

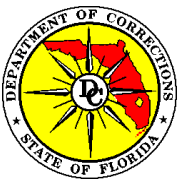
# Florida Department of Corrections



## Office of the Inspector General

### CRIMINAL INVESTIGATION

Case # 13-11224



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



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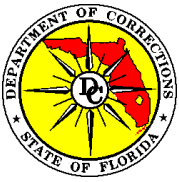
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**Case Number:** 13-11224

**Inspector:** Inspector Kevin Ortiz

**Date Assigned or Initiated:** 10-07-2013

**Complaint Against:** Inmate Alex Ortiz

**Location of Incident – Institution/Facility/Office:** Charlotte Correctional Institution

**Complainant:** Sergeant Rosemary Harrington

**Use of Force Number:** N/A

**PREA Number:** N/A

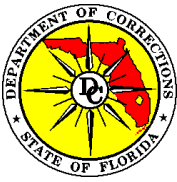
**Classification of Incident:** Homicide

**Confidential Medical Information Included:**  Yes  No

**Whistle-Blower Investigation:**  Yes  No

**Equal Employment Opportunity Investigation:**  Yes  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.

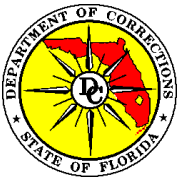
**II. METHODOLOGY**

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:**

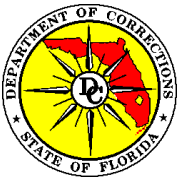
Refers to a disposition of a criminal case for which probable cause exists that an identified subject committed the offense and one for which an arrest or formal prosecution has been initiated.

**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 10/05/13, at approximately 9:22 p.m., Sergeant Rosemary Harrington was present in G dormitory of Charlotte C.I., when she observed two inmates carrying Inmate Frank Moreno. When asked what happened, the inmates stated that Inmate Moreno fell down the stairs. It was initially thought that Inmate Moreno suffered [REDACTED]. It was later determined that Inmate Moreno was involved in a fight with Inmate Alex Ortiz. Inmate Moreno [REDACTED].

**VI. SUMMARY OF INVESTIGATIVE FINDINGS**

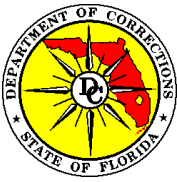
Based on the exhibits, witnesses' testimony, and the record as a whole, presented or available to the primary inspector, the following findings of facts were determined:

In a sworn recorded interview taken on 10/10/13, Sergeant Rosemary Harrington indicated the following:

She was on duty on Saturday night from 5 p.m. to 5 a.m. She was the housing sergeant assigned to G dormitory. She was sitting by the file desk and was reviewing some contact cards when she heard some banging on the door at about 9:22 p.m. She stood up to see where the banging was coming from. She saw Inmate Delk in 4 quad holding up an inmate who she could not identify. He made it obvious that he needed to get out of the quad right away. She opened the door. The inmate he was carrying was pale [REDACTED]. She did not see [REDACTED] on him. She thought he had [REDACTED]. Inmate Santys was trying to help as much as he could to get the inmate into the sally port. Inmate Delk responded to her command to put the inmate on the ground. She instructed him to put him on his left side. When they laid him on the ground, he looked like he just came out from [REDACTED]. She saw a very intermittent twitching going on. He was bare chested when he came out and did not have shirt or shoes on. At that point, she dialed the control room and advised Officer Mercedes that she had an inmate that [REDACTED] and she would need assistance down there. She then called the multi-service building and spoke to Officer Erns and said she would [REDACTED] in G dorm ASAP.

She did not see how the inmate got in that condition. She looked up and saw him being carried at the doorway. When she was sitting down, the desk she was sitting at was facing 2 quad. 4 quad was to her back. There was no one else in the dorm with her. She never saw a disturbance in the dorm between inmates. She did not hear anything. She had no knowledge that inmates were fighting.

At approximately 9:28 p.m., Sergeant Lynch came in through the door followed closely by Officer Jones. She stayed in the officer's station. Officer Barrett also came in. Captain Thomas came in to look at what was going on down there and then came into the officer's station. [REDACTED] and then Officer Castillo arrived [REDACTED]. She then indicated that Officer Castillo went back and arrived [REDACTED] at about the same time [REDACTED] arrived. They tended to the inmate but she could not hear what was going on. She saw [REDACTED].



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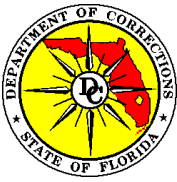
██████████ they did. They loaded him ██████████  
 ██████████ Officer Castillo started to walk down the walkway with them and she got on the radio and told Officer Castillo that she needed him back in the dorm. He turned and came back in.

When she told Castillo that she needed him in the dorm, he started to do the master roster count for her. Sergeant Gonnely called and said that they needed the inmate's identification, crocs, and uniform shirt. She got hold of an inmate in quad 4 and told him she needed those three items. The inmate brought them out and set them down in the sally port. When Officer Castillo came around to that side, she told Officer Castillo to get those up to medical, and he did. When Officer Castillo did his master roster count, he did not say he saw anything. He came back a few minutes later. The captain advised her to do an incident report. She told Officer Castillo that she was going to leave the dorm and do an incident report.

She went to the resource room to do her incident report and then took it to the captain. There was an error on it so she went back to the resource room and re-typed it. She brought it back to the captain and he had approved what she had written. She went back to the dorm then. Around 2:00 a.m., she walked back with the captain. He told her that the inmate had a ██████████ it looked like there could be something more. Sergeant Lynch, Officer Jones, and Sergeant Gonnely walked back to the dorm right into quad 4. Captain Thomas instructed them to start searching cells. Captain Thomas walked up to 4212 where Inmate Moreno was housed. He ordered Officer Castillo to open the door. Inmate Ortiz appeared to be asleep. Captain Thomas woke him up and "hit" (shined) his flashlight on his (Ortiz) face. You could see his (Ortiz) ██████████. ██████████ She was in the quad standing at the top of the staircase on the landing. Captain Thomas asked him how he got ██████████. The inmate spoke Spanish. They pulled every inmate out and checked them. Of all the inmates she saw, Inmate Ortiz was the only one ██████████ Then they dumped the garbage pales out and there were all kinds ██████████ linen in it.

In a sworn recorded interview taken on 10/10/13, Officer Rudolfo Castillo indicated the following:

On Saturday evening, he was assigned to G dormitory. He was not in the dorm when Inmate Moreno was brought to the sally port door. At approximately 9:22 p.m., she (Harrington) said over the radio she ██████████. He walked into the sally port at approximately 9:23 p.m., and the inmate was on the ground appearing to be ██████████. ██████████  
 ██████████ He (inmate) also ██████████ He did not see ██████████ on the inmate. He put a blanket under his (inmate) head to prevent any ██████████ Sergeant Lynch and Officer Jones arrived ██████████. ██████████ brought them back. ██████████ as there by then. At one point, she mentioned that it looked like he was having a ██████████. They placed the inmate ██████████ Captain Thomas said that when he went back to the dorm, to do a walk through to make sure it was not an assault. He asked Sergeant Harrington over the radio if she would lock down the inmates just in case they had to do a mass search. When he came back, all of the inmates were still out, the television was still on, and the inmates were unsecured. He did a quick walk through the dorm and there was no sign of an altercation in the quad. He even



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asked some inmates in the quad and they said it looked like he (inmate) was having [REDACTED]. No one said anything about a fight. He walked upstairs and downstairs and did not see any blood. They had asked for his (inmate) identification and shirt and everything was already in the officer's station. He took that [REDACTED].

Sergeant Harrington retrieved the property (of Inmate Moreno) and it was in the officer's station. She left to do her incident report and he inventoried the inmate's property (Moreno) in the officer's station. He did not see anything in his property such [REDACTED] to indicate he was in a fight. When she (Harrington) came back later on, she took the property and stored it in the after hours room.

It seemed to him that he (Moreno) had fallen, initially. At approximately 2:50 a.m., Captain Thomas and other staff entered the dorm and proceeded to do a cell by cell search of the other inmates. He was in the officer's station marking everything on the log. They put inmate Alex Ortiz in restraints and escorted him (Ortiz) out.

In a sworn recorded interview taken on 10/14/13, Sergeant Daniel Lynch indicated the following:

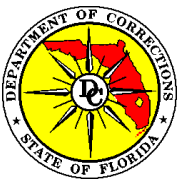
He was assigned as the inside security sergeant. There was a call over the radio that an inmate [REDACTED]. He and Officer Jones headed over to G dorm. They entered the sally port and there was an inmate on the ground and three other inmates in the sally port. He did not remember who the three inmates in the sally port were. All they said was that he (inmate) had a seizure, fell, and hit his head. It was the shorter heavier Black inmate. The inmate on the ground [REDACTED]. They stayed there to make sure the inmate did not get violet or [REDACTED]. He called the multi-service officer over the radio to inquire [REDACTED]. [REDACTED] arrived at least 15 minutes later. She looked at the inmate and opened his eyes and did something with the flashlight and said they would have to send him (inmate) out. Officer Castillo went to get [REDACTED]. [REDACTED] [REDACTED], he left.

He and Officer Jones went back to G dorm at approximately 2 a.m. They saw [REDACTED]. You could see where the inmates had cleaned it up. They (inmates) were not able to get it all and you could see [REDACTED] on the steps. Captain Thomas and Sergeant Gonnely started pulling the inmates out (of their cells). When they pulled the inmate out of 212, they saw the inmate [REDACTED]. Then they found [REDACTED] over his locker. There were [REDACTED] everywhere. When they tipped over the garbage can, they found rags that had [REDACTED].

They checked all inmates on that wing that night. The inmate in 212 was the only one who [REDACTED] that would lead them to believe he was involved in some type of altercation. While they were pulling inmates out, a couple said it was a fight between inmates. At that point, they realized it was a fight.

He found [REDACTED] on Inmate Herald's clothing so he pulled him out and put him in handcuffs. He (Herald) said he was on the phone. So he called Officer Mercedes in the control room because she had access to listen to the call and it was a play by play of what happened.





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The inmate [REDACTED] was taken to the captain's office, [REDACTED] and then to confinement. The inmate had very broken up English but it sounded like it he was trying to say he was assaulted first and was defending himself. He said that in the captain's office when the captain was questioning him. It is routine for all inmates to go to the captain's office before going to confinement.

*Sergeant Lynch was asked to confirm the name of Inmate Herald as the inmate who said he was on the phone. On 10/14/14, Sergeant Lynch indicated the Inmate was Robert Boltuch.*

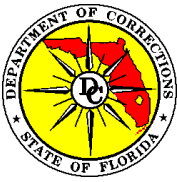
In a sworn recorded interview taken on 10/10/13, Officer John Jones indicated the following:

He was assigned to the yard and was called by the control room to meet up at G dorm. He went to G dorm and upon arrival, he saw an inmate lying on the floor in the sally port surrounded by two other inmates. One inmate told him the inmate on the floor [REDACTED] and fell backwards and hit his head down the stairs. He did not know that inmate's name. The inmate on the floor [REDACTED] under his head. He (inmate) was laying on a sheet. [REDACTED] anything to indicate the inmate was involved in a fight. He called for [REDACTED] they arrived. The inmate [REDACTED]. From there, he was reassigned off the compound.

He went back to the dorm several hours later with Captain Thomas, Sergeant Lynch and Sergeant Gonnely. They went to look for something to indicate that maybe something more took place. They found evidence of inmates cleaning [REDACTED] towels and sheets were found in the garbage can. His cellmate was identified as [REDACTED] ing involved in an altercation with him (the roommate). He was not there for that (the identification), he was on the floor (downstairs). He saw the inmate escorted down [REDACTED] It appeared as if he was in a physical altercation. This inmate was locked up (placed in confinement). He did not see any other inmates with injuries that morning.

In a sworn recorded interview taken on 10/14/13, Registered Nurse Mary Bailie (dob:12/8/53) indicated the following:

She was the first person [REDACTED] to respond to G dormitory. She was called by the officer in the officer's station i [REDACTED] inmate in G dormitory. She brought [REDACTED] [REDACTED] When she walked in the door, the inmate was lying on the floor by the quad door and the officers were around him. She looked at him [REDACTED]. He was [REDACTED]. [REDACTED] His head was off to one side. According to the officers, the inmates brought him out to the hallway. [REDACTED] [REDACTED] was caused by someone else [REDACTED] She could only guess it was from hitting something on the way down the stairs or something hitting his head. It looked like there were [REDACTED] None on his face that she could remember. [REDACTED] [REDACTED] It could have been due to a fall or a number of things. He was just [REDACTED]



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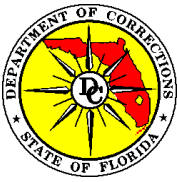
[REDACTED]  
 [REDACTED]  
 [REDACTED] while this was going on. They  
 [REDACTED] She was nervous if  
 he fell down the [REDACTED]

[REDACTED]  
 [REDACTED] that was fine. [REDACTED] She then called C  
 dorm to see [REDACTED] She called [REDACTED]  
 [REDACTED] before she knew the inmate's name due to the fact that [REDACTED]  
 [REDACTED]  
 [REDACTED] The officers called 911. [REDACTED] to let  
 them know how bad the case was before he arrived.

In a sworn recorded interview taken on 10/08/13, Captain David Thomas indicated the following:

A call went out by Sergeant Harrington at about 9:22 p.m. About five minutes later, [REDACTED]  
 [REDACTED] He knew he needed to get over there. He was in the bathroom. He then  
 went over and walked in G dormitory. [REDACTED] Sergeant Lynch, and Officer Jones were  
 there. Inmate Moreno was laying on the ground [REDACTED]  
 [REDACTED] about the circumference of a coke can. [REDACTED]  
 [REDACTED]  
 [REDACTED] It appeared Inmate Moreno [REDACTED]  
 [REDACTED] He remembered it said 94. He asked if he (Moreno) was  
 [REDACTED] At no time was it ever suspected that it was  
 an assault.

They put Inmate Moreno [REDACTED] (Moreno) [REDACTED]. [REDACTED]  
 [REDACTED] They contacted [REDACTED] he  
 (Moreno) was out of the gate at about 10:30 p.m. They (staff/Moreno) [REDACTED]  
 at around 11:00 p.m. [REDACTED] t about 12:00. At that point, he realized it  
 may have been a little more serious because they said he (Moreno) [REDACTED]. He  
 sent Officer Castillo down to the quad to look [REDACTED] Officer Castillo reported back that he  
 (Castillo) did not see anything. About 1:00 or 1:30 a.m., Inmate Moreno [REDACTED]  
 At 2:00 a.m., [REDACTED] Inmate Moreno [REDACTED] At that point he knew it was something  
 serious because the officers told the control room that they were goin [REDACTED]  
 [REDACTED] He called Sergeant Lynch, Lieutenant Triplett, Sergeant Gonnely, and Officer Jones and  
 they went back to the quad. He conducted room to room checks of all of the inmates. When  
 he got to cell twelve, he saw the inmate [REDACTED] He checked  
 Inmate Ortiz and saw he (Ortiz) [REDACTED]. He called Lieutenant Triplett up and placed  
 Inmate Ortiz in hand restraints. He walked in the cell and [REDACTED] on the front edge  
 of the locker. They got the camera and took some pictures. They finished searching all the  
 inmates and found no more with marks. They looked in the trash cans and found [REDACTED]  
 [REDACTED] on the cage  
 door to the shower.



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Sergeant Harrington and Officer Castillo worked that dorm that evening. Nothing was reported concerning a fight by them. He spoke to them and they stated they did not see anything.

They brought Inmate Ortiz over there (captain's office) in restraints. He asked Inmate Ortiz what happened. Inmate Ortiz said nothing at first but he (Ortiz) could not explain [REDACTED]. Lieutenant Triplet said to tell him what he (Ortiz) told him (Triplet). Inmate Ortiz said he (Ortiz) got hit and defended himself. He asked Inmate Ortiz if he (Ortiz) was assaulted by the inmate [REDACTED]. Inmate Ortiz said yes, his cell mate. He said to put it down on the DC Witness Form. It was in Spanish so he did not know exactly what Inmate Ortiz wrote. He will question any inmate concerning what happened as standard procedure. The witness statement Inmate Ortiz did was just a part of his normal course of security duties. As part of going to confinement, Inmate Orti [REDACTED]

There was an inmate on the phone during the incident and they talked to him. He asked the inmate why he (inmate) did not alert anyone. It was due to the convict code. He got a statement from the inmate.

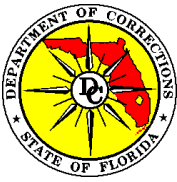
In a sworn recorded interview taken on 10/10/13, Sergeant Michael Gonnely indicated the following:

He was assigned to B dormitory as the housing sergeant on Saturday. He was in the captain's office when the captain had him walk down with him (captain) to assist. He believed he walked in with Captain Thomas. When he walked in, he saw an inmate lying on the floor [REDACTED]. He did not know who the inmate was. He did escort the inmate [REDACTED]. He had no idea at that time (*this was as a result of a fight*) other than [REDACTED]

He did go back to G dorm with Captain Thomas at approximately 2:00 to 3:00 a.m. They went cell to cell to check inmates. They walked in Inmate Moreno's cell [REDACTED]. There was a small drop on the top bunk. He took pictures of all of it. Captain Thomas pulled his (Moreno's) cell mate out and [REDACTED]. He was placed in handcuffs. They searched the rest of the quad and he told someone to flip the trash pale. They found a bunch of rags and toilet paper [REDACTED]. They pulled out every inmate and looked at their hands and faces to see if they were involved in a fight. He did not see every inmate individually. Of all the inmates he saw, Inmate Moreno's cellmate, Inmate Ortiz, [REDACTED]

In a sworn recorded interview taken on 10/10/13, Sergeant Justin Barrett indicated the following:

He was assigned to the control room. At approximately 9:30 p.m., he went to the multi-service building to get his count slips. As he was standing there, he heard an inmate [REDACTED] in G dormitory. He went down to assist and saw Inmate Moreno on the floor. He (Moreno) had a sheet on his head to prop up his head, [REDACTED]. He (Moreno) was obviously [REDACTED]. Officer Jones and Sergeant Lynch were there with him. [REDACTED]. When they rolled him (Moreno) up, he saw that he (Moreno)



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\_\_\_\_\_. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_. They left G dorm and took him (Moreno) \_\_\_\_\_  
 \_\_\_\_\_ He left and went  
 back to the control room to get everything ready because he knew he (Moreno) would be  
 \_\_\_\_\_. After he got everything, they contacted 911, \_\_\_\_\_  
 \_\_\_\_\_ they got him (Moreno) \_\_\_\_\_. He stayed in the control room the rest of the night.

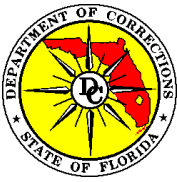
In a sworn recorded interview taken on 10/10/13, Lieutenant Tyler Triplett indicated the following:

On Saturday, he was assigned as the C dorm \_\_\_\_\_ Lieutenant. He heard everything on the radio but he was not really listening because he was doing reports for a cell extraction. He was just done burning a DVD for a Use of Force and was passing through and asked what was going on. They said he (Moreno) \_\_\_\_\_  
 \_\_\_\_\_ ntil the inmate went out. He saw the \_\_\_\_\_  
 \_\_\_\_\_ He tried to finish his paperwork thereafter in C dorm when he got a call to go to the captain's office to assist in G dorm. They were going down there to search for anything that may lead to a fight between inmates, or anything of that nature. He did not recall everyone that was there. He went to the dorm and basically supervised everyone. The captain was upstairs checking on the cell of the inmate \_\_\_\_\_  
 \_\_\_\_\_. The cellmate was already pulled out and he went up there to assist. The inmate was placed in the shower and was later escorted out. The inmate he was putting in the shower \_\_\_\_\_ It appeared as if he was involved in an altercation. As far as he could recall, only that one inmate was escorted out.

On 10/05/13, at 21:22 hours, Inmate Frank Moreno \_\_\_\_\_ . Inmate Moreno \_\_\_\_\_  
 \_\_\_\_\_ Inmate Moreno \_\_\_\_\_  
 \_\_\_\_\_ On 10/10/13, at approximately 5:21 p.m., Frank Moreno \_\_\_\_\_  
 \_\_\_\_\_.

The Inspector General's Office was notified of the incident on Monday 10/07/13 and responded. On 10/10/13, the Florida Department of Law Enforcement Duty Desk was notified of Inmate Frank Moreno's death. On 10/11/13, at approximately 10:46 a.m., Inspector Wayne Elrod notified Shannon Doolity of the Twentieth Judicial Circuit State Attorney's Office of Inmate Frank Moreno's death.

A review of Inmate Alex Ortiz's \_\_\_\_\_ 10/07 \_\_\_\_\_  
 being placed in confinement on 10/06/13 at 04:15 \_\_\_\_\_  
 \_\_\_\_\_ Inmate Ortiz \_\_\_\_\_  
 \_\_\_\_\_ request of this investigator on 10/07/13 at 12:30 hours. Inmate Ortiz \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



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The following evidence containing [REDACTED] was collected by security on 10/06/13 and turned over to the Inspector General's Office on 10/08/13:

Two pairs of boxers found in the day room thrash can of quad 4, one piece of sheet found in the day room trash can, one t-shirt found in the day room trash can, and two towels/one pair of socks found in the day room trash can.

On 10/08/13, a walk through was conducted of the quad and of the cell Inmates Frank Moreno and Alex Ortiz were housed in. Digital photographs were taken. (The photographs were too large to load into IGIIS and were placed on a compact disc). The following items were collected from the cell and stored as evidence: one Casio G Shock watch, one white shirt, one padlock, one rag, one rag, one pair of New Balance tennis shoes, one pair of socks, one pair of underwear, one rag, one sweatshirt, one mattress sheet, and one bed sheet.

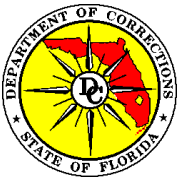
On 10/11/13, Inmate Frank Moreno's property was reviewed in the property room and the following items were collected and stored as evidence: one pair of tennis shoes, one pair of boxers/shorts, one rag, and one shirt.

On 10/07/13, the fixed wing camera system was reviewed by Inspector Janene McLaughlin. No cameras in the location of the incident were operational.

A review of the Housing Unit Log for G dormitory on 10/05/13 – 10/06/13 revealed that at 9:22 p.m., Inmate Frank Moreno was carried into the sally port by Inmate Virgil Delk. Inmate Moreno [REDACTED] [REDACTED] the officer in charge were notified. At 9:24 p.m., Sergeant Lynch and Officer Castillo assisted Inmate Moreno. At 9:39 p. [REDACTED] At 9:48 p.m., Inmate Moreno [REDACTED] At 3:25 a.m., Inmate Ortiz was placed in hand restraints [REDACTED]

In a sworn recorded statement taken on 10/07/13, Inmate Virgil Delk indicated the following:

On 10/05/13, he was sitting at a table in the quad eating dinner when they started fighting. Everyone was up and about. It was around 8:30 or 9:00. They were fighting downstairs. He got up and went to his cell, cell 206. He sat in his cell and then came back out. When he came out of 206, they had gone up the staircase and were by 201. They stayed in that area. That was when he called his mother. He was on the cordless phone talking to his mother and was not watching. He heard a noise and was sure that he (Frank) fell. He fell in front of cells 201 and 202. Frank got up and he watched Frank walk to his cell. He thought Frank was just dizzy and would be alright. Frank went in his cell, and got his towel and soap. Frank then went and got in the shower by his (Frank) cell. Frank got out of the shower, went to his (Frank) cell, got dressed, and came out. He was on the phone talking to his mother when he noticed Frank acted like he was about to fall down the stairs. He was trying to tell someone to grab him (Frank). He was yelling to anyone, no one in particular. There were about three or four guys in the area Frank was in. He did not know their names. He then indicated one was Craig Alexander (Craig Anderson). He specifically called Craig because that was his "brother." Craig was watching the game sitting in front of his (Craig) cell. No one grabbed him (Frank) so he hung up the phone and as he (Frank) was tumbling down the stairs he grabbed him (Frank). He (Frank) did not fall all the way down the stairs. He got to him before he actually fell. He did not hit his head at that time. When he reached Frank, he asked Frank if he was



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okay and Frank said, [REDACTED].” Frank did not say anything else. Nica was not around when he grabbed Frank. [REDACTED]. He believed it happened when he (Frank) fell. He went to the dorm door, knocked on the door, the sergeant opened the door, and he carried him (Frank) out. There was another individual that helped him carry Frank out but he did not know his name. He later indicated he was the only one who carried him (Frank) out. Inmate Santys just came out concerned and another inmate fanned him (Frank). He prayed until officers came.

This occurred from a physical confrontation Frank and his (Frank) cellmate had. He did not tell Sergeant Harrington that. Sergeant Harrington said to turn him on his side and they did until the “police” (officers) came. When he got him in the hallway [REDACTED] [REDACTED] [REDACTED] [REDACTED] He did not go into the extent they (Moreno and Ortiz) were in there fighting.

He did not see any weapons during the fight. Just those two were involved. He did not know the other inmate’s name. They call him Nica. He (Nica) was in confinement. From the time they started fighting until the time Frank came stumbling out of his cell was about 10 to 15 minutes. They stopped off and on. He did not know why they fought. He was later told by another inmate that it was because Frank wanted to smoke K-2 and the other inmate said later.

In a sworn recorded statement taken on 10/07/13, Inmate Carlos Santys indicated the following:

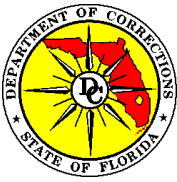
On Saturday at approximately 8:00 p.m., he heard a noise and noticed there were two inmates fighting. They were fighting outside the bathroom he was in. He was in the bathroom by the stairs furthest from the wing entry door. The two inmates fighting were cell-mates. The two were both throwing punches. He did not see any weapons. He did not know how many punches were thrown. They fought by the stairs downstairs, then they went up the stairs and fought on the second floor.

He came out of the bathroom and then went to his cell. There were a lot of inmates in the dayroom during the fight. No one interfered until they finished. They fought for approximately eight to ten minutes. One of the inmates fell by the stairs. The other was leaning on the wall and [REDACTED]. That inmate [REDACTED]. He told the inmate to put his head back [REDACTED]. That inmate was the one that went to confinement. He did not know the inmate’s name. His nickname was “Pantera.”

Officer Tania Mercedes reviewed the inmate telephone system and located the following calls made by inmates that discussed the incident.

A phone call was made from Inmate Robert Boltuch on 10/05/13 at 8:58 p.m. At approximately 2:55, Inmate Boltuch said two guys were fighting [REDACTED] [REDACTED] all over the laundry cart clothes. At 5:00, Inmate Boltuch said there they go again. No one was stopping them. [REDACTED]. The person Inmate Boltuch was talking to asked where were the workers. Inmate Boltuch said they could not see anything. They were about three minutes into it and they were wide open. At 6:19, he said they were still going at it. At 6:22, Inmate Boltuch said he knocked him out cold. At 7:34, Inmate Boltuch





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said he was just watching the dude stumble. He was drunk. At 8:41, he said they were trying to clean it up. At 9:24, the person Inmate Boltuch was talking to asked if they were done. Inmate Boltuch said yes. At 10:55, Inmate Boltuch said he thought they were roommates.

A phone call was made from Inmate Virgil Delk on 10/05/13 at 9:09 p.m. Inmate Delk stated at the beginning of the call to pray for the continual peace in that dormitory. There was an altercation a few minutes ago. At 14:28, Inmate Delk said hold on. He stopped speaking to the caller and said hey Craig, see if that boy was stable he looked like he was about to fall out. Check him. Check the dude right there. He then said to the caller let me call you back and hung up.

A phone call was made from Inmate Virgil Delk on 10/05/13 at 9:34 p.m. He said the guy [REDACTED] and was about to fall out and faint. He had an accident. He was trying to tell the brother to grab him. That was why he had to hang up, he had to grab him. They got him out there [REDACTED] He is still laying out in the hallway. [REDACTED] He has been there about 10 minutes.

A phone call was made from Alex Ordonez on 10/05/13 at 8:52 p.m. At 11:08, it sounded like Inmate Ordonez yelled Julio and do not get involved (in Spanish).

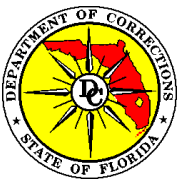
A phone call was made from Alex Ordonez on 10/05/13 at 9:15 p.m. At 9:28, he said that one was hit really hard and could not walk. [REDACTED]. He was the one who attacked first and the other one fought back until the one could not walk anymore.

In a sworn recorded statement taken on 10/07/13, Inmate Robert Boltuch indicated the following:

On 10/05/13, there was incident in G dormitory in the evening. He was on the phone located by the quad door. He was facing towards the television. He heard a noise and looked over and saw a fight. Frank and Pica were fighting. He did not know Pica's real name. They were cellmates. He did not know what they were fighting over. They were fighting by the stairs by the water fountain. They went up the stairs and stayed around the shower up there. They fought and Frank got knocked out and went down on the floor. He got up a couple of seconds after. They both went to the showers. Pica went to the shower downstairs and Frank went to the one by his cell. Frank was coming down the stairs and looked wobbly and the other guys grabbed him and took him outside. He did not fall down the stairs. He had no idea how he got [REDACTED] his pants. They (pants) were in the laundry cart. The laundry cart was under the stairs where they were fighting [REDACTED] everywhere back there.

He never saw a weapon. They were just punching each other.

The remainder of the inmates assigned to the wing where the incident occurred were interviewed. The following inmates declined to give a written or recorded statement: Matthew Raab, Alex Ordonez, Devin Fisher, Tony Merritt, Tulio Rivera, William Johnson, Chester Murnahan, Kermit Berrios, Frank Zarbozo-Fernandez, Bernard Henderson, Gene Humbert, Patrick Main, Billy Clark, Michael Rogers, Syrcuma Oliver, Darrell Johnson, Terrence Coles, Willie Brown, Craig Anderson, Derek Higgs, and Glenn Byerly. The following inmates gave Affidavits indicating they did not see the incident: James Reese, Bryan Dodd, Jerry Reese, Claude Alexander, Robert Jackson, Paul Hook,



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Alberto Guzman, John Brown, Travis Atkins, Eric Anderson, Michael Spinney, Stacey Moore, Raymond Gibson, Dennis Neal, Rory Myrick, Kenneth Platt, and William Mellon.

In a sworn recorded statement taken on 10/07/13, Inmate Timothy Gavin indicated the following:

On 10/05/13, he was housed in G4202. He was in the dayroom at about 6:00 or 7:00 and everyone was watching the football game. Nica and another "Tico" were downstairs in room 8. Poppy walked out of the cell and then Nica did [REDACTED] on his face. Nica looked like he got hit in his face [REDACTED]. He had [REDACTED]. Nica and Poppy started fighting in the dayroom. Nica is just what they call him. He slept in 212 upper. Poppy lived in 212 lower. Both threw punches. He (Nica) ran under the stairs. He went to get some water. He later indicated he went up to his cell and stood at his door while they fought. They were fighting downstairs. Nica ran upstairs to put on his New Balances. He (Nica) went up the other stairway. When Nica went to get his shoes, Poppy came up the stairs by his cell and told another inmate to go to his (Poppy) room and get his (Poppy) shoes. That was when Nica ran back and started fighting. He heard the inmate in cell 1 tell them to get out of his cell. They fought between room 1 and his room. That was when he looked out and saw Nica kick the inmate. He sat down on his toilet and talked to his cellmate. He saw Nica hit Poppy, Poppy fell back and hit his head on the back of the door, and his door slammed shut. His door slides to the left to open. He then indicated that was when he sat on his toilet. He did not see any weapons.

Poppy got up and his head [REDACTED]. He asked Poppy if he was okay and that was it. Poppy went and sat down at the stairway. Nica went to clean himself up. Poppy ran to get in the shower but was stumbling. After Poppy showered, he went to his cell. The guy from 108 went to Poppy's room after Poppy took a shower. The guy from 108 left. He later indicated that Poppy went to his (Poppy) cell, went back down stairs, and talked to the guy in cell 108. He did not know his name. Poppy told him to get him some help. Poppy went down the stairs and was stumbling real bad. So he said someone needs to get him (Poppy). Another inmate on the phone helped Poppy to the sally port. Poppy did not fall. The inmate in 206 lower helped Poppy.

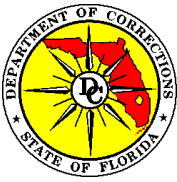
It took three to four minutes to get his door unsecured. Everyone stood there like nothing happened. So everyone got gloves and bleach to clean everything up. They (staff) locked everyone down and then let them back out.

He did not see how the fight started because it happened in cell 108. Before this, they (Nica and Poppy) got along. Nica did not tell him what happened. People went to ask Nica what happened and Nica said the inmate hit him in the nose. At around 2:00 in the morning, they (staff) came, opened the doors, looked at their hands and faces, and shut their doors back. At breakfast time, they (staff) came back and let everyone out, and then locked them back up. He was then placed in confinement.

In a sworn recorded statement taken on 10/07/13, Inmate Ulysses Gutierrez indicated the following:

On Saturday at approximately 6:00 or 7:00 p.m., the incident occurred. He was playing chess at the table downstairs. "Pantera" was sitting in front of the television. He did not know Pantera's real name. Pantera is the nickname for the inmate in confinement (Alex Ortiz).





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Pantera's cellmate (Inmate Frank Moreno) came down the stairs and went to where Pantera was sitting in front of the television. The cellmate hit Pantera in front of everyone, but he did not see it. He saw Pantera walking towards the stairs saying why did you hit me. Pantera was [REDACTED] from the face. The cellmate followed Pantera. They fought by the stairs and they continued to fight upstairs. Pantera threw a punch and the cellmate fell back and hit his (cellmate) head against the door of cell 202. The fight was approximately ten minutes long. He never saw a weapon. Pantera then went to the bathroom to take a shower. The other inmate got up, went down the stairs falling, went up the stairs by his (cellmate) cell, took off his (cellmate) clothes and got in the shower. The cellmate got out of the shower and went to his (cellmate) cell. The cellmate did not look good so an inmate went to him (cellmate) to tell him (cellmate) to go where the officer was [REDACTED]. They went downstairs and called the officer. The officer [REDACTED]. The cellmate fell to the ground. He thought the inmates told the officer that he (cellmate) [REDACTED]. They did not say anything about a fight. [REDACTED]. The inmate [REDACTED] was the one who started the fight.

He later asked Pantera what happened. Pantera said that he (Pantera) asked his cell mate (Inmate Moreno) permission to leave the cell and the cellmate (Inmate Moreno) did not want to leave. They (Moreno and Ortiz) had a small argument and Pantera left. Pantera did not say what he (Pantera) needed the cell for. Because of that, his (Pantera) cellmate went and hit him (Pantera).

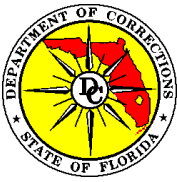
In a sworn recorded interview taken on 10/07/13, Inmate Hector Irizarry indicated the following:

On Saturday at approximately 7:00 or 8:00 p.m. the incident happened. He was in his cell, cell 4114, sitting on his bed. His cellmate told him they (inmates) were fighting. He got up and saw Inmate Ortiz cleaning his (Ortiz) face and his (Ortiz) eye in the corner with a t-shirt. Inmate Ortiz went to put his (Ortiz) tennis shoes on and returned. The other inmate said let me put on my shoes too and Inmate Ortiz said no, and they began fighting again. The other inmate was upstairs by the stairs. Inmate Ortiz hit him (cellmate) and he (cellmate) fell and hit his (cellmate) head on the side of the door of cell 4202. The cell door was open. The fight stopped. When he (cellmate) fell, he (cellmate) got up and sat on the stairs. He (cellmate) then went to his (cellmate) cell to wash his (cellmate) face or head. He (cellmate) was then helped by other inmates to get an officer's attention. They helped the inmate out to the hallway. He did not know the name of the inmate [REDACTED]. He later indicated he did not know Pantera's name. Pantera was the one in confinement (Inmate Alex Ortiz). The other one started the fight but he did not see it. No weapons were involved, they just used their hands. They fought for approximately three or four minutes.

He did not know what the inmates told the officers about what happened.

In a sworn recorded interview taken on 10/09/13, Inmate Michael Rogers indicated the following:

He has been housed in G dormitory wing 4 since July. He knew the two inmates involved in the fight. Nica he knew pretty good and Frank he did not know that well. He did not know Nica's real name. It was Frank's cellmate. Frank was a boxer. Someone told him and he asked him (Frank) about it. Frank used to train with Hector Camacho.



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He was standing in his cell and saw Inmate Dodd go in there and they (inmates in cell) started arguing. Frank was arguing with Inmate Dodd and Nica. They argued about money. Everyone left the cell. Nica went downstairs and was standing in front of the television. He was in cell 205 upstairs. About two to three minutes later, Frank came down the stairs. He was sitting at his table drawing and got up and went to his door and looked. That was when Frank punched Nica. He saw the punch. That was the first punch. H [REDACTED]  
[REDACTED] Frank then looked at another inmate standing near cell 104 and said that if he (inmate) was not careful he (inmate) was going to get it next, and get that money. Nica chased him (Frank) and hit him (Frank). They fought over where the water fountain was, fought up the stairs, and continued to fight by cell 201. Nica knocked Frank down and when he did, he (Nica) grabbed his shirt and wiped his face off because ther [REDACTED]  
[REDACTED] Nica went down the stairs and went up to his room to put his tennis shoes on. While Nica went to get his tennis shoes, Frank was getting up off the floor. He (Frank) had got knocked down. Nica came back down the stairs and went up the other stairs and continued to fight. Nica knocked Frank out and Frank hit his head on the pipe chase door and the cell door. Nica then went to his room and got in the shower. He (Nica) cleaned his clothes off and took everything and threw it in the trash can. Frank sat up on the stairs. Frank got up and was helped to his cell. He did not know if Frank got in the shower or not. Frank was helped down the stairs and when they got down there, Frank locked up and could not move.

Nica and Frank were the only two fighting. The entire incident was about a good five minutes. The incident [REDACTED] a contraband related issue. Nica [REDACTED]  
Frank [REDACTED]

The area where that fight occurred was a routine spot for inmates to do things because it was a tough spot for staff to see. That is where everyone goes to fight at. Staff did not see the fight. The phone is on the other side of the dorm and that is where staff usually sit and do their work at.

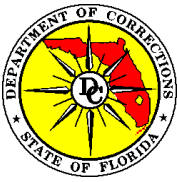
There were five or six inmates that cleaned [REDACTED] Fischer in cell 104u, Anderson in cell 207l, Cole in cell 208u, Gibson in cell 10u, and a couple of others cleaned [REDACTED] They did it because they did not want the "police" (staff) to see it. He did not hear what they said to the officers when they opened the door. He then indicated that he heard Inmate Anderson tell the officer that he (Frank) fell down by the water fountain. There were no weapons.

In an Affidavit dated 10/07/13, Inmate James Evans indicated the following:

He was in his cell reading when the fight occurred. He went to the door to see where the noise was coming from but he could not see anything. He heard people calling them to stop fighting and to cool off.

In an Affidavit dated 10/07/13, Inmate William Souhrada indicated the following:

He was drawing in his room and got up to get some coffee. An inmate was being carried to the officer. [REDACTED] was on the floor. He returned to his room. The television was wide open and he could not hear what may have taken place.



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In an Affidavit dated 10/07/13, Inmate Alexander Rivera indicated the following:

He was on his bunk reading and heard a bunch of noise or slapping noises and someone saying "Americon." After he was done reading, people told him that Frank and his cell mate had gotten into a fight, and that Frank [REDACTED] He did not see anything but heard it.

In an Affidavit dated 10/07/13, Inmate Joelis Jardines indicated the following:

He knew two people fought on the second floor and one, Moreno, [REDACTED] He was at the television bench.

In a sworn recorded interview taken on 10/07/13, Inmate Benny Vargas indicated the following:

He was in his cell, cell 2114, listening to the football game on the radio. He had his headphones on and was laying down. He did not see anything. His cell mate was sleeping.

On 10/07/13, Inmate Alex Ortiz declined to give a statement to this investigator. Inmate Ortiz did provide a statement to security staff on 10/06/13. Inmate Alex Ortiz gave the statement in Spanish which was translated by an officer into English. The translated statement stated he (Moreno) came down the stairs and hit me by surprise while I was watching television. I told him are we going to continue this. We began to fight for 10 to 15 minutes. Then I connected on his face and he (Moreno) fell backwards and he hit the door. [REDACTED] I did not hit him anymore.

On 10/11/13, an autopsy was conducted on Frank Moreno by Dr. Robert Pfalzgraph of the District 21 Medical Examiner's Office. Eight items were turned over to this office. Those items were: a white bag from the right hand, a white bag from the left hand, an envelope containing pulled head hair, an envelope containing fingernail clippings, [REDACTED] stain card, a full set of fingerprints, a sexual assault kit, and a compact disc containing photographs taken by the M.E.'s Office. The Autopsy revealed a [REDACTED]

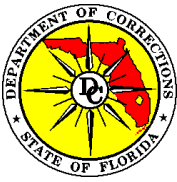
[REDACTED] The Diagnoses was: [REDACTED]  
[REDACTED] The Cause of Deat [REDACTED]  
[REDACTED]. The Manner of Death was Homicide (struck by other person or persons).

Upon the completion of this investigation, an Administrative Investigation will be conducted to address the administrative issue of Inmate Ortiz's [REDACTED] not being properly documented during his initial placement in confinement.

**VII. CHARGES**

**List alleged violations of Florida Law:**

1. Violation of § 784.02(4) Florida Statutes, Murder



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§. 784.02, Florida Statute, Murder —

- (4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:
- (a) Trafficking offense prohibited by s. 893.135(1),
  - (b) Arson,
  - (c) Sexual battery,
  - (d) Robbery,
  - (e) Burglary,
  - (f) Kidnapping,
  - (g) Escape,
  - (h) Aggravated child abuse,
  - (i) Aggravated abuse of an elderly person or disabled adult,
  - (j) Aircraft piracy,
  - (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
  - (l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,
  - (m) Carjacking,
  - (n) Home-invasion robbery,
  - (o) Aggravated stalking,
  - (p) Murder of another human being,
  - (q) Aggravated fleeing or eluding with serious bodily injury or death,
  - (r) Resisting an officer with violence to his or her person, or
  - (s) Felony that is an act of terrorism or is in furtherance of an act of terrorism,
- is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Violation of ss. 784.03(1)(a) Florida Statutes, Battery

§.784.03 Battery; felony battery.—

(1)(a) The offense of battery occurs when a person:

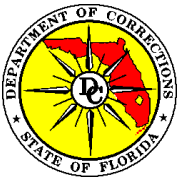
- 1. Actually and intentionally touches or strikes another person against the will of the other; or
- 2. Intentionally causes bodily harm to another person.

(b) Except as provided in subsection (2), a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. Violation of ss. 784.082(3) Florida Statutes, Assault or battery by a person who is being detained in a prison, jail, or other detention facility upon visitor or other detainee; reclassification of offenses.

§. 784.082 Assault or battery by a person who is being detained in a prison, jail, or other detention facility upon visitor or other detainee; reclassification of offenses.—

Whenever a person who is being detained in a prison, jail, or other detention facility is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any visitor to the detention facility or upon any other detainee in the detention facility, the offense for which the person is charged shall be reclassified as follows:



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- (1) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.
- (2) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.
- (3) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.
- (4) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

**VIII. CONCLUSION**

Based on the information gathered during this investigation, it is the recommendation of Inspector Kevin Ortiz the allegations against Inmate Alex Ortiz for Murder, in violation of 784.02(4); for Battery, in violation of 784.03(1)(a); and Battery by a person who is being detained in a prison upon other detainee, in violation of 784.082(3) be termed as follows:

Upon approval, a copy of this report will be submitted to the State Attorney's Office for the 20<sup>th</sup> Judicial Circuit for their consideration for criminal prosecution.

Once a decision has been reached, a supplemental report will be submitted with the appropriate disposition.