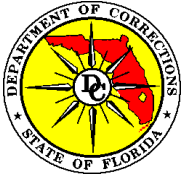


Florida Department of Corrections



Office of the Inspector General

**CRIMINAL INVESTIGATION
INVESTIGATIVE ASSIST
CASE # 14-8607**

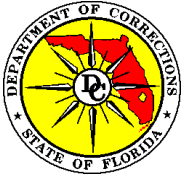


FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



Table of Contents

<u>I. AUTHORITY</u>	4
<u>II. METHODOLOGY</u>	4
<u>III. ANALYSIS</u>	4
<u>IV. DEFINITIONS</u>	5
<u>V. PREDICATE</u>	6
<u>VI. SUMMARY OF INVESTIGATIVE FINDINGS</u>	6
<u>VII. CHARGES</u>	6
<u>VIII. CONCLUSION</u>	7



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



Case Number: 14-8607

OIG Inspector: Inspector Dorothy Minta

Outside Agency: Florida Department of Law Enforcement

Outside Agency Investigator: Special Agent Craig Riley

Date Assigned or Initiated: 07-06-2014

Complaint Against: N/A

Location of Incident – Institution/Facility/Office: Hamilton Correctional Institution

Complainant: Captain Jason Carter

Outside Agency Case #: TL-37-0006

Use of Force Number: 14-8652

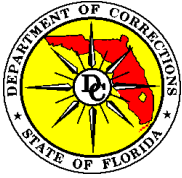
PREA Number: N/A

Classification of Incident: Unattended Inmate Death

Confidential Medical Information Included: Yes No

Whistle-Blower Investigation: Yes No

Chief Inspector General Case Number: N/A



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



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.

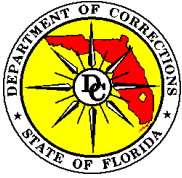
II. METHODOLOGY

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.



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



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:

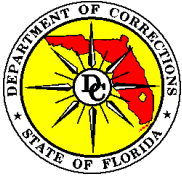
Refers to a disposition of a criminal case for which probable cause exists that an identified suspect committed the offense, but one for which an arrest or formal charge is not initiated, or in the case of a death investigation, one for which no evidence exists that the death was the result of a crime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

Investigative Assist Closed

Refers to a disposition of an investigative assist, where the conduct being investigated by the outside agency did not concern allegations against a Department employee, contractor, inmate, offender, or other person either employed or under the supervision of the Department.



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



V. PREDICATE

At approximately 11:07PM on July 5, 2014, Inmate Dan Myers, DC# 138604, who was housed in B-Dormitory at Hamilton Correctional Institution Annex (*HCI*), became physically combative and yelling incoherently towards Sergeant Jason Yetton. Force became necessary to control Inmate Myers, by use of chemical agents and physical retraining him.

While being escorted [REDACTED] following the use of force (*UOF*), Inmate Myers [REDACTED] [REDACTED] were contacted and responded to HCI. Inmate Myers was pronounced deceased [REDACTED] at 12:14AM on July 6, 2014.

The incident was reported to the Office of Inspector General via call-out and the Florida Department of Law Enforcement (*FDLE*) was notified. Special Agent (*SA*) Craig Riley responded, and initiated a criminal investigation in *FDLE* case # TL-37-0006. On July 6, 2014, Senior Inspector Dorothy Minta was assigned investigative assist # 15-8607 to assist *FDLE* in their investigation.

VI. SUMMARY OF INVESTIGATIVE FINDINGS

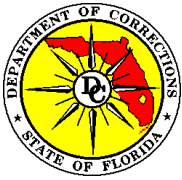
Based on the exhibits, witnesses' testimony, subject officer's statements, and the record as a whole, presented or available to the primary inspector, the following findings of facts were determined:

On July 5, 2014, at approximately 11:00PM, Inmate Myers was reported to have smoked K2 and began screaming incoherently and being disruptive. Officer James Dooley, who heard the commotion being caused by Inmate Myers entered the dormitory, observed Inmate Myers, and radioed for assistance. Sergeant Jason Yetton entered the dormitory and heard Inmate Myers screaming. Inmate Myers ignored all verbal commands given and became aggressive towards Sergeant Yetton. Sergeant Yetton utilized chemical agents and physical force to wrestled Inmate Myers to the ground, where he continued to scream, kick, flail about. Additional staff arrived and Inmate Myers was secured in restraints. Once in restraints, Inmate Myers refused to walk and was placed in a wheelchair for escort to confinement.

After arriving in confinement, Inmate Myers [REDACTED] Dale Wetmore, who advised security staff Inmate Myers needed to be escorted to [REDACTED].

While en route [REDACTED] Inmate Myers began to kick and buck in the wheelchair and had to be placed in the ground. Inmate Myers failed to comply with repeated orders to calm down and was held on the ground until [REDACTED]. After entering [REDACTED] Inmate Myers [REDACTED] and Security staff began [REDACTED] on Inmate Myers. [REDACTED] Staff continued to [REDACTED] until the arrival of [REDACTED], who pronounced Inmate Myers deceased at 12:14AM, July 6, 2015.

66 of the inmates housed in B-Dormitory where Inmate Myers lived were interviewed. Their accounts of the events varied, sometimes greatly. Some inmates claimed they were asleep, could not see, or did not pay any attention to the incident. Some inmates said officers should have handled Inmate Myers as a [REDACTED] and not a resisting inmate. Some inmates indicated Inmate Myers resisted the



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



officers and the officers handled the situation appropriately, while other inmates indicated the officers used excessive force. Statements from the inmates interviewed also varied as to when chemical agents were administered.

Numerous inmates, including those housed in Inmate Myers' immediate vicinity, claimed to have witnessed Inmate Myers and other inmates, who were removed from the dormitory after disruptive behavior, smoke K2 (*or a similar substance*) shortly before Inmate Myers' episode. It appeared common knowledge with the inmates that Inmate Myers smoked K2 and some inmates claimed he did on a regular basis.

SA Riley reviewed the video evidence and the Reports of Force Used submitted (*UOF 14-8652*) and found no inconsistencies.

On July 8, 2014, SA Riley submitted to the FDLE Tallahassee Regional Operations Center (*TROC*) suspected synthetic cannabinoids which had been seized out of B-Dormitory, where Inmate Myers lived prior to his death and allegedly smoked K2 or a similar substance shortly before expiring.

On July 28, 2014, FDLE Forensic Technician (*FT*) Sandy Phelps provided SA Riley a laboratory report pertaining to the suspected K2 seized on July 8, 2014. The results of examination were;

<u>Agency Exhibit #</u>	<u>Description</u>
R-1.1	White paper containing plant material
R-1.2	Magazine page containing plant material
R-1.3	Magazine page containing plant material

Results

- R-1.1 XLR11 (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)
- R-1.2 JWH-081 (4-methoxynaphthalen-1-yl-)pentyndol-3-yl)methanone)
- R-1.3 JWH-081 (4-methoxynaphthalen-1-yl-)pentyndol-3-yl)methanone)

Per Florida State Statute (*FSS*) 893.03(1)(c)(152), XLR11 is classified as a Schedule 1 controlled substance.

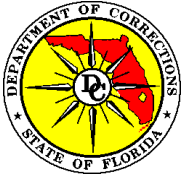
Per *FSS* 893.03(1)(c)(119), JWH-081, is classified as a Schedule 1 controlled substance.

Both of the aforementioned chemicals are known ingredients commonly occurring in synthetic cannabinoids.

On December 4, 2014, SA Riley met with Dr.'s Valerie Rao and Aurelian Nicolaescu in reference to Inmate Myers' death investigation. During this meeting the doctor's advised SA Riley;

- A cause of death for Inmate Myers was still being determined.
- Inmate Myers' toxicology screening [REDACTED]

However, the doctor's stated the toxicology exam



FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



only tested for commonly occurring chemical formulations and did not test for others as the formulations are many and ever changing.

- The doctors were unable to rule whether or not [REDACTED]
- The doctors found no injury or evidence consistent with Inmate Myers being beaten to death or suffocated.

Inmate Myers' autopsy was performed by Dr. Aurelian Nicolaescu at the 4th District Medical Examiner's Office in Jacksonville, Florida. Dr. Nicolaescu issued his final findings as;

- [REDACTED]
- **DIAGNOSIS:** [REDACTED]
- **CAUSE OF DEATH:** [REDACTED]
- **MANNER OF DEATH:** Could not be determined.

SA Riley submitted his investigative report to the 3rd Circuit State Attorney's Office for review. On January 21, 2015, Assistant State Attorney John Weed issued a letter to SA Riley indicating he found insufficient evidence to suggest foul play or criminal culpability in the death of Inmate Myers. ASA Weed noted the Medical examiner found [REDACTED] resulted from the use of force incident. ASA Weed advised the Medical Examiner found [REDACTED] that substantially contributed to causing Inmate Myers' death [REDACTED]. ASA Weed considered this matter closed.

NOTE: SA Riley's investigative report is too large to upload into IGIIS and will be maintained in the case file.

VII. CHARGES

List alleged violations of Florida Law:

None

VIII. CONCLUSION

Based on the information gathered during their investigation, it is the recommendation of FDLE Special Agent Craig Riley the investigation into the unattended death of Inmate Dan Myers be termed as follows:

1. Investigative Assist Closed

Inspector Minta reviewed the investigation completed by FDLE, and administrative issues were not identified.