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## Correlation Between Inmate Brutality And Lack Of Whistleblower Protection In Florida

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# Correlation Between Inmate Brutality And Lack Of Whistleblower Protection In Florida

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## **Abstract**

“Inmates are dying in Florida’s prisons, victims of torture and brutality.”<sup>1</sup> As eloquently stated by the Miami Herald, “inmates are being killed by people Floridians pay to keep the peace in a charged, stressful environment.”

**KEYWORDS:** inhumane, prisoners, abuse

CORRELATION BETWEEN INMATE BRUTALITY AND LACK OF WHISTLEBLOWER PROTECTION IN FLORIDA

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## I. INTRODUCTION

“Inmates are dying in Florida’s prisons, victims of torture and brutality.”<sup>1</sup> As eloquently stated by the Miami Herald, “inmates are being killed by people Floridians pay to keep the peace in a charged, stressful environment.”<sup>2</sup> Incredibly, Florida has been characterized in recent years as *ground zero* for prison deaths.<sup>3</sup> Despite such alarming accusations, formal criminal charges have never been brought against any of the suspected Florida prison employees.<sup>4</sup> In fact, the situation has become so egregious that former Department of Corrections head, James McDonough, stated in an e-mail, “I am revolted by what I am hearing, just as I am by what I am not hearing. . . . [t]hese cases did not end tragically . . . they ended in horrific and suspicious deaths.”<sup>5</sup> “With the third largest prison system in the country,” over one hundred thousand inmates are housed in Florida “at a cost of \$2.3 billion per year.”<sup>6</sup> Recently, in 2014, there are more than five inmates for every ten thousand Florida residents being housed within the seven privately run facilities and forty-eight public state run facilities.<sup>7</sup> Despite alleged reform attempts within the Florida prison system, former Charlotte Correctional Institute Inmate No. 196374, Joseph Cardenas, described his experience in the facility by saying, “[y]ou have no rights . . . [i]f they beat your ass, [they will] hide you [until] [you are] healed. [That is] their world and you need to accept that.”<sup>8</sup>

In the wake of serious allegations against the State, the Florida Department of Law Enforcement has opened investigations into nine inmate

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1. Editorial, *Break the Silence*, MIAMI HERALD (July 10, 2014), <http://www.miamiherald.com/opinion/editorials/article1974845.html>.

2. *Id.*

3. Shaun King, *Record 346 Inmates Die, Dozens of Guards Fired in Florida Prisons*, DAILY KOS (Jan. 14, 2015, 11:20 AM), <http://www.dailykos.com/story/2015/01/14/1357661/-Poisonings-beatings-gassings-Record-346-inmates-die-dozens-of-guards-fired-in-Florida-prisons>.

4. Editorial, *Break the Silence*, *supra* note 1.

5. *Id.*

6. Evan Williams, *Our Inmates, Our Burden*, FLA. WKLY.: FORT MYERS (June 25, 2014), [http://fortmyers.floridaweekly.com/news/2014-06-25/Top\\_News/OUR\\_INMATES\\_OUR\\_BURDEN.html](http://fortmyers.floridaweekly.com/news/2014-06-25/Top_News/OUR_INMATES_OUR_BURDEN.html).

7. *Id.*

8. *Id.*

deaths, in addition to the Miami-Dade homicide investigation into the death of Darren Rainey.<sup>9</sup> Supplementing these investigations, the Florida Department of Corrections introduced an “online database cataloging all inmate deaths over the past [fourteen] years.”<sup>10</sup> This database catalogues the three thousand four hundred inmates who have died in the Florida prison system as well as the roughly one hundred cases that remain under investigation by the Florida Department of Law Enforcement.<sup>11</sup>

Although a majority of inmate deaths are classified as accidental or natural—like that of Randall Jordan-Aparo—this is often a mistake.<sup>12</sup> In the case of Aparo, his death was ruled an accident until multiple sources at the prison forced the case to be reopened, at which point, it was discovered that he was likely gassed to death by prison guards.<sup>13</sup> His fate was sealed when prison nurses refused to transport him to the hospital to receive life saving treatment.<sup>14</sup> Conditions have become so outrageous in Florida prisons that convicted murderer, Richard Mair, hung himself in September 2013 leaving behind a suicide note, “accusing guards of sexually abusing inmates and forcing black and white inmates to fight each other for the entertainment of staff.”<sup>15</sup> It has even been reported that if an inmate spoke about filing a complaint, the guards would threaten twenty-four hour cell confinement or issuance of inmate citations for infractions that were not actually committed.<sup>16</sup>

## II. INHUMANE TREATMENT OF PRISONERS

### A. *Matthew Walker*

Matthew Walker was an inmate at the Charlotte Correctional Institution in Punta Gorda, Florida when he was killed on Friday, April 11,

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9. Julie K. Brown, *3 More Florida Inmate Deaths Prompt 3 More Investigations*, MIAMI HERALD (July 9, 2014), <http://www.miamiherald.com/news/state/article1974747.html> [hereinafter Brown, *Inmate Deaths Prompt Investigations*].

10. Julie K. Brown, *Florida Prison System, Under Fire, Releases Data on Inmate Deaths*, MIAMI HERALD (Sept. 9, 2014), <http://www.miamiherald.com/news/local/community/miami-dade/article2084652.html>.

11. *Id.*

12. *See id.*

13. *Id.*

14. *See id.*

15. *See* Julie K. Brown, *Staff at a Miami-Dade Prison Tormented, Abused, Mentally Ill Inmates, Former Worker Says*, MIAMI HERALD (May 19, 2014), <http://www.miamiherald.com/news/local/community/miami-dade/article1964709.html> [hereinafter Brown, *Miami-Dade Prison Abused Inmates*].

16. *Id.*

2014.<sup>17</sup> Officers allegedly handcuffed Matthew Walker and beat him to death because he would not put away a magazine and a cup that he had in his cell.<sup>18</sup> Even more appalling, Matthew Walker's brutal murder at the hands of ten prison employees occurred while he was restrained in handcuffs.<sup>19</sup> Officially, nine officers and a lieutenant were placed on leave pending investigation after the officers involved allegedly tried to cover up the crime by blaming Walker's death on his cellmate.<sup>20</sup> In light of the incident involving Matthew Walker, former employees of the Charlotte Correctional Institution came forward to reveal the unsafe conditions of the facility.<sup>21</sup> Incredibly, Joe Facenda—a corrections officer at the facility—stated, “I came home, I [do not] know how many times, dumbfounded at what went on there . . . other officers telling you when, where, and how you can get away with roughing up an inmate.”<sup>22</sup>

#### B. *Darren Rainey*

Darren Rainey was a fifty-year-old mentally ill inmate who “was placed in a small, enclosed, scalding-hot shower by guards and left unattended for more than an hour. He collapsed and died amid the searing heat, suffering severe burns when he fell [with] his face up atop the drain.”<sup>23</sup> Astonishingly, Rainey was placed in the shower “with water temperature exceeding [one hundred and sixty] degrees as punishment for defecating in his cell. He died in that shower with his skin peeling off, while he begged for help . . . .”<sup>24</sup> An anonymous correctional officer at the Dade Correctional

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17. Lucas Seiler, *Inmate at Troubled Prison Killed After Confrontation with Guards*, NBC 2 (Apr. 18, 2014, 4:51 PM), <http://www.nbc-2.com/story/25285565/inmate-charlotte-county-correctional-institution-killed-matthew-walker> [hereinafter Seiler, *Inmate at Troubled Prison Killed After Confrontation with Guards*].

18. Lucas Seiler, *State Question CCI Staff About Prisoner Death*, NBC 2 (Apr. 22, 2014, 6:12 PM), <http://www.nbc-2.com/story/25313044/state-question-cci-staff-about-prisoner-death#.Vd8el7R4FUQ> [hereinafter Seiler, *State Question CCI Staff About Prisoner Death*].

19. *FDLE Investigating Another Inmate Death at CCI*, NBC 2, <http://www.nbc-2.com/story/25590023/fdle-investigating-another-inmate-death-at-charlotte-correctional-institution#.Vd8ckbR4FUQ> (last updated May 22, 2014).

20. Seiler, *Inmate at Troubled Prison Killed After Confrontation with Guards*, *supra* note 17; Seiler, *State Question CCI Staff About Prisoner Death*, *supra* note 18.

21. Seiler, *Inmate at Troubled Prison Killed After Confrontation with Guards*, *supra* note 17.

22. *Id.*

23. Brown, *Miami-Dade Prison Abused Inmates*, *supra* note 15.

24. Nicole Flatow, *Florida Inmate Reportedly Gassed to Death, Another Killed by Scalding Water*, THINK PROGRESS (July 11, 2014, 12:07 PM), <http://www.thinkprogress.org/justice/2014/07/11/3458959/florida-gassed-to-death-killed-by-scalding-hot-water>.

Institution stated that mental health unit guards repeatedly threaten trouble-causing inmates with this *shower treatment*.<sup>25</sup>

A medical document regarding Rainey's death states that he suffered from a condition referred to as slippage where the skin is so dead that it shrivels away from the body.<sup>26</sup> Florida Department of Corrections Secretary Michael Crews fired thirty-two guards in the wake of scrutiny given to inmate deaths across the state of Florida in recent years and specifically to the death of Rainey.<sup>27</sup> In regards to situations like Walker and Rainey's, Howard Simon, Executive Director of the American Civil Liberties Union ("ACLU") of Florida stated, "[t]hese revelations that are coming out are not about incompetence. [They are] about guards killing people and public officials working feverishly to cover it up."<sup>28</sup> Jerry Cummings, the warden of the prison in which Rainey was held, is on paid administrative leave, while the two correctional officers involved in his suspected murder remain on the job in the facility.<sup>29</sup> As of July 9, 2014, Darren Rainey's family had still not been provided with an official cause of death.<sup>30</sup>

Demanding justice for those unable to obtain justice alone, the Miami Herald has spent more than a year investigating prison abuses within the Florida Department of Corrections.<sup>31</sup> In particular, the newspaper reported that, "Rainey's death nearly three years ago, along with subsequent stories about rampant inmate abuse as well as a record number of deaths in Florida's prisons, has spawned demands for an overhaul of the Florida Department of Corrections."<sup>32</sup> These demands have yet to be met, but hopes remain high as individuals like Inspector General Jeffery Beasley fall under investigation "after four of his subordinates stated under oath this year that he asked them to sideline cases that would give the agency a *black eye*."<sup>33</sup>

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25. Brown, *Miami-Dade Prison Abused Inmates*, *supra* note 15.

26. Ashley Lopez, *Miami Herald: Allegations of Abuse of Mentally-Ill in Florida Prison*, FLA. CTR. FOR INVESTIGATIVE REPORTING (May 21, 2014), <http://www.fcir.org/2014/05/21/miami-herald-allegations-of-abuse-of-mentally-ill-in-florida-prison>.

27. 32 *Florida Prison Guards Fired Amid Outrage Over Inmate Abuse*, HUFFINGTON POST (Sept. 21, 2014, 1:57 AM), [http://www.huffingtonpost.com/2014/09/21/florida-prison-system-fir\\_n\\_5856354.html](http://www.huffingtonpost.com/2014/09/21/florida-prison-system-fir_n_5856354.html).

28. *Id.*

29. Editorial, *Break the Silence*, *supra* note 1.

30. Brown, *Inmate Deaths Prompt Investigations*, *supra* note 9.

31. Julie K. Brown, *Scalding-Shower Death in Dade Prison Prompts Federal Probe*, MIAMI HERALD (May 19, 2015), <http://www.miamiherald.com/news/special-reports/florida-prisons/article21429693.html>.

32. *Id.*

33. *Id.*

### III. ABUSE OF DISABLED PRISONERS

#### A. *Federal System*

The Department of Justice receives more than sixteen hundred complaints a year from inmates alleging discrimination on the basis of disability.<sup>34</sup> The most common allegations include “denial of access or unequal access to the facility’s programs and activities; lack of effective communication for inmates who are deaf or hard of hearing [as well as] those who are blind or have low vision; and denial of access to disability-related medical services and devices.”<sup>35</sup> A vast majority of access complaints allege lack of accessible toilets, showers, and cells, along with steep floors that prevent disabled inmates from accessing areas like the dining hall or the library.<sup>36</sup> Prisoners are also detrimentally prevented from participating in drug treatment programs required for parole eligibility if they are taking medication to treat mental illness, or they are excluded from obtaining a job, and thus unable to earn credits towards early release.<sup>37</sup> Effective communication complaints surround circumstances where prisoners are denied access to sign language interpreters, books on tape, large print, Braille reading materials, or extended length for telephone calls when using special devices to communicate with family.<sup>38</sup> Finally, a large number of complaints are received upon denial of mandatory devices or equipment such as eyeglasses, hearing aids, wheelchairs, walkers, necessary medical equipment such as catheters or urine bags, prescribed orthopedic shoes, and necessary medications like insulin or seizure medication.<sup>39</sup>

#### B. *Florida System*

The Florida Department of Corrections has systematically generated an environment of fear and hopelessness among disabled prisoners.<sup>40</sup> “For

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34. *Justice Project Improves Conditions for People with Disabilities in Prisons and Jails*, DISABILITY RTS. ONLINE NEWS (Aug. 11, 2008), <http://www.ada.gov/newsltr0208.htm>.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Justice Project Improves Conditions for People with Disabilities in Prisons and Jails*, *supra* note 34.

40. Talila Lewis, Opinion, *Other View: Deaf Inmates Need to be Seen and Heard*, SUN SENTINEL, May 1, 2013, at 10A.



any person who is deaf, prison is a horror.”<sup>41</sup> Unfortunately, “[t]he abuse experienced by deaf prisoners housed in the Florida Department of Corrections *defies imagination*.”<sup>42</sup> The Helping Educate to Advance the Rights of the Deaf (“HEARD”) organization runs the National Deaf and Deaf-Blind Prisoner Database, and for three years, the organization has been reporting extreme violence and sexual abuse against these vulnerable prisoners to the Governor, the Department of Corrections Secretary, the Office of the Inspector General, and the ADA Coordinator yet to no avail.<sup>43</sup> Being that deafness is one of the least understood and most neglected disabilities in prisons, such prisoners are “totally compromised . . . in the dangerous, treacherous environment of rape, abuse, and violence that characterizes most prisons.”<sup>44</sup>

### 1. Elliott “Bud” Yorke

Elliott “Bud” Yorke is a ninety-year-old deaf and non-verbal inmate at Florida’s Columbia Correctional Institution Annex at Lake City, who was placed in isolation for his own protection after showing signs of being assaulted.<sup>45</sup> Even in solitary confinement Yorke wrote a letter to a friend stating,

There are no grab and hold bars on [the] wall to help me up and down on [the] toilet. They [will not] let my walker stay in my cell to help, [although] I am [a] solo occupant in this cell while [I am] in this present hell place. At 13:10 [hours] on June 25, 2014, the confinement guard has taken my walker wheels. He rode it out like a *scooter* with one knee on the seat. It was parked outside my cell. It has my jar of topical allergy skin salve under [the] seat, and I [can not] walk without a walker!!<sup>46</sup>

Yorke has served close to thirty years in Florida for a sex offense and has been denied transfer to a prison that teaches American Sign Language.<sup>47</sup> He has, however, been granted transfer to a facility better suited

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41. McCay Vernon, *ADA Routinely Violated by Prisons in the Case of Deaf Prisoners*, PRISON LEGAL NEWS, July 2009, at 14, <http://www.prisonlegalnews.org/media/issues/07pln09.pdf>.

42. Lewis, *supra* note 40 (emphasis added).

43. *Id.*

44. Vernon, *supra* note 41.

45. Adelyn Baxter, *Ninety Years Old, Deaf, and in the Hole in a Florida Prison*, SOLITARY WATCH (July 10, 2014), <http://www.solitarywatch.com/2014/07/10/ninety-years-old-deaf-hole-florida-prison>.

46. *Id.*

47. *Id.*

for his age and disability, but due to limited availability, transferring is a lengthy process.<sup>48</sup> Incredibly, Yorke will be forced to remain in solitary confinement throughout the remainder of the transfer process despite his vehement objections.<sup>49</sup>

## 2. Richard Jackson

Richard Jackson, an inmate suffering from partial paralysis of his lower limbs, was denied the use of a wheelchair inside of his cell in Santa Rosa.<sup>50</sup> In lieu of using his wheelchair, Jackson was forced to *drag himself* between his bed and the toilet using only his hands and arms to assist him in navigating the cell.<sup>51</sup> Even more astonishing, after filing a discrimination lawsuit, Jackson lost thirty pounds in one month from being beaten and having his food withheld as means of retaliation.<sup>52</sup> Richard Jackson filed his second amended complaint with the United States District Court for the Northern District of Florida in the Pensacola Division on March 26, 2014, naming Michael Crews as the Secretary of the Florida Department of Corrections, Richard Comerford, James White, Dr. Rummel, Marsha Nicols, Officer Locklear, and Does 1-8 as Defendants.<sup>53</sup> The Complaint reiterates that when Jackson sought relief from the court, he was transferred to another prison facility where the staff welcomed him by retaliating against him for seeking justice.<sup>54</sup> Final disposition of this matter is still pending as the Complaint was filed on March 26, 2014.<sup>55</sup>

## 3. Complaints from Within

George Mallinckrodt was a psychotherapist assigned to the Dade Correctional Institution Psychiatric Unit from 2008 through 2011.<sup>56</sup> Dr. Mallinckrodt reported that guards “taunted, tormented, abused, beat, and

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48. *Id.*

49. *Id.*

50. Kathy M. Foster, *ACLU of Florida and FJI Defend Disabled Man Subjected to Prison Abuse*, FOSTER FOLLY NEWS (Apr. 2, 2014), <http://www.fosterfollynews.com/2014/04/02/aclu-of-florida-and-fji-defend-disabled-man-subjected-to-prison-abuse>.

51. *Id.*

52. *Id.*

53. Second Amended Complaint at 1, Jackson v. Crews, No. 3:13-CV-00174 (N.D. Fla. Mar. 3, 2014).

54. *Id.* at 2.

55. *See id.* at 1.

56. Brown, *Miami-Dade Prison Abused Inmates*, *supra* note 15.

tortured chronically mentally ill inmates on a regular basis.”<sup>57</sup> Employees allege that guards shockingly “made *sport* of agitating the mentally ill inmates.”<sup>58</sup> Disability Rights Florida is an organization empowered by federal law to protect the rights of mentally ill individuals in Florida, including those confined by the State at Dade Correctional Institution.<sup>59</sup> As such, they have filed a complaint for declaratory and injunctive relief against the Florida Department of Corrections and Wexford Health Sources for subjecting mentally ill prisoners to abuse and discrimination by correctional officers.<sup>60</sup> The lawsuit “alleges systematic and regular abuse and discrimination, including brutality, deprivation of food, and physical and verbal harassment by Dade C[orrectional] I[nstitution] correctional officers against inmates with serious mental illness.”<sup>61</sup>

The Dade Correctional Institution has 176 Transitional Care Unit beds and twenty Crisis Stabilization Unit beds, with a majority of inmates residing in solitary confinement conditions.<sup>62</sup> The complaint alleges that despite actual knowledge of the abuse of inmates in the inpatient mental health unit, correctional officials—including supervisors—have failed to take action to stop the abuse of inmates including the scalding hot shower treatment, physical beatings, deprivation of food, physical harassment, and verbal harassment.<sup>63</sup> Notwithstanding numerous verbal and written complaints to prison officials and to the Florida Department of Corrections Inspector General’s office from former treatment staff as well as inmates—including the deaths of two inmates on the Dade Correctional Institution inpatient unit within the past two years—defendant Michael D. Crews failed to rectify the deplorable behavior.<sup>64</sup> Moreover, Wexford supervisory staff at Dade Correctional Institution not only failed to investigate or report the allegations of abuse, but they did not even attempt to stop the abuse.<sup>65</sup>

Specific allegations include a psychological counselor’s termination in 2011 after he “reported several instances of physical abuse by correctional officers on inmates in the Dade [Correctional Institutions];” all of which

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57. *Id.*

58. *Id.*; Lopez, *supra* note 26.

59. Complaint at 1, Disability Rights Fla., Inc. v. Crews, No. 1:14-CV-23323 (S.D. Fla. Sept. 9, 2014).

60. *Id.* at 1–2.

61. Press Release, Disability Rights Fla., Department of Corrections Sued over Inmate Abuse at the Dade Correctional Institute (Sept. 9, 2014), [http://www.disabilityrightsflorida.org/newsroom/story/departments\\_of\\_corrections\\_sued\\_over\\_inmate\\_abuse\\_at\\_the\\_dade\\_correctional\\_i](http://www.disabilityrightsflorida.org/newsroom/story/departments_of_corrections_sued_over_inmate_abuse_at_the_dade_correctional_i).

62. Complaint at 5–6, *Disability Rights Fla., Inc.* (No. 1:14-CV-23323).

63. *Id.* at 6–7.

64. *Id.* at 7–8.

65. *Id.* at 8.

were ignored.<sup>66</sup> The complaint also details the incidents leading up to the death of Darren Rainey, including the horrific detail that he was found dead lying in the shower with burns over ninety percent of his body.<sup>67</sup> It is further alleged that despite the number of abuse allegations, none of the inmates referenced in the grievances were ever interviewed.<sup>68</sup> The complaint even identifies two living inmates, D.G. and M.A.—both suffering from serious mental illness and a diagnosis of schizophrenia—who were subjected to the shower treatment, in addition to various other brutal physical attacks.<sup>69</sup>

Richard Mair is additionally listed within the complaint.<sup>70</sup> Mr. Mair was an inmate at Dade Correctional Institution until he committed suicide on September 11, 2013 after multiple suicide attempts—including ingestion of batteries and razor blades—due to his major depressive disorder.<sup>71</sup> After making several allegations of physical and mental abuse by correctional staff, Mair left a note in his cell indicating that he committed suicide in part because of the continual abuse against him by the correctional staff.<sup>72</sup> Incredibly, when the Florida Department of Corrections Inspector General's office reopened review of Darren Rainey's death, it was only on whether the shower was functioning properly and did not address the wide spread abuse of mentally ill inmates.<sup>73</sup>

Counts one and two of the complaint allege violations of 42 U.S.C. § 1983 against Michael D. Crews in his official capacity as the Secretary of the Department of Corrections and Wexford Health Sources, Inc.<sup>74</sup> The Eighth Amendment of the United States Constitution mandates that reasonable measures be taken to guarantee the safety of inmates by ensuring humane conditions of confinement, preventing use of excessive force against inmates, and ensuring that inmates receive adequate food, clothing, shelter, and medical care.<sup>75</sup> Finally, count three alleges violations of the Americans with Disabilities Act as well as the Rehabilitation Act.<sup>76</sup> Specifically, 42 U.S.C. §

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66. *Id.*

67. Complaint at 8–9, *Disability Rights Fla., Inc.* (No. 1:14-CV-23323).

68. *Id.* at 10.

69. *Id.* at 11–12.

70. *Id.* at 12.

71. *Id.*

72. Complaint at 12, *Disability Rights Fla., Inc.* (No. 1:14-CV-23323).

73. *Id.* at 13–14.

74. *Id.* at 2–3, 15–16; *see also* 42 U.S.C. § 1983 (2012).

75. Complaint at 15–16, *Disability Rights Fla., Inc.* (No. 1:14-CV-23323); *see also* U.S. CONST. amend. VIII.

76. Complaint at 18, *Disability Rights Fla., Inc.* (No. 1:14-CV-23323); *see also* 42 U.S.C. §§ 12131–12132 (2012); 29 U.S.C. § 794(a)–(b) (2012).

12131 and § 12132 prohibit disability-based discrimination by any public entity.<sup>77</sup>

#### IV. REMEDIES FOR PRISONERS

##### A. *Administrative Remedies*

Section 944.331 of the Florida Statutes mandates the creation of an inmate grievance procedure in the state of Florida.<sup>78</sup> The entirety of the statute states, “[t]he department shall establish by rule an inmate grievance procedure that must conform to the Minimum Standards for Inmate Grievance Procedures as promulgated by the United States Department of Justice pursuant to 42 U.S.C. § 1997(e). The department’s office of general counsel shall oversee the grievance procedures established by the department.”<sup>79</sup> Florida has developed such a procedure through Florida Administrative Code Rule 33-103.<sup>80</sup> This procedure is in place to provide inmates with a channel for the administrative settlement of a claim against the facility of incarceration.<sup>81</sup> The Bureau of Policy Management and Inmate Appeals not only address such grievances, but the division is also responsible for developing a standardized grievance plan to be implemented by the Bureau of Staff Development in training employees.<sup>82</sup>

Importantly, inmates are required to utilize the informal grievance process before initiating a formal grievance, except in the case of an emergency grievance, medical grievance, or grievance alleging violations of the Americans with Disabilities Act.<sup>83</sup> Inmates are instructed to place informal grievances in a designated lock box, which will then be distributed to the staff member in charge of the problem area—after it is logged into the system, which is then required to provide a response.<sup>84</sup> The inmate must indicate that Form DC6-236 is being used as an informal grievance in order to meet the requirement of proper filing necessary prior to the submission of a formal grievance.<sup>85</sup> Upon completion of the informal grievance process, an inmate can file a formal grievance by completing Form DC1-303 Request for

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77. Complaint at 18, *Disability Rights Fla., Inc.* (No. 1:14-CV-23323); 42 U.S.C. §§ 12131–12132.

78. FLA. STAT. § 944.331 (2014).

79. *Id.*

80. FLA. ADMIN. CODE ANN. r. 33-103.001–.019 (2015).

81. *Id.* r. 33-103.001.

82. *Id.* r. 33-103.001, .003.

83. *Id.* r. 33-103.005.

84. *Id.* r. 33-103.005(a)–(b).

85. FLA. ADMIN. CODE ANN. r. 22-103.605(2)(b).

Administrative Remedy or Appeal and submitting it to the warden.<sup>86</sup> If a formal grievance is found to be an emergency, action to alleviate must be taken and a formal response must be provided to the inmate within fifteen calendar days.<sup>87</sup> Alternatively, if an emergency is not found, the inmate must be notified of the non-emergent status within seventy-two hours of receipt.<sup>88</sup> In the event that an inmate is not satisfied with the outcome of the grievance procedure, there is also an appeals process in place that the inmate can utilize.<sup>89</sup>

## B. *Civil Remedies*

### 1. Section 768.28 of the Florida Statutes

Section 768.28 of the Florida Statutes addresses waiver of sovereign immunity in tort actions, stating specifically that, “the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act.”<sup>90</sup> Importantly,

[t]he state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability *shall not include punitive damages* or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment *by any one person which exceeds the sum of [two hundred thousand dollars]* or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of [three hundred thousand dollars].<sup>91</sup>

This limit on the liability of the Department of Corrections as an agency or subdivision of the State of Florida allows prison officials to commit heinous crimes—including brutal murders—against inmates with a two hundred thousand dollar cap on civil liability in state court.<sup>92</sup> This is utterly outrageous. Heightened financial liability against the Department of Corrections would likely lead to an increase in accountability and a decrease

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86. *Id.* r. 33-103.006(1).

87. *Id.* r. 33-103.006(3)(a)(3).

88. *Id.* r. 33-103.006(3)(a)(4).

89. *Id.* r. 33-103.007(1).

90. FLA. STAT. § 768.28(1) (2014).

91. *Id.* § 768.28(5) (emphasis added).

92. *See id.* § 768.28; Seiler, *State Question CCI Staff About Prisoner Death*, *supra* note 18.

in inmate brutality at the hands of prison officials.<sup>93</sup> As it stands, it is possible to seek punitive damages in Florida state courts for the wrongful death of an animal—for example, a pet rabbit—yet not possible to do the same in when an inmate is viscerously murdered at the hands of a prison guard.<sup>94</sup>

## 2. Prison Litigation Reform Act 42 U.S.C. § 1997e

Due to caps placed on recoverability based on state sovereign immunity, civil lawsuits brought against the state or its subdivisions for actions arising out of publically run prison facilities do not yield just results.<sup>95</sup> As a result of this injustice, civil lawsuits filed on behalf of prisoners against state entities regulating incarceration facilities are often brought under the 42 U.S.C. § 1983 with limitations pursuant to the Prison Litigation Reform Act.<sup>96</sup> Unfortunately, the Prison Litigation Reform Act makes it seemingly difficult for prisoners to file lawsuits in federal court, primarily by mandating that all administrative remedies be exhausted, which includes taking every single step in the particular facility's grievance process.<sup>97</sup> Pertinently, this statute provides that, "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other [f]ederal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."<sup>98</sup> Additionally, the following physical injury requirement must be satisfied for a claim to be ripe under the Prison Litigation Reform Act: "No [f]ederal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody

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93. See Barnini Chakraborty, *Florida Prison System Under Fire Amid Allegations of Abuse, Fatal Shower Scalding*, FOX NEWS (Apr. 9, 2015), <http://www.foxnews.com/politics/2015/04/09/florida-prison-system-under-scrutiny-as-lawmakers-fight-to-keep-feds-out-and>.

94. See FLA. STAT. § 768.28(5); Nathan J. Winograd et al., *Damages for Death or Injury of an Animal*, ANIMAL LEGAL DEF. FUND (Feb. 2001), <http://www.aldf.org/resources/when-your-companion-animal-has-been-harmed/damages-for-death-or-injury-of-an-animal>.

95. See Complaint at 17, *Land v. Fla. Dep't of Corr.*, No. 4:14-CV-00347-WS-CAS (N.D. Fla. July 7, 2014); *infra* Section IV.B.

96. 42 U.S.C. § 1997e (2012); see also Complaint at 1–2, *Disability Rights Fla., Inc. v. Crews*, No. 1:14-CV-23323 (S.D. Fla. Sept. 9, 2014) (bringing a suit against the Department of Corrections under 42 U.S.C. § 1983 on behalf of mentally ill inmates that suffered abuse and discrimination).

97. 42 U.S.C. § 1997e(a); *The Prison Litigation Reform Act (PLRA)*, ACLU, [http://www.aclu.org/sites/default/files/images/asset\\_upload\\_file79\\_25805.pdf](http://www.aclu.org/sites/default/files/images/asset_upload_file79_25805.pdf) (last updated Nov. 2002).

98. 42 U.S.C. § 1997e(a).



without a prior showing of physical injury or the commission of a sexual act—as defined in [§] 2246 of [T]itle 18.”<sup>99</sup>

Finally, in accord with 28 U.S.C. § 1915, all prisoners must pay the filing fees in full without exception.<sup>100</sup> It is, however, permissible to pay the filing fee over time in monthly increments taken directly from the prisoner’s commissary account.<sup>101</sup> Importantly, punitive damages are recoverable under the Prison Litigation Reform Act, which is why—despite the detailed pre-suit requirements—filing suit in federal court is far superior to filing suit in state court, in terms of remedies.<sup>102</sup>

### C. *Punitive Damages*

In addition to the availability of punitive damages in federal court under the Prison Litigation Reform Act, the increase in privatization of state prison facilities has opened the possibility of suits against companies like the GEO Group.<sup>103</sup> Instances of egregious abusive behavior towards Florida inmates can be rectified through punitive damages if an inmate is lucky enough to be housed in a privately operated prison facility.<sup>104</sup> For example, Roy Hyatt was awarded \$1.2 Million as a result of the way he was treated at South Bay Correctional Facility.<sup>105</sup> Hyatt was awarded one million dollars for pain and suffering after being blinded in one eye when another inmate threw boiling water in his face.<sup>106</sup> The incident resulted from private prison company, GEO Group, allowing inmates in the South Bay Correctional Facility unfettered access to microwaves in their cellblocks.<sup>107</sup>

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99. *Id.* § 1997e(e).

100. 28 U.S.C. § 1915(b)(1) (2012); *The Prison Litigation Reform Act (PLRA)*, *supra* note 97.

101. 28 U.S.C. § 1915(b)(2); *The Prison Litigation Reform Act (PLRA)*, *supra* note 97.

102. *See* 42 U.S.C. § 1997e(a) (allowing inmates to file an action for prison conditions under 42 U.S.C. § 1983, or any other federal law, as long as available administrative remedies are exhausted); FLA. STAT. § 768.28(5) (2014) (establishing that punitive damages shall not be included in the liability of the state and its agencies and subdivision for tort claims).

103. *See* Jane Musgrave, *Injured Inmate Awarded 1.2 Million; Prison Firm Was Wrong to Give Access to Microwave, Jury Says*, PALM BEACH POST, Sept. 14, 2012, at B.1.; *Florida Prisoner Awarded \$1.2 Million for Burn Injuries*, PRISON LEGAL NEWS, June 2014, at 13, <http://www.prisonlegalnews.org/media/issues/06pln14.corrected2.pdf>.

104. *See* Musgrave, *supra* note 103.

105. *Id.*

106. *Id.*

107. *Id.*



On August 28, 2007, Roy Hyatt was watching football on television in the dayroom of his unit at the South Bay Correctional Facility.<sup>108</sup> Following an argument with Hyatt, fellow inmate Rodney Smith used a microwave to boil a container of water, which he then threw on Hyatt causing first and second-degree burns to around thirty percent of Hyatt's body.<sup>109</sup> The incident also resulted in the loss of the use of one of Hyatt's eyes.<sup>110</sup> Such negligent behavior—arguably far less negligent than murder committed at the hands of prison employees—warranted a jury finding of over a million dollars to restore justice to Hyatt.<sup>111</sup>

## V. WHISTLEBLOWER LAWS

Accountability is maintained in private and public Florida entities alike through whistleblowers that bring fraud, misconduct, and corruption to light.<sup>112</sup> In addition to the aforementioned horrors that have been exposed in publicly run incarceration facilities, “[t]ens of thousands of inmates nationwide are housed in privately run prisons.”<sup>113</sup> “The operators of those facilities—Corrections Corporation of America (“CCA”), the GEO Group (“GEO”), and Management and Training Corporation (“MTC”)—are all for-profit entities.”<sup>114</sup> Like most for-profit businesses, the private prison industry needs to turn a profit to satisfy investors.<sup>115</sup> Studies show that such necessities sometimes lead to cutting corners, over billing, or inadequate staffing.<sup>116</sup> “Each of [these] . . . scenarios are ideal for whistleblowers in . . . states that have enacted a false claims law.”<sup>117</sup>

Florida law relating to whistleblower protection is codified in section 448.102 of the Florida Statutes, which governs private whistleblower

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108. *Florida Prisoner Awarded \$1.2 Million for Burn Injuries*, *supra* note 103.

109. *Id.*

110. *Id.*

111. Musgrave, *supra* note 103, *see also* Seiler, *Inmate at Troubled Prison Killed After Confrontation with Guards*, *supra* note 17.

112. Nathan A. Adams IV, *Distinguishing Chicken Little from Bona Fide Whistleblowers*, 83 FLA. B. J. 100, 100 (2009).

113. *Corrections Corp of America Settles Claims — Whistleblower Post*, MAHANY & ERTL (Feb. 17, 2014, 3:02 PM), <http://www.mahanyertl.com/mahanyertl/2014/corrections-corp-america-settles-claims-whistleblower-post>; *see also* Musgrave, *supra* note 103; *Florida Prisoner Awarded \$1.2 Million for Burn Injuries*, *supra* note 103.

114. *Corrections Corp of America Settles Claims — Whistleblower Post*, *supra* note 113.

115. *Id.*

116. *Id.*

117. *Id.*

protection and section 112.3187 of the Florida Statutes, which governs public officers and employees.<sup>118</sup>

The legislative intent behind section 112.3187 of the Florida Statute is stated within the statute as,

It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.<sup>119</sup>

“To state a claim under the private Florida Whistleblower Act,” the employee must prove that the employee,

1) disclosed or threatened to disclose to an agency under oath and in writing; 2) an activity, policy, or practice of his or her employer; 3) that was in violation of law, rule, or regulation; 4) that the employer retaliated against his or her because of the disclosure or threat to disclose; and 5) he or she had given written notice to the employer of its activity, policy, or practice; 6) thereby giving the employer reasonable opportunity to correct the activity, policy, or practice.<sup>120</sup>

The most important distinction between the Florida laws regulating public and private entities is that “a public employee may state a claim under the act” so long as they *believe* that the actions of the public employer are illegal, while a private employee must actually “prove [that the] conduct is illegal.”<sup>121</sup> Furthermore, a private employee is required to give notice under oath, while a public employee can give notice in any form “as long as [the notice] is written and signed.”<sup>122</sup> Based on the publically known instances of horrific inmate abuse within Florida prisons, it is clear that public and

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118. Compare FLA. STAT. § 448.102 (2014), with FLA. STAT. § 112.3187 (2014).

119. FLA. STAT. § 112.3187(2).

120. Adams IV, *supra* note 112, at 100 (quoting Taylor v. Mem'l Health Sys., Inc., 770 So. 2d 752, 753–54 (Fla. 5th Dist. Ct. App. 2000)).

121. See *id.*

122. *Id.*

privately operated facilities alike are ripe for whistleblowers with the ability to meet the criteria under either Florida Statute.<sup>123</sup>

## VI. INVOCATION OF WHISTLEBLOWER PROTECTION IN FLORIDA PRISONS

“The [Whistleblower Protection Act] protects federal employees from retaliation after reporting a wrongdoing.”<sup>124</sup> “Whistleblowers may not be transferred, denied a raise, have their hours reduced, be fired, or be punished in any other way because they have exercised any right afforded to them under the law.”<sup>125</sup> “[A] whistleblower must have ‘original source’ information of a fraud involving a government-funded project.”<sup>126</sup> Because of the nature of the relationship between privately operated incarceration facilities and the federal government, “a private prison facility . . . [can] be the subject of a federal whistleblower [investigation].”<sup>127</sup> Despite the presence of legislation to support, if not encourage, those aware of wrongdoing to come forward, Florida prison employees have nevertheless been retaliated against.<sup>128</sup> John Pisciotta filed suit in 2011 against the Florida Department of Corrections for “back pay, reinstatement of his job, damages, and attorney fees” under Florida’s whistleblower act.<sup>129</sup> On May 21, 2008, “[Pisciotta] was one of eight guards involved in the cell extraction of [inmate] Kelly Bradley” that left “Bradley’s eye . . . hanging from its socket.”<sup>130</sup> Bradley was an inmate at Charlotte Correctional Institution and “Pisciotta was the only prison employee to report that [fellow] guard, William . . . Wilson”, was responsible for the catastrophic injuries sustained by Bradley.<sup>131</sup> Pisciotta was not praised for his strength; rather, the Florida Department of Corrections retaliated against him by falsifying an incident of abuse.<sup>132</sup>

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123. See FLA. STAT. §§ 112.3187(5), 448.102(1–3); Crystal Sheppard, *After Horrific Death in Florida Prison, Investigator is Denied Whistleblower Protection*, CARE2 (July 20, 2014, 11:30 A.M.), <http://www.care2.com/causes/after-horrific-death-in-florida-prison-investigator-is-denied-whistleblower-protection.html>.

124. Sheppard, *supra* note 123.

125. *Id.*

126. *Corrections Corp of America Settles Claims — Whistleblower Post*, *supra* note 113.

127. *Id.*

128. See *Former Florida Prison Guard Sues for Reinstatement Under Whistleblower Act*, PRISON LEGAL NEWS, Oct. 2011, at 34, <http://www.prisonlegalnews.org/media/issues/10pln11.pdf>.

129. *Id.*

130. *Id.*

131. *Id.*

132. See *id.*

A. *Randall Jordan-Aparo*

Randall Jordan-Aparo was a Florida inmate who was “gassed to death in his cell over the course of five hours.”<sup>133</sup> “Aparo . . . was serving [eighteen] months . . . at Franklin Correctional Institution in Carabelle, Florida [for check fraud].”<sup>134</sup> After denying Aparo’s requests for medical treatment, “he threatened to report [the guards] for [medical] neglect,” at which point, “they placed him in solitary confinement.”<sup>135</sup> He remained in solitary confinement until he subsequently died five days later after guards repeatedly sprayed gas into his cell, which led to his ultimate suffocation.<sup>136</sup> “In the hours before his death, he pleaded with the guards and . . . prison[] nurses to take him to the hospital because he [could not] breathe.”<sup>137</sup> “When his body was found, he was coated in yellow residue, his face was pressed up against the bottom of the steel door and a Bible was next to his head.”<sup>138</sup> While investigating common allegations of prison corruption, Florida Department of Corrections inspector, Aubrey Land, found that Randall Jordan-Aparo “was the victim of force or discipline made either maliciously or sadistically for the purpose of causing harm and for retaliation for threatening to bring a lawsuit.”<sup>139</sup> Land is of the impression that Aparo “never made it home because they let him [just] lay there and die.”<sup>140</sup>

B. *Land v. Florida Department of Corrections Complaint*

Following the death of Randall Jordan-Aparo, Florida Department of Corrections inspector Aubrey Land and other colleagues were denied whistleblower status and faced retaliation as a result of exposing the brutal death.<sup>141</sup> Despite thirty-five years of experience in the industry, Aubrey Land was shocked by the events that unfolded involving Aparo.<sup>142</sup> In addition to the denial of whistleblower protection as a means of retaliation, Land and his colleagues were the subject of an internal affairs investigation

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133. Flatow, *supra* note 24; see also Brown, *Inmate Deaths Prompt Investigations*, *supra* note 9.

134. Sheppard, *supra* note 123.

135. *Id.*

136. *Id.*

137. Brown, *Inmate Deaths Prompt Investigations*, *supra* note 9.

138. *Id.*

139. Flatow, *supra* note 24.

140. *Id.*

141. Brown, *Inmate Deaths Prompt Investigations*, *supra* note 9; Sheppard, *supra* note 123.

142. Sheppard, *supra* note 123.

based on false and unwarranted allegations.<sup>143</sup> After being denied whistleblower status, Florida's Chief Inspector General, Melinda Miguel, referred them to the State Commission on Human Relations to file a complaint against their boss, Florida Department of Corrections Inspector General Jeffery Beasley.<sup>144</sup> As a result, Aubrey Land, David Clark, Doug Glisson, and John Ulm filed a complaint in the United States District Court for the Northern District of Florida against the Florida Department of Corrections as well as other defendants in their individual capacities.<sup>145</sup>

Aubrey Land, Doug Glisson, and John Ulm were acting within the course and scope of their employment while investigating a variety of prison guard misconduct at Franklin Correctional Institute.<sup>146</sup> During the Cassidy Hill investigation, the Plaintiffs became aware of the aforementioned situation regarding Randall Jordan-Aparo.<sup>147</sup> Throughout their investigation, the investigators obtained "evidence that inmate Aparo died as a result of force or discipline made either maliciously or sadistically for the very purpose of causing harm by the [Florida Department of Corrections] employees in retaliation for Aparo threatening to sue Defendant Florida Department of Corrections for Florida Department of Correction's failure to take Aparo to a hospital for treatment."<sup>148</sup> Such evidence included statements from inmates as well as video and audio footage shot on the date of Aparo's death showing that he was in extreme physical danger in conditions that were not properly documented in the 2010 Aparo Death Investigation; in fact, such conditions were completely falsified within the report.<sup>149</sup> The Complaint additionally alleges "that Lieutenant Austin . . . caused Sergeant James Hamm to sign a Use of Force Report [that] both [officers] knew [was] [blatantly] false."<sup>150</sup>

Furthermore, this report failed to mention that Aparo suffered from a rare lung disease that had previously confined him to the infirmary and that the use of chemical agents leading to Aparo's death was cruel and unusual punishment within the confines of the Eighth Amendment.<sup>151</sup> In the end, "[A]paro was left to suffocate in his contaminated cell without medical intervention for approximately five hours and his death pose indicated his

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143. *Id.*

144. Brown, *Inmate Deaths Prompt Investigations*, *supra* note 9.

145. Complaint at 1, Land v. Fla. Dep't of Corr., No. 4:14-CV-00347-WS-CAS (N.D. Fla. July 7, 2014).

146. *Id.* at 9.

147. *Id.* at 9–10.

148. *Id.* at 10.

149. *Id.* at 10–13.

150. Complaint at 11, Land (No. 4:14-CV-00347-WS-CAS).

151. U.S. CONST. amend VIII; Complaint at 11, Land (No. 4:14-CV-00347-ws-cas).

mouth and nose were lodged in the small gap in the door of his isolation unit, attempting to breathe.”<sup>152</sup>

Based on principles of sovereign immunity granted to the Florida Department of Corrections as well as the Inspector General of the State of Florida, the Plaintiffs in this suit solely sought whistleblower protection including injunctive relief preventing continuance of retaliation in the form of false and unfounded internal affairs complaints.<sup>153</sup> In terms of the Complaint against Defendants Beasley, Sumpter, Miguel, and Case, the Plaintiffs sought “all compensatory damages allowable pursuant to 42 U.S.C. 1983” for retaliation against the Plaintiffs for disclosing “matters of substantial public concern” in violation of the First Amendment and the Petition Clause.<sup>154</sup>

On March 4, 2015, the Northern District Court of Florida granted the Defendants’ Motion to Dismiss the Plaintiffs’ First Amended Complaint—as to Plaintiffs Aubrey Land, David Clark, Doug Glisson, John Ulm, and James Padgett—with prejudice for failure to state a claim under the First Amendment.<sup>155</sup>

## VII. CONCLUSION

Lack of criminal prosecution of offending employees, limited civil liability for prisoners in state courts, and denial of whistleblower protection serve as the framework for the travesty that is the current Florida prison system.<sup>156</sup>

Interestingly, Secretary of the Florida Department of Corrections, Michael D. Crews, issued a Press Release on August 20, 2014, in response to the media coverage of recent inmate deaths in Florida facilities.<sup>157</sup> Secretary Crews specifically announced the expansion of Crisis Intervention Training programs that will teach correctional officers the right and wrong ways to handle inmates suffering from mental illness.<sup>158</sup> Perhaps most importantly, he announced that the Florida Department of Corrections would be “developing a clear and consistent policy that will outline the initiation of disciplinary action up to and including dismissal against any employee

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152. *Id.* at 13.

153. *Id.* at 17–18.

154. *Id.* at 18–19; *see also* U.S. CONST. amend. I.

155. Order Granting Defendant’s Motion to Dismiss at 16, *Land v. Fla. Dep’t of Corr.*, No. 4:14-CV-00347-WS-CAS (N.D. Fla. Mar. 4, 2015).

156. *See supra* Section IV.B., Part VI.

157. Press Release, Michael Crews, Sec’y, Fla. Dep’t of Corr., Everything We Do Is Moving Us Down a Path Toward Safer Facilities and a Safer Florida (Aug. 20, 2014), <http://www.dc.state.fl.us/secretary/press/2014/08-20-Crews.html>.

158. *Id.*

whose conduct violates any criminal statute.”<sup>159</sup> Promisingly, a criminal conviction will not be a condition precedent to enforcement of disciplinary action.<sup>160</sup> Finally, the Florida Department of Law Enforcement has been granted full investigative authority on the eighty-two non-natural deaths currently being investigated by FDOC inspectors.<sup>161</sup>

While it appears that the Florida Department of Corrections has developed good intentions in the wake of the media attack highlighting inmate brutality, planning and implementation are very different concepts.<sup>162</sup> For the Florida prison system to rise up out of the ashes, Florida Department of Corrections insiders must be afforded whistleblower protection.<sup>163</sup> Denial of whistleblower protection to Aubrey Land, David Clark, Doug Glisson, and John Ulm, in regards to the Randall Jordan-Aparo case, represents the height of the Florida prison problem.<sup>164</sup> In addition to the Plaintiffs listed in the Land Complaint, a Florida Department of Corrections probation officer was also denied protection upon report of suspicious aspects of Aparo’s death before being fired for *absenteeism*.<sup>165</sup> To ensure unfettered access to the statistics and details of inmates who die within prison walls from unnatural causes, the Florida Department of Corrections must do more than issue a press release.<sup>166</sup>

As stated by American Civil Liberties Union of Florida spokesperson Baylor Johnson, “[t]he only way to fix the toxic culture in the Department of Corrections is to hold people responsible for their actions—including criminal charges for criminal behavior.”<sup>167</sup> Johnson further warns that any future regulation will only be effective if enforced by “people committed to rigorous oversight and capable of resisting political pressure.”<sup>168</sup> Perhaps most importantly, as eyewitnesses to the interworking of the Florida prison system, public and private corrections employees must be guaranteed protection under the Florida Whistleblower Protection statutes—to the extent that their conduct qualifies—to create a system of

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159. *Id.*

160. *Id.*

161. *Id.*

162. Press Release, Michael Crews, *supra* note 157.

163. See Shepard, *supra* note 123; *supra* Part VI.

164. See Complaint at 7–9, Land v. Fla. Dep’t of Corr., No. 4:14-CV-00347-WS-CAS (N.D. Fla. July 7, 2014).

165. Gary Fineout, *Report: Scott’s Top Inspector Told About Cover-Up*, ASSOCIATED PRESS, Sept. 26, 2014.

166. See Press Release, Michael Crews, *supra* note 157.

167. Chakraborty, *supra* note 93.

168. *Id.*

accountability free from appalling abuse and violations of fundamental constitutional rights of Florida inmates.<sup>169</sup>

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169. See FLA. STAT. §§ 112.3187, 448.102 (2014).