



**Commission of
Correction**

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

In the Matter of the Death of

**Billy McGinnis (19B2455),
an incarcerated individual of the
Elmira Correctional Facility**

March 22, 2023

**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 Billy McGinnis who died on December 20, 2019, 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. Billy McGinnis was a 36-year-old white male who died on 12/20/19 at 2:40 p.m., at Arnot Ogden Medical Center ER after a suicide attempt while in the custody of New York State Department of Corrections and Community Supervision (DOCCS) at Elmira Correctional Facility (CF). McGinnis hung himself by the seatbelt of the state van during a return transport from court to Elmira CF.

2. According to the Department of Corrections and Community Supervision's (DOCCS) records, McGinnis was born in Glen Aubrey, New York. According to his pre-sentencing report, McGinnis was born in Queens, New York. McGinnis's presentencing report and what McGinnis reported to DOCCS contained conflicting information. McGinnis had a 12-year-old daughter that he did not see often. McGinnis did not have any relationship with his daughter's mother. McGinnis had one sister and two brothers. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]. McGinnis maintained a relationship with his mother over the years. Prior to his incarceration, McGinnis lived with his mother in Glen Aubrey, NY for three years. McGinnis completed the 10th grade but dropped out of High School while in the 11th grade. McGinnis obtained his General Education Diploma (GED) in 2007. McGinnis's last place of employment was at a pizzeria from 2016 through 2018. McGinnis moved to Elmira, NY in 2018 to live with a female that he met online the September prior to his incarceration.

3. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

4. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

5.

[REDACTED]

[REDACTED]. In the instant offense, on 11/14/18, McGinnis's was observed by police driving at a high rate of speed. After a vehicle pursuit, the police officer got out of his car and commanded McGinnis to get out of his vehicle. McGinnis then intentionally drove his vehicle at the police officer, struck the officer with his vehicle and fled the scene. The police officer suffered substantial pain due to being hit by McGinnis's vehicle. McGinnis's motive was lack of anger control and disregard for law enforcement. At the time of his admission to Elmira CF, McGinnis had a felony sentence pending for Rape 1st and Rape 3rd of a 16-year-old female and was later convicted of these crimes on 6/14/19. On 12/20/19, McGinnis was transported to court via a NYS DOCCS Van and was sentenced to 11 years with 10 years post release supervision.

6.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7.

[REDACTED]

8.

[REDACTED]

9.

[REDACTED]

10.

[REDACTED]

11.

[REDACTED]

12.

[REDACTED]

- [REDACTED]
[REDACTED]
13. On 12/20/19, McGinnis was accounted for in the master count at 5:45 a.m. At 6:00 a.m., Correction Officers (CO) S.S. and R.F. prepared McGinnis for transport to Otsego County Court in Cooperstown, NY for sentencing on his rape conviction from 6/14/19. COs S.S. and R.F. went to [REDACTED]-009 to retrieve McGinnis. McGinnis was showered, strip frisked and dressed for the trip. DOCCS staff informed the [REDACTED] nurse who was preparing for the morning medication pass that they were transporting Mr. McGinnis to court. The [REDACTED] nurse was asked if she would like to administer McGinnis's morning medications prior to their departure. [REDACTED]
[REDACTED] COs R.F. and S.S. reported that prior to picking McGinnis up from [REDACTED] Cell, they notified Sgt. D.S. that McGinnis was housed in the [REDACTED] unit and questioned if the trip was to proceed. Sgt. D.S. advised COs R.F. and S.S. that the facility had a court "Order to Produce" from Otsego County Court and that the trip was to proceed as scheduled. [REDACTED]
[REDACTED]. CO R.F. and CO S.S. both reported that they received no special instructions from security supervisors, medical or [REDACTED] staff prior to transporting McGinnis. McGinnis was transported out of Elmira CF prior to [REDACTED] clinical staff's arrival to work. [REDACTED]
[REDACTED]. The Medical Review Board opines that the correction officers should have been briefed regarding McGinnis's high risk for suicide behavior coming out of observation for transport to court for sentencing, an event known to evoke potential suicidal risk.
 14. McGinnis was escorted down to the van and placed in the second row and seat belted. CO S.S. drove and CO R.F. rode in the passenger seat. At 9:05 a.m., COs S.S., R.F. and McGinnis arrived at the Otsego County Court House. After two hours, they were notified by a Sheriff's Deputy to go into the courtroom. McGinnis thought his mother, brother and daughter were coming to the sentencing and were concerned when they were not there. McGinnis was sentenced to 11 years in prison with 10 years post release supervision for the charges of Rape 1st and 3rd Degrees.
 15. At 11:00 a.m., McGinnis and COs S.S. and R.F. left the courthouse for the return trip to Elmira CF. McGinnis was seat belted in the second-row seating. CO R.F. drove the van and CO S.S. rode in the passenger seat.
 16. At 12:52 p.m., COs S.S., R.F. and McGinnis stopped at a McDonald's in Binghamton. CO S.S. called the watch commander at Elmira CF to notify them that they had stopped to eat. CO R.F. remained in the van and CO S.S. went to order food. They stopped for about 10 to 15 minutes and continued with the trip back. CO S.S. asked McGinnis if he was ok as they were getting off interstate 86 at exit 52B in Elmira. McGinnis lifted his hands but did not say anything. After another 10 to 15 minutes, they arrived back at Elmira CF and CO R.F. pulled up to the facility gas pumps and parked behind another trip van that was refueling. After a few minutes, the van in front of them finished and CO R.F. pulled up to the pumps. Both CO S.S. and CO R.F. exited the van and CO R.F. went to the passenger side of the van to retrieve McGinnis's garbage.
 17. At 2:03 p.m., CO S.S. heard CO R.F. yelling for help and that McGinnis was hanging. CO R.F. found McGinnis unresponsive in the van with the seatbelt wrapped around his neck. McGinnis had tied the seat belt shoulder harness around his neck using it to hang

himself. Perimeter patrol CO J.E. was on scene to unlock the gas pumps and called for a medical response. Area supervisor, Sgt. J.M., was notified. Responding CO E.T. used his personal knife to cut the seat belt and removed McGinnis from the van and placed him on the ground.

18. At 2:04 p.m., CO A.H. began CPR. CO E.T. retrieved the AED from the perimeter control van and applied it to McGinnis at 2:05 p.m. No shock was advised. CPR was continued. Sgt. D.H. notified Erway Ambulance. [REDACTED]. At 2:08 p.m., Sgt. J.M. arrived on scene. [REDACTED]
19. At 2:11 p.m., Erway Ambulance EMTs' [REDACTED] and [REDACTED] arrived and assumed care of McGinnis. [REDACTED]
20. Per an investigation from DOCCS Office of Special Investigation, COs R.F. and S.S. were found to have violated agency directives by failing to maintain the safety and security of McGinnis while in their custody and were subsequently terminated from New York State Department of Corrections and Community Supervision.

ACTIONS REQUIRED:

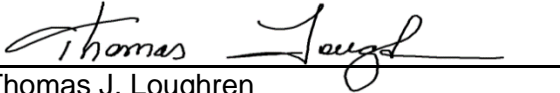
TO THE OFFICE OF MENTAL HEALTH, DIVISION OF FORENSIC SERVICES:

1. The Forensic Services Division shall conduct a review of the procedures at Elmira CF to assure that patients who are admitted to RCTP are seen by a psychiatric provider in accordance with policy requirements. Additionally, the Forensic Services Division shall review the level and access of psychiatry services available at Elmira CF, as Elmira CF is one of DOCCS' primary reception and classification facility whereby most acute mental health cases will be identified.
2. The Forensic Services Division shall review the procedures regarding assessing lethality and briefing transporting DOCCS' staff on individuals who are on observation status and have a potential high risk for self-harm prior to them being escorted to outside trips

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

In a response dated 3/13/23 to the Commission's preliminary report, the Division of Forensic Services has indicated that the requested reviews were completed. The Division indicated that their Corrections Based Operation Risk Management Special Investigation report, completed on 4/7/20, identified the cited issue(s) and corrective action was taken to that assure patients in the RCTP are seen by a psychiatric provider per policy requirements. The Division also indicated that a full-time locum tenens psychiatrist recently began working at Elmira CF with supplemental psychiatric services provided by video-teleconferencing. Additional continued recruitment for psychiatry continues as a priority.

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 22nd day of March, 2023.



Thomas J. Loughren
Commissioner & Chair
Medical Review Board

TJL:JW:jdb
2019-M-0133
March 2023

cc: Dr. Carol Moores, Chief Medical Officer
Bryan Hilton, Assistant Commissioner for Mental Health
Superintendent James Donahue, 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, Advocacy Letter Coordinator, CNYPC