

Florida Department Of Corrections
 Office of the Inspector General
 Report of Investigation
 Gene Hatcher, Inspector General



Inspector General Case #: 10-31146

Facility: Zephyrhills Correctional Institution

Classification of Incident: [REDACTED]

Field Office/Region: Tampa

Incident Date: 02/28/10 Time: 9:00pm

Inspector: Chris McCaulley

Date of Report: 04/19/10

Case Type: A

Check all that apply:

- Confidential [REDACTED]
- Prison Rape Elimination Act (PREA) Number (if applicable)
- Principal(s) Exhibits Attached
- Department of Corrections presented to State Attorney Declined Accepted
- Use of Force (UOF) Number (if applicable):
- Complaint of Discrimination
- Addendum
- Wing Video Camera(s) Present in the Area of Incident YES NO

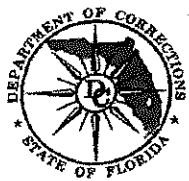
SUMMARY OF ALLEGATIONS:

On February 28, 2010, Inmate Augustus King died [REDACTED] Inmate James Hugger that took place inside their assigned cell.

SUMMARY OF DISPOSITION/JUSTIFICATION FOR DOWNGRADE/EXONERATION:

As a result of this investigation, it is determined that Inmate James Hugger has violated Florida Statute 782.04 (Homicide) by virtue of directly causing Inmate Augustus King's death by placing him in a chokehold during a physical confrontation.

RECEIVED
 DEPARTMENT OF CORRECTIONS
 APR 22 2010
 BUREAU OF
 STATE INVESTIGATIONS



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

	Name	Title / DC #	D.O.B.	Employee ID #
Complainant:	Motes, Donnie	Captain	[REDACTED]	15086
Victim:	King, Augustus	DC#017297	11/22/41	
Witness(es):	Allison, Eugene	DC#071959	03/25/56	
	Williams, Verdie	DC#573868	06/13/55	
	Piccininni, Richard	Sergeant	[REDACTED]	16705
	Seigler, Brett	Officer	[REDACTED]	55986
Subject(s):	Hugger, James	DC#406433	02/07/58	

Arrest: Employee Inmate Other Guilty Addendum Pending
 Charges: Not Guilty
 Felony Misdemeanor Nolo Contendere
 Date of Arrest: P.T.I.
 Other (explanation):
 Date Reported:

Sentence of Court / Agreement:

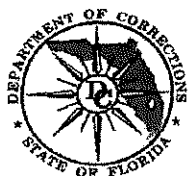
Administrative Violation(s):

Evidence: Weapon Drugs Other Describe:
 Other Agency Case Number:

FINDINGS:

On February 28, 2010, at approximately 9:05pm, while inside [REDACTED] Sergeant Piccininni responded to cell [REDACTED] after hearing someone banging on the cell door. Upon arrival, he observed Inmate King lying face down on the cell floor with Inmate Hugger leaning over him and holding him in a headlock. Inmates Verdie Williams and Eugene Allison were also in the cell at the time but appeared uninvolved in the altercation. Sergeant Piccininni entered the cell and instructed Inmate Hugger to release his hold of Inmate King and to exit the cell, to which he complied. Inmate King was found to be [REDACTED] King was pronounced dead [REDACTED] at 9:31pm.

I arrived at the scene at approximately 11:30pm and performed a general examination of Inmate King's body. The body was lying flat on the cell floor in a supine position. King was dressed in a standard issued prison uniform. His shirt was raised up to around his upper chest area. [REDACTED]



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

and arms. Both feet were bare. Various [REDACTED] was surrounding the body. [REDACTED]

[REDACTED]. Other than a [REDACTED]

[REDACTED] no other obvious signs of trauma were present [REDACTED]

[REDACTED] The cell was processed for evidence. Multiple photographs were taken and several items of clothing, property and other possible evidence was collected. (Exhibits B1-B7)

A physical examination of Inmate Hugger was conducted [REDACTED] per my request. [REDACTED]

[REDACTED] (Exhibit A1)

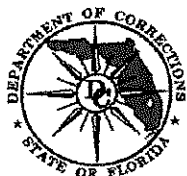
According to Department records, Inmate King was 68 years old and was serving a life sentence for murder. He had been incarcerated since 1966. He was 6'1" and weighed 279 pounds. Inmate Hugger is 52 years old and is currently serving a 15 year sentence for attempted murder. He has been incarcerated since 2001 and is scheduled for release in 2015. He is 5'06" and weighs 152 pounds. As previously noted, both inmates were assigned to the [REDACTED] at the time of incident and both had [REDACTED] along with Inmates Allison and Williams as well.

The cell in which the incident took place is a four man cell. Inmates Hugger, King, Williams and Allison were the four inmates assigned to the cell at the time. There are four separate bunks in the cell, each one located adjacent to each of the four walls. In one corner of the cell is a stainless steel commode unit comprised of a sink and toilet combination. [REDACTED]

[REDACTED] There are no other structures or fixtures located in the cell. Diagram attached. (Exhibit A2)

The recorded video from the fixed wing camera system was obtained and reviewed. The entire incident was captured by the camera located inside the cell. The video shows the following:

At 8:57pm (*timestamp is in military time format of 20:57*), Inmate Hugger gets up from his bunk and walks over to the commode in the corner of the cell and appears to start rinsing something off in the sink, possibly a towel. The other three inmates are all lying in their respective bunks at the time and appear to be in sleeping positions. Several seconds later, Inmate King rises to a sitting position on his bunk and appears to possibly say something to Hugger, who is still at the sink. [REDACTED] Hugger then leaves the commode area and walks back to his bunk. King then stands up and walks over to the commode and appears to begin to urinate in the toilet. Hugger then walks back over to the commode and appears to move the towel that is hanging on the sink and then walks back to his bunk and sits down. It is unclear if any words are exchanged between the two during this time. Several seconds later, King starts to walk away from the toilet. Hugger then gets up from his bunk and walks back over to the sink. King then stops and leans down and picks up what appears to be a roll of toilet paper with his left hand and begins wrapping the toilet paper around his right hand. During this time, Hugger is facing away from King and appears to be washing something in the sink. King then approaches Hugger and stands behind him. As Hugger begins to turn around, King swings his right hand in a backhand motion towards Hugger, possibly striking Hugger in the head area as he (*Hugger*) tries to duck away. Hugger then grabs King around the upper body and the two begin to struggle with each other. Hugger then tackles King and both land on Hugger's bunk, with King landing face down and Hugger landing on top of him. Hugger then maintains a hold of King's upper body as they both struggle on the bunk. At one point during the



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General

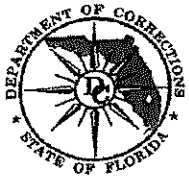


Case Number: 10-31146

struggle, they move from the bunk to the cell floor, with Hugger remaining on top of King the entire time. Over the course of the next 30 seconds, King appears to try to get up several times, by rolling over from his back to his stomach a few times and even getting up to his knees at one point, but Hugger continues to hold him down on the floor by maintaining a hold of his upper body, head or neck area. Hugger appears to adjust his hold of King several times during this time, at one point even partially releasing his hold to place several unidentified objects onto his bunk. However, due to the poor quality of the video, it is unclear exactly if or when Hugger puts King into a headlock. At one point during the struggle, Inmate Williams gets up from his bunk and walks over to the cell door. Inmate Allison remains lying on his bunk the entire time. Sergeant Piccininni is then observed arriving outside the cell door approximately two and a half minutes later. At this point, King has ceased all noticeable signs of movement and Hugger remains lying over King in a perpendicular position with both arms wrapped around King's upper body, neck or head area. Piccininni then opens the cell door and remains standing at the door as Inmate Allison gets up from his bunk and exits the cell, followed several seconds later by Williams. Piccininni then remains at the cell door for approximately 40 seconds while Hugger remains in the same position over King. Piccininni then walks over to Hugger and appears to make several hand gestures to him. Hugger then releases his hold of King and stands up. Piccininni then leans down towards King and then looks at Hugger and makes more hand gestures. Hugger then exits the cell. Captain Motes enters the cell a few seconds later and the [REDACTED]

According to the timestamp on the video, the struggle between King and Hugger lasted approximately five minutes and 30 seconds, starting from the time King first struck Hugger at the sink (21:00:28) until Hugger released his hold of King and stood up from the floor (21:05:55). The last noticeable movement by King came at 21:03:46. There is no clear evidence on the video of Hugger ever punching, kicking, striking or using any other similar type force on King at any time during the struggle. **(Exhibit B8)**

According to his Incident Report and subsequent interview, Sergeant Piccininni stated that at approximately 9:00pm, while in the Officer's Station of [REDACTED], he heard what sounded like someone banging on a cell door in wing three. Several seconds later, Captain Motes entered the Officer's Station and instructed Sergeant Piccininni to respond to the area to investigate the noise while he (Motes) watched the Officer's Station. He then responded to wing three and observed Inmates Allison and Williams standing at the door of cell [REDACTED] *(It was later determined that, in fact, only Inmate Williams had been at the door)* He asked them through the door window what the problem was. They then moved away from the window and he observed Inmate King lying face down on the cell floor with Inmate Hugger leaning over him. Hugger appeared to have King in a headlock. King did not appear to be moving. Sergeant Piccininni then opened the cell door and instructed Allison and Williams to exit the cell, to which they complied. He then instructed Hugger to let go of King and exit the cell. While keeping King in the headlock, Hugger then asked him "Are you going to be in here?" or something to that effect. Sergeant Piccininni assured Hugger that he (Piccininni) would remain in the cell, at which time Hugger released his hold of King and stood up. He then instructed Hugger to exit the cell and he complied. He then began instructing King to get up but he [REDACTED] Officer Seigler then arrived and placed Hugger in handcuffs. Sergeant Piccininni then walked over to King and again began telling him repeatedly to get up but he still did not respond. [REDACTED] Around the same time, Captain Motes arrived at the cell and then [REDACTED] They then turned King over and observed that [REDACTED] He also [REDACTED]



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

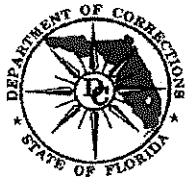
[REDACTED] and declared King dead.
(Exhibits A3, A4 & B9)

In his Incident Report and subsequent interview, Officer Seigler stated that he received a radio call from Sergeant Piccininni to report to [REDACTED]. When he arrived, Inmates Hugger, Williams and Allison were standing outside cell [REDACTED]. Sergeant Piccininni was standing inside the cell and King was lying face down on the cell floor. Hugger was repeatedly saying "I didn't hit him, I didn't hit him". He also made several other spontaneous comments, such as "I didn't do anything", "He came at me" and "I was just holding him down". He then placed Hugger in hand restraints and escorted him to an isolation cell. During the escort and placement into the isolation cell, Hugger continued to make spontaneous comments about how he had not done anything wrong and that King had hit him in the head.
(Exhibits A5, A6 & B10)

In his Incident Report and subsequent interview, Captain Motes stated that while making his rounds through [REDACTED] he heard what sounded like someone banging on a cell door in wing three. He then entered the Officer's Station and instructed Sergeant Piccininni to respond to the area to check out the noise. He remained in the Officer's Station as Sergeant Piccininni responded to the area. He then observed Sergeant Piccininni approach cell [REDACTED] and open the cell door. Two inmates then walked out of the cell. A few seconds later, Sergeant Piccininni called Officer Seigler over the radio to respond to the cell for assistance. He (Motes) then instructed [REDACTED] who had also been present in the Officer's Station with him, to watch the Officer's Station and he then responded to the cell to see what the situation was. After arriving at the cell, he observed Inmates Williams, Allison and Hugger standing in the hallway. He then entered the cell and observed Inmate King lying face down on the cell floor. [REDACTED]. He then asked Sergeant Piccininni what had happened and he told him that Hugger had been on top of King holding him in a headlock when he (Piccininni) arrived at the cell. He (Motes) then asked King several times if he was ok but he did not respond. He then called [REDACTED].

[REDACTED] appeared to be deceased. He then advised the Control Room to [REDACTED]. He, Lieutenant Patterson, Sergeant Piccininni and [REDACTED] arrived at the cell approximately 9:28pm and declared King dead at 9:31pm (declaration made by [REDACTED]).
(Exhibits A7, A8 & B11)

Inmate Allison was interviewed and stated that he had been lying down on his bunk when Inmates King and Hugger began arguing with each other. (He could not tell what the argument was about, only that they were yelling at each other back and forth). As they were arguing, Hugger walked over to the commode and began washing his towel out in the sink. King then walked up behind Hugger and "backhanded" him, striking him on his back with his hand. Hugger then turned around and said "Why did you hit me?" He then grabbed King around his neck and took him to the ground. He then held King down on the ground in a headlock position as King kept trying to get up. During the whole time, Hugger was repeatedly saying to King "I ain't gonna hit ya. Why'd you hit me? I ain't gonna hit ya". Hugger then began calling for someone to call for assistance. Inmate Williams then got up out of his bunk and walked over to the cell door and began banging on the door until Security arrived. At no time did he ever see Hugger strike, punch, kick or use any other similar type force on King other than just hold him down in the headlock.
(Exhibits A9 & B12)



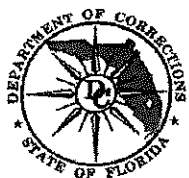
Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

Inmate Williams was interviewed and stated that he had been asleep in his bunk when he was awakened by Inmate Hugger yelling. When he looked up, he observed Hugger and King lying on the floor struggling with each other. *(He did not hear or see anything that took place prior to that point due to his being asleep)*. Hugger was holding King in a headlock and yelling repeatedly for someone to call the officers to the cell. He *(Hugger)* then told Williams that he had been washing out his towel in the sink when King had come up behind him and hit him in the head. During this time, King kept trying to get up but was not saying anything. He *(Williams)* then got up and walked over to the cell door and began banging on the door. While continuing to bang on the door, he watched as Hugger and King continued to struggle on the floor. Hugger kept King in a headlock the entire time while King continued to try to get up. He never observed any punches, kicks, strikes etc. by either inmate during the struggle. A couple of minutes later, the sergeant arrived and ordered him *(Williams)* and Inmate Allison to exit the cell. He did not observe anything further. **(Exhibits A10 & B13)**

After being read and waiving his Miranda warnings, Inmate Hugger provided a sworn statement. He stated that as he was preparing to get ready for bed, he walked over to the commode to retrieve his towel and wash cloth from where they had been drying on the sink. When he picked up the towel and wash cloth, he noticed that they were both wet, as if someone had been using them. He then began washing them out with soap in the sink. As he was doing that, Inmate King got up from his bunk and told Hugger that he needed to "take a crap". Hugger then told him "No problem" and walked back to his bunk. He then sat on his bunk as King urinated in the toilet. When King walked away from the toilet, Hugger walked back to the sink and resumed washing out his towels. As he was washing his towels, he began talking out loud about other people using his personal belongings. He explained that he wasn't talking to King in particular, but rather to everyone in the room *(meaning King, Williams and Allison)*. He explained that his roommates using his towels and other personal belongings had been a recurring problem and he was just letting them all know that he was tired of it and he was going to let the officers know in the morning. As he was saying these things, he was facing the commode with his back to the room and looking down at the sink. All of a sudden, King came up behind him and hit him in the back of the head with his hand. He then turned and grabbed King around his waist and took him down to the ground and they started "wrestling". While he was trying to hold King down, King kept trying to get up and, at one point, grabbed his testicles, so he grabbed King around the neck to try to hold him down. He explained that he was not trying to choke King but was just trying to hold him down until the officers came. As he was holding him down, he kept saying to King "Why'd you hit me? Why'd you hit me?". He also told King that he was not going to hit him back but that he was just going to hold him down until the officers came. He then began yelling for the other two inmates *(who were still lying in their bunks)* to "go call the officer". As he was waiting for the officer to arrive, he continued to hold King down around his shoulder and neck, again stating that he had not been trying to choke him and that he was not holding him "too tight". During this time, King continued to struggle to try to get up and kept telling Hugger "I'm gonna beat your butt" or "I'm fixing to hurt you" or words to that effect. For this reason, Hugger did not let him go for fear that King would attempt to attack him again. A few minutes later, the officer *(Piccininni)* opened the cell door and told Hugger repeatedly to "Let him go". He told Piccininni that if he let King up that King would attack him again. He then said to Piccininni "Come in and get this man". Piccininni then came into the cell and he *(Hugger)* then let go of King and stood up and walked away from him. He stated that at no time during the struggle did he ever punch, kick, or strike King in any way. He



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General

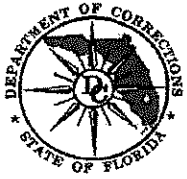


Case Number: 10-31146

emphasized that he had only been trying to hold King down on the ground until the officers came and that he had never intended to harm King. **(Exhibits A11 & B14)**

On March 1, 2010, Dr. Jon Thogmartin of the District Six Medical Examiner's Office conducted an autopsy on Inmate King. As a result of the autopsy and [REDACTED] Dr. Thogmartin determined the cause of death to be [REDACTED] and the manner of death to be homicide. **(Exhibit A12)**



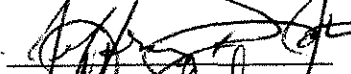
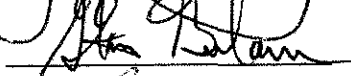
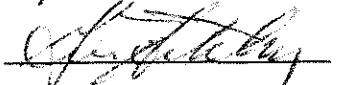
Upon approval by the Office of the Inspector General, a copy of this investigative report will be submitted to the Pasco County State Attorney's Office for review and consideration of criminal prosecution.

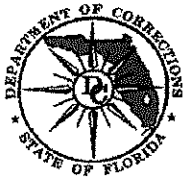


Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

	Senior Prison Inspector	<u>04/19/10</u>	Date
	Prison Inspector Supervisor	<u>04/19/10</u>	Date
	Lead Inspector Supervisor	<u>4/22/10</u>	Date
	Chief Prison Inspector	<u>4/26/10</u>	Date
	Deputy/Inspector General	<u>4/26/10</u>	Date



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

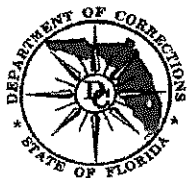
EXHIBIT/ATTACHMENTS SECTION

A. EXHIBIT(s) - attached:

1. [REDACTED] Inmate Hugger
2. Diagram of cell
3. Incident Report of Sergeant Piccininni
4. Transcription of interview of Sergeant Piccininni
5. Incident Report of Officer Seigler
6. Transcription of interview of Officer Seigler
7. Incident Report of Captain Motes
8. Transcription of interview of Captain Motes
9. Transcription of interview of Inmate Allison
10. Transcription of interview of Inmate Williams
11. Transcription of interview of Inmate Hugger
12. Autopsy report

B. EXHIBIT(s) - not attached:

1. CD containing digital images of crime scene
2. Tissue paper material found on center of cell floor
3. Tissue paper material found next to Inmate King's body
4. Portable radio with headphones found on top of Inmate Hugger's bunk
5. Black wristwatch with broken band found on top of Inmate Hugger's bunk
6. Clothing of Inmate Hugger
7. Clothing of Inmate King
8. Video from fixed wing camera inside [REDACTED]
9. Recorded interview of Sergeant Piccininni
10. Recorded interview of Officer Seigler
11. Recorded interview of Captain Motes
12. Recorded interview of Inmate Allison
13. Recorded interview of Inmate Williams
14. Recorded interview of Inmate Hugger
15. Incident Report of Lt. Patterson
16. Incident Report of [REDACTED]
17. Incident Report of [REDACTED]
18. Incident Report of [REDACTED]
19. Incident Report of [REDACTED]
20. Incident Report of Officer Davis



Florida Department Of Corrections
Office of the Inspector General
Report of Investigation
Gene Hatcher, Inspector General



Case Number: 10-31146

21. Incident Report of Officer Molina
22. Video from fixed wing camera in wing three hallway [REDACTED]
23. Fingernail clippings from Inmate King's right hand (Recovered during autopsy)
24. Fingernail clippings from Inmate King's left hand (Recovered during autopsy)
25. [REDACTED] from Inmate King (Recovered during autopsy)
26. [REDACTED] from Inmate King (Recovered during autopsy)

IN THE CIRCUIT/COUNTY COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

F10-00762

STATE OF FLORIDA

V.

JAMES HUGGER

CHARGE: MURDER IN THE SECOND DEGREE, 1° F

OFFICER: CHRIS MCCAULLEY

AGENCY: INSPECTOR GENERAL

OFFENSE NO. OT10-031146

10-31146

Assistant State Attorney Stacey Sumner, having conducted a State Attorney investigation in the above-styled cause, recommends the filing of a No Information for the following reasons:

The victim in this case was the initial aggressor and it appears from the video and from interviews with the other inmates in the cell that the defendant was only trying to hold off further attacks from the victim. This would appear to be a case of excusable homicide.

If your department disagrees with this recommendation, the investigating officer and his supervisor should immediately contact Division Director Manuel Garcia or Bruce L. Bartlett, Chief Assistant State Attorney, at (352) 521-4333. For speedy trial purposes, time is of the essence.

NIF2-SS/0428SF9

RECEIVED
DEPARTMENT OF CORRECTIONS

MAY 14 2010

BUREAU OF
STATE INVESTIGATIONS