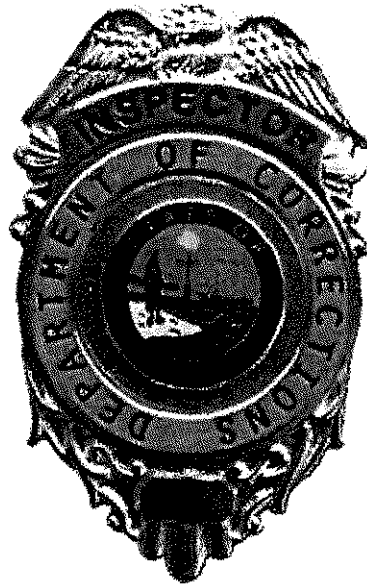


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"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss.112.532 and 112.533, Florida Statutes."

"Furthermore, under penalties of perjury, I declare I have read the attached report and the contents of the report are true and accurate based upon my personal knowledge, information, and belief."

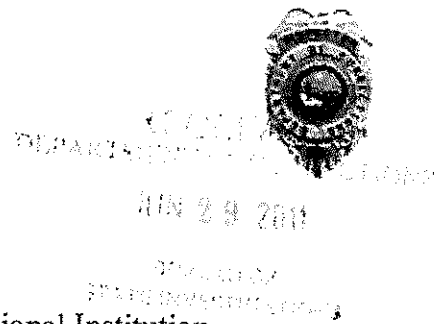
S. P. Fiel  
Inspectors Signature

6/17/11  
Date

COPY



Florida Department of Corrections  
 Office of the Inspector General  
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Inspector General Case #: 11-2-3593

Facility: Union Correctional Institution

Classification of Incident: 15C [REDACTED]

Field Office/Region: Gainesville / 2-East

Incident Date: 04/06/2011

Time: 4:55pm

Inspector: Stacy Fish

Date of Report: 06/17/2011

Case Type: A

- Case of Special Interest
- Confidential [REDACTED]
- Prison Rape Elimination Act (PREA) Number (if applicable)
- Department of Corrections presented to State Attorney  Declined  Accepted
- Use of Force (UOF) Number (if applicable)
- Equal Employment Opportunity Commission (EEOC)
- Addendum
- Wing Video Camera(s) Present in the Area of Incident

**SUMMARY OF ALLEGATIONS:**

Officer Robinson reports that while assigned as Kitchen Security Officer, he was standing at the back door watching inmates work, when Inmate Darling approached him and stated, "You better come inside." He responded to the main part of the kitchen and observed Inmate Rodriguez-Cruz lying face up on the floor with [REDACTED]. He notified Sergeant Holiday, who responded to the kitchen with [REDACTED]. [REDACTED] Inmate Rodriguez was pronounced deceased [REDACTED]. This information was reported on April 06, 2011, to the Office of the Inspector General via MINS and was assigned to Inspector Stacy Fish for investigation, on April 07, 2011.

**SUMMARY OF DISPOSITION/JUSTIFICATION FOR DOWNGRADE/EXONERATION:**

As a result of this investigation, it is determined that there was a physical altercation involving Inmates Stewart and Rodriguez-Cruz. According to the inmate witnesses, Inmate Rodriguez-Cruz swung a baking sheet pan at Inmate Stewart, which Inmate Stewart either blocked or swerved out of the way of, and Inmate Stewart countered the attack by punching Inmate Rodriguez-Cruz one time in the right side of his face, chin, or jaw area, with a left punch, which caused Inmate Rodriguez-Cruz to fall straight back.

All of the inmate witnesses indicated that Inmate Rodriguez-Cruz never moved or attempted to get up from the floor after the strike. The autopsy report completed by Doctor William Hamilton listed the Probable Cause of Death as [REDACTED] and was classified as a "Homicide."



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Assistant State's Attorney Bo Bayer reviewed the facts and determined that his office would not be interested in pursuing criminal charges against Inmate Stewart, because the inmate witnesses' testimony describe a self defense encounter and Inmate Stewart used the minimal amount of defensive tactics necessary to protect himself from an attack. Assistant State's Attorney Bayer indicated that this case would best be ruled as a Self Defense / Excusable Homicide, per Florida Statute 782.03, which states the following: "*Homicide is excusable when committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution, and without any unlawful intent, or by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation, or upon a sudden combat, without any dangerous weapon being used and not done in a cruel or unusual manner.*"



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	Name	Title / DC #	D.O.B.	Employee ID # or Non-Employee Contact Information
<b>Complainant:</b>	Rick Robinson	Correctional Officer	[REDACTED]	50148
<b>Victim:</b>	Rodriguez-Cruz, Jessie	Inmate / H14116	02/23/1947	N/A
<b>Witness(es):</b>	Fowler, Russell	Inmate / 922897	05/21/1957	N/A
	Thompson, Scott	Inmate / 919944	06/14/1958	N/A
	Snow, Joe	Inmate / 712052	02/04/1954	N/A
	Bo Bayer	Assistant State's Attorney	Unknown	103 N. Lake Ave Lake Butler, Fl. 32054 (386) 496-2832
	Vicky Holiday	C.O. Sergeant	[REDACTED]	10597
	Darling, Thomas	Inmate / 810932	01/30/1960	N/A
	[REDACTED]	[REDACTED]	[REDACTED]	33416
	[REDACTED]	[REDACTED]	[REDACTED]	63288
	William Hamilton	Medical Examiner	Unknown	N/A
<b>Subject(s):</b>	Stewart, Jesse	Inmate / 058503	01/20/1960	N/A

Arrest:  Employee  Inmate  Other

Addendum Pending

Charges: None

Felony  Misdemeanor Date of Arrest:

Date Reported:

Final Court Action(s):

Other Agency Case Number:

**FINDINGS:**

On April 06, 2011, at approximately 4:55pm, Officer Rick Robinson reports via Incident Report (#11-1657) that while assigned as Kitchen Security Officer, he was standing at the doorway of the back door and was observing the inmates working there, when Inmate Darling, Thomas #810932, housed in J2-2082, approached him and stated, "You better come inside." He responded to the main part of the kitchen and observed Inmate Kitchen Worker Rodriguez-Cruz, Jessie #H14116, housed in D3-2042, lying face up on the floor, [REDACTED]. He notified A-Area Sergeant Vicky Holiday, who immediately responded to the kitchen with [REDACTED].



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[REDACTED]

The Shift Supervisor's comments submitted by Captain James Taylor indicate that Inmate Rodriguez-Cruz was [REDACTED] and was pronounced deceased at 5:27pm by [REDACTED]. The Southwest Unit Kitchen was secured as a crime scene pending investigation.

(Exhibit A1)

In incident report (#11-1687) dated April 06, 2011, [REDACTED] indicated the following:

[REDACTED]

Note: [REDACTED] was notified and responded at approximately 5:15pm. At approximately 5:27pm, [REDACTED] pronounced Inmate Rodriguez-Cruz deceased, under the direction of [REDACTED].

[REDACTED]

I was notified of this incident at approximately 5:20pm by Lead Senior Inspector Donnie Jones, because I was assigned as the On-Call Senior Inspector. At approximately 5:30pm, I met with Lead Senior Inspector Jones and Inspector George Green at Union Correctional Institution. I responded [REDACTED].



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[REDACTED]

I photographed Inmate Rodriguez-Cruz's body, but was advised by investigator Sarah Weil of the Gainesville Medical Examiner's Office not to remove the [REDACTED] during photographing. While I was photographing Inmate Rodriguez-Cruz's body, Inspector Green responded to the Southwest Unit Kitchen area, where Inmate Rodriguez-Cruz's body was discovered and photographed the scene. Inspector Green observed Inmate Rodriguez-Cruz's [REDACTED] lying on a table in the kitchen area. The [REDACTED] were found lying on the floor in close proximity to where Inmate Rodriguez-Cruz's body was found. It should be noted that [REDACTED].

Inspector Green also observed a 17 inch by 24 inch baking sheet pan lying on the floor in close proximity to where Inmate Rodriguez-Cruz's body was found. The baking sheet pan, [REDACTED] were taken as evidence by Inspector Green. Inspector Green photographed [REDACTED] Inmate Rodriguez-Cruz's [REDACTED] would have been lying. It should be noted that the digital photographs of Inmate Rodriguez-Cruz's body and the Southwest Unit Kitchen area were printed out on a colored printer and attached to a diagram of the Southwest Unit Kitchen area floor plans to show where the incident actually occurred. The digital photographs were downloaded to compact discs.

**(Exhibit A4, A5, A6, B1, B2)**

Lead Senior Inspector Jones, Inspector Green and I conducted field interviews of all the inmates assigned to the kitchen. During the field interviews, the majority of the inmates in the kitchen indicated that they had no knowledge of the incident and were eliminated from the witness pool. However, Inmate Fowler, Russell #922897, Inmate Thompson, Scott #919944, and Inmate Snow, Joe #712052 provided sworn, tape recorded testimony that they witnessed an altercation between Inmate Rodriguez-Cruz and Inmate Stewart, Jesse #058503 in the kitchen. Inmate Fowler, Inmate Thompson, Inmate Snow, and Inmate Stewart were all placed in Administrative Confinement pending investigation and were housed separately. It should be noted that during the field interviews Inmate Darling, who notified Officer Robinson, had no knowledge of the incident. Inmate Darling submitted a Written Inmate Witness Statement Form that indicated the following:

"I came off the diet line and saw Inmate Rodriguez lying down. I went and got Officer Robinson."

**(Exhibit A7)**

In a sworn, recorded interview dated April 06, 2011, Inmate Fowler indicated the following:

He was sitting in the cafeteria area of the kitchen, after eating, with his head down on the table, because [REDACTED]. With his head down and to the right, he could see into the kitchen area through a small window. Inmate Thompson was sitting at the table with him and said something like, "These guys are either fighting or playing around." He looked about the same time Inmate Thompson said something about a tray and he (*Fowler*) observed the white inmate, whose back was to him, with a tray. The white inmate swung the tray at the black inmate and the black inmate blocked the tray with his right arm so it would not hit him. The black inmate punched the white inmate one time with a left hook (*punch*) in the



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jaw area. The white inmate went right down and he (*Fowler*) got up and walked to the door. He never saw the white inmate move or try to get up, so he thought the white inmate had a glass jaw and just got knocked out. The black inmate only hit him one time and did not continue to beat on him when he went down. He does not know why they were fighting, but there was an argument earlier in the kitchen between the black inmate and some other inmates about cheese being on the alternate food trays. He did not witness the white inmate and the black inmate arguing prior to this incident. He indicated that there was a lot of animosity in the kitchen leading up to this incident. All of the other inmates in the kitchen pretty much scattered after the incident. (Exhibit B3)

In a sworn, recorded interview dated April 06, 2011, Inmate Thompson indicated the following:

He was sitting in the dining area of the kitchen, after eating, and was waiting to push a food cart. He was looking through the window into the kitchen area and he observed Inmate Rodriguez and Inmate Stewart pushing each other. He could not hear anything that was said, because he was sitting too far away. It looked like Inmate Rodriguez pushed Inmate Stewart first and Inmate Stewart pushed him back. At first, he thought that they were just playing around, but Inmate Rodriguez grabbed a tray, looked like off the griddle, and swung it at Inmate Stewart. Inmate Rodriguez missed Inmate Stewart with the tray, because Inmate Stewart swerved around it. Inmate Stewart hit Inmate Rodriguez one time with a left punch to the lower right side of the face, chin, or jaw area. Inmate Rodriguez immediately fell straight back. He did not observe Inmate Rodriguez strike his head on anything, but later he did [REDACTED] Inmate Stewart only hit Inmate Rodriguez one time and did not continue to beat on him while he was down. He thought Inmate Rodriguez would probably jump right back up, but when he (*Thompson*) walked to the door, Inmate Rodriguez was just lying there and looked dead. He does not know what started the fight, but he indicated that they had a problem with Inmate Stewart earlier in the kitchen arguing about which food trays get cheese. (Exhibit B4)

In a sworn, recorded interview dated April 06, 2011, Inmate Snow indicated the following:

He was in front of the stove by the officers' station putting some bread in the stove to make some toast. Inmate Rodriguez came up and put a tray of food in the stove to heat up. He and Inmate Rodriguez were standing there talking, when Inmate Stewart came up and opened the stove door. Inmate Stewart said something about Inmate Rodriguez' food being in the way and slammed the stove door. Inmate Stewart walked off and he (*Snow*) turned back around to the stove. Inmate Stewart turned around and came back and he (*Stewart*) and Inmate Rodriguez started arguing about using the stove. Inmate Stewart and Inmate Rodriguez were behind him and to his left. He heard a strike and heard a tray fall to the floor behind him. When he turned around, Inmate Rodriguez was lying on the floor and Inmate Stewart walked off without saying anything. He did not witness Inmate Rodriguez swing a tray at Inmate Stewart nor did he witness Inmate Stewart punch Inmate Rodriguez. He indicated that Inmate Rodriguez never moved or attempted to get up. (Exhibit B5)



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On April 06, 2011, Inspector Green and I, attempted to interview Inmate Stewart (*post Miranda*) in the Southwest Unit Lieutenant's office, but Inmate Stewart refused to provide a verbal or written statement without legal representation present. It should be noted that Inmate Stewart did make a spontaneous statement, "Look man, I didn't do anything to that man. He slipped and fell!" to Inspector Green and I, prior to going to Administrative Confinement. This effort was not recorded, due to Inmate Stewart's request for counsel.

[REDACTED]

(Exhibit A8)

On April 07, 2011, Inmate Stewart agreed for me to take photographs of his person in an attempt to detect any [REDACTED]. Photographs were taken, but [REDACTED] on Inmate Stewart. (Exhibit B6)

On April 07, 2011, Inspector David Allen and I attended the autopsy of Inmate Rodriguez-Cruz which was conducted at the Gainesville Medical Examiner's Office by Doctor William Hamilton. [REDACTED]

Note: [REDACTED]

On June 03, 2011, the Gainesville / 2-East Office of the Inspector General received the Final Autopsy Report on Inmate Rodriguez-Cruz from the Gainesville Medical Examiner's Office. Doctor William Hamilton listed the Probable Cause Death as [REDACTED]

[REDACTED] This was classified as a "Homicide" by Doctor Hamilton. (Exhibit A9)





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In a sworn, recorded interview dated June 08, 2011, Officer Robinson indicated the following:

He recalled the incident on April 06, 2011. He was standing in the doorway of the back dock supervising the inmates putting cheese on the food trays that had been missed, when Inmate Darling came up to him and let him know that he (*Robinson*) needed to come into the kitchen. He indicated that he was standing around the corner of a wall approximately eleven feet away, at most, from the incident. He never heard an altercation or disturbance in the kitchen and usually when a fight occurs you will hear a disturbance. He indicated that he is always hearing pots and pans hitting together, so he kind of tones it out.

He entered the kitchen and observed Inmate Rodriguez-Cruz lying face up on the floor with his head facing the back dock, his hands down by his side and his feet crossed. [REDACTED] He did not observe anyone around Inmate Rodriguez-Cruz, everyone had scattered. He observed a sheet pan with butter on it lying approximately seven or eight feet away from Inmate Rodriguez, which appeared to have been thrown or knocked out of someone's hand to the floor, because the butter on the pan had slid to the corner of the pan. He indicated that sheet pans are not usually on the floor, they are on the counters. He did not notice if Inmate Rodriguez-Cruz's [REDACTED] were lying on the floor when he first responded, because he (*Robinson*) was too busy trying to get the Incident Command System initiated. The [REDACTED] could have been lying on the floor, but he did not see them until sometime later and they were lying on a table. Sometime after the incident, when Inspector Green came down to the kitchen to take photos is when they noticed that there were [REDACTED] and they searched the area and found [REDACTED] on the floor. It is possible that someone moved the [REDACTED] to the table during this incident, without him noticing, because he was so busy [REDACTED] and talking on the radio.

He checked Inmate Rodriguez-Cruz [REDACTED]

He did not hear any verbal altercations between Inmate Rodriguez-Cruz and Inmate Stewart the day of this incident. Inmate Rodriguez-Cruz took the role of being the lead inmate in the pot room and Inmate Stewart took the role of being the lead inmate of the diet line. One day, prior to this incident, he observed Inmate Rodriguez-Cruz go over to the diet line and ask Inmate Stewart for something off the



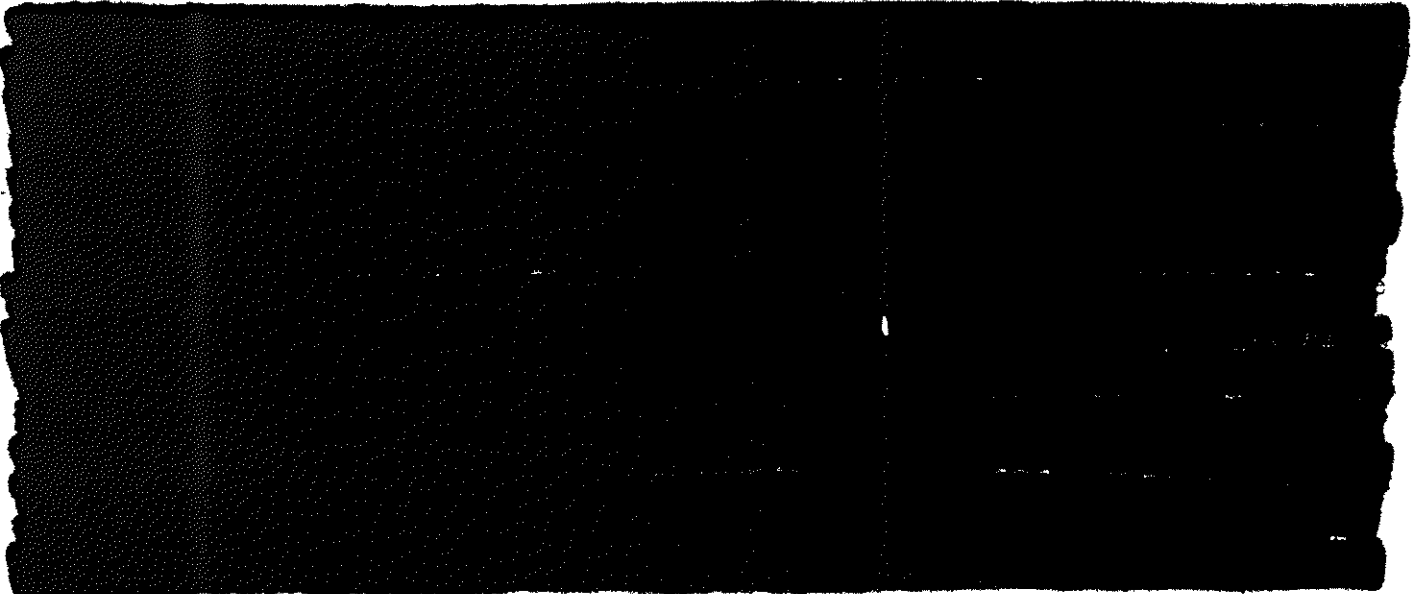
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diet line. Inmate Stewart told Inmate Rodriguez-Cruz "No" and Inmate Rodriguez-Cruz became irate and upset and started speaking "Mad Cuban." Inmate Stewart in turn was swearing Inmate Rodriguez-Cruz up and down. He counseled with them that day and told them that they will leave each other alone and they will work together if they have to. Since that time, they pretty much stopped talking to each other and socializing and if Inmate Rodriguez-Cruz wanted something he (*Rodriguez-Cruz*) would go to someone else. **(Exhibit B7)**

In a sworn, recorded interview dated June 10, 2011, [REDACTED] indicated the following:



the Kitchen Officer escorted them in, but she does not recall seeing any other Inmates or Staff around the area. Upon responding to this incident, she does not recall seeing anything out of the ordinary.

**(Exhibit B8)**

In a sworn, recorded interview dated June 13, 2011, [REDACTED] indicated the following:

She recalled the incident on April 06, 2011. She responded to the kitchen and observed Inmate Rodriguez-Cruz lying on his back, arms down by his sides, and his legs were crossed. The area was secured and no inmates or staff were around Inmate Rodriguez-Cruz. She did not notice anything unusual or out of the ordinary upon responding. [REDACTED]



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[REDACTED]

(Exhibit B9)

In a sworn, recorded interview dated June 16, 2011, Inmate Darling indicated the following:

He recalled the incident on April 06, 2011. He came off of the diet line and saw Inmate Stewart walking towards Inmate Rodriguez-Cruz, who was lying on his back with his feet crossed and his arms down by his sides. [REDACTED]

He witnessed Inmate Stewart tell Inmate Rodriguez-Cruz to get up several times, but Inmate Rodriguez-Cruz did not respond. He did not witness Inmate Stewart touch Inmate Rodriguez-Cruz. Inmate Stewart stated, "Somebody go get Officer Robinson." He informed Inmate Stewart that he (*Darling*) was on the way to get Officer Robinson. [REDACTED]

He observed a metal sheet pan lying on the floor beside Inmate Rodriguez-Cruz about three or four feet away. He did not observe Inmate Rodriguez-Cruz [REDACTED], but Inmate Rodriguez-Cruz normally [REDACTED]. He went and got Officer Robinson, who instructed them all to go to the dining hall. He did not witness an altercation between Inmate Stewart and Inmate Rodriguez-Cruz. He did not witness an argument between Inmate Stewart and Inmate Rodriguez-Cruz, prior to this incident.

(Exhibit B10)

In a sworn, recorded interview dated June 16, 2011, Sergeant Holiday indicated the following:

She recalled the incident on April 06, 2011. She responded to the kitchen [REDACTED] and observed Inmate Rodriguez-Cruz lying on his back, arms down by his sides, legs crossed, and [REDACTED]. She [REDACTED] and no inmates were around Inmate Rodriguez-Cruz. She observed a baking sheet pan lying on the floor several feet away from Inmate Rodriguez-Cruz. She did not recall seeing any eyeglasses lying on the floor. [REDACTED]

[REDACTED] At some point, [REDACTED] Lieutenant to go and lock down everything in the Southwest Unit, so she departed while [REDACTED]. She was not present in the kitchen when Inmate Rodriguez-Cruz [REDACTED]. She did not witness anything unusual or out of the ordinary upon responding to the kitchen.

(Exhibit B11)

I contacted Assistant State's Attorney (*ASA*) Bo Bayer via telephone and e-mail and advised him of this incident and investigation. ASA Bayer advised me that based on the inmate witnesses' testimony his office would not be interested in pursuing criminal charges against Inmate Stewart, as it sounds like a self defense encounter and



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with the new self defense rules it would be extremely difficult to prosecute. ASA Bayer indicated that Inmate Stewart used the minimal amount of defensive tactics necessary to protect himself from an attack, therefore; this case would best be ruled as a Self Defense / Excusable Homicide, per Florida Statute 782.03, which states the following: *"Homicide is excusable when committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution, and without any unlawful intent, or by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation, or upon a sudden combat, without any dangerous weapon being used and not done in a cruel or unusual manner."* (Exhibit A10)

**Note:** Inmate Stewart is currently pending Close Management review as a result of this incident and will remain in Administrative Confinement pending the outcome of the review board, at which time Inmate Stewart will be transferred as a Security threat to another Institution. Classification Supervisor Michael Davis was contacted and indicated that he is making the necessary arrangements and a notation of this incident will be placed in Inmate Stewart's Classification Master Record.

**Note:** The baking sheet pan, [REDACTED] as well as the compact discs with photos and witness interviews will be stored at the Baker Correctional Institution evidence room.





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**EXHIBIT/ATTACHMENTS SECTION**

**A. EXHIBIT(s) - attached:**

1. Incident Report submitted by Officer Robinson
2. Incident Report submitted by [REDACTED]
3. [REDACTED] of Inmate Rodriguez-Cruz
4. Printed copies of digital photographs of Inmate Rodriguez-Cruz's body
5. Printed copies of digital photographs of the kitchen area
6. Diagram of the Southwest Unit kitchen area floor plans
7. Written Witness Statement submitted by Inmate Darling
8. [REDACTED] of Inmate Stewart
9. Final Autopsy Report for Inmate Rodriguez-Cruz
10. E-mail Correspondence from Assistant State's Attorney Bayer

**B. EXHIBIT(s) - not attached:**

1. Photographs of Inmate Rodriguez-Cruz's body
2. Photographs of kitchen area and evidence
3. Sworn, tape recorded interview of Inmate Fowler
4. Sworn, tape recorded interview of Inmate Thompson
5. Sworn, tape recorded interview of Inmate Snow
6. Photographs of Inmate Stewart
7. Sworn, tape recorded interview of Officer Robinson
8. Sworn, tape recorded interview [REDACTED]
9. Sworn, tape recorded interview [REDACTED]
10. Sworn, tape recorded interview of Inmate Darling
11. Sworn, tape recorded interview of Sergeant Holiday