



**Commission of
Correction**

**Final Report of the
New York State Commission of Correction:**

In the Matter of the Death of

**Delmus Tanner (16B0069),
an incarcerated individual of the
Greene Correctional Facility**

June 2023

**To: Honorable Daniel Martuscello
Acting Commissioner
NYS Department of Corrections
And Community Supervision
The Harriman State Campus
1220 Washington Avenue
Albany, New York 12226**

Allen Riley
Chairman

Yolanda Canty
Commissioner

GREETINGS:

WHEREAS, the Medical Review Board has reported to the NYS Commission of Correction pursuant to Correction Law, section 47(1)(d), regarding the death of Delmus Tanner who died on November 13, 2018 while an incarcerated individual in the custody of the NYS Department of Corrections and Community Supervision at the Greene Correctional Facility, the Commission has determined that the following final report be issued.

FINDINGS:

1. Delmus Tanner was a 38-year-old male who died on 11/13/2018 as a result of Anoxic Encephalopathy resulting from a strangulation assault from another incarcerated individual that occurred on 11/9/2018 while in the custody of the New York State Department of Corrections and Community Supervision (NYS DOCCS) at the Greene Correctional Facility (CF). Tanner was in the Special Housing Unit (SHU) 200 with another incarcerated individual who assaulted and strangled Tanner with a shoelace. The same incarcerated individual (II), [REDACTED], had attempted to strangle a different incarcerated individual while at the Washington CF in October 2018.

2. [REDACTED]

3. [REDACTED]

In the instant offense, in July 2015, Tanner possessed and sold heroin, crack cocaine, and Suboxone to a confidential informant on numerous occasions. Tanner was sentenced to five years in NYS DOCCS for Attempted Criminal Sale Controlled Substance 3rd Degree.

4. In January 2016, Tanner was received in NYS DOCCS at Wende CF reception and was transferred to Elmira CF reception. In March 2016, Tanner was transferred to Groveland CF. In September 2016, Tanner was transferred to Cayuga SHU. In November 2016, Tanner was transferred to Franklin CF.

5. [REDACTED]

6. In December 2017, Tanner was transferred to Riverview CF. In April 2018, Tanner was admitted to Riverview SHU pending protective custody (PC) for self-reported threats from another incarcerated individual. Tanner was denied admission to PC. On 5/8/18, Tanner reported that he was threatened again and on 5/9/18, Tanner was placed in the SHU. On 5/16/18, Tanner was granted PC for reported threats from another incarcerated individual who claimed that Tanner had "ratted" out the "Bloods" gang for putting a needle in the officer's chair.

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. In July 2018, Tanner was transferred to Washington CF.

14. [REDACTED]

15. [REDACTED]

16. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED].
17. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
18. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
19. [REDACTED]
- [REDACTED]
- [REDACTED].
20. [REDACTED]
- [REDACTED].
21. On 10/24/18, Tanner was transferred to Greene CF SHU 200 following a Tier 3 infraction for drug use. Tanner's sanctions included 63 days in SHU with loss of packages, commissary, and phone. Tanner was placed in SHU A2-30. Per the Office of Special Investigations' (OSI) report Tanner shared his cell with II [REDACTED] II [REDACTED]. was housed in the SHU 200 following a misbehavior report for attempting to strangle another II at the Washington CF in the D1 Dorm. Per the Inmate Misbehavior Report written at the Washington CF, on 10/1/18, II [REDACTED] was found kneeling on the chest of another II and had a shoestring wrapped around the other II's neck choking him. II [REDACTED]. would not comply with the officer's orders to stop. The response team arrived and II [REDACTED]. then complied with the instructions. II [REDACTED]'s sanctions included 90 days in the SHU with loss of recreation, packages, phone, and commissary. There was no prosecution related to that assault due to the victim not willing to cooperate with law enforcement.
22. [REDACTED]
- [REDACTED].
23. On 11/9/18 at 4:05 p.m., Tanner and II [REDACTED] received their dinner meal feed up trays. At 4:14 p.m., Corrections Officer (CO) A.L. was alerted by other IIs yelling to a noise disruption in the A2 gallery of the S block. CO A.L. arrived at Tanner's cell and observed II [REDACTED] standing at the cell door. II [REDACTED] backed away from the door and the CO A.L. noted Tanner laying on the floor face down and unresponsive. CO A.L. notified the sergeant (Sgt.) to respond. II [REDACTED]. was placed in the recreation pen outside the cell. At 4:17 p.m., CO C.B. initiated CPR on Tanner. At 4:18 p.m., Sgt M.R. called a medical response. At 4:19 p.m., the AED was applied without shock advised. At 4:18 p.m., EMS was activated and CPR was in progress. Registered Nurse (RN) [REDACTED]. arrived. At 4:36 p.m., per the ambulance report, EMS arrived [REDACTED]
- [REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] EMS left enroute to Albany Medical Center Hospital (AMCH) at 5:13 p.m.

24. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED].

25. There were two notes found and marked as state police evidence. One note read "Do I have 2 thumbs up on Bunkie??? give me a train whistle I cant tell if I have a so I have bad reading give me a thumbs at lunch, I think I had one last week". The second note read "Its not like I have a gun. I want to do it as nice as possible without it backfires on me if I did It would have been done already better tools make the job quicker!!!! It will be done tonight !!!"

26. In October 2022, II [REDACTED]. plead guilty to Murder 2nd Degree. II [REDACTED]. was sentenced on 1/24/23 to 17 years to Life in NYS DOCCS.

27. A review by the Medical Review Board and Commission revealed that compliance with the Commission's Minimum Standard related to double ceiling was not met in this case. Pursuant to 9 NYCRR §7621.7(f)(1-5):

Each inmate shall undergo a screening and risk assessment, including a review of medical records, prior to being assigned to a double occupancy housing unit originally designated and constructed for double occupancy. Only those inmates determined by the department to be suitable shall be assigned to double occupancy housing units originally designated and constructed for double occupancy. The department shall adopt written policies and procedures, which shall be filed with the commission, setting forth the standards for determining an inmate's suitability for assignment to a double occupancy housing unit originally designated and constructed for double occupancy. Such standards shall include, but not be limited to, the following factors:

- (1) the physical characteristics of the inmate;*
- (2) the mental state of the inmate;*
- (3) the health of the inmate;*
- (4) the inmate's disciplinary and behavioral records; and*
- (5) the inmate's criminal history and the nature of the offense(s) for which the inmate is currently incarcerated.*

DOCCS Directive 4003B III(B)(4)(c) Selection of Incarcerated Individuals for Double Cell Housing requires per the regulation an assessment of an individual to determine if factors exist that would preclude such assignment to a double occupancy cell. Section 4.c. History and Behavior states: ...Incarcerated Individuals with assaults on other incarcerated individuals by use of contraband weapons or where the assaults resulted in serious physical injury to the victims.

The Medical Review Board opines that the known prior incident with II [REDACTED]. was a serious assault by strangulation that should have precluded the placement of II [REDACTED]. in a double cell occupancy special housing unit.

ACTIONS REQUIRED:


TO THE ACTING COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION:

A review shall be completed in regards to 9 NYCRR §7621.7(f)(1-5) and Directive 4003B to determine the appropriateness of placing an incarcerated individual who had recently assaulted another incarcerated individual by strangulation with shoelace in a double occupancy SHU cell.

A report of the findings and any corrective actions taken shall be forwarded to the Board upon completion.

In a response dated 5/30/23 to the Commission's preliminary, the Deputy Commissioner of Health Services indicated that a review was conducted regarding the directive and that the review process in this instance by supervisors at Greene CF was not within the Department's expectations. The staff at Greene CF were instructed on proper protocols for double cell placement. Additionally, the protocols in the cited directive will be updated to indicate that the Deputy Superintendent of Security, or designee not below the rank of Captain shall conduct a risk assessment.

WITNESS, HONORABLE ALLEN RILEY, Chairman, NYS Commission of Correction, Alfred E. Smith State Office Building, 80 South Swan Street, 12th Floor, in the City of Albany, New York 12210 on this 28th day of June, 2023.



Allen Riley
Chairman
Commission of Correction

AR: DC:jdb
2018-M-0152
June 2023

cc: Dr. Carol Moores, Deputy Commissioner Chief Medical Officer
Bryan Hilton, Assistant Commissioner for Mental Health
Superintendent Brandon Smith, Greene CF