



**Commission of  
Correction**

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

**In the Matter of the Death of**

**Marcus Ayuso (08A2683),  
an incarcerated individual of the  
Otisville Correctional Facility**

**December 18, 2024**

**To: Honorable Daniel F. Martuscello, III  
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*

**Elizabeth Gaynes**  
*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 Marcus Ayuso, who died on October 20, 2021, while an incarcerated individual in the custody of the NYS Department of Corrections and Community Supervision at the Otisville Correctional Facility, the Commission has determined that the following final report be issued.

FINDINGS:

1. Marcus Ayuso was a 61-year-old male who died on 10/20/21 due to an accidental overdose involving fentanyl while in the custody of New York State Department of Corrections and Community Supervision (DOCCS) at the Otisville Correctional Facility (CF). Ayuso was discovered unresponsive slumped over a garbage can in the kitchen area of his housing unit. The Medical Review Board has found that although Ayuso was adequately followed by DOCCS health services, there was a failure to properly respond to and document Ayuso's terminal event in violation of DOCCS directives.
2. Ayuso was born in Puerto Rico. Ayuso was survived by his mother, father, two sisters, two brothers and a child. Ayuso claimed to have had a high school diploma but this was unverified.
3. [REDACTED]
4. [REDACTED]
5. [REDACTED] in the instant offense, Burglary 2<sup>nd</sup> Degree where he was received by DOCCS in May 2008 with a sentence of 16 years to life.
6. Ayuso was admitted to DOCCS at Downstate CF on 5/16/08 to serve 16 years to life sentence for Burglary 2<sup>nd</sup> Degree. Ayuso was transferred from Downstate CF to Great Meadow CF on 5/23/08. Ayuso spent time in Coxsackie CF, Fishkill CF, Elmira CF, Clinton CF, Upstate CF, Five Points CF, Cayuga CF, Auburn CF, Southport CF and Greene CF until being transferred to Otisville CF on 7/24/18. This is where Ayuso remained until the terminal event.

7. Between May 2008 and October 2021, Ayuso accrued 24 Tier II and Tier III infractions that included alcohol intoxication, smuggling contraband, drug use, harassment, assault on staff, damaging property, violent conduct, unhygienic act, direct order, threats, interference, fighting, unauthorized medication, drug possession, wasting food, creating a disturbance, false information, search/frisk, movement violation, mess hall container, delay count, and property in an unauthorized location.

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. Commission staff's review of the facility's logbooks and medical documentation prior to the terminal event revealed that Ayuso participated in routine incarcerated individual daily activities and attended sick call visits [REDACTED].

13. On 10/20/21 at 5:15 p.m., while conducting a housing area watch tour, CO B.E. observed Ayuso to be unresponsive and slumped over a garbage can in the kitchen area of housing unit 113. CO B.E. called a medical emergency via the facility radio. Ayuso was moved to the floor and placed onto his back. Cardiopulmonary resuscitation (CPR) was started by CO K.C. and Emergency Medical Services (EMS) was activated.

14. At 5:17 p.m., Registered Nurse (RN) [REDACTED] arrived [REDACTED]. [REDACTED] As documented in the DOCCS Office of Special Investigations (OSI) case activity report, responding staff failed to perform rescue breathing via a Bag Valve Mask (BVM) and failed to administer Narcan to Ayuso during the resuscitative efforts which is in violation of DOCCS Directive 4059 *Response to Health Care Emergencies*, Directive 2124 *Automatic External Defibrillators*,

and Directive 9434 *Narcan Administration by Peace Officer Staff*. Additionally, RN [REDACTED] failed to follow DOCCS Health Services Non-Specific Standing Order for Unresponsiveness and did not administer Narcan and did not utilize a BVM and oxygen during CPR efforts. As documented in the DOCCS OSI case activity report, nursing staff failed to complete the Emergency Response Form (3145) as directed by Health Services Policy 1.35 *Emergency Medical Equipment* and did not thoroughly document the events and interventions taken during Ayuso's medical emergency. Corrective actions regarding the cited issues included retraining of staff regarding administration of Narcan and the application of an AED for any unresponsive individual by first responders. Commission staff learned that RN [REDACTED] is no longer employed by DOCCS.

15. Per the EMS run report, at 5:27 p.m. Mobile Life Support Services EMS arrived on scene and assumed the care of Ayuso. [REDACTED]
16. [REDACTED]
17. [REDACTED]

ACTIONS REQUIRED:

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

The Deputy Commissioner shall provide the Medical Review Board verification that recommended correction action plan(s) were completed.

*In a response dated 11/8/24 to the Commission's preliminary report, NYC DOCCS provided verification that the corrective action plans were completed.*

WITNESS, HONORABLE YOLANDA CANTY, Commissioner, NYS Commission of Correction, Alfred E. Smith State Office Building, 80 South Swan Street, 12<sup>th</sup> Floor, in the City of Albany, New York 12210 on this 18<sup>th</sup> day of December 2024.



Yolanda Canty  
Commissioner  
Commission of Correction

YC:MB:vc  
2021-M-0141  
December 18, 2024

cc: Dr. Carol Moores, Deputy Commissioner Chief Medical Officer  
James Donahue, Associate Commissioner of Mental Health  
Superintendent Delta Barometre, Otisville CF