

October 15, 2015

Ms. Vanita Gupta  
Principal Deputy Assistant Attorney General  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Office of the Assistant Attorney General, Main  
Washington, D.C. 20530

Re: Request for CRIPA Investigation into the Florida Department of Corrections

Dear Ms. Principal Deputy Assistant Attorney General:

We write to you today as a coalition of advocacy groups working to address horribly brutal conditions in the prisons of the state of Florida. We believe that the immediate intervention of the federal government is necessary to require these state institutions to operate in accordance with both our nation's laws and our common dignity as Americans.

We are grateful to learn that the Civil Rights Division's Criminal Section has opened an investigation into the 2012 murder of Darren Rainey (mentioned further below), which occurred at Dade Correctional Institution (DCI) in Miami-Dade County. We write today to urge that the Civil Rights Division's Special Litigation Section open a general investigation into whether conditions of confinement in Florida's prisons violate the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997 *et seq.* We sincerely believe that they do, and that given the Florida Department of Correction's pattern and practice of consistently failing to remedy these pervasive and egregious problems, only the Department of Justice can properly address these violations.

## I. BACKGROUND

Florida's state prison population is the third largest in the United States, with a higher incarceration rate than any country in Central or South America.<sup>1</sup> As of December, 2014, Florida incarcerated 100,873 people in its 56 state prisons and supervises 142,159 offenders on community supervision.<sup>2</sup> Florida sends more young people under age 18 to adult state prisons than any other state in the nation.<sup>3</sup>

In 2014, there were 346 deaths in Florida's prisons, 13 percent more than the year before. Of these, 176 were not immediately explainable.<sup>4</sup> As of October 14, 2015, 252 prisoners have died during the current calendar year. It has been reported that the Florida Department of Law

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<sup>1</sup> See The Prison Policy Initiative, *States of Incarceration: The Global Context*, June, 2014. Available online at <http://www.prisonpolicy.org/global/>.

<sup>2</sup> See Florida Department of Corrections Quick Facts, available online at <http://www.dc.state.fl.us/oth/Quickfacts.html>.

<sup>3</sup> See Julie Ebenstein, *The Sad State of Solitary in Florida: Is There Hope for this Human Rights Violation?* ACLU Blog of Rights, March 13, 2013. Available online at <https://www.aclu.org/blog/sad-state-solitary-florida-there-hope-human-rights-violation>.

<sup>4</sup> See DoJ SUPPORTING DOCS V2 (all numbered references will be to this document) at Exh. 1, Dara Kam, *Prisons Chief to Seek Revamp of Health Care Contracts*, THE NEWS SERVICE OF FLORIDA, Feb. 20, 2015.

Enforcement (FDLE) has almost 200 state prison deaths under investigation.<sup>5</sup> Many of the FDOC and FDLE investigations into instances of death and/or abuse of prisoners are languishing. In several examples noted below, the investigations have been ongoing for more than three years without any conclusion in sight. Efforts by prison advocates and the media to obtain information about these cases have been rebuffed by the state, claiming that information cannot be provided because the investigations are “ongoing.”

The two health contractors who deliver all Florida adult prison healthcare, Wexford and Corizon, have 1,092 and 600 lawsuits pending against them, respectively, as of April of this year.<sup>6</sup>

## II. COMPLAINTS

Among the many ways in which current conditions violate the law and constitutional principles are institutional violence against inmates—including violence against those who suffer from mental illness; grossly inadequate health care; starving of prisoners by withholding meals; sexual violence; and the excessive use of solitary confinement.

### A. Torture and Death By Scalding

Darren Rainey (DOC number 060954. For all other prisoners, “DOC number” will be omitted, with only the actual prisoner number displayed), a 50-year old African-American prisoner diagnosed with schizophrenia, was imprisoned at **Dade Correctional Institution (DCI)** for possession of less than two grams of cocaine. He died on June 23, 2012, while in the **Transitional Care Unit (TCU)**, a section of DCI intended to help mentally ill prisoners) after being placed in a locked, 180-degree shower for two hours, during which his some of his skin separated from his body. Mr. Rainey was apparently placed in that shower, as others had been, as punishment—in this case for having defecated in his cell.<sup>7</sup>

**Miami-Dade State Attorney Katherine Fernandez Rundle** states that she was not notified of Mr. Rainey’s death, as she should have been, because the **Miami-Dade Police Department (MDPD)** wrongly treated it as an unremarkable in-custody death. According to a recent report, Ms. Rundle learned of Mr. Rainey’s death in 2013, when **Mr. Harold Hempstead** forwarded several complaints to her. Oddly, her office returned them and told Mr. Hempstead that he should file them in Pinellas County, where he had been convicted of burglary.<sup>8</sup> Yet when members of a local prison reform coalition, **Stop Prison Abuse Now (SPAN)**, met with her and four of her Assistant State Attorneys on September 30, 2014, she said she’d only learned of Mr. Rainey’s death in May 2014, when the Herald began reporting the event. More than three years after Darren Rainey’s death, no one has been held criminally responsible.

We know of Mr. Rainey’s death, and a great deal more about DOC prison conditions, because of the courage of two inmates who risked retaliation to report the truth. **Mark Joiner** (794441), who was ordered by guards to clean up the shower after Mr. Rainey’s death, but before the

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<sup>5</sup> See Exh. 3A, Julie K. Brown, *After Inmate’s Death, Sergeant to be Questioned*, MIAMI HERALD, Oct. 14, 2014.

<sup>6</sup> See Exh. 3, Mary Ellen Klas, *Private Prison Vendors Could Face New Scrutiny in Florida*, TAMPA BAY TIMES, April 19, 2015; information also supplied by Florida Representative Katie Edwards (D-Plantation)).

<sup>7</sup> See Exh. 5, Julie K. Brown, *Behind Bars, A Brutal and Unexplained Death*, MIAMI HERALD, May 17, 2014.

<sup>8</sup> See Exh. 6, Julie K. Brown, *Caged Crusader: The Inmate Who Exposed Florida Prison’s Culture of Cruelty*, MIAMI HERALD, Aug. 8, 2015.

Miami-Dade Police Department arrived to investigate, filed a grievance with the DOC shortly after Mr. Rainey died. He described cleaning pieces of skin from the shower and being ordered by a guard to throw them away.<sup>9</sup>

**Harold Hempstead** (268866, currently at Martin Correctional Institution, B2-114 Upper, 1150 S.W. Allapattah Road, Indiantown, FL 34956. His sister, **Windy Hempstead**, is at 727-386-3867) was an orderly at the time of Mr. Rainey's death in DCI's Transitional Care Unit, and witnessed the events of Mr. Rainey's death, as well as the use of this shower to torture four other inmates: **Michael Alfonso** (K53957), **William Wallace** (146352), **Halden Casey** (D02838), and **Daniel Geiger** (J42951).

Mr. Hempstead filed many grievances with the DOC (including #1302-401-049, on 2/4/2013, which we have attached), which were ignored until he finally spoke to The Miami Herald, which began the ongoing inquiry into Florida's prison conditions.

### **B. Torture and Death by Starvation**

Mr. Hempstead has raised questions about prison conditions in general in Florida, giving accounts of guards beating and starving prisoners, allowing them, when they were in a psychotic state, to eat feces and drink urine (and paying the prisoners with extra food so that the guards could watch this), putting urine and laxative into inmates' food, having bleach thrown into cells and onto inmates, and verbally abusing and tormenting psychologically fragile inmates in a unit intended to help them with their mental illnesses.<sup>10</sup>

Mr. Hempstead has mentioned two prisoners he believes died, while at DCI, due to starvation: **Oscar Davis** (481092) and **Darrell Richardson** (192395), and says that a guard told him once that all the prisoners who were most severely starved over his years in the TCU eventually died.

Many other prisoner deaths in recent years illustrate the general climate of abuse in Florida's prisons, often directed against the mentally ill.

### **C. Excessive Use of Force and Death Due to Excessive Use of Force**

**Bernadette Gregory** (G05707) died on July 22, 2009 at **Lowell Correctional Institution** after having been threatened by guards. She had filed a complaint four days before her death re: a beating by a Captain Greer. **Linda Thompson**, who was a fellow prisoner at Lowell, said that Gregory, who was confined to a wheelchair, was beaten and kicked by guards on the day of her death.<sup>11</sup>

**Rommell Johnson** (080667) died on June 3, 2010 at the **Northwest Florida Reception Center**. He was asthmatic and had been treated at the prison infirmary earlier that day. After refusing to

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<sup>9</sup> See Exh. 5, Julie K. Brown, *Behind Bars, A Brutal and Unexplained Death*, at *supra* note 7, and Exh. 7, Julie K. Brown, *Prisoner: I Cleaned Up the Skin of Inmate Scalded in Shower; Human Rights Groups Call for Federal Intervention*, MIAMI HERALD, June 25, 2015.

<sup>10</sup> See Exh. 6, Julie K. Brown, *Caged Crusader: The Inmate Who Exposed Florida Prison's Culture of Cruelty*, at *supra* note 8; see also Letter from Harold Hempstead, June 26, 2015.

<sup>11</sup> See Exh. 8, Julie K. Brown, *After Inmate Deaths, Department of Justice to Probe Florida Prison System*, MIAMI HERALD, December 13, 2014.

return a food tray, he was gassed as many as three times, collapsed in his cell and was left there alone by guards, although he was unresponsive. When checked thirty minutes later, he had blue lips and was foaming at the mouth. He was put into a wheelchair, taken to a shower, and then stopped breathing. Only then were paramedics called. He was dead on arrival at a hospital.<sup>12</sup>

Five DOC investigators in the office of **Inspector General Jeffery Beasley** (who submitted his resignation on October 1, with the intention of taking a job in the Inspector General's intelligence division a few weeks after)—**Aubrey Land, John Ulm, Doug Glisson, David Clark, James Padgett**, and former investigator **Christina Bullins**, filed suits alleging that Mr. Beasley covered up criminal actions by prison officials and retaliated against inspectors who alleged them (in the cases of the first three of these investigators, this was in regard to the case of Mr. Jordan-Aparo). They sought, but were denied, whistle-blower status by **Governor Rick Scott's Inspector General, Melinda Miguel**. These suits were dismissed by a federal judge in March of this year, although Ms. Bullins has the possibility of amending her complaint.<sup>13</sup>

**Matthew Walker** (181642), 45, died on April 11, 2014 at **Charlotte Correctional Institution**. He was beaten so severely by guards that he died of asphyxiation, after his windpipe and larynx were broken. The precipitating incident was that a magazine and cup were out of place when he was awakened and his cell searched during the night, a tactic used to harass inmates. On July 7, 2015 a Charlotte County grand jury found the death “tragic, senseless and avoidable”, but said charges couldn't be brought due to a lack of evidence, as guards had cleaned up the crime scene and seized evidence before an investigation could start.<sup>14</sup>

**Damion Foster** (L62486), 37, died on May 21, 2014 at **Charlotte Correctional** after a use of force incident on the inpatient mental health unit. No cause of death has been released and his case remains under investigation.

**Frank Smith** (424141), 44, was nearing release when he died on September 4, 2012 from complications from blunt head trauma after an incident during a prison transport from **Union Correctional Institution**. Prior to his death he had spent about 5 months on UCI's inpatient mental health unit. After three years his case remains under investigation.

**Latandra Ellington** (H43061) died on October 1, 2014 while at **Lowell Correctional Institution Annex**, after being threatened by a guard. The prison said she died of an overdose, but an autopsy commissioned by her family showed blunt force trauma to the abdomen.<sup>15</sup>

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<sup>12</sup> See Exh. 2, Julie K. Brown, *Culture of Brutality Reigned at State Prison in Panhandle*, MIAMI HERALD, March 21, 2015.

<sup>13</sup> See Exh. 10, Julie K. Brown, *Judge Dismisses Whistleblower Suit Filed by Florida Prison Inspectors*, MIAMI HERALD, March 5, 2015.

<sup>14</sup> See Exh. 13, Julie K. Brown, *Grand Jury Report Rips Florida Prison Over Deadly Beatdown*, MIAMI HERALD, July 7, 2015.

<sup>15</sup> See Exh. 3A, Julie K. Brown, *After Inmate Deaths, Department of Justice to Probe Florida Prison System*, MIAMI HERALD, Dec. 13, 2014; Exh. 19, Julie K. Brown, *Suit Claims Abuse in Death of Inmate at Florida Women's Prison*, Sept. 25, 2015.

#### **D. Failure to Protect from Harm and Death Due to Failure to Protect From Harm**

**Ricky Martin** (Y27458), a slight, 24-year-old convicted burglar with seven months left to serve, was killed at **Santa Rosa Correctional Institution** by inmate **Shawn Rogers** (166626) on March 28, 2012. This happened despite Martin's repeated pleas for protection from Rogers, who is 6'4", 210 pounds, serving a life sentence for robbery with a gun, and has a history of assaulting other prisoners.<sup>16</sup>

**Lavar Valentin** (B09412) died on July 29, 2014 at **Dade Correctional Institution (DCI)**, apparently killed by his cellmate, **Eduardo Carmenates-Zayas** (T45572) who Valentin feared would kill him. Mr. Valentin begged to be moved to another cell. Prison protocol dictates that he should have been moved.<sup>17</sup>

**Yalex R. Tirado** (C08794) died on October 9, 2014, we believe after being assaulted by another prisoner at **Lancaster Correctional Institution**, a DOC Youthful Offender facility that has a reputation for prisoner inmate violence. He had turned 20 years old only a few days prior to his death. His death is still under investigation and no information regarding the cause of his death has been released and no charges have been filed.

#### **E. Denial of Medical Care and Death Due to Denial of Medical Care**

**Michael Branham** (C0127), died at **DCI** on July 10, 2014, ironically while then-DOC Secretary **Michael Crews** was visiting. He'd begged for medical assistance for six hours, but the prison only called 911 after he was dead.<sup>18</sup>

**Denise Isaacs** died on September 16, 2014 in Miami, while being transferred from Kentucky to a **DOC prison in Punta Gorda** due to a parole violation. She had bipolar disorder and an anxiety condition and, according to her daughter, was not given her medications in Kentucky before the trip. During transport by a contractor, she became hallucinatory, did not eat during a rest stop and died shortly after.<sup>19</sup>

**Michelle Tierney** (U10641) died at **Lowell Correctional Institution** on October 9, 2014. Despite her being ill, the prison waited so long to send her to a hospital that, on arrival, she had blue feet, a fever, septic shock and pneumonia.<sup>20</sup>

**Randall Jordan-Aparo** (T37895) died on September 13, 2010 at **Franklin Correctional Institution**. He was gassed three times on the day of his death, twice with OC (a concentrated

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<sup>16</sup> See Exh. 11, Julie K. Brown, *Was Killing Behind Bars a Set Up?*, MIAMI HERALD, March 4, 2015.

<sup>17</sup> See Exh. 15, Julie K. Brown, *Dade Correctional Back in Spotlight After Strangling*, MIAMI HERALD, Aug. 1, 2014.

<sup>18</sup> See Exh. 14, Julie K. Brown, *Amid Turmoil, Florida Prisons Boss Exits*, MIAMI HERALD, Nov. 24, 2014.

<sup>19</sup> See Exh. 16, David Ovalle, *Inmate Death In Private Transport Van In Miami-Dade Raises Questions*, MIAMI HERALD, Sept. 28, 2014.

<sup>20</sup> See Exh. 17, Julie K. Brown, *Deaths, Turmoil At Troubled Florida Women's Prison*, MIAMI HERALD, Oct. 11, 2014.

pepper spray) and once with tear gas, within his cell. He had a rare blood disorder, which the prison knew of, and had begged for medical help for five days before his death.<sup>21</sup>

## F. Denial of Mental Health Care and Misuse of Solitary Confinement

We also have deep concerns about the excessive force used on individuals with mental illness in the FDOC and the lack of appropriate treatment for these individuals. The overuse of solitary confinement by the Florida Department of Corrections (DOC) is also an urgent concern. Prisoners held in solitary confinement in Florida state prisons can be there for months on end. They are detained in nearly complete isolation, entitled to leave their cell three times per week to take a shower, and, only after thirty days, an additional three hours per week to exercise. Children in state prison may be subjected to solitary confinement and endure long periods without exercise, educational instruction, contact with their families or any rehabilitative programs and services.<sup>22</sup>

**Rudolph Rowe** (V19408), 30, an individual with a serious mental illness, was beaten in his solitary confinement cell during an alleged use of force by officers at **Union Correctional** in August 2012. Rowe suffered significant head trauma. An investigation into the circumstance of his injury is still ongoing.

**Daniel Geiger** (J42951), 39, an individual with a serious mental illness has spent nearly all of his 3 ½ years of incarceration in solitary confinement conditions on inpatient mental health units. As noted above, we have received reports from several other prisoners about the abuse he has endured by prison officers including beatings and the withholding of food. Geiger is particularly vulnerable to abuse because he is too ill to report this on his own behalf.

**Kristopher Rodriguez** (C07499) was an honor student and military honor cadet before becoming mentally ill in his teens. As with so many prisoners, his illness led him to commit a crime, and he has been incarcerated for the past seven years, currently at **Union Correctional Institution**. We are deeply concerned that he does not appear to be receiving effective treatment. He has lost a great deal of weight while in prison (at one point, roughly 100 pounds) and reached a juncture at which he did not even recognize his mother, Gemma Pena ([Gpena1957@yahoo.com](mailto:Gpena1957@yahoo.com), (813) 527-5148).

## G. Suicide and Sexual Assaults

**Richard Mair** (E28783), who was at DCI, had a diagnosis of major depressive disorder and complained of having been sexually assaulted by guards. He also said that inmates were forced to fight, and engage in sexual acts, by the guards. He already had a history of suicide attempts

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<sup>21</sup> See Exh. 9, Julie K. Brown and Mary Ellen Klas, *Florida Prison Boss 'Outraged,' Vows Firings Over Shower Death*, MIAMI HERALD, July 9, 2014.

<sup>22</sup> See Julie Ebenstein, *The Sad State of Solitary in Florida: Is There Hope for this Human Rights Violation?* ACLU Blog of Rights, March 13, 2013, Available online at <https://www.aclu.org/blog/sad-state-solitary-florida-there-hope-human-rights-violation>. See also Exh. 4A, Fred Grimm, *Florida Still Sticks Juvenile Inmates in the Box*, MIAMI HERALD, June 12, 2015.

when he ended his life on September 11, 2013. We have appended an MDPD document on Mr. Mair's death.<sup>23</sup>

**Jerry Washington** (050695) died on September 20, 2013 at **Santa Rosa Correctional Institution**, seven days after sending his sister a letter and copies of grievances he had filed concerning sexual harassment by a guard (including the grabbing of his buttocks) and death threats by this, and two other, guards.<sup>24</sup>

## H. Unexplained Deaths

**Quonta Howard** (H00025), 35, died at **Charlotte Correctional Institution** on August 4, 2015. Seven deaths there are now under investigation by the **Florida Department of Law Enforcement (FDLE)**, including that of **Matthew Walker**, as noted above. In another case there, **John Pisciotta**, a former guard, received a \$135,000 settlement after being threatened by fellow guards, after he revealed that another guard gouged out the eye of an inmate. Charlotte's warden at the time of these incidents, **Tim Reid**, was given the DOC's highest leadership award earlier this year. He has now been transferred to another prison.<sup>25</sup>

## III. CONCLUSION

The incidents described above comprise only a small percentage of the deprivations of which we are aware, and were selected simply to illustrate the breadth of the violations which pervade the Florida Department of Corrections. We are happy to provide additional examples of the severe deprivations of constitutional rights which are endemic to the system and require immediate redress.

We urge the Department of Justice to open a thorough investigation as to whether these conditions and the brutal deaths that have resulted violate constitutional standards or statutory requirements such as those set forth in the Civil Rights of Institutionalized Persons Act (CRIPA).

We eagerly await your response.

Thank you.

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<sup>23</sup> See also See Exh. 1, Julie K. Brown, *Behind Bars, A Brutal and Unexplained Death*, MIAMI HERALD, May 17, 2014.

<sup>24</sup> See Exh. 12, Julie K. Brown, *At a Violent Florida Prison, A Death Foreshadowed*, MIAMI HERALD, Dec. 13, 2014.

<sup>25</sup> See Exh. 18, Julie K. Brown, *Death Leads to Seventh Criminal Probe at Troubled Florida Prison*, MIAMI HERALD, Aug. 5, 2015.

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