored by Director Mark Flowers (Dated March 31, 2017).
4. Clerk of Court information regarding Tracy McConnell.
5. FLDOC information regarding Tracy McConnell.
6. Sgt. Darlene Capps Subject Interview Transcript (Dated May 3, 2017).

Background:

On March 23, 2017, Sgt. Darlene Capps submitted a VCDC 401 to Dir. Flowers indicating that she was currently in a romantic relationship with a former inmate named Tracy McConnell. Sgt. Capps' report indicated that she had been dating Ms. McConnell since December 2016 and she had just learned that she had been incarcerated at VCDC from February 2014 through July 2015. Sgt. Capps indicated that she had no knowledge that Ms. McConnell had been an inmate and was reporting the relationship pursuant to VCDC policy 102.09(T). Sgt. Capps added that during the dates of Ms. McConnell's incarceration, she was assigned to the male side of VCCF as an acting housing unit supervisor.

VCDC records indicate that Ms. McConnell was booked into custody on December 18, 2013 and posted bond on the same day. Records also indicate that Ms. McConnell was booked on February 11, 2014 and transferred to the state prison system on July 2, 2015. Her charges for both arrests include grand theft, pass a forged/altered instrument, and fraud. Clerk of court records indicate that Ms. McConnell plead no contest and was adjudicated guilty on several of the charges. She was sentenced to eighteen months in state prison and probation to follow. Florida DOC records indicate that Ms. McConnell has completed her prison sentence and is projected to be released from probation in 2025.

Based upon Sgt. Capps self reported relationship with a current probationer, Dir. Flowers requested an internal investigation into the situation on March 31, 2017 alleging a violation of Florida Administrative Code 11b-27.0011 (Moral character).

Information:

Sgt. Capps was served notice of Internal Investigation on April 20, 2017 by Inv Jennifer Raulerson. A comparison of Sgt. Capps' Telestaff scheduling history and Ms. McConnell's housing indicates that Sgt. Capps had worked in the same unit that Ms. McConnell was housed on at least 69 days.

Sergeant Darlene Capps:

I conducted a sworn and recorded interview with Sgt. Capps on May 3, 2017. Also present for the interview was Inv. Raulerson.

Sgt. Capps explained that she had met Ms. McConnell in December 2016 at an establishment in New Smyrna Beach. Shortly after meeting, they began to date and became involved in an exclusive romantic relationship. Sgt. Capps insisted that she had no recollection of Ms. McConnell's incarceration up until the week of March 13-17. During this time frame, Ms. McConnell told Sgt. Capps that she had a criminal past and had been held at the Volusia County Correctional Facility from February 2014-July 2015. Given this information, Sgt. Capps researched VCDC policies to determine her next course of action. After reviewing VCDC Policy 102.09 (T) which stated:

Cos shall not engage in, nor develop any personal relationships with inmates or ex-inmates without the approval of the Corrections Director. It shall be the responsibility of the CO to notify his/her Warden via VCDC-401 if a family member, relative, close friend or someone he/she may have a relationship with becomes an incarcerated person.

Based upon this policy, Sgt. Capps notified Dir. Flowers of the relationship via incident report.

Sgt. Capps told me that she became aware of Ms. McConnell's probation status after writing the original incident report. Sgt. Capps told me that at the time of this interview, she was still involved in a romantic relationship with Ms. McConnell. When asked how she planned to come into compliance with Florida Administrative Code, Sgt. Capps responded that she knew that the "county" wanted her to break up with Ms. McConnell but made no indication that she planned to cease the relationship. Sgt. Capps advised that, at no time in her career, had she ever been made aware of the Moral Character section of Florida Administrative Code until she became involved in this situation.

This interview was transcribed and added to the case file as Item 6.

Conclusion:

Although Sgt. Capps complied with VCDC Policy by notifying her chain of command of the relationship, VCDC Administration does not have the authority to override Florida Administrative Code. Sgt. Capps acknowledges that she is aware of Ms. McConnell's criminal history and probation status yet continues a romantic relationship with her in violation of FAC 11b-27.0011. There is no evidence to suggest that any part of this relationship occurred during Ms. McConnell's incarceration.

It should be noted that after he became aware of this situation, Dir. Flowers issued a policy revision regarding VCDC Policy 102.09(T) on March 30, 2017. Dir. Flowers' memo states:

Policy and Procedure 102.09 is being revised. The highlighted sentence is being omitted. This sentence is covered by Florida Statute, FAC 11B-270011 Moral Character and cannot be overridden by the Director.

T. COs shall not engage in, nor develop any personal relationships with inmates or ex-inmates without the approval of the Corrections Director. It shall be the responsibility of the CO to notify his/her Warden via VCDC-401 if a family member, relative, close friend or someone he/she may have a relationship with becomes an incarcerated person.

Findings:

Based upon Sgt. Capps incident reports and sworn testimony, I recommend the following allegations sustained:

Florida Administrative Code 11b-27.0011(3)(c)3 Having an unprofessional relationship with an inmate, detainee, probationer or parolee, or community controllee. An

unprofessional relationship is defined as:

a. Having written or oral communication with an inmate, detainee, probationer or parolee, or community controllee that is intended to facilitate conduct prohibited by this rule section; or

b. Engaging in physical contact not required in the performance of official duties, and is defined as kissing, fondling of the genital area, buttocks, or breasts, massaging or similar touching, holding hands, any other physical contact normally associated with the demonstration of affection or sexual misconduct as applied to all certifications, which is defined in Section 944.35(3), F.S.

c. Engaging in a romantic association with an inmate, detainee, probationer, parolee, or community controllee. "Romantic association" is defined as the exchange of telephone calls, pictures, letters, greeting cards, or any other form of oral or written communication, which expresses feelings or thoughts of affection or the desire to engage in a romantic relationship whether emotional or physical. This subsection shall not apply to an officer who is legally married to an inmate, detainee, probationer or parolee, or community controllee in the community, nor does it apply to any officer who has no knowledge, or reason to believe, that the person with whom the officer has engaged in a romantic association is an inmate, detainee, probationer or parolee, or community controllee.

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

Date



5/25/17



Florida Department of Law Enforcement

AFFIDAVIT OF SEPARATION

Incorporated by Reference in Rules 11B-20.001(3)(a)5. a., and 11B-27.002(3)(a)15., F.A.C.



**CJSTC
61**

1. Last Four Digits of Social Security Number: _____

2. Name: Capps Darlene M.
Last First MI

3. Agency Name: Volusia County Department of Corrections

4. Agency ORI: FL_064013C

5. Date Employed: 11/10/2003 6. Separation Date: 5/31/2017

Employment Class

Law Enforcement
 Correctional
 Correctional Probation
 Concurrent
 Special Elected or Appointed
 Instructor

Employment Type

Full time
 Part time
 Auxiliary

7. Separation Reasons

<p>7A. ADMINISTRATIVE - ROUTINE</p> <p><input type="checkbox"/> Voluntary separation not involving misconduct</p> <p><input type="checkbox"/> Transfer within agency. No break in service</p> <p><input type="checkbox"/> Retired. Not involving misconduct</p> <p><input type="checkbox"/> Deceased</p> <p><input type="checkbox"/> Budgetary constraints. Local and Federal grants not renewed</p> <p><input type="checkbox"/> Extended leave of absence Type: _____ Periods of Time: _____</p> <p><input type="checkbox"/> Military leave of absence Periods of Time: _____</p> <p><input type="checkbox"/> Suspension Periods of Time: _____</p> <p><input type="checkbox"/> Administrative separation not involving misconduct</p> <p><input type="checkbox"/> Special elected or appointed Position: _____ Anticipated term: _____</p> <p><input type="checkbox"/> Instructor request for change of affiliation</p>	<p>7C. ADMINISTRATIVE - SUBSTANDARD PERFORMANCE</p> <p><input type="checkbox"/> Failure to satisfactorily complete the agency field-training program (training performance issues).</p> <p><input type="checkbox"/> Failure to perform assigned tasks satisfactorily.</p> <p>7D. OTHER - EXAMPLE</p> <p><input type="checkbox"/> Excessive absenteeism, failure to report for duty, sleeping on duty, etc.</p> <p>7E. UNFAVORABLE - MISCONDUCT</p> <p><input type="checkbox"/> Voluntary separation or retirement while being investigated for violation of agency or training school policy not involving a moral character violation defined in Rule 11B-27.0011, F.A.C.</p> <p><input type="checkbox"/> Voluntary separation or retirement in lieu of termination for violation of agency or training school policy not involving a moral character violation defined in Rule 11B-27.0011, F.A.C.</p> <p><input type="checkbox"/> Terminated for violation of agency or training school policy not involving a moral character violation defined in Rule 11B-27.0011, F.A.C.</p> <p>NOTE: The agency administrator or designee shall provide written documentation of the internal or criminal investigation upon request by Commission staff.</p>	<p>7F. Form CJSTC-61A must be completed and submitted with form CJSTC-61 for any of the following:</p> <p><input checked="" type="checkbox"/> Voluntary separation or retirement while being investigated for violation of Section 943.13(4), F.S., or violation of moral character standards as defined in Rule 11B-27.0011, F.A.C.</p> <p><input type="checkbox"/> Voluntary separation or retirement in lieu of termination for violation of Section 943.13(4), F.S., or violation of moral character standards as defined in Rule 11B-27.0011, F.A.C.</p> <p><input type="checkbox"/> Terminated for violation of Section 943.13(4), F.S., or violation of moral character standards as defined in Rule 11B-27.0011, F.A.C.</p> <p>NOTE: The agency administrator or designee shall provide written documentation of the internal or criminal investigation upon request by Commission staff.</p>
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NOTICE: Section 943.139(2), F.S., requires the execution of an Affidavit of Separation by the employing agency in a case of officer separation. If the officer is separated, whether voluntarily or involuntarily, for failure to comply with provisions of Section 943.13, F.S., the agency is required to so specify when completing the Affidavit of Separation Supplement form CJSTC 61A. **WARNING:** Intentional false execution of this Affidavit of Separation constitutes a misdemeanor of the second degree.

8. Agency Administrator or Designee's Signature: [Signature]

9. Agency Administrator or Designee's Printed Name: Mark Flowers

10. Date: 6-2-17

11. Agency Administrator or Designee's Title: Corrections Director

12. OATH
Pursuant to Section 117.05(13)(a), Florida Statutes

STATE OF FLORIDA COUNTY OF VOLUSIA

Sworn to (or affirmed) and subscribed before me this 2nd day of June year 2017

By [Signature] Signature of Notary Public - State of Florida

SHERRY C. PAGE
Notary Public - State of Florida
My Comm. Expires Feb 10, 2016
Commission # FF 083220

Personally Known OR Produced Identification

Type of Identification Produced: _____

**AFFIDAVIT OF SEPARATION
SUPPLEMENT**Incorporated by Reference in Rules
11B-20.001(3)(a)5.b., and 11B-27.002(3)(a)15., F.A.C.**CJSTC
61A**

Form CJSTC-61A must be completed and submitted with form CJSTC-61 for any of the following:

- Voluntary separation or retirement while being investigated for violation of Section 943.13(4), F.S., or violation of moral character standards defined in Rule 11B-27.0011, F.A.C.
- Voluntary separation or retirement in lieu of termination for violation of Section 943.13(4), F.S., or violation of moral character standards as defined in Rule 11B-27.0011, F.A.C.
- Terminated for violation of Section 943.13(4), F.S., or violation of moral character standards as defined in Rule 11B-27.0011, F.A.C.

1. Officer or Instructor's Name: Darlene Capps

2. Officer or Instructor's Address _____

City: _____ State: FL Zip Code: _____3. Officer or Instructor's Telephone Number: _____
Area Code and Telephone Number4. Agency or training school contact person (For more information): Captain David Vanis5. Contact Telephone Number: (386)547-6822
Area Code and Telephone Number

6. Detailed Description of Misconduct: Do not use generic terminology in this section such as conduct unbecoming, failed to meet agency standards, violation of agency operating procedures, etc. Detailed information describing the act of misconduct is needed for efficient processing.

Self reported an ongoing romantic relationship with a person on felony probation.

7. Criminal Charges Filed: Yes No

CHARGE(S): _____
