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**Kevin D. Buchanan**  
**Eleventh Judicial District**  
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October 15, 2018

The undersigned was assigned an investigation regarding allegations of abuse at the Kay County Correctional Center by the Attorney General's Office on June 18<sup>th</sup>, 2018 and received the reports and other information on the 21<sup>st</sup> of June. The reports consist of numerous interviews of staff and inmates at the Correctional Center, shift logs, videos, and the policy and procedures manual. The OSBI and an Investigator for the Kay County District Attorney's Office are to be commended for the thoroughness of their inquiries. After a thorough review and some additional interviews were conducted I come to the following conclusions:


The investigation centers on two primary events. The first is a form of confinement for punishment which has been labeled as both "stretching" and "crucifixion". These labels are exaggerations of the actual event. This practice involved a prisoner sitting on a bench handcuffed on either side so that the hands cannot touch the body. The hands of the prisoner are resting on the bench on either side. In a video of the practice, the prisoner is seen crossing his legs comfortably, is given a bathroom break at the one hour mark and then released twenty minutes later. In reviewing the policy manual, this practice appears to be prohibited. That is different from a violation of State Statute. Two statutes, both misdemeanors, arguably apply. Title 57 OS 9 prohibits "cruel or inhuman" punishment and Title 57 OS 31 prohibits "corporal" punishment. The practice described could arguably fit the definition of those phrases, and could also be found by six Kay County jurors in a misdemeanor trial to not. Other than the persons actually responsible for putting on the handcuffs, anyone else will claim to have no specific knowledge of the practice or not to have recognized what was occurring if they happened to witness it.

The second event in question involved a Jail Administrator accused of ordering two African-American men placed in an area populated with white gang members. This resulted in the injury of one of the African-American inmates requiring stitches. A subsequent investigation should have been ordered and the injuries of the inmate reported to the proper authorities. Neither appears to have been done. The Jail Administrator, Matthew Ware, was blamed for the decision to move the two inmates. He has been terminated from the facility. The Director, Don Jones, has given conflicting statements about his knowledge of the incident. Video of the incident cannot be found, but its existence at one time can be inferred by written conversations between Director Jones and another. Unfortunately, the failure to investigate the incident and missing video will be blamed upon a now deceased employee who can neither confirm nor deny Ware's or Jones' responsibility for either. Again, the decision to move the two

individuals would be judged by either the "cruel or inhuman" or "corporal punishment" standards. Clearly, it was not the decision to move them alone, but the additional actions of other inmates, that brought about the injury that resulted.

The standard that must be met in prosecuting either of the above situations is "beyond a reasonable doubt". In the instance of confining the inmate to the bench with handcuffs, jurors will be asked whether the video evidence meets the definitions of "cruel or unusual" punishment or "corporal" punishment. Whether that phrase or word applies to this circumstance is not entirely clear, and asking a jury to find beyond a reasonable doubt that they do will be difficult. In the instance of moving two African-Americans to the white gang section of the facility, I will not argue that a bad outcome was predictable. The person identified as primarily responsible has been terminated. Credible evidence linking the Director, Don Jones, to knowledge of the decision **before** it happened is not available. Evidence of the failed or nonexistent investigation and missing video of the event is not punishment in any form inflicted on any inmate.

Based on the foregoing, I am declining to file charges relating to these incidents. I do feel compelled to comment on what is an obvious culture from the leadership in the facility to cover up mistakes or outright improper behavior and/or policy violations. Most importantly, employees who have come forward and pointed out such events in an effort to protect inmates or the facility have been met with demotion or termination. This attitude is not in the best interest of the Facility or the Citizens of Kay County. Learning from and fixing mistakes and being transparent in the process is always the better course.



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