

Florida Department of Corrections



Office of the Inspector General

**CRIMINAL INVESTIGATION
INVESTIGATIVE ASSIST
CASE # 15-17504**



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



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Case Number: 15-17504

OIG Inspector: Inspector Justin Bates

Outside Agency: Florida Department of Law Enforcement

Outside Agency Investigator: Special Agent Terrance "Tip" Tyler

Date Assigned or Initiated: 08/08/2015

Complaint Against: Inmate Selwyn Noble, DC# L91926

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

Complainant: Captain Carlton McGee

Outside Agency Case #: TL-37-0017

Use of Force Number: N/A

PREA Number: N/A

Classification of Incident: Felony Murder

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 August 8, 2015, Captain Carlton McGee at Suwannee Correctional Institution (*SWCI*) was conducting a dorm inspection of C-dormitory when he observed two inmates fighting in the bathroom on the 2-side. Captain McGee and other staff responded to the fight and found Inmate Charles Depasquale, DC# L60522 [REDACTED] on the bathroom floor. Medical arrived and attempted to [REDACTED] Depasquale to no avail. Depasquale was pronounced dead by [REDACTED] at the institution [REDACTED]. Depasquale was mutually fighting with Inmate Selwyn Noble, DC# L91926. As the OIG on-call Inspector, I responded to the scene and assisted *FDLE* with their investigation.

This information was reported to the Office of Inspector General via *MINS* on August 8, 2015, and assigned to Inspector Justin Bates on the same date for further 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 August 8, 2015, I was summoned to *SWCI* as the "on call" Inspector in reference to an inmate death in the wing one bathroom of C-dormitory. Upon arrival, I made contact with Captain Carlton McGee, the shift supervisor at the time of this incident. McGee had just walked in the dorm for a housing inspection when two inmates began fighting in the bathroom. McGee went into the latrine to help other officers get the disturbance quelled but, in a matter of seconds Inmate Charles Depasquale, DC# L60522 was found on the bathroom floor [REDACTED]. Depasquale was fighting Inmate Selwyn Noble, DC# L91926. McGee said the fight couldn't have lasted any more than thirty seconds and was doubtful the two even hit one another.

While speaking to Captain McGee, I was informed Depasquale was pronounced dead upon arrival at [REDACTED]. With this, I contacted the on-call Inspector Supervisor who notified *FDLE* based on the departments *MOU*. *FDLE* Special Agent Terrance Tyler arrived on scene shortly thereafter and assumed the investigation, with this Inspector assisting. We first processed the crime scene by taking multiple photos (*contained in the FDLE case file*) and collecting samples of the very small amount of [REDACTED] on the floor. Those items were packaged and retained by SA Tyler for future case follow-up.

Once the crime scene was released, SA Tyler and I conducted a canvass of the dorm quad where the incident took place to ascertain if any other inmates witnessed the events leading up to the altercation. Of the inmates canvassed, six inmates indicated they could provide information for possible follow-up. Those inmates were:

Jerome Brown, DC# 707307
Lazar Hayes, DC# 119118
Wallace Lismore, DC# C01731
Angel Gonzalez, DC# R69495
Angelo Tufaro, DC# W07258
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Edward Jones, DC# 358816

It was elected these inmates would be interviewed at a later date due to possible housemate retaliation.

After canvassing the housing quad, at approximately 10:40am SA Tyler and I went to [REDACTED] where Depasquale body was being held by security from DC sworn officers. Depasquale was lying in a [REDACTED], covered with a sheet and in the same clothing when he left the facility. Several small, obviously [REDACTED] were documented on Depasquale [REDACTED]. A short time later, Harris Funeral Home arrived at the request of *FDLE* and transported the body to the Medical Examiner's Office in Tallahassee.

On August 8, 2015, *FDLE* conducted with Captain Carlton McGee.

On August 8, 2015, a recorded interview was attempted with Inmate Noble, but after being advised of his miranda warning Noble declined to provide a statement without an attorney present.

On August 10, 2015, a recorded interview was conducted with Officer Wanda Cole.

On August 11, 2015, SA Tyler and I conducted the follow-up interviews with the inmates from the canvass.

On August 9, 2015, an autopsy was performed on Depasquale at the Medical Examiner's Office in Tallahassee. It was determined that Depasquale died of [REDACTED]. This was not a direct result of the fight, but the stress of the situation [REDACTED].

On May 24, 2016, the facts of this case were reviewed by the Third Judicial Circuit State Attorney Assistant Arminda Janousek. Janousek declined to prosecute the case of felony murder due to insufficient evidence.

A copy of FDLE's Investigative Report is labeled and contained on a Compact Disc within this case file.



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VII. CHARGES

List alleged violations of Florida Law:

1. 782.04 Felony 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:

Battery or Aggravated Battery

VIII. CONCLUSION

Based on the information gathered during their investigation, it is the recommendation of FDLE Special Agent Terrance Tyler the allegation against Inmate Selwyn Noble, DC# L91926 for Felony Murder, **in violation of F.S.S 782.04 (4)**, be termed as follows:

1. Exceptionally Cleared

Inspector Justin Bates reviewed the investigation completed by FDLE, and administrative issues were not identified.