

Florida Department of Corrections



Office of the Inspector General

CRIMINAL INVESTIGATION

Case # 14-2592



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
CASE SUMMARY REPORT



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Case Number: 14-2592

Inspector: Inspector Johnny Webb

Date Assigned or Initiated: March 4, 2014

Complaint Against: Inmate Edward Fox, DC# 072129

Location of Incident – Institution/Facility/Office: Suwannee Correctional Institution Annex

Complainant: Inspector Supervisor Yolanda Brown

Use of Force Number: N/A

PREA Number: N/A

Classification of Incident: Death Investigation

Confidential Medical Information Included: ___ Yes X No

Whistle-Blower Investigation: ___ Yes X No

Equal Employment Opportunity Investigation: ___ Yes X No

Chief Inspector General Case Number: N/A



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I. AUTHORITY

The Florida Department of Corrections, Office of the Inspector General, by designation of the Secretary and § 944.31, Florida Statutes, is authorized to conduct any criminal investigation that occurs on property owned or leased by the department or involves matters over which the department has jurisdiction.

The testimony references included in this report are summations of oral or written statements provided to inspectors. Statements contained herein do not necessarily represent complete or certified transcribed testimony, except as noted. Unless specifically indicated otherwise, all interviews with witnesses, complainants, and subjects were audio or video recorded.

II. METHODOLOGY

The investigation reviewed the derivations of the allegation advanced by the complainant. The scope of this investigation does not seek to specifically address tort(s), but violations of criminal statutes. The criterion used to evaluate each contention or allegation was limited to the following standard of analysis:

1. Did the subject's action or behavior violate Florida criminal statutes?

III. ANALYSIS

The standard and analysis in this investigation is predicated with the burden of proving any violation of law, established by probable cause. The evidence considered for analysis is confined to the facts and allegations stated or reasonably implied. The actions or behavior of the subject are presumed to be lawful and in compliance with the applicable Florida law, unless probable cause indicates the contrary.



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IV. DEFINITIONS

Unfounded:

Refers to a disposition of a criminal case for which probable cause does not exist to suggest the suspect's behavior or action occurred nor is an arrest or formal charge being initiated.

Closed by Arrest:

Refers to a disposition of a criminal case for which probable cause exists that an identified subject committed the offense and one for which an arrest or formal prosecution has been initiated.

Exceptionally Cleared:

Refers to a disposition of a criminal case for which probable cause exists that an identified suspect committed the offense, but one for which an arrest or formal charge is not initiated, or in the case of a death investigation, one for which no evidence exists that the death was the result of a crime or neglect.

Open-Inactive:

Refers to a disposition of a criminal case for which a criminal investigation commenced, but where evidence is insufficient to close as unfounded, closed by arrest, or exceptionally cleared.



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V. PREDICATE

On February 27, 2014 at approximately 3:37 am, Captain Lonnie Harrell reports, while assigned as Officer in Charge at Suwannee Correctional Institution Annex (SWCI), he was notified by Sergeant Christopher Aretino, Inmate Kenneth Thomas, DC# 106790 was [REDACTED] P-Dormitory cell P1204.

Inmate Thomas was removed from his cell, [REDACTED] and [REDACTED] [REDACTED] Inmate Thomas was [REDACTED] from [REDACTED] to [REDACTED] at approximately 7:00 am, due to [REDACTED]. Inmate Thomas [REDACTED] [REDACTED]

Inmate Thomas was pronounced deceased on March 2, 2014 at approximately 3:20pm, by [REDACTED] [REDACTED]

This was reported to the Office of Inspector General via callout on February 27, 2014, and assigned to Inspector Johnny Webb as a death investigation on March 4, 2014.

VI. SUMMARY OF INVESTIGATIVE FINDINGS

Based on the exhibits, witnesses' testimony, subject officer's statements, and the record as a whole, presented or available to the primary inspector, the following findings of facts were determined:

On February 27, 2014 at approximately 6:12am, Inspector Webb was notified by Inspector Supervisor Yolanda Brown in reference to Inmate Thomas being [REDACTED]. Inmate Thomas had been [REDACTED] in P-Dormitory, cell P1204, and security staff had been alerted by his cellmate, Inmate Troy Shaw, DC# Y27473.

During the initial investigation, Inspector Webb discovered, Inmate Thomas had been involved in a fight on February 22, 2014, in K-Dormitory at SWCI involving Inmate Edward Fox, DC# 072129. Inmate Thomas had been [REDACTED] and was noted to [REDACTED] [REDACTED] Inmate Thomas remained [REDACTED] for several hours [REDACTED] and was then placed in confinement. Inmate Thomas sustained [REDACTED] the fight.



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On February 27, 2014, Inspector Webb processed cell P1204 at SWCI, there was no physical evidence or any indication of foul play. Photographs were taken of the cell and all of Inmate Thomas' personal property was collected as evidence.

A recorded interview was conducted with Inmate Shaw who indicated Inmate Thomas had been [REDACTED] since 2:00pm on February 26, 2014, and [REDACTED] in about a five hour time frame. After Inmate Thomas had [REDACTED] he began [REDACTED]

Inmate Thomas kept [REDACTED] and at one point asked security staff for [REDACTED] and was told to get off the door and lay down. Inmate Thomas [REDACTED] after that and once again [REDACTED] Inmate Thomas' [REDACTED], however, he still [REDACTED] Inmate Thomas pulled his covers over his head and went to sleep.

Inmate Shaw woke up around 3:20am on February 27, 2014, and Inmate Thomas began [REDACTED] Security staff conducted a security check; at which time, Inmate Shaw alerted the officer of Inmate Thomas' [REDACTED]. The officer beat on the door in an attempt to wake Inmate Thomas, to no avail. Inmate Shaw was restrained and security staff entered cell P1204 to [REDACTED] Inmate Thomas was then taken out of cell P1204 [REDACTED] and the officers followed protocol.

Inmate Shaw was asked if he had been in any type of altercation with Inmate Thomas while they were housed together and responded, "No we haven't, he is a very nice man." Inmate Shaw was asked if Inmate Thomas has spoken about the fight he was in and responded, "He didn't mention anything, other than it was a little dispute over an argument." Inmate Shaw was asked if [REDACTED] Thomas and responded, "He had [REDACTED] Inmate Shaw was asked if Inmate Thomas had [REDACTED] "Nope, not until last night." Inmate Shaw was asked if Inmate Thomas had fallen in the cell and responded, "Nope, [REDACTED] [REDACTED] nothing out of the ordinary until last night."

Note: DC6-229's (*Security Staff Contact Log*) were reviewed and does not show Inmate Thomas [REDACTED]

A review of the fixed wing video shows, at approximately [REDACTED], an officer conducts a security check and approaches cell P1204, Inmate Thomas is not standing at the door. The officer looks in the window and keeps walking to the next cell where Inmate Thomas approaches the cell door after the officer went downstairs.



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A sworn recorded interview was conducted with Sergeant Juanita Rodriguez who was assigned to K-Dormitory at SWCI on February 22, 2014. Sergeant Rodriguez witnessed Inmates Thomas and Fox striking each other in the head and upper torso area, on the K1 side in the bunk area. By the time Sergeant Rodriguez made her way out of the officer station, Inmates Thomas and Fox were lying in their bunks as if nothing had happened.

Sergeant Rodriguez was asked if she had observed anything between Inmates Thomas and Fox prior to the fight and responded, "No sir." Sergeant Rodriguez was asked if she observed any other inmate get involved in the fight while Inmates Thomas and Fox was fighting and responded, "I seen them trying to pull them apart and separate them." Sergeant Rodriguez was asked if she had heard anything in the dormitory from other inmates after the fight and responded, "Yes sir, we asked them right after it happened, did one jump on the other. Later they came to me and told me they had been arguing over who was the oldest in the dorm and it escalated from there. They had words with each other and had been cursing each other out." Sergeant Rodriguez was asked if anyone in the dormitory had said who the aggressor was and responded, "No, I know this is just hearsay, but the inmates told me Inmate Thomas was paranoid and would just jump up as if someone was trying to get him." Sergeant Rodriguez was asked if she saw any injuries on Inmate Thomas after the fight and responded, [REDACTED]. I was later advised he [REDACTED]. Sergeant Rodriguez was asked if she knew any inmates by name who may have witnessed the fight and responded, "No sir, if I had a housing roster I could tell you." Sergeant Rodriguez was asked if any other officers witnessed the fight and responded, "No sir."

A sworn recorded interview was conducted with Officer John Lord who was conducting routine security check on quad 1 as he approached Inmate Thomas's cell, his roommate stopped him and said there was something wrong with him. Officer Lord beat on the cell door in an attempt to get Inmate Thomas' attention; however, he did not respond.

Officer Lord then notified Sergeant Aretino and advised him of the situation. Sergeant Aretino then notified Captain Harrell who called additional staff to assist with breaching the cell. [REDACTED] personnel arrived, the cell was breached, Inmate Thomas was taken [REDACTED]. After Inmate Thomas [REDACTED] in P-Dormitory, he was escorted to the [REDACTED]. Officer Lord did not notice [REDACTED] however, he noticed he had [REDACTED] and was lying flat on his bed.

Officer Lord was asked if Inmate Thomas had said anything to him about [REDACTED] earlier in the evening and responded, "No sir." Officer Lord was asked how often are security checks completed in the dormitory and responded, [REDACTED]. Officer Lord was asked if Inmate Thomas ever attempted to stop him while he was doing a security check and responded, "No sir." Officer Lord was asked if he did all of the security checks in quad 1 the night of the incident [REDACTED].



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[REDACTED] Officer Lord was asked if Inmate Shaw ever said anything to him about the incident and responded, "No sir."

A sworn recorded interview was conducted with Sergeant Christopher Aretino who was assigned as the housing sergeant in P-Dormitory on February 27, 2014. Sergeant Aretino was in the sergeant's office and Officer Lord called and asked for him to come to cell P1204. Sergeant Aretino met Officer Lord as he was banging on the cell door in an attempt to get Inmate Thomas to respond. Sergeant Aretino asked Officer Lord what was wrong and he responded, [REDACTED] Sergeant Aretino asked Officer Lord who is the inmate and he responded, Inmate Thomas.

Sergeant Aretino approached the cell and saw Inmate Thomas [REDACTED] Inmate Thomas had [REDACTED] Sergeant Aretino immediately banged on the door and asked the roommate to go over to Inmate Thomas and nudge him. Inmate Thomas' roommate went over to him and shook him, [REDACTED] Sergeant Aretino [REDACTED] and Captain Harrell to respond. Sergeant Aretino and other security staff breached the cell, tried to get Inmate Thomas [REDACTED] Inmate Thomas was [REDACTED] and [REDACTED] Inmate Thomas was [REDACTED]

Sergeant Aretino was asked if he talked to Inmate Shaw after the incident and responded, "I asked him what was going on and he said Inmate Thomas [REDACTED] Inmate Thomas [REDACTED] and a short time later [REDACTED] Inmate Shaw said, Inmate Thomas [REDACTED] and he [REDACTED] Sergeant Aretino was asked if he was aware Inmate Thomas had been involved in an altercation earlier in the week and responded, "His face sheet said do not mix with another inmate, but I don't know if it was physical or not." Sergeant Aretino was asked if [REDACTED]

A sworn recorded interview was conducted with Officers Ryan Rehkop, Jeremy Thomas, Sergeant Randall Gulley, and Captain Lonnie Harrell, who responded to P-dormitory for assistance when they heard the call come over the radio. Officers Rehkop, Thomas, Sergeant Gulley, and Captain Harrell all witnessed Inmate Thomas in his bunk, [REDACTED]

A recorded interview was conducted with Inmate Alfred Kennedy, DC# 733196 who witnessed Inmates Thomas and Fox get into a verbal altercation and seemed as they couldn't reach an agreement. Inmates Thomas and Fox squared off and Inmate Thomas aggressively went toward Inmate Fox. Inmate Thomas backed up from inmate Fox as if he was scared and threw a punch at him, but it didn't connect, causing



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him to fall and hit his head on his bunk. Inmate Thomas stumbled back up and began fighting with Inmate Fox. Inmate Thomas fell again, got back up and the fight was broken up.

Inmate Kennedy was asked who the aggressor was and responded, "Both of them were aggressors, but Inmate Thomas was the main aggressor." Inmate Kennedy was asked if he knew what the argument was about and responded, "I don't know, it was a verbal confrontation." Inmate Kennedy was asked if he knew if Inmate Thomas had any kind [REDACTED] "He came to me about wanting to get out of here, he thinks people are after him and reading his mail, things of that nature. [REDACTED]

[REDACTED] Inmate Kennedy was asked if Inmate Thomas has had any other conflicts in the dormitory that he knew of and responded, "Every now and then he would kind of go off and we would kind of leave him alone." Inmate Kennedy was asked where Inmate Thomas [REDACTED] and responded, [REDACTED]

Interviews were conducted with Inmates Robert Beausejour, DC# T34279, Nicholas Dinovo DC# D05020, John Disarano, DC# Y07206, Amilca Montanez, DC# M38747, and Ormandis Perez, DC# M14911, who all indicated Inmate Thomas was the main aggressor in the fight and when he attacked Inmate Fox, he fell [REDACTED]. Inmate Thomas got up and backed away from Inmate Fox, tripping over his bunk, striking the left side of his head on the metal railing. Inmate Thomas got up and laid down on his bunk as if nothing happened.

On April 30, 2014, I received the final autopsy report from the District 8 Medical Examiner's Office in Gainesville, Florida. Dr. William Hamilton ruled Inmate Thomas' death as a homicide [REDACTED]

On April 30, 2014, a copy of this case and all reports were sent to Assistant State Attorney (ASA) John Durrett for review. ASA Durrett responded by saying it would take several days for him to go through the reports and would respond back to me with an answer.

On May 19, 2014, I received a response from ASA Durrett stating he would not be prosecuting this case and a letter would be sent out to the Office of Inspector General.

VII. CHARGES

List alleged violations of Florida Law:

1. Violation of § 782.07(1) Florida Statutes, Manslaughter

The killing of a human being by the act, procurement, or culpable negligence of another, without lawful justification according to the provisions of chapter 776 and in cases in which such killing shall not be excusable homicide or murder, according to the provisions of this chapter, is manslaughter, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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VIII. CONCLUSION

Based on the information gathered during this investigation, it is the recommendation of Inspector Johnny Webb, the allegation against Inmate Edward Fox for **Manslaughter, in violation of §782.07(1)**

1. Exceptionally Cleared