

Florida Department of Corrections



Office of the Inspector General

**CRIMINAL INVESTIGATION
INVESTIGATIVE ASSIST
CASE # 15-28020**



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



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Case Number: 15-28020

OIG Inspector: Inspector Randall Merritt

Outside Agency: Florida Department of Law Enforcement

Outside Agency Investigator: Special Agent Mark Pentolino

Date Assigned or Initiated: 12-03-2015

Complaint Against: N/A

Location of Incident – Institution/Facility/Office: 213 Union Correctional Institution

Complainant: N/A

Outside Agency Case #: JA-37-0110

Use of Force Number: N/A

PREA Number: N/A

Classification of Incident: Natural Death

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 12-03-2015, at approximately 1:20pm, Inmate Vincent Gaines DC# 547656 was found [REDACTED] in cell U3101L at Union CI. Inmate Gaines [REDACTED] [REDACTED] Upon arrival [REDACTED] [REDACTED] pronounced Inmate Gaines deceased at 2:48pm. This incident was reported by Officer White in an Incident Report and assigned MINS0000664399 on 12-03-2015. This case was assigned to Inspector Randall Merritt as an Investigative Assist on 12-07-2015. Florida Department of Law Enforcement (FDLE) Special Agent Mark Pentolino is the case agent on FDLE Case: JA-37-0110.

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 12-03-2015 at approximately 2:00pm, District 5 Inspector Randall Merritt was summoned to the [REDACTED] at Union CI by Sgt. Bell. Upon arrival, Inspector Merritt [REDACTED] [REDACTED] n Inmate Vincent Gaines DC# 547656 [REDACTED]. Lt. Davis advised Inmate Gaines was found [REDACTED] n cell U3101L at approximately 1:20pm. At approximately 1:26pm, Security staff breached U3101L to remove Inmate Gaines [REDACTED] [REDACTED]. At approximately 1:40pm, Inmate Gaines [REDACTED]. At approximately 1:50pm, Inmate Gaines [REDACTED] [REDACTED] Inmate Gaines was pronounced deceased at 2:48pm [REDACTED] [REDACTED]. Both scenes were secured and a log was initiated by security staff. The FDLE Watch Desk was notified at approximately 3:20pm. At approximately 3:50pm Inspector Merritt contacted Florida Department of Law Enforcement (FDLE) Special Agent Supervisor (SAS) Matt Walsh to relay the information on the incident. SAS Walsh advised they would be responding to assume the lead role of the investigation. At approximately 5:00pm, FDLE SAS Walsh and three Special Agents arrived on scene. FDLE conducted a complete inspection of the body. Photographs were also taken. No evidence of foul play was observed. At approximately 5:40pm, FDLE contacted the Medical Examiner's Office and released the body to staff for transport by Archer Funeral. From approximately 5:45pm to 7:45pm, FDLE conducted witness interviews of inmates, officers, [REDACTED]. During the same time inspectors assisted FDLE with the search of cell U3101L. Other than the overall poor condition of the cell nothing else of significance was noted. FDLE signed an Investigative Demand and was provided with supporting documents and video copies of the incident from the handheld and fixed-wing cameras in [REDACTED] dorm. FDLE departed Union CI at approximately 8:00pm.



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On [REDACTED], an inmate identifying himself as [REDACTED] called the TIPS line twice from [REDACTED] Dorm at Union Correctional Institution. In the first call, the inmate identified himself, asked to be interviewed regarding a "homicide," and then abruptly ended the message. In the second call, the inmate continued the message stating, "I'd like to report, today, December the 3rd, 2015, at Union Correctional Institution, in U3101, an inmate died in his cell. And I would like to report, that on December the 1st, during the feeding of the evening meal, he reported to Officer Anderson and the dorm sergeant, [REDACTED] [REDACTED], and the inmate [REDACTED] in his cell for two days, and [REDACTED] in U Dorm did not do anything, or even stop by his cell to check on him, since December the 1st, and today, December the 3rd, he was dead inside his cell, due to Officer Anderson in U Dorm, and U Dorm sergeant on December the 1st at dinner time, [REDACTED], and he died in his cell today. This needs to be investigated. Thank you.

Based on information gathered from departmental databases, it was determined the caller was referring to the death of Inmate Gaines, Vincent #547656. The Dorm Supervisor, referred to by the caller, is believed to be Sergeant Donald Rosier. These calls are related to a similar complaint assigned as Case #15-28166. These calls were reviewed on 12/09/15.

On January 27, 2016 the District 5 Office of Inspector General received an e-mail from Stephanie Jones, Executive Assistant to the Inspector General. It was in regards to an Emergency Court Order from US District Court Middle District of Florida. The order was originally dropped in the District 5 e-mail box on December 17, 2015. Inspector Merritt became aware of the order on January 28, 2015. A response was forwarded by Lead Inspector Kevin Lingis on January 28, 2015. The correspondence was an "Emergency Motion for a Preliminary Injunction" filed by Inmate Lewis Smith DC# B07953 in the United States District Court, Middle District of Florida, Jacksonville Division. The motion was denied by US District Judge Brian J. Davis. Judge Davis requested a response by the OIG regarding the status of the investigation into the death of Inmate Vincent Gaines DC# 547656.

On January 28, 2016, Inspector Randall Merritt received a CD-R from FDLE Special Agent Mark Pentolino. The CD contains photos of cell U3101L at UCI. The photos were taken by FDLE Special Agent Supervisor Matt Walsh on December 3, 2015. It was secured in the office safe of Lead Inspector Kevin Lingis. The file was too large to load into IGIS. A copy will be forwarded with case closure. A DC1-801, Chain of Custody was completed.

On January 28, 2016, Inspector Randall Merritt completed the download of [REDACTED]-dorm / [REDACTED] ameras [REDACTED] at Union CI. The files were saved to an external hard drive due to their size. With the assistance of the Project Systems Analyst Joe Davis, Inspector Merritt was able to capture approximately one week of coverage starting on November 26 and ending on the date of the incident, December 3, 2015. Note: [REDACTED] is not designed to allow the download of more than 3-4 hours of continuous camera coverage at one time. Multiple attempts were made to recover up to 30 days of coverage but were all unsuccessful. The file was downloaded onto a Toshiba external hard drive with SN: [REDACTED]. It was secured in the office safe of Lead Inspector Kevin Lingis. Note: The video footage was offered to FDLE but was not utilized during their Criminal Investigation. The Chain of Custody was attached to this report. The file size exceeded the capacity of IGIS. A copy will be forwarded with case closure package.



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On February 4, 2016, the District 5 Office of Inspector General received a Federal Court Order from US District Judge Brian J. Davis of the Middle District of Florida, Jacksonville Division. The Order mandates a response in regards to the Death investigation of Inmate Vincent Gaines. The Florida Department of Law Enforcement is lead in the investigation. The Order is attached to this report.

On February 4, 2015, Inspector Randall Merritt requested a case status update from FDLE Special Agent Mark Pentolino on JA-37-0110. The request was in regards to a Federal Court Order mandating a response to provide the court with the status of the investigation. The email response from SA Pentolino is attached to this report.

On June 2, 2016, Inspector Merritt received the final Autopsy Findings and the Report of Investigation from the District 8 Medical Examiner’s Office in Gainesville, Florida. The Autopsy Findings by Medical Examiner William F. Hamilton MD, listed the following:

* [REDACTED]

The probable cause of death for Inmate Vincent Gaines was Undetermined. Due to this, no manner of death was noted. The Report of Investigation noted no foul play or suicide suspected in this case.

On August 15, 2016, Inspector Randall Merritt received all the reports for the Inmate Gaines Death Investigation, FDLE case JA-37-0110 from Special Agent Mark Pentolino. In said reports, SA Pentolino completed FDLE case # JA-37-0110, and he outlined the Medical Examiners Report that listed the probable cause of death for Inmate Gaines as “Undetermined.” Based on this finding, no Manner of Death was listed. No other investigative issues were noted. In summary, SA Pentolino closed this case based on the lack of evidence to support criminal activity and the declination by the State Attorney’s Office. On August 16, 2016, Inspector Merritt also received confirmation of case closure by email from SA Pentolino.

Note: In reference to the [REDACTED] on December 3, 2015. In an interview conducted on December 3, 2015, by FDLE SA Yolanda Carbia, Inmate [REDACTED] provided no information or observations in regards to the incident with Inmate Gaines. This was documented in FDLE Investigative Report # 9 in JA-37-0110. The information of the TIPS line calls were provided to SA Pentolino upon its receipt. This matter will be addressed by the OIG in a follow up case.

Note: In reference to the Federal Court Order for response by District Judge Brian Davis. The motion was originally filed by Inmate Lewis Smith DC#B07953. It was in regards to the incident with Inmate Gaines. In an interview conducted on December 3, 2015, by FDLE SA Yolanda Carbia. Inmate Smith indicated that Inmate Gaines [REDACTED] the week prior to this incident. This was documented in FDLE Investigative Report # 9 in JA-37-0110. The information on the Federal Court Order was provided to SA Pentolino upon its receipt. This matter will be addressed by the OIG in a follow up case. A response will be forwarded to Federal District Judge Davis upon closure of this case.



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During this Investigative Assist, possible criminal violations were noted that were not addressed by FDLE during the Death Investigation. Upon closure of this Investigative Assist, a Criminal Investigation will be initiated to address procedural violations during this incident. It will be assigned to Senior Inspector Kevin Ortiz.

VII. CHARGES

List alleged violations of Florida Law:

N/A

VIII. CONCLUSION

Based on the Medical Examiner's Report, and the investigative findings, and the State Attorney's Office declination, Special Agent Mark Pentolino closed the Florida Department of Law Enforcement death case # JA-37-0110.

Based on the review of the Medical Examiner's findings and the closure of the FDLE investigation, Inspector Randall Merritt recommends this Investigative Assist be closed as:

"Exceptionally Cleared" in regards to criminal / suicidal activity which contributed to the death of Inmate Gaines. Additionally, in regards to the "Undetermined" cause of death by the Medical Examiner's Office.