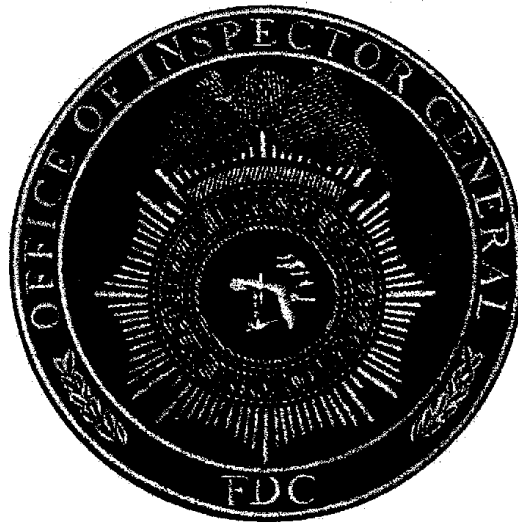


# **Florida Department of Corrections**



## **Office of the Inspector General**

### **CRIMINAL INVESTIGATION**

**Case # 16-15532**



FLORIDA DEPARTMENT OF CORRECTIONS  
OFFICE OF THE INSPECTOR GENERAL  
**CASE SUMMARY REPORT**

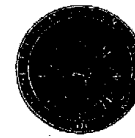


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**Case Number:** 16-15532

**Inspector:** Inspector Carrie Ryan

**Date Assigned or Initiated:** 08-16-2016

**Complaint Against:** Inmate Fernandito Carpio

**Location of Incident – Institution/Facility/Office:** Dade Correctional Institution

**Complainant:** Correctional Officer Penny Sullivan

**Use of Force Number:** N/A

**PREA Number:** N/A

**Classification of Incident:** Battery on a Law Enforcement Officer

**Confidential Medical Information Included:**  Yes  No

**Whistle-Blower Investigation:**  Yes  No

**Equal Employment Opportunity 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 a preponderance of the evidence exists to suggest the suspect's alleged behavior or action did not occur.

**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.

**Suspended:**

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.



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**V. PREDICATE**

On August 15, 2016, while assigned in the [REDACTED] Unit, Officer Penny Sullivan was conducting a security check on the second tier of wing five. As she passed through the open hallway, Inmate Fernandito Carpio (X81705), who had been hiding in the hallway, grabbed Officer Sullivan and threw her to the floor. Inmate Carpio proceeded to cover Officer Sullivan's mouth with his hand, however several inmates and staff heard Officer Sullivan and responded to the incident. This information was reported via MINS and an inquiry was assigned.

**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 15, 2016, at approximately 12:45 pm, Officer Penny Sullivan was interviewed informally. *An informal statement was taken at that time due to Officer Sullivan being shaken by the incident.* Officer Sullivan stated that she was conducting security checks in [REDACTED] wing five, when Inmate Fernandito Carpio, who was crouched down in the dark, there were no lights on in the hallway on the second tier, grabbed her from behind and threw her to the floor. She landed on her left side and then on her back. She started screaming then Inmate Carpio covered her mouth. Inmate Carpio was over her, but not with his body and did not have his body weight touching her.

Inmates (unknown to Officer Sullivan) grabbed Inmate Carpio off her and they (unknown inmates) told her to go. As she was going downstairs, staff started to respond. Staff advised her that they heard her scream. Officer Sullivan said that she exited the wing and went into a conference room. She indicated that she did have a body alarm and radio and they were both on and operational. She further stated that the inmates responded quickly, possibly thirty to forty seconds after she started screaming. Officer Sullivan indicated that Inmate Carpio was new to the unit since she had worked the previous week. Officer Sullivan would like to pursue charges.

Inmate Carpio was transferred to Union Correctional Institution later in the afternoon (8/15/16). Prior to his departure his housing history was reviewed and indicated that Inmate Carpio had been housed at Dade Correctional Institution [REDACTED] Unit since February 12, 2014, excluding his time at outside court in New Jersey, May 5, 2014 to July 28, 2016. On August 12, 2016, Inmate Carpio had been moved into cell J52102 from J1114S (both at Dade Correctional Institution [REDACTED] Unit).

Inmate Fernandito Carpio is currently serving a forty (40) year sentence for Orange County, Florida case # 1009913, Count I. 1<sup>st</sup> Degree Murder (Attempted); Counts II and III. Sexual Battery/ Weapon or Force; Count IV. Burglary, Armed W/Explosive or Weapon). He was also sentenced to thirty (30) years for Aggravated Battery with Deadly Weapon and fifteen (15) years for False Imprisonment for the same case. Inmate Carpio is also serving thirty (30) years for Orange County, Florida case # 1009562, 1<sup>st</sup> Degree Murder (Attempted) and fifteen (15) years for Sexual Battery/Weapon or Force (Attempted). All counts are running concurrent. In addition to his sentence in Florida, Inmate Carpio is serving a fifteen (15) year sentence for Robbery from the state of New Jersey. Inmate Carpio's current release date is July 23, 2049. His maximum release date is June 29, 2050.



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*Inmate Carpio did not receive a disciplinary report for this incident, however, he was placed in Close Management upon his release from [REDACTED]*

A review Florida Department of Corrections, [REDACTED] Records for Inmate Carpio was conducted.

- On August 8, 2016, Inmate Carpio was [REDACTED] who reported that Inmate Carpio returned from outside court in New Jersey and there was no change [REDACTED]. On August 9, 2016, Inmate Carpio's [REDACTED] [REDACTED] Inmate Carpio had been [REDACTED]. Additionally, it is documented that an additional [REDACTED] [REDACTED] [REDACTED] in and out of the Florida Department of Corrections.
- On August 15, 2016, Florida Department of Corrections, [REDACTED] for Inmate Carpio indicate that he was brought to [REDACTED] after he tried to rape a female officer. Inmate Carpio [REDACTED] [REDACTED] due to security reasons.
- On August 16, 2016, Inmate Carpio was [REDACTED] upon his arrival at Union Correctional Institution. Inmate Carpio [REDACTED]. Although Inmate Carpio alleged that [REDACTED] he was [REDACTED].
- On August 17, 2016, [REDACTED] on Inmate Carpio at Union Correctional Institution. [REDACTED] documented that Inmate Carpio presently [REDACTED] [REDACTED] Inmate Carpio has a [REDACTED] [REDACTED] [REDACTED] notated that Inmate Carpio [REDACTED] [REDACTED]

In an incident report dated August 15, 2016, Officer Penny Sullivan reported that on August 15, 2016, at approximately [REDACTED] am, while conducting a security check of wing five, Inmate Fernando Carpio was hiding and when she passed through the hallway, he grabbed her and threw her to the floor. She (Officer Sullivan) started screaming and he (Inmate Carpio) proceeded to cover her mouth with his hand. Several inmates responded and pulled Inmate Carpio off her until staff could respond to the incident.



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In an incident report dated August 15, 2016, Officer Angelia Aljoe reported that at approximately [REDACTED] am, she "witnessed" a loud scream which appeared to have been coming from wing five, upstairs. She immediately called in emergency traffic and assistance was dispatched to J5.

In an incident report dated August 15, 2016, at approximately [REDACTED] am, while assigned to J3, Officer Armonee Smith responded to a disturbance in J5. Once he arrived in J5 and proceeded up the stairs, he observed Officer Sullivan being held down by Inmate Carpio. Officer Sullivan was screaming for assistance. Officer Smith indicated he broke the seal on his chemical agent, but did not utilize it. Officer Smith observed several inmates assisting Inmate Carpio "off". With the assistance of Officer Camarena, he (Officer Smith), placed restraints on Inmate Carpio.

In an incident report dated August 15, 2016, Officer Christian Camarena stated that on August 15, 2016, while assigned as a medical escort officer, he responded to a disturbance in [REDACTED] wing five. Upon arriving in the wing, he observed Officer Sullivan being held down by Inmate Carpio. He (Officer Camarena) broke the seal on his chemical agent, but did not utilize it. Several inmates assisted by lifting Inmate Carpio off Officer Sullivan and pinning him (Inmate Carpio) to the floor. Officer Camarena gave several verbal commands to submit to hand restraints, to which he complied. Inmate Carpio was subsequently escorted to [REDACTED] and placed in cell J212.

In an incident report dated August 15, 2016, Sergeant Chakera McCloud reported that on August 15, 2016, while assigned as [REDACTED] East Supervisor, she observed Officer Sullivan conducting her security inspection of the upper level of wing five. As Officer Sullivan entered the open room of J5, she (Sergeant McCloud) heard a loud scream. Sergeant McCloud said she immediately called a "10-24" on the radio and immediately responded to Officer Sullivan's location, but by the time she (Sergeant McCloud) got there, Officer Sullivan was running down the stairs of the wing. She secured Officer Sullivan and then went to retrieve Inmate Carpio. Sergeant McCloud broke the seal on her chemical agents, however did not utilize them.

In a witness statement dated August 15, 2016, Inmate Kevin Otwell (G18653) stated that he was standing against the stairwell below the breezeway (J5) watching television and heard a female screaming upstairs. He (Inmate Otwell) ran up to the breezeway and saw an inmate with a [REDACTED] on top of Officer Sullivan strangling her. He (Inmate Otwell) ran into the breezeway to get the inmate off Officer Sullivan.

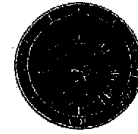
In a witness statement dated August 15, 2016, Inmate Eduardo Zavala (168844) reported that he was in his cell and heard a lady officer screaming inside the empty room. He (Inmate Zavala) and his cellmate, Inmate William Westervelt, ran into the room where Inmate Carpio had the officer on the floor choking her. Inmate Zavala and other inmates could get Inmate Carpio to release the female officer and restrain him (Inmate Carpio) until the officer was safe and other staff arrived.

In a witness statement dated August 15, 2016, Inmate Benjamin Garcia (L41553) stated that he heard screaming from inside the dormitory and saw Inmate Carpio in a rear choke hold of Officer Sullivan. He (Inmate Garcia) and other inmates pulled Inmate Carpio off Officer Sullivan.





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In a witness statement dated August 15, 2016, Inmate Joseph Irwin (138254) reported that he was putting up the trays after feeding and heard an officer screaming. He thought the officer had seen a big rat, but she kept screaming so he (Inmate Irwin) went up the stairs and observed the inmate that sleeps in J5210, holding the officer in a head lock pulling on her clothes trying to rape her, so he (Inmate Irwin) pulled him (inmate that sleeps in J5210) off the officer and the officer left and so did he (Inmate Irwin). *It should be noted that Inmate Carpio slept in J52102, not J5210.*

In a witness statement dated August 15, 2016, Inmate William Westervelt (138254) stated that on August 15, 2016, at approximately [REDACTED] am, while in his cell, he heard the lady officer screaming inside of the vacant room. He (Inmate Westervelt) and his cellmate Inmate Eduardo Zavala immediately ran to the room and found Inmate Carpio attacking the lady officer. Inmate Carpio had her on the floor in a choke hold and would not let go. With the help of other inmates, they physically separated Inmate Carpio from the female officer. While the other inmates were restraining Inmate Carpio, he (Inmate Westervelt) helped the female to her feet and guided her to the stairway telling her to "get out of here". At that time, Inmate Chester was coming up the stairs and he (Inmate Westervelt) had him (Inmate Chester) take her down the stairs.

On August 24, 2016, Inmate Kevin Otwell (G18653) refused to leave his cell and be interviewed by the Inspector's Office regarding this incident.

On August 24, 2016, Inmate Eduardo Zavala (168844) provided a sworn recorded statement stating that on the day of the incident with Officer Sullivan, he was standing outside of his cell [REDACTED] J5, upstairs), watching TV. He saw Inmate Carpio walking around. In the middle of the hallway upstairs is an empty room that you can walk through to get to the other side of the hallway. He saw Inmate Carpio enter the empty room and noticed that he stayed in there. He (Inmate Zavala) kept an eye on him (Inmate Carpio) while continuing to watch TV.

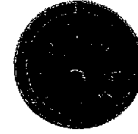
He saw Officer Sullivan doing her rounds. When Officer Sullivan was by the empty room he observed Inmate Carpio grab Officer Sullivan by the upper arms and pull her into the empty room. Officer Sullivan started screaming. Inmate Zavala ran toward the room. When he (Inmate Zavala) got to the room he observed Inmate Carpio holding Officer Sullivan in a bear hug, with his arms and legs wrapped around her. They were on the ground, laying side by side and Officer Sullivan was trying to "peel" Inmate Carpio's arms away from her. Inmate Zavala grabbed Inmate Carpio's arms to get Officer Sullivan away from Inmate Carpio, but Carpio would not let go. Other inmates arrived and they could separate Officer Sullivan from Inmate Carpio by the time staff arrived.

Inmate Zavala named two inmates that assisted, Inmate "William" (identified as William Westervelt) and Inmate "Edwin" (a check of the inmates assigned to J5 on August 15, 2016 did not reveal an inmate named "Edwin" assigned to J5).

On August 24, 2016, Inmate Benjamin Garcia (L41553) was interviewed. In his sworn recorded statement Inmate Garcia stated that he was watching TV in the day room [REDACTED], J5) when he heard a female screaming. He at first thought it was the TV, but then realized that it was a within the wing. Inmate Garcia stated that there was only him, Inmate Otwell (Kevin Otwell) and Inmate King (Robert King #J04029) present in the dayroom and they all went running to the room located on the top tier. Once there, they observed Inmate Carpio holding Officer Sullivan in a headlock. He was behind her, Officer Sullivan was on top of him, they were on the ground, and Inmate Carpio had one arm around Officer Sullivan's neck and his other arm locking the other down. Officer Sullivan was screaming.



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Inmate Carpio had one leg wrapped around Officer Sullivan's waist. Inmates were trying to dislodge Inmate Carpio's leg from Officer Sullivan's body. Inmate King has [REDACTED] and could not help much, however "they" were hitting Inmate Carpio trying to release his grasp from Officer Sullivan.

Inmate Garcia stated that he grabbed Officer Sullivan by the hand and told her to go downstairs and yelled for someone to stay with her. He (Inmate Garcia) further stated that Inmate Carpio was not doing anything except grabbing/holding Officer Sullivan.

On August 24, 2016, Inmate Joseph Irwin (C02782) was interviewed and stated that he was an orderly working in J5, putting the food trays away, when he heard Miss Sullivan scream. He knew she had been doing a walk around and was upstairs. He first thought she saw a mouse or something and paid no attention, but she kept screaming. When he (Inmate Irwin) went upstairs he saw the inmate that slept in "10" had her in a headlock and was pulling on her clothes trying to rape her. Inmate Irwin said he pulled the inmate off Miss Sullivan and pulled her (Miss Sullivan) up and then she left and he (Inmate Irwin) left.

Inmate Irwin further stated that Inmate Carpio and Miss Sullivan were in the room upstairs and that Inmate Carpio had her in a headlock. Her head was in his arm, and Inmate Carpio's back was against the wall and Miss Sullivan was trying to stand up. Other "people" were there but does not know who.

On August 24, 2016, Inmate William Westervelt was interviewed. In his sworn recorded statement, he stated the incident with Officer Sullivan occurred during recall and he was in his room. The room that the incident occurred in is two doors down from his cell. He was in his cell with his cell mate, Inmate Zavala, whose bunk look directly toward the room. He noticed Inmate Zavala looking toward the room, then they could hear a female screaming and Inmate Zavala took off running.

He (Inmate Westervelt) took off running behind him (Inmate Zavala). When they got to the room, Inmate Carpio had Officer Sullivan in a choke hold with his legs wrapped around her from behind. They were laying sideways on the ground. Officer Sullivan was screaming. They (he and Zavala) tried separating them, and then other inmates arrived and they could separate Carpio and Officer Sullivan. The other inmates were trying to hold inmate Carpio down because he was going a little crazy, while he (Inmate Westervelt) got Officer Sullivan up. Officer Sullivan was in kind of a daze, but he was yelling at her to "let's go...let's go." He started walking her to the stairs, and then he told Inmate Chester, who was walking up the stairs, to take Officer Sullivan outside of the wing and gave Inmate Chester Officer Sullivan's hat and "stuff". Inmate Westervelt went back inside until staff arrived.

The fixed wing video system was reviewed, however, video for cameras [REDACTED] and [REDACTED] which would capture the area of the incident in wing J5, was not available.

On September 19, 2018, Inmate Fernandito Carpio refused to be interviewed for this incident.

On December 13, 2018, Officer Penny Sullivan was interviewed. In a sworn recorded statement, Officer Sullivan advised that she currently is employed with Miami-Dade County Corrections, however, prior to her employment with them in December 2017, she was employed by the Florida Department of Corrections and assigned to the [REDACTED] Unit at Dade Correctional Institution.



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Officer Sullivan stated that on August 15, 2016, she was assigned to the East Side, wing five, of [REDACTED]. At approximately [REDACTED] am, feeding had concluded and she was conducting a security check. She had completed the security check on the bottom tier and was walking through the sallyport area located on the top tier when, as she walked through the doorway she noticed Inmate Carpio crouched down in the dark (the lights were off in the sallyport). Inmate Carpio grabbed her (Officer Sullivan) and threw her down, landing on her left side and onto her back. Inmate Carpio was on top of her, straddling her.

Officer Sullivan stated that she began to scream then Inmate Carpio covered her mouth trying to keep her from screaming, but she kept moving and screaming. She was only able to move her bottom half (because Inmate Carpio was straddling the top of her), but she kept moving because she did not want Inmate Carpio touching her. Her arms were to her side, bent, with her palms facing up by her shoulders and he (Inmate Carpio) was holding her arms down, by her forearms. Inmate Carpio was using his body weight as he was straddling her to hold her down. All his body weight was above her (Officer Sullivan) hips, as he was crouched over her.

Inmates responded to where they were and was screaming for Inmate Carpio to get off her and began pulling him (Inmate Carpio) off her (Officer Sullivan). Officer Sullivan stated that she accidentally got hit by one of the inmates because they were trying to get Inmate Carpio off her because he would not get off. Once they were successful on getting Inmate Carpio off her, the inmates were telling her to leave. She was then able to go down the stairs, then staff arrived. The inmates that responded heard her screaming and "came to her rescue". Officer Sullivan stated that the incident seemed like it was forever, but it was probably a minute or less.

Officer Sullivan described the sallyport area where the incident occurred as a room with doors on either side that connects the two sides of the top tier. There are windows in the sallyport. Both doors were open at the time of the incident and the lights were off. She stated that Inmate Carpio was to left side of the door, crouched down and was not able to be seen until she walked into the room. Inmate Carpio said nothing to her, nor did he say anything to the inmates that responded. Officer Sullivan indicated that Inmate Carpio was new to the unit, that she had come back from her days off and he was there, and they had no dealings prior to the incident.

Officer Sullivan stated that it was a life changing experience. She was out of work for about a month and was becoming a person she did not know and did not like. She did not want to go out and she became paranoid that people were trying to attack her. She recalled an incident where she was exercising at a park and a man was coming towards her and she "freaked" out thinking he was going to hurt her. [REDACTED]. She was terrified to return to work, but it was something that she knew she had to do to get back to her "normal" self, although she did say she will never be "normal", but she is now able not to be so paranoid and not want anyone around her. Officer Sullivan stated that she is better now, but it did change her life.



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**VII. CHARGES**

List alleged violations of Florida Law:

1. Violation of § 784.07 (1)(d) Florida Statutes, Battery on a Law Enforcement Officer.

**VIII. CONCLUSION**

Based on the information gathered during this investigation, it is the recommendation of Inspector Carrie Ryan the allegation against Inmate Fernandito Carpio for **Battery on a Law Enforcement Officer in violation of § 784.07 (1)(d)**, be termed as follows:

1. Closed by Arrest