

P/K/K

Department of Public Protection

Report of Incident

TO: Terry Sanders, Director
Department of Public Protection

FROM: Jennifer Raulerson, Investigator
Public Protection Administration
Internal Affairs

DATE: June 7, 2017

SUBJECT: IA2017-06, Thomas Zemba, Senior Officer, Division of Corrections

Complainant:

Mark Flowers, Corrections Director

Witnesses:

William Gallenkamp, Lieutenant, Corrections
Jeremy Faircloth, Sergeant, Corrections

References:

1. DPP17-033. Memo from Director Sanders to Captain Vanis directing an investigation (Dated April 4, 2017).
2. Memo from Assistant Director Flowers titled "Request for Internal Affairs Investigation" (Dated March 31, 2017).
3. Notice of Internal Investigation addresses to Senior Officer Thomas Zemba (Dated April 12, 2017, signed April 12, 2017).
4. Advisement of rights forms
5. Documentation (email) from VCSO Detective Katie Campbell to VCDC Lt. William Gallenkamp (Dated 1/23/2017).
6. VCDC Lt. William Gallenkamp witness interview transcript (Dated April 18, 2017).
7. VCDC Sgt. Jeremy Faircloth witness interview transcript (Dated April 24, 2017).
8. Records Summary Report of Inmate phone calls from Securus.
9. CD downloaded from Securus containing the recording of four phone calls.
10. Arrest Warrant pertaining to Amber Strickland
11. Sro. Thomas Zemba subject interview transcript (Dated April 21, 2017).

Background:

On January 23, 2017 Lt. William Gallenkamp received an email from VCSO Detective Katie Campbell. In the email Det. Campbell requested all jail phone calls made by Amber Strickland, who at the time was an inmate in VCDC custody. Det. Campbell explained in the email that this was due to Strickland making statements on phone calls that she would have Det. Campbell killed for charging her. After Lt. Gallenkamp conducted his research using the Securus Inmate phone system, he was able to locate and download four outgoing calls from Strickland while she was incarcerated. Lt. Gallenkamp became concerned after learning that the calls were to Senior Officer Thomas Zemba's wife. Also heard was a male whom sounded like Sro. Zemba who reads Strickland's arrest warrant and explains that it was printed from his work.

On March 31, 2017 VCDC Interim Director Flowers requested an Internal Affairs Investigation into Sro. Zemba's possible violations of VCDC policies and Volusia County Merit Rules.

Lieutenant William Gallenkamp:

I conducted a sworn and recorded interview with Lt. Gallenkamp on April 18, 2017 in his office at the Branch Jail. Also present for this interview was Captain David Vanis. Lt. Gallenkamp is currently assigned as the VCDC Investigative Lieutenant.

When asked what prompted him to initiate his inquiry into I/M Strickland's phone calls he explained on January 23, 2017 he was contacted by Det. Campbell via email requesting phone calls from I/M Strickland. Det. Campbell said that she had received information that Strickland had made verbal threats against her safety over the inmate phone system and she was attempting to verify that information through the phone records.

Lt. Gallenkamp was asked what the phone calls revealed he stated "I reviewed some of them in order to make sure that it was her on the phone. Once I became aware that the phone was associated with Ofc. Zemba, for fact finding purposes, I monitored a couple of those calls. One of them I was able to determine that Ofc. Zemba was on the phone speaking to the inmate about the warrant in her case and sounded as if he had looked it up on our computer system, printed out a copy, and was reading to her how it was written."

When asked what he did with the information, he stated that a CD was made for Det. Campbell, per her initial request. Dir. Flowers, Lt. Gallenkamp's direct supervisor, was also notified. He further stated he did not speak to anyone else regarding this issue besides AD Flowers, Capt. Vanis and myself.

This interview was downloaded to CD and transcribed.

Senior Officer Thomas Zemba:

I conducted a sworn and recorded interview with Corrections Senior Officer Thomas Zemba on April 21, 2017 at Public Protection Administration. Also present for this interview was Capt. Vanis and Sro. Zemba's legal representative Martin White. Prior to the interview, Sro. Zemba was provided copies of all interviews and documentation pertaining to this investigation. He advised that he had reviewed the documents and was ready to proceed with the interview.

When Sro. Zemba was asked how he became acquainted with Amber Strickland, he stated that his wife had placed an ad online to watch children. Sro. Zemba showed us a copy from his phone of the ad and allowed us to make a duplicate of it for his case file. He states that Strickland answered the ad for his wife and his wife began watching her children in November 2016. When asked when he found out that Strickland had

been arrested, he told us that Strickland's boyfriend had told his wife. Sro. Zemba confirmed that his wife was still watching Strickland's children while she was in custody. Sro. Zemba stated that Strickland was never a friend nor family member and therefore never considered submitting a VCDC 401, in accordance with VCDC policy.

Sro. Zemba states that his wife watched Strickland's children Monday through Friday from November 2016 through March 2017. When asked if his wife watched the children after Strickland got out of jail, he stated "Yeah." Strickland was in VCDC custody from January 19, 2017 through February 3, 2017.

Sro. Zemba confirmed that he was speaking with Strickland during the phone conversation on January 20, 2017 at 1639 hours while she was in custody. He additionally confirmed that he read her arrest warrant. When asked why he would read the warrant, he told us he was attempting to keep Strickland calm because she knew where his family lived. For the safety of his family he was trying to be nice and tell her what she wanted to hear.

When asked where he obtained the copy of the arrest warrant he stated on JMS (Jail Management System). When I explained that it's not possible to retrieve arrest warrants from JMS, I asked if it was on the Dash Board / CJIS application, he stated "Yeah." He was asked if he considered looking up and printing out her affidavit County business or Corrections business, he stated "I printed it out to show to the wife and say look, this is why she is arrested. This is what's going on." He further explained, "I would have given other inmates on the unit if they were housed on my unit." When asked, Sro. Zemba told us that he had never supervised Strickland while she was in custody.

Sro. Zemba was asked if he had received training regarding the use of the computer programs for personal business he stated "Yeah, I know we're not supposed to use them for personal business." Sro. Zemba expressed that the information anyone could have retrieved on the outside because it's a public record. He was asked if printing out the information, bringing it home, and reading it to Strickland was a violation of division policy, he stated "Bringing it home and giving it to my wife so my wife would know why she's in jail to move that on for that intent to get rid of the kids and the drama and all that and protection of my family...given all the information, that's information she could have gotten at the jail by asking other officers and stuff anyways to get the information." When asked if he asked permission to take the warrant out/home he stated "No, I didn't".

Sro. Zemba denies that he had any type of relationship or interaction with Strickland besides the phone call when she was in VCDC custody. After she was released, he exchanged text messages when he was attempting to have Miss Strickland pick up some of her children's items from his residence. After Strickland was released, Sro. Zemba told us "This was when she came over to the house when she got out. And I'm like what is going on? Well, I'm going to beat yawl's ass. You all said this, this, and this. I thought you all were friends. I'm like whoa, whoa, whoa. You know. You need to calm down."

He further stated he had spoke to Sgt. Jeremy Faircloth regarding his home life and how his wife was watching some children and the "drama" that would occur. He states he had spoken to Sgt. Faircloth telling him she (Strickland) was finally arrested. Sro. Zemba was asked if Sgt. Faircloth made any suggestion that he may want to report this, he stated "No because we didn't feel like there was no relationship."

This interview was downloaded to CD and transcribed.

Sergeant Jeremy Faircloth:

I conducted a sworn and recorded interview with Sgt. Jeremy Faircloth on April 24, 2017 at the IA office in the Branch Jail. Also present for this interview was Captain Vanis.

Sgt. Faircloth is the Housing Unit Supervisor for the Mental Health Inmates. His office is located in the Shift Commander's Office. He supervises Sro. Zemba.

When asked if he knew Sro. Zemba had been under investigation he replied "I was never formally made aware. I only understood from the call and him leaving that day. I figured that was what it was about." Sgt. Faircloth denied that he had ever discussed the details of this investigation with Sro. Zemba.

Sgt. Faircloth explained that Sro. Zemba and he are friends. Sro. Zemba had discussed his home life and that this woman (Strickland) doesn't take care of her children. His wife has to bath the children every time they come over their house. When she does come over to his residence, Sro. Zemba goes to his room and plays on his phone. Further stating he doesn't like being around the woman because she's "drama."

Knowing the nature of the relationship between Sro. Zemba and Strickland, would he have had Sro. Zemba write a report regarding Strickland's arrest and her being booked into VCBJ he replied "I don't think they're close enough for that. They're not friends. They're not family."

When asked if he told anyone else about his conversation with Sro. Zemba including their Lieutenant he replied "Uh uh...no, I didn't. It was just like a quick personal conversation that he and I had."

This interview was downloaded to CD and transcribed.

Conclusion:

VCISO Det. Campbell's phone call request to Lt. Gallenkamp revealed a phone conversation between Sro. Zemba and Strickland while she was in VCDC custody. The phone call that raised this concern to Lt. Gallenkamp was placed on January 20, 2017 1639 hours, from North Wing Holding Cell. Sro. Zemba confirmed that he was speaking to Strickland and reading her arrest warrant to her. This phone call was made to phone number _____, which is registered to Sro. Zemba. Sro. Zemba advised us that _____ his wife's phone, which was also verified through his emergency contact information at VCDC. There was a total of four calls placed from Strickland to _____ during her incarceration with VCDC. A majority of the phone calls are of Mrs. Zemba speaking to Strickland regarding Strickland's children that Mrs. Zemba's cared for on a Monday-Friday basis.

Sro. Zemba did confirm with us during his interview that he did print out Strickland Arrest Warrant from a division issued computer program, bring it home, allow his wife to read it and read it over the phone to Strickland. Sro. Zemba also states that he did not submit a VCDC 401 regarding Strickland's arrest due to them not being related nor in anytime of relationship.

Findings:

Based upon testimony provided by Senior Officer Zemba and witness interviews regarding the allegations. I recommend that the following allegations are **sustained:**

VCDC Policies and Procedures 102.09 (N). Showing partiality or favoritism toward an inmate or group of inmates shall not be tolerated. All prisoners with like classifications are to be treated the same.

VCDC Policies and Procedures 102.09 (BBB). Employees shall not release any record or recording outside the Division without authorization from the records custodian or designee.

VCDC Policies and Procedures 104.04(C)(3) During business hours, computers located in non-secure areas shall have the screen locked when left unattended. CJIS/JMS is to be used only for conducting County business. All unauthorized use is prohibited.

Volusia County Merit Rules and Regulations, Sec. 86-453. Reasons for disciplinary action.

- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned.*
- (3) Willful misuse, misappropriation, negligence or destruction of county property or conversion of county property to personal use or gain.*
- (9) Violation of privileged information or its use for private gain.*
- (13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer*

Based upon testimony provided by Senior Officer Zemba and the witness interviews regarding this complaint, I recommend that the following allegations are **not sustained:**

VCDC Policies and Procedures 102.09 (S). If an inmate seeks counsel on problems outside the sphere of custodial matters, the CO shall refer the inmate to Case Management or the SC.

VCDC Policies and Procedures 102.09 (T). 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 testimony provided by Senior Officer Zemba and the witness interviews regarding this complaint, I recommend that the following allegations are **unfounded:**

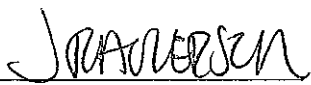
Volusia County Merit Rules and Regulations, Sec. 86-453. Reasons for disciplinary action.

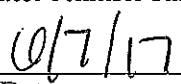
- (8) Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.*
- (12) Knowingly giving false statements to supervisors, other officials or the public.*

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.”


Investigator Jennifer Raulerson


Date



INTER-OFFICE MEMORANDUM
Department of Public Protection
125 W. New York Ave., Suite 183
DeLand, Florida 32720
386-740-5120 FAX-386-740-5283

TO: Sr. Correctional Officer Thomas Zemba
Division of Corrections

DATE: July 19, 2017

FROM: Terry Sanders, Director
Department of Public Protection

FILE NO: DPP17-064

SUBJECT: Notice of Suspension Without Pay

REFERENCE: DPP17-054 NOIS
Without Pay

Purpose: The purpose of this memorandum is to provide notice of your suspension without pay for three (3) working days, which equates to 36.75 hours (three (3) 12.25-hour shifts). This action is the result of your violation of County Policies and Procedures and Division Policies. The dates of your suspension without pay will be Thursday, August 3, 2017, Monday, August 7, 2017 and Tuesday, August 8, 2017. You will return to work on Friday, August 11, 2017.

You received my notice of intent to suspend you without pay on Thursday, June 22, 2017. On Friday, June 23, 2017, you contacted my office requesting to meet with me. On Thursday, June 29, 2017, you and I met along with Deputy Directors Patricia Bythwood and Mark Swanson and Division Director Mark Flowers. You elected not to bring a representative with you.

In our meeting, you voiced your concern with your receipt of the Notice of Intent to Suspend Without Pay because it affected your chances in qualifying for the sergeant promotions. You stated that the reasoning you relayed the information to inmate Strickland is because your wife cared for her children and you wanted to keep the peace between your wife and inmate Strickland. You requested that the Notice of Intent to Suspend Without Pay be reduced to an Employee Performance Notice so as not to disqualify you from the sergeant promotional opportunity.

During our entire meeting, it did not appear that you were remorseful for your actions or that you understood the policy violation you had committed by sharing confidential information with Inmate Strickland and your spouse. You were more focused on the fact that you would not qualify for the sergeant promotional opportunity. Therefore, as you have not provided any further information that would alter my decision, I am continuing with the intended action of your suspension without pay for three (3) working days, which equates to 36.75 hours (three (3) 12.25-hour shifts). Your suspension is to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in this pay period to make up the time.

Background: During an ongoing investigation, a telephone conversation between you and an inmate in custody revealed you had violated several Division Policies and Procedures.

Information: During the course of an investigation requested by the Volusia County Sheriff's Office (VCSO), Lieutenant Michael Gallenkamp uncovered four telephone calls that had been made to your residence. The investigation revealed that your wife was the baby-sitter of inmate Amber Strickland's children, when Amber Strickland was in Volusia County Correctional Facility custody. During the investigation of these calls, it was discovered that you also had a conversation with inmate Strickland while

(Continued)

she was still in custody. The conversation revealed you had printed out inmate Strickland's warrant and took it home and shared it with your wife. It was also revealed you had used the Jail Management System to look up specific information regarding inmate Strickland and you had shared that information with inmate Strickland.

You were interviewed by Investigator Jennifer Raulerson (VCSO Internal Affairs) on April 21, 2017, and you stated that your wife started baby-sitting inmate Strickland's children around November 2016. You admitted to speaking to inmate Strickland while she was in custody. You admitted printing off the arrest warrant from the Jail's computer system and reading it to inmate Strickland. You also admitted to being trained and knew that the computers were not to be used for personal business.

Violations: Your conduct violated both the County of Volusia Merit Rules and the Division of Corrections Policy and Procedures:

Volusia County Merit System Rules and Regulations:

Section 86-45, Conflict of Interest (e)(2) and (e)(5):

- (e)(2) No public officer or employee of an agency or his spouse or minor child shall, at any time, accept any compensation, payment or thing of value when such public officer or employee knows, or with the exercise of reasonable care should know, that it was given to influence a vote or other action in which the officer or employee was expected to participate in his official capacity.*
- (e)(5) No employee shall disclose or use information not available to members of the general public and gained by reason of his official position or benefit or for the personal gain or benefit of any other person or business entity.*

Section 86-453, Reasons for Disciplinary Action (9), (10), (13), and (21):

- (9) Violation of privileged information or its use for private gain.*
 - (10) Incompetent or unsatisfactory performance of duties.*
 - (13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.*
 - (21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.*
1. **Volusia County Division of Corrections Policy and Procedure 102.09:** *Correctional Officers shall conduct themselves in a professional manner at all times and remain cognizant of his/her responsibilities to the Division and the inmates in his/her charge.*
 2. **Volusia County Division of Corrections Policy and Procedure 102.09 (N):** *Showing partiality or favoritism toward an inmate or group of inmates shall not be tolerated. All prisoners with like classifications are to be treated the same.*
 3. **Volusia County Division of Corrections Policy and Procedure 102.09 (BB):** *Employees shall not release any record or recording outside the Division without authorization from the records custodian or designee.*

(Continued)



A review of your personnel file documents the following past relevant corrective and disciplinary history:

05/02/2012 Suspension— *Mixed "no mix" inmates leading to a fight between the two.*

As a Senior Corrections Officer with 13 years tenure, you have the knowledge and experience to perform your duties. This lapse in the performance of your duties is not meeting this organization's standards for acceptable performance.

Conclusion: As a result of the seriousness of your misconduct, and consistent with the recommendations of the supervisor's in your chain of command, I am issuing you this notice of suspension without pay for three (3) working days which equates to 36.75 hours (three (3) 12.25 hour shifts), due to your failure to follow Division Policies and the County's Merit Rules. The dates of your suspension without pay will be **Thursday, August 3, 2017, Monday, August 7, 2017 and Tuesday, August 8, 2017.** You will return to work on **Friday, August 11, 2017.** Your suspension is to be served as noted above, and you are advised that there shall be no voluntary overtime allowed in this pay period to make up the time.

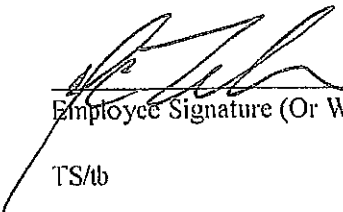
You are advised that future infractions may result in a more severe disciplinary action up to, and including, dismissal. If Director Flowers or I can be of any assistance in correcting this behavior, please let us know.

Action: In accordance with section 86-485 (d) (2) of the Merit System Rules and Regulations, you have ten (10) working days from receipt of this notification (or effective date of the suspension) to appeal this action through the Volusia County Merit System Rules and Regulations. You must submit your written request for appeal to the County Human Resources Office, 230 N. Woodland Blvd. Suite 262, DeLand, FL 32720. Please see Section 86-485 of the Volusia County Merit System Rules and Regulations that outlines the appeal procedures.

If you do not file your appeal by the time stated herein, it will be assumed that you have waived this right.

Pursuant to Merit Rule 86-455, the Legal Department and the Human Resources Director have reviewed this notice and concur with the proposed action.

I certify that I have read this notification and acknowledge receipt of the original copy.



Employee Signature (Or Witness, if Employee Refuses to Sign)

7/19/17

(Date of Signature)

TJS/tb

cc: ___ Patricia Bythwood, Deputy Director of Public Protection
___ Mark Swanson, Deputy Director of Public Protection
___ Mark Flowers, Corrections Director
___ Tom Motes, Human Resources Director
___ Joe Pozzo, Human Resources Assistant Director
___ Tammy King, EEO Coordinator
___ Charles D. Hargrove, Deputy County Attorney

