

Florida Department of Corrections



Office of the Inspector General

CRIMINAL INVESTIGATION INVESTIGATIVE ASSIST

CASE # 17-00937



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



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Case Number: 17-00937

OIG Inspector: Inspector Douglas O. Foster

Outside Agency: Florida Department of Law Enforcement

Outside Agency Investigator: Special Agent Lisa Gundrum

Date Assigned or Initiated: 01-18-2017

Complaint Against: N/A

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

Complainant: N/A

Outside Agency Case #: OR-37-0053

Use of Force Number: N/A

PREA Number: N/A

Classification of Incident: Death

Confidential Medical Information Included: ___ Yes X No

Whistle-Blower Investigation: ___ Yes X 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 or about January 18, 2017, the Office of the Inspector General (“OIG”) received MINS# 750796 which alleged Inmate Theaniel Kelly DC# 703614 while at Tomoka Correctional Institution (“Tomoka C.I.”), passed away suddenly and unexpectedly in his bunk of assigned cell# E-103UI. The Florida Department of Law Enforcement (“FDLE”) was notified, and initiated a criminal investigation into the death, FDLE case # OR-37-0053. Upon initial review of the information, the Office of the Inspector General assigned the investigative assist to Inspector Foster on January 18, 2017.

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 January 15, 2017, at approximately 07:40 p.m., this inspector was notified by On-call Inspector Supervisor David Clark of an inmate death at Tomoka Correctional Institution (Tomoka C.I.). On January 15, 2017, at approximately 07:51 p.m., Inmate Theaniel Kelly DC# 703614 died [REDACTED] due to unknown reasons and was pronounced deceased [REDACTED]

At approximately 09:45 p.m., this inspector arrived [REDACTED] and proceeded to Inmate Kelly’s room [REDACTED]. Upon arrival, this inspector met with Officer Duane Sanders and Officer Shaun Parks who were assigned to security and present with Inmate Kelly when he passed.

Inmate Kelly has been housed at Tomoka C.I. since October 27, 2016. And his death was sudden and unexpected resulting in agents from Florida Department of Law Enforcement (FDLE) being requested to conduct the investigation.

The cellmate of Inmate Kelly, Sydney Pollard DC# 099822, was placed in confinement due to the his death and to keep him isolated until a formal interview was initiated by Florida Department of Law Enforcement.

Florida Department of Law Enforcement special agent Lisa Gundrum responded to Halifax to conduct the investigation. Agent Gundrum viewed and photographed the body of Inmate Kelly. This inspector was present in the room. Special Agent Tim Douchette responded to Tomoka C.I., to review the video recordings [REDACTED]

This inspector, while in the room with Agent Gundrum, [REDACTED] Inmate Kelly [REDACTED] Inmate Kelly [REDACTED]

Volusia County Medical Examiner (VCME) Scotty Polk was requested and arrived at [REDACTED] at or about 10:34 p.m. to photograph and make arrangements to have the body collected to Case Number: 17-00937



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conduct an autopsy. The body was removed by the medical examiner at 11:13 p.m.

This inspector responded at approximately 11:49 p.m. to Tomoka C.I. to assist Agent Gundrum and Agent Douchette in securing incident reports, video recordings, screen shots of video and any other requirements as requested during the investigation.

On May 11, 2017, at approximately 09:45 a.m., FDLE Supervisor John Bachelor delivered the completed investigative summary into the death of Inmate Kelley while housed at Tomoka C.I. The investigation by Agent Gundrum concluded the death of Inmate Kelly [REDACTED]. This determination was based upon the District Seven Chief medical Examiner Marie Herrmann, MD

VII. CHARGES

List alleged violations of Florida Law:

1. None.

VIII. CONCLUSION

Based on the information gathered during the FDLE investigation and the Medical Examiner's determination that Inmate Kelly's death be classified as accidental [REDACTED] it is the recommendation of Inspector Douglas O. Foster Inmate Theaniel Kelly [REDACTED] no criminal act or neglect by staff occurred.

1. Exceptionally Cleared.

I, Inspector Douglas O. Foster reviewed the investigation completed by FDLE, and no administrative issues were/were not identified.