



**Commission of
Correction**

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

In the Matter of the Death of

**Lawrence McCowen (03708461M),
an incarcerated individual of the
Elmira Correctional Facility**

December 21, 2021

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

Allen Riley
Chairman

Thomas J. Loughren
Commissioner

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 Lawrence McCowen who died on July 13, 2018, while an incarcerated individual in the custody of the NYS Department of Corrections and Community Supervision at the Elmira Correctional Facility, the Commission has determined that the following final report be issued.

FINDINGS:

1. Lawrence McCowen was a 61-year-old African American, Non-Hispanic male who died on 7/13/18 from a suicidal hanging while in the custody of the Department of Corrections and Community Supervision (DOCCS) at the Elmira Correctional Facility (CF). The Medical Review Board has found that there was a failure by DOCCS medical staff to properly follow procedure for referrals to mental health during facility transfer screening.
2. McCowen was born in Brooklyn, NY. McCowen was single with no children and had a high school equivalency diploma. McCowen was a poor historian and didn't share much information regarding his upbringing and family. During the admission interview to DOCCS on 2/9/90, McCowen was noted to be "superficially cooperative" and denied having any enemies, medical history, psychiatric history or history of alcohol or drug use. McCowen denied having had a spouse, parents, brothers, sisters or children. After denying all family members, McCowen had asked DOCCS staff for a brother and codefendant's DIN number and listed a mother as next of kin. McCowen was unemployed and spent a large portion of life in and out of prison.

3. [REDACTED]

[REDACTED]

4. In the instant offense, on 4/10/01, McCowen was convicted of Sexual Abuse 1st Degree: Contact By Forcible Compulsion, and sentenced to 25 years to life; Sodomy: Intercourse Forcible Compulsion and sentenced to 25 years to life; Assault 2nd Degree: Cause Injury to Non-Participant During Commission of a Felony and sentenced to 12 years to life; Petit Larceny and sentenced to 1 year; and Menacing 3rd Degree and sentenced to 3 months. McCowen was sentenced in 2001 in total for all crimes to was 75 years to life in prison.

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. On 12/8/17., McCowen was transferred from Southport CF to Elmira CF. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] . RN [REDACTED] . failed to assure a proper referral to mental health was completed and failed to comport with requirements of New York State Department of Corrections and Community Supervision Division of Health Services POLICY Title: Inmate Health Records Section: Health Record Services Number 4.01(B)(1)(b) which provides that Health care encounters will be documented at the time of their occurrence. The inmate's full name and DIN, the provider's signature, provider code and credentials, and the date/time (including a.m. or p.m.) of the encounter must be recorded. If a form has several spaces for entries (e.g. AHR Progress Note 3105) each entry will have the aforementioned information documented within each section.

[REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. [REDACTED] IS a violation of NYS DOCCS Health Services Policy 7.18(C)(1) which provides that When an inmate refuses health care, the health care provider who counseled the inmate will complete and sign Form 3195 "Refusal of Medical Examination and/or Treatment". The inmate must sign Form 3195 and a witness must sign the form. If the inmate refuses to sign, a second witness must sign the form. The witnesses need not be a health care provider. The counseling must be documented by the provider (Physician, Physician Assistant, Nurse Practitioner, Registered Nurse, Dentist, Dental Hygienist) on Form 3105 "Ambulatory Health Care Record Progress Note" (AHR) or Form 3178 "RMU/Infirmary Progress Notes".

13.

[REDACTED]

14.

[REDACTED]

15.

[REDACTED]

16.

[REDACTED]

17.

[REDACTED]

18.

[REDACTED]

19.

[REDACTED] No refusal form was found

for this occasion nor where there any AHR notes entered in accordance with NYS DOCCS Health Services Policy 7.18 (C)(1). or NYS DOCCS Health Services Policy 7.18(D)

20. [REDACTED]

21. [REDACTED]

22. [REDACTED]

23. [REDACTED]

. The Medical Review Board has found that there was a pattern of failures to appropriately document McCowen's medical refusals in accordance with *NYS DOCCS Health Services Policy 7.18 (C)(1) and NYS DOCCS Health Services Policy 7.18 (D)*.

24. On 7/13/18 at 3:42 p.m., CO B.A. was making mail delivery rounds and noticed McCowen's cell had a sheet hanging blocking the view into the cell. McCowen did not respond when CO B.A. told McCowen to remove the sheet multiple times. CO B.A. opened the cell and moved the sheet and discovered McCowen hanging by a brown personal extension cord tied around the neck with the other end tied to the cell radiator. CO B.A. called a medical response via facility radio. Sgt. R.F., CO K.F and CO J.W. responded. CO K.F. lifted McCowen while CO J.W. cut the extension cord approximately two inches above the knot and removed the remaining cord from McCowen's neck. McCowen was placed on the ground and then transferred to a stretcher. McCowen was not breathing and had no pulse. CO K.F. started chest compressions outside the cell on four gallery.

25. At 3:43 p.m., CO D.G. responded to the scene with an AED and applied it with the assistance of RN [REDACTED] at 3:44 p.m. [REDACTED]

26. [REDACTED]

27. [REDACTED]

28.

[REDACTED]

29.

[REDACTED]

ACTIONS REQUIRED:

TO THE DEPUTY COMMISSIONER OF THE NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, DIVISION OF HEALTH SERVICES:

1. The Deputy Commissioner shall conduct a review into the pattern of the incomplete DOCCS refusal forms which failed to comport with the requirements of *NYS DOCCS Health Services Policy 7.18(C)* in that the refusal forms did not contain a witness's signature, what treatment was refused, and did not correspond with a complete AHR note.
2. The Deputy Commissioner shall conduct a review regarding why there was not a corresponding AHR note entered by a DOCCS provider which indicated that McCowen was counseled for the refusal of the cystoscopy at the Harrison Center on 2/13/18 nor a corresponding AHR note on 6/22/18 for a refusal of a podiatry appointment in accordance with *NYS DOCCS Health Services Policy 7.18(D)*.
3. The Deputy Commissioner shall conduct a review of McCowen's transfer admission screening into Elmira CF and why a proper referral to mental health was not completed on 12/8/17.

A report of the findings and corrective actions taken shall be provided to the Medical Review Board upon completion.

In a response to the Commission's preliminary report dated 11/10/21, DOCCS Deputy Commissioner for Health Services indicated that the requested reviews were completed with corrective action(s) taken.

WITNESS, HONORABLE THOMAS J. LOUGHREN, Commissioner, 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 21st day of December, 2021.

A handwritten signature in black ink, reading "Thomas J. Loughren", written over a horizontal line.

Thomas J. Loughren
Commissioner & Chair
Medical Review Board

TJL:DC:jdb
2018-M-0096
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cc: Dr. John Morley, Chief Medical Officer
Bryan Hilton, Assistant Commissioner for Mental Health
Superintendent John Rich, Elmira CF
Dr. Li-Wen Lee, Associate Commissioner
Division of Forensic Services, NYS Office of Mental Health
Danielle Dill, Executive Director, CNYPC
William Vertoske, Deputy Director of CBO, CNYPC
Meaghan Bernstein, Director of CBO Risk Management, CNYPC