



**Commission of
Correction**

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

In the Matter of the Death of

**Victor Mercado,
an incarcerated individual of the
North Infirmery Command**

September 27, 2023

**To: Commissioner Louis Molina
NYC Department of Correction
75-20 Astoria Blvd., Suite 100
East Elmhurst, NY 11370**

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 Victor Mercado who died on October 15, 2021, as result of circumstances which occurred while an incarcerated individual in the custody of the New York City Department of Correction, the Commission has determined that the following final report be issued.

FINDINGS:

1. Victor Mercado was a 64-year-old male who died on 10/15/21 of COVID-19 complications while in the custody of the New York City Department of Corrections (NYC DOC) while admitted to the Elmhurst Hospital Center. The Medical Review Board has found that there were multiple deficiencies in the medical assessments and treatment of Mercado, a high risk COVID-19 patient, during his incarceration that may have led to his death.
2. Mercado was born in Bronx, NY. Mercado was single and had no children. Mercado had a 10th grade education and was unemployed. There was no further demographic or social history pertaining to Mercado available to the Commission.
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. On 7/23/21 at 9:38 a.m., Mercado was admitted into NYC DOC from Bronx Criminal Court after being charged with Criminal Possession of a Controlled Substance 3rd Degree. Mercado scored a one on the Suicide Prevention Screening for having a history of drug or alcohol abuse. On the Suicide Prevention Screening in the general comments and observation section, [REDACTED] was listed.

7. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

8. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Mercado returned to the intake area for his intake process.

9. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

10. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

16. [REDACTED]

17. [REDACTED]

18. [REDACTED]

19. [REDACTED]

20. [REDACTED]

21. [REDACTED]

22. [REDACTED]

23. [REDACTED]

24. [REDACTED]

25. [REDACTED]

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

29. [REDACTED]

30. [REDACTED]

31. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

32. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

33. [REDACTED]
[REDACTED]
[REDACTED]

34. [REDACTED]
[REDACTED]
[REDACTED]

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

35. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

36. [REDACTED]

37. [REDACTED]

38. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

39. On 9/30/21, Mercado [REDACTED] and transported back to NYS DOC NIC.

40. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

41. [REDACTED]
[REDACTED]
[REDACTED]
Mercado was transferred from NIC D-1 to West Facility (WF) [REDACTED]
[REDACTED]

42. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

43. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

44. [REDACTED]
[REDACTED]
[REDACTED]

45. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

46. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

47. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

48. On 10/11/21, Mercado was transferred from WF CDU # 6 to WF CDU # 12.

49. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

50. [REDACTED]

51. [REDACTED]

52. [REDACTED]

53. [REDACTED]

54. [REDACTED]

55. [REDACTED]

The Medical Review Board finds that for a total of 72 hours between 10/11/21 at 9:54 a.m. through 10/14/21 at 10:09 a.m. there was a failure by the CHS medical staff to obtain vital signs, obtain a pulse oximetry, or conduct any physical examination on Mercado. The Board opines that Mercado, who was a COVID-19 patient with a history asthma and emphysema, was at high risk to have rapid evolving respiratory complications which would have clinically evident had he been properly assessed.

56. On 10/14/21 at 9:45 a.m., Corrections Officer (CO) J. documented in the WF CDC unit logbook that Mercado reported having difficulty breathing. CO J. notified medical that Mercado was having difficulty breathing.

57. [REDACTED]

58. [REDACTED]

59. On 10/14/21 at 10:40 a.m., Emergency Medical Services (EMS) arrived at the scene.
[REDACTED]

60. On 10/14/21 at 11:02 a.m., ALS responded to the scene [REDACTED]
[REDACTED]

61. [REDACTED]

62. [REDACTED]

63. [REDACTED]

¹NIC houses Incarcerated Individuals (II's) in custody with acute medical conditions that require infirmary care or have a disability that requires housing that is compliant with the Americans with Disabilities Act

ACTIONS REQUIRED:

TO THE SENIOR VICE PRESIDENT OF CORRECTIONAL HEALTH SERVICES, NYC HEALTH AND HOSPITALS CORPORATION:

Correctional Health Services shall conduct an investigation into the failure of the medical staff to obtain vital signs, a pulse oximetry, or conduct any physical exam on Mercado for a total of 72 hours between 10/11/21 at 9:54 a.m. through 10/14/21 at 10:09 a.m. despite being a high risk COVID-19 patient.

A report of 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 8/14/23, Correctional Health Services stated that the Commission's findings were incorrect [REDACTED]. However no medical documentation indicating that these assessments were completed was provided to the Commission in the response, therefore the Commission and the Medical Review Board remain affirmed in their findings.

TO THE OFFICE OF THE NYC COUNCIL SPEAKER:

As the appointing authority for the delivery of correctional health services pursuant to Correction Law section 501, the City Council shall review the above findings and conduct an inquiry into the fitness of the currently designated provider.

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 September 27, 2023.



Allen Riley
Chairman
Commission of Correction

AR:BB:vc
2021-M-0137
September 27, 2023

cc: Deputy Commissioner of Legal Matters/General Counsel
Ronald Brereton, Deputy Commissioner of Security Operations
James Saunders, Deputy Commissioner of Health Affairs
Ronald Greenberg, Director of Compliance
Patricia Yang, DrPH, Senior Vice President
Correctional Health Services
Bipin Subedi, MD, Chief Medical Officer
Correctional Health Services
Jasmine Georges-Yilla, Executive Director
NYC Board of Correction