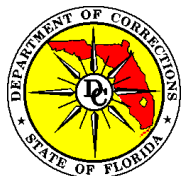


Florida Department of Corrections



Office of the Inspector General

**CRIMINAL INVESTIGATION
INVESTIGATIVE ASSIST
CASE # 14-6380**

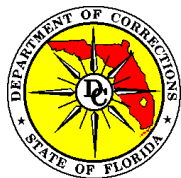


FLORIDA DEPARTMENT OF CORRECTIONS
OFFICE OF THE INSPECTOR GENERAL
INVESTIGATIVE ASSIST SUMMARY REPORT



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Case Number: 14-6380

OIG Inspector: Senior Inspector Janene McLaughlin

Outside Agency: Florida Department of Law Enforcement

Outside Agency Investigator: Special Agent Andrew Vass

Date Assigned or Initiated: May 21, 2015

Complaint Against: N/A

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

Complainant: State of Florida

Outside Agency Case #: FM-37-0003

Use of Force Number: 14-6438

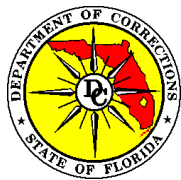
PREA Number: N/A

Classification of Incident: Inmate Death (In Custody)

Confidential Medical Information Included: Yes No

Whistle-Blower 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.

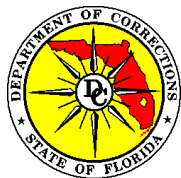
II. METHODOLOGY

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:

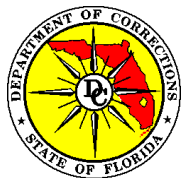
Refers to a disposition of a criminal case for which probable cause exists that an identified suspect committed the offense, but one for which an arrest or formal charge is not initiated, or in the case of a death investigation, one for which no evidence exists that the death was the result of a crime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

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.



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V. PREDICATE

On May 21, 2014, at 11:13 pm, Inmate Damion Foster, DC#L62486, was pronounced deceased by [REDACTED] following a use of force, #14-6438, at Charlotte Correctional Institution. The Florida Department of Law Enforcement (FDLE) was notified, and initiated criminal investigation case FM-37-0003. On May 21, 2015, Senior Inspector Janene McLaughlin was assigned investigative assist 14-6380 to assist FDLE in their investigation.

VI. SUMMARY OF INVESTIGATIVE FINDINGS

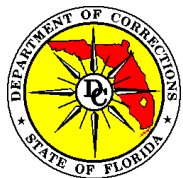
Based on the exhibits, witnesses' testimony, subject officer's statements, and the record as a whole, presented or available to the primary inspector, the following findings of facts were determined:

On May 21, 2014, the following Office of the Inspector General Inspectors responded to Charlotte CI and assisted FDLE:

- On-call, Lead Senior Inspector McLaughlin
- Senior Inspector Barbara Reuter
- Senior Inspector Wayne Elrod
- Inspector Supervisor Yolanda Brown
- Inspector Lorelei Anderson
- Inspector Latricia Wilson

FDLE Supervisor Shane Pollard, Special Agents and Crime Scene Investigators responded to investigate the death of Inmate Foster. The criminal investigation (FM-37-0003) is being investigated by FDLE. Senior Inspector Janene McLaughlin was assigned as liaison and will remain in contact with FDLE during the criminal investigation. Upon completion of the criminal investigation, if there are any administrative issues, an administrative investigation will be initiated.

On May 21, 2014, at approximately 11:43pm, I received a call from On-call Inspector Supervisor David Clark, in reference to a death investigation. Inmate Damion Foster, DC#L62486, who was housed at Charlotte Correctional Institution in C Dormitory [REDACTED], had been making [REDACTED]. This resulted in the [REDACTED] to authorize the use of force, if necessary, to remove Inmate Foster from his cell [REDACTED]. Inmate Foster refused orders to submit to hand restraints so he could be removed from his cell. His refusal resulted in a cell extraction team to enter the cell to restrain and remove Inmate Foster from his cell. After Inmate Foster was [REDACTED] he was returned to his cell [REDACTED] due to Inmate Foster's combative behavior. Inmate Foster's jumpsuit [REDACTED] restraints were removed, and Inmate Foster was secured back into his cell. [REDACTED] Inmate Foster [REDACTED]. [REDACTED] Inmate Foster [REDACTED] [REDACTED] Inmate Foster [REDACTED] [REDACTED] Inmate Foster [REDACTED] where he was pronounced deceased.



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On May 22, 2014, at approximately 12:45am, [REDACTED] in attempts to view Inmate Foster's body and collect any items of evidentiary value. Upon arrival, it was discovered that the Lee County Medical Examiner's Office Staff had already taken possession of Inmate Foster and [REDACTED]. In addition, the security staff that conducted the transport had also departed. I then proceeded to Charlotte Correctional Institution.

Upon her arrival, Senior Inspector Reuter began the collection of documentation and the hand held video. We were advised that Inmate Foster's cell, C2-106, had been secured immediately after his was removed from the cell.

Inspector Reuter and I then went to C Dormitory, quad 2, to evaluate the scene. I took photographs of the scene, to include the quad and the cell interior. The cell was then re-secured.

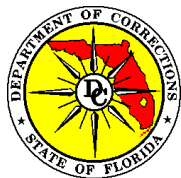
I reviewed the fixed wing video camera system and found that the fixed wing video cameras in [REDACTED] Dormitory, quad [REDACTED] were not operational during the time of the incident. I then began viewing the hand held video of the cell extraction use of force involving Inmate Foster. I assigned Inspector Reuter as the evidence custodian and directed her to return to the scene and collect items of evidentiary value. Inspector Reuter re-secured the cell after evidentiary items were collected.

After reviewing the hand held video, I made contact with On-call Inspector Supervisor Clark and with Assistant Chief Kathleen Harrell to update them of incident details. I was then advised to contact Florida Department of Law Enforcement (FDLE) to provide them with the incident details and to see if they wanted to respond. FDLE Special Agent Supervisor Vaden (Shane) Pollard advised FDLE would respond to Charlotte CI and take over the death investigation.

Once FDLE Special Agent Supervisor Pollard and other Special Agents arrived, they were briefed and taken to the scene, C2-106. They were advised that the staff involved were still present at the facility and were staged nearby. Supervisor Pollard went to the visiting park and spoke with the staff involved.

I provided the following documents to FDLE Special Agent Andrew Vass, who was assigned as the Primary Investigator:

- C Dormitory, Quad 23 dormitory roster (inmates)
- Daily Security Roster for the evening of 5-21-14
- Floor plan of C Dormitory
- Compound Diagram of Charlotte CI
- C Dormitory Housing Unit Log
- Control Room Log
- Fixed Wing Video Operation Log
- CDC Printout of Inmate Foster's internal movement history
- CDC Printout of Inmate Foster's disciplinary report history (list format only)
- Pictures I took of the scene
- Next of kin and emergency contact information for Inmate Foster



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I then escorted additional Special Agents and Crime Scene Technicians back to C Dormitory, quad 2. Upon returning to the office area, I began arranging for office area for the Special Agents. I then began escorting staff from the visiting park to the Special Agents for interviews.

Senior Inspector Elrod arrived to assist and I assigned him to attend the autopsy of Inmate Foster at the Lee County Medical Examiner's Office.

After staff interviews were completed by Special Agents, I then made arrangement for the escort of all inmates from C Dormitory, quad 2, to the office area for interviews.

On May 23, 2014, I met with the Lee County Medical Examiner's Office to provide them with additional [REDACTED] for Inmate Foster. In addition, The Medical Examiner, Doctor Hamilton, had requested to review the hand held video, which was authorized through Supervisor Brown. FDLE Special Agent Vass also attended this meeting. Upon completion of the meeting, the Medical Examiner requested the following items to assist her in making a final determination in the cause of death:

- A copy of Inmate Foster's [REDACTED]
- Incident Reports submitted concerning incident
- Policy and procedures concerning restraint requirements, cell extractions, and spit shield use
- Copy of the hand held video

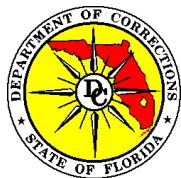
After the meeting, I was given a signed Court Order, obtained by FDLE, to provide the following requested items to FDLE: Inmate Foster's [REDACTED] classification records and all videos and pictures concerning this incident. I immediately provided Special Agent Vass with the hand held video of the cell extraction and two (2) additional CD's with miscellaneous footage from a second video camera.

On May 27, 2014, I met with FDLE Special Agent Vass and provided him with the following documents per the Court Order and items per his request:

- A copy of Inmate Foster's complete [REDACTED]
- A copy of Inmate Foster's complete Classification File
- Copies of the following Department of Corrections Procedures:
 - 602.004: Forced Cell Extraction
 - 602.024: External Inmate Transport and Security
 - 602.028: Special Management Spit Shield
 - 602.044: Internal Inmate Movement and Supervision Requirements
- One unopened spit shield

On May 27, 2014, I provided the following items to the Lee County Medical Examiner's Office per their request and per the authorization of Assistant General Counsel Ellissa Saavedra:

- Copies of the following Department of Corrections Procedures:
 - 602.004: Forced Cell Extraction
 - 602.024: External Inmate Transport and Security
 - 602.028: Special Management Spit Shield
 - 602.044: Internal Inmate Movement and Supervision Requirements



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- A copy of Inmate Foster complete [REDACTED] file
- 12 Incident Reports pertaining to the death of Inmate Foster
- Copy of hand held video of use of force
- One disclosure letter from Elissa Saavedra

On May 28, 2014, I provided the following documentation and information to Special Agent Andrew Vass per his request:

- General Post Order #1
- CSU/ TCU Post Order #57
- FAC 33-602.210: Use of Force
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] security staff schedules and contact information

On May 29, 2014, FDLE Special Agent Andrew Vass requested additional information. He requested the following information and responses and information were provided as requested.

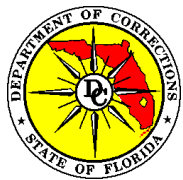
- 1) At this time, those are the only phone numbers DOC has for them on file. I will follow-up with the Colonel to see if they have anything not in the computer system.
- 2) [REDACTED]
- 3) On May 20, 2014, Inmate Foster [REDACTED] but was removed from [REDACTED] on either 5/20/14 or early 5/21/14. After that, [REDACTED] until [REDACTED] on 5/21/14. Inmate Foster was then [REDACTED] which resulted in the UOF [REDACTED]

On May 30, 2014, I provided Special Agent Vass [REDACTED], placement of Inmate Foster [REDACTED] and order for use of force. I also provided Vass with the DC6-232: Authorization for Use of Force, which was still pending the signature [REDACTED] This was sent per the request of Special Agent Vass's request.

On June 6, 2014, Special Agent Andrew Vass advised that cell C2-106, could be released as a crime scene and returned to normal operation/use. Warden Reid and Assistant Warden Johnson were advised.

On June 19, 2014, Senior Inspector Frank Lewis forwarded written correspondence #5185, which was written by Inmate Damion Foster, DC#L62486, on May 1, 2014. Inmate Foster was pronounced deceased on May 21, 2014, while housed at Charlotte Correctional Institution. FDLE Special Agent Andrew Vass is the Primary Agent on FDLE's inmate death investigation concerning Inmate Foster. Therefore, this correspondence was sent to FDLE for their review.

On August 18, 2014, Special Agent Andrew Vass advised that the Medical Examiner's Office is still reviewing documentation, videos and lab reports concerning this death investigation. As of this date, there is still no official cause of death determination by the Medical Examiner's Office.



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On September 8, 2014, Special Agent Andrew Vass asked for historical [REDACTED] for Inmate Foster, per the request of the Medical Examiner. They want [REDACTED] prior to his incarceration. I spoke with [REDACTED] staff at Charlotte CI and they advised when an inmate is initially placed in prison, [REDACTED] is obtained from the inmate. Any [REDACTED] from [REDACTED] seen prior to their incarceration is not available through FDOC. There was one additional [REDACTED] that was not given to the Medical Examiner or FDLE at the time the court order was provided. That document was the FDOC Mortality Review, which contains historical [REDACTED] information concerning an inmate. Therefore, the Mortality Review for Inmate Foster was provided to Special Agent Vass on September 9, 2014, so he could provide it to the Medical Examiner.

On October 8, 2014, FDLE Special Agent Andrew Vass had three (3) additional questions and also requested the disciplinary history for Inmate Foster. Questions were answered and disciplinary history was provided as requested.

I was also advised that the Lee County Medical Examiner still has not made a final determination of manner or cause of death regarding Inmate Foster.

As of November 25, 2014, FDLE Special Agent Vass is still waiting for determination of cause/manner of death from the Lee County Medical Examiner's Office.

On December 11, 2014, Special Agent Andrew Vass provided a case update advising that the Lee County Medical Examiner, Doctor Hamilton, concluded her autopsy and determined a manner and cause of death for Inmate Damian Foster. Her findings are as follows:

- MANNER OF DEATH: Homicide

- CAUSE OF DEATH: [REDACTED]
[REDACTED]

FDLE's investigation is still considered active and upon completion of the Investigative Summary, they will submit the case to the State Attorney's Office for review.

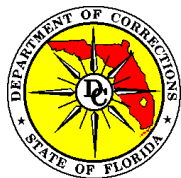
On January 13, 2015, Special Agent Andrew Vass requested a narrative in reference to the unavailability of the fixed wing video for [REDACTED] Dormitory concerning this investigation. An email was sent per his request.

Special Agent Vass also advised that he will be submitting the investigation to the State Attorney's Office in the near future.

On March 13, 2015, FDLE Special Agent Andrew Vass advised that the investigation is still pending review by the State Attorney's Office.

On May 22, 2015, FDLE Special Agent Andrew Vass advised that the investigation is still pending review by the State Attorney's Office.

On August 10, 2015, FDLE provided me with the Investigative Summary Report for FDLE Case FM-37-0003, which was compiled by Special Agent Andrew Vass. Their investigation was reviewed by the Circuit 20 State Attorney's Office and no criminal acts and/or violations were cited. There were no administrative issues noted by FDLE in their summary report. I was also provided with the Office of the District Medical Examiner-District 21, autopsy report for Inmate Damion Foster, DC# L62486. On



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this date, I also requested a complete case file from FDLE so that an administrative review can be conducted.

VII. CHARGES

List alleged violations of Florida Law:

1. Violation of § 782.04 Florida Statutes, Murder.

§ 782.04, Florida Statute, (1)(a) The unlawful killing of a human being.

VIII. CONCLUSION

Based on the information gathered during their investigation, it is the conclusion of FDLE Special Agent Andrew Vass and the Circuit 20 State Attorney's Office that there was no criminal intent, act or violation surrounding the in-custody death of Inmate Damion Foster.

Senior Inspector Lorelei Anderson will conduct an administrative investigation concerning this incident in Inspector General Case# 15-19265.