

## **Transparency Obscured**

### **Anchorage Correctional Complex, January 27, 2015: Larry Kobuk**

The video of Larry Kobuk, released by Dean Williams on January 6, 2016, contained images of Correctional Officers performing required duties as directed by Department of Corrections' Policy and Procedure and in accordance with their training. Without educating the public, or even mentioning the policies that govern Officers' actions, Dean Williams' publication and analysis of the video in his Administrative Review is deceptive. Dean Williams' insinuation that the Officers in the video are somehow responsible for Mr. Kobuk's death is an unprecedented defamatory attack on the Officers and their families and it puts all Officers at risk.

Contrary to Dean Williams' statement that *"There was no personnel investigation in this case"*, a thorough investigation was conducted. The Department of Corrections had reviewed the incident and determined that the *"methods employed during the restraint process were not found to be excessive."* An e-mail to DOC employees on January 7, 2016 stated that *"Acting Commissioner Walt Monegan would like to assure the public that an investigation into this inmate death did occur immediately and the criminal investigation into the incident was completed. The Department of Law reviewed the criminal investigation and the Office of Special Prosecution and Appeals (OSPA) determined there was no criminal activity on the part of the Correctional Officers."* Additionally, in response to an inquiry by the Alaska Bureau of Investigation, the Attorney General's Office on August 17, 2015 concluded that *"The State has determined that the criminal prosecution of the four correctional Officers is unwarranted"*. Dean Williams should have known about all of these investigations and either purposefully deceived the public or his investigation was so inadequate that he made false statements before verifying their accuracy.

On January 27, 2015, Mr. Kobuk was arrested on charges of first-degree vehicle theft, fourth-degree theft, driving with a suspended license, and reckless driving. A later blood toxicology test came back positive for ethanol, amphetamine, phenobarbital, nordiazepam, and chlodiazepoxide. Police Officers brought him to the Anchorage Correctional Complex where he remained aggressive toward Officers during his initial booking process. In the surveillance video of the incident, which was altered to remove the audio component before it was given to the public, Mr. Kobuk continually threatens to kill Officers. Had the audio not been removed the public could have heard Mr. Kobuk scream *"kill the cop," "fucking splatter their brains," "put a bullet in their fucking head," "I am going to shoot you in the fucking head"* and multiple other threats and curses.

Contrary to Dean Williams' statements concerning "transparency", it can only be assumed that these derogatory comments did not fit into Dean Williams' narrative of the death so he, or someone, left them out. This seems to contradict his statements about wanting to *"be as honest as possible about what happened"* when he released the video. Witnesses described Mr. Kobuk as agitated and belligerent during the intake process and he became so hostile with the nurse that, for

safety reasons, he was released to the Officers to be searched and booked into the institution. The question is, who altered the video and why?

Dean Williams' Administrative Review is deceptive and disingenuous when it reads, "*There does not appear to have been a clear and immediate safety threat such as an assault or attempted escape to warrant the level of force used.*"<sup>1</sup> A qualified investigator would have first reviewed policy or, at least, reviewed the already completed investigations before making such an inaccurate statement. DOC P&P 811.04 requires that "*A prisoner not able to secure bail or other authorized release must be strip searched before being housed in the institution.*"<sup>2</sup> Even though Dean Williams ignored or overlooked this policy, the Attorney General's office investigation did not, stating "*DOC requires all inmates to be "dressed out" prior to being released into general population.*"<sup>3</sup> This means the inmate must remove any street clothes and change into clothing provided by DOC. As explained by DOC training personnel, both for the safety of the employees within the facility and for the safety of other inmates, the DOC requires each inmate to be thoroughly searched before being placed into the general population and this changing of clothing is part of that process.<sup>4</sup> If the audio had not been deleted, Dean Williams statement about there being no, "*...immediate safety threat such as an assault ...*" would have seemed ridiculous.

In stark contradiction to written policy, Dean Williams implied that Officers should not have removed Mr. Kobuk's clothing when he wrote, "*Policy 811.05 infers that a prisoner's property should not be turned over to law enforcement without a search warrant. However, in practice there was an understanding that the department aims to help law enforcement. Subsequent to Mr. Kobuk's death, the department issued a memo calling for staff to adhere a stricter interpretation of the policy.*"<sup>5</sup> DOC Policy requires, regardless of a Police Officer's request for evidence, that "*When a prisoner is remanded to a correctional facility, a property inventory is to be completed during the booking process.*"<sup>6</sup> The same policy directs that "*weapons, combustible liquids, electronic devices, contraband items, etc., shall not be accepted and shall be turned over to the remanding authority at time of admission.*"<sup>7</sup> Only later in this policy does it mention anything about search warrants, and the context is that a search warrant is required once the property has been received into Department custody.<sup>8</sup>

The amount of force used was reasonable and was in accordance with training and the standard practice throughout the United States. The nurse stood by as a precaution and the remanding Police

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<sup>1</sup> Dean Williams' Administrative Review, November 13, 2015, Page 13

<sup>2</sup> Department of Corrections Policy and Procedure 811.04, Procedures F.1

<sup>3</sup> Alaska Department of Public Safety Investigation conducted by Attorney General Office 2015/08/17

<sup>4</sup> Alaska Department of Public Safety Investigation conducted by Attorney General Office 2015/08/17 Page 3

<sup>5</sup> Dean Williams' Administrative Review, November 13, 2015, Page 13

<sup>6</sup> Department of Corrections Policy and Procedure 811.05, VII, A

<sup>7</sup> Department of Corrections Policy and Procedure 811.05, VII, A.2

<sup>8</sup> Department of Corrections Policy and Procedure 811.05, VII, C.

Officers were there to assist as well. What was shown on the video was the safest method to take a non-compliant remand's clothing prior to placing him into the institution's general population. The methods employed by the Officers has prevented an incalculable number of injuries in the past and has prevented contraband, weapons, and drugs from entering the facility.

The Attorney General's investigation also said *"As the State Medical Examiner explained, the physical restraint used on Mr. Kobuk is not usually fatal."*<sup>9</sup> Dean Williams went on to state that, *"An inmate with a reported heart condition might warrant decreased force or more opportunities to comply without use of force."* Again, with statements such as these, Dean Williams proves that he did not conduct a thorough investigation. The Attorney General analysis states *"...the correctional officers were unaware of Mr. Kobuk's methamphetamine toxicity."*<sup>10</sup> One national authority that reviewed the video stated.

*"I have reviewed the video released by the Governor's office. I can find no inappropriate behavior or excessive force on behalf of the staff. I see no aggression in their actions or in their response to the inmate[']s decision to not remove his clothing. The take down was standard operating procedure, using the minimal force needed, as was the removal of the inmates clothing. The Officers performed professionally given the environment, existing policy [and] the inmates decision to not cooperate. It is always unfortunate when an incident like this occurs, however I can find no fault with the Officers performance."*

*Brian Dawe, American Correctional Officer Intelligence Network*

If Dean Williams had contacted any national or local corrections experts, or had performed more than a superficial review, he would have known the Officers acted appropriately. In what was supposed to be an impartial investigation, Dean Williams did not even speak to the Officers shown in this video. What Dean Williams did do was ignore the investigations conducted by the DOC and the Attorney General's office. He then presented false information in an official State document by stating that no investigation had been completed. Dean Williams also knew that releasing the videos, with the audio removed, and a false narrative of excessive force, would generate strong reaction from the public he misinformed.

It is a tragedy for everyone involved any time someone dies while incarcerated. It is even more tragic that Mr. Kobuk's family was dragged into the press because of the false narrative presented to them by Dean Williams. For Dean Williams to talk to the Kobuk family, and then for the family to come out of the meeting and publically state that the Correctional Officers involved should be criminally charged was devastating not only to the Correctional Officers involved, but Correctional Officers statewide. Dean Williams needed the family to agree to release the video, but for a family who had lost a son to be used for publicity is inappropriate.

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<sup>9</sup> Alaska Department of Public Safety Investigation conducted by Attorney General Office 2015/08/17 Page 6

<sup>10</sup> Alaska Department of Public Safety Investigation conducted by Attorney General Office 2015/08/17 Page 6