



**Justice Center for the
Protection of People
with Special Needs**

KATHY HOCHUL
Governor

DENISE M. MIRANDA
Executive Director

July 18, 2023

Dr. Li-Wen Lee
Associate Commissioner
Division of Forensic Services
NYS Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Daniel Martuscello
Acting Commissioner
NYS Department of Corrections
And Community Supervision
The Harriman State Campus-Building 2
1220 Washington Avenue
Albany, NY 12226-2050

Dear Dr. Lee and Acting Commissioner Martuscello:

Thank you for your responses to the Justice Center for the Protection of People with Special Needs (the Justice Center) review of the mental health services provided to [REDACTED] (DIN# [REDACTED]), an incarcerated individual who died on [REDACTED], at the Sing Sing Correctional Facility (CF). We asked for a response by July 8, 2023 and to date, we have only received a response from the Office of Mental Health. ¹

We now consider this report to be final. If the Department of Corrections and Community Supervision submits a response to this review, we will re-assess our findings if necessary and include the response in the final report.

Please direct any correspondence or concerns related to this review to me at davin.robinson@justicecenter.ny.gov. Thank you for your continued cooperation.

Sincerely,

Davin Robinson
Deputy Director, Office of Outreach, Prevention & Support

¹ OMH response dated June 27, 2023.

Cc: Denise M. Miranda, Esq., Executive Director, Justice Center
Robert Miller, Acting Executive Deputy Director, Justice Center
Nikki O'Meara, Director of Operations, Forensics
Melissa Finn, Director of Quality and Compliance, Forensics
Katie Farley, Supervising Facility Review Specialist, Forensics
Dr. Anne Sullivan, M.D., Commissioner, OMH
Danielle Dill, Executive Director, CNYPC, OMH
William Vertoske, Deputy Director, Corrections-Based Operations, OMH
Lisa Murphy, Acting Director of Quality Management, OMH
Maureen Morrison, Director of Suicide Prevention, OMH
Meaghan Bernstein, Advocacy Letter Coordinator, OMH
Jamie Donahue, Associate Commissioner, DOCCS

NOTE: All correspondence related to this matter will be available for public inspection under Article 6 of the Public Officers Law. Material which will be required to be kept confidential or which is protected from disclosure under the Public Officers Law or other laws will be redacted prior to such disclosure.



KATHY HOCHUL
Governor

DENISE M. MIRANDA
Executive Director

Justice Center Oversight Action
Final Mental Health Service Review [REDACTED] (DIN# [REDACTED])
Justice Center #: [REDACTED]

The Justice Center's review of the care provided by the Central New York Psychiatric Center (CNYPC) and the Department of Corrections and Community Supervision (DOCCS) to the incarcerated individual prior to their suicide follows below.¹

Background

The incarcerated individual was a 33-year-old serving their second NYS Bid for Murder in the 2nd degree.² They had a 20-year sentence with a parole hearing scheduled for August 2036, no conditional release date and maximum expiration date of life. Per their presentencing report, they were a multi-state offender with arrests in New York, South Carolina, and Florida. They were first arrested in New York State at the age of sixteen. They amassed one felony, four misdemeanors, and two youthful offender adjudications in New York. The incarcerated individual completed their general educational development test (GED) while being detained. It was noted that the incarcerated individual had an extensive history of mental health illness. [REDACTED]

[REDACTED]. They self-admitted to using marijuana since the age of nine, alcohol at the age of eleven and crack cocaine at the age of seventeen. They admitted to being under the influence during the present offense.

The incarcerated individual had an extensive history of inpatient admissions from an early age including a hospitalization at age twelve due to extreme behavioral issues.³ Starting at the age of fifteen, they began to have suicidal ideations with three to four suicide attempts.⁴ These attempts included climbing on their high school roof and threatening to jump due to a breakup in 2004 and researching how much Ketamine it would take to overdose then consumed that amount in 2011. While incarcerated in 2013, they engaged in a serious suicide attempt by hanging. They were cut down and

¹ The Justice Center's review period was from April 1, 2021 – [REDACTED]

² [REDACTED] (DIN# [REDACTED]) is hereafter referred to as incarcerated individual.

³ Serious Mental Illness Designation Form dated May 1, 2018.

⁴ Presentence Investigative Report dated January 17, 2018.

taken to an outside hospital for treatment. While in Jamesville Correctional Facility in 2014, the incarcerated individual knowingly consumed Ibuprofen for two days despite their allergy and went into anaphylactic shock. They admitted to not knowing how severe their allergy was to Ibuprofen. After being released to the community in 2014, the incarcerated individual presented to Faxton St. Luke's Hospital after attempting to hang themselves.

The incarcerated individual entered reception at the Elmira CF on April 30, 2018 as a mental health service level 1S. They had violated parole, returning to prison after only two months.⁵ [REDACTED]

[REDACTED] The individual's Core History was updated on May 18, 2020, while they were in general population at the Sing Sing CF and it indicated the individual was seen monthly by clinical staff and every three months by psychiatric staff. On February 26, 2021, the incarcerated individual was placed in the Sing Sing CF Residential Crisis and Treatment Program (RCTP) Dorm due to psychiatric decompensation, paranoia and feeling unsafe.⁶ According to OMH's response to the Justice Center's draft report, dated June 27, 2023, the individual was discharged from the RCTP on March 4, 2021, although the discharge was not noted on the OMH Chronological Record. The individual later transferred from general population to the Transitional Intermediate Care Program (TrICP) on March 11, 2021.

The incarcerated individual met with mental health staff on April 14, 2021. They appeared stable in the unit and their routine. They were described as being social and engaging in programming on the unit. They self-reported they were content with their current treatment/placement and were encouraged to maintain current level of socialization and progress toward their treatment goals. At this time, it was noted they had no suicidal ideation, homicidal ideation and/or visual/auditory hallucinations present.⁷

One of the incarcerated individual's treatment plan goals that was developed on May 2, 2020, was continued on May 2, 2021, noting they would continue working towards developing coping skills to manage problematic symptoms and impulse control. On May 12, 2021, the incarcerated individual met with mental health staff. It noted they had a visit with their family, and it went well. It also indicated that they "enthusiastically engage with peers and staff."⁸ The following week, on May 19, 2021, the incarcerated individual had a callout with [REDACTED]. The incarcerated individual reported they

⁵ Serious Mental Illness Designation Form dated May 1, 2018.

⁶ Residential Crisis and Treatment Program Nursing Assessment dated February 26, 2021.

⁷ [REDACTED] Note dated April 14, 2021 at 1 PM.

⁸ [REDACTED] Note dated May 12, 2021.

are learning a lot about themselves in program and focusing on their anger issues. They reported focusing on themselves recently because “a lot of knuckleheaded stuff is goin’ on” and the people responsible will be leaving soon. The incarcerated individual expressed their family connection as strong due to their significant other driving eight hours to see them weekly for visitation. They expressed the Seroquel keeps them calm and reported good medication compliance. They presented in good spirits and denied any issues with their mood or psychotic symptoms.⁹

On June 15, 2021, the incarcerated individual was seen for “supportive talk therapy and mental health follow up”. It was reported that they were at “baseline level of functioning”. Mental health staff noted the incarcerated individual identified as having “relative stability”. They were having regular visitation with family and expressed happiness for the time they had with their family. Their hygiene was described as good and denied any issues with sleep and/or appetite. They expressed contentment with being in the TrICP, were considered compliant with treatment/programming, and engaging with peers/staff.

Mental health staff met with the incarcerated individual for a callout on July 15, 2021. The [REDACTED] note continued to indicate the incarcerated individual was at “baseline functioning” and being compliant with programming. There appears to be no change with family support or their contentment with being in the TrICP. Mental health appeared to be content with the amount of progress the incarcerated individual was making towards their treatment goals. There was information noted about a “[REDACTED]” however, staff appears to be referring to a different incarcerated individual.¹⁰

On July 21, 2021, the incarcerated individual met with the [REDACTED]. They expressed they are doing “much better”. They are continuing to work towards their goals with their anger issues. They completed a parenting course through the Osborn program and may start a course related to substance abuse treatment. It was noted that they were interested in engaging in the narcotics anonymous meetings when they resume. They expressed good family contact with their significant other visiting weekly. It was noted they were frustrated they were denied the Family Reunion Program (FRP). The incarcerated individual had insight into their anger and frustration with other facets of prison life and expressed “sometimes I stress myself out.” The incarcerated individual expressed “it’s sometimes good, sometimes bad” when asked about their substance abuse use and they reported they started using again after their FRP was denied. It also noted they lost fourteen pounds and they felt it was related to the amount of stress they were feeling. They agreed to an increase in Seroquel to address their anxiety and it was

⁹ Psychiatric Progress Note dated May 19, 2021.

¹⁰ [REDACTED] Note dated July 15, 2021 stated the following. “[REDACTED] states he fights to remain clean in spite of being in an environment where drugs are rampant and offered to him regularly. This is processed and he is encouraged to continue reading and practicing his control of his negative thinking.”

increased to 150mg qpm crushed.¹¹ [REDACTED] order dated July 21, 2021 indicated the prescription was authorized until October 19, 2021.

A Disciplinary Hearing report indicated they received a Tier 2 ticket for an incident that occurred on July 26, 2021 at 10:20 a.m. in which they were found to be in possession of “paper K2 (synthetic cannabinoids)”. They were found guilty of contraband and received a sanction of twenty days loss of commissary, package, and non-program hours. On August 17, 2021, mental health staff met with the incarcerated individual cell side for callout as they have not been to group. They noted the individual reported “relative stability.” They continued to describe the incarcerated individual at “baseline level of functioning”, having a “pattern of mania”, struggle with “mood and tolerance issues” and they continue to encourage the incarcerated individual to engage in their “current level of socialization and progress towards his treatment goals”. The individual was noted to be paranoid and suspicious of staff and others and at times will appear “hyper and aggressive.” The individual reported to mental health staff that they have been using drugs to cope with all that they experience. The information identifying another incarcerated individual was also copied and pasted verbatim in this progress note. At the end of the progress note, staff noted that the individual “is social and active in programming on the gallery. He enthusiastically engages with peers and staff” despite initial comments.

Mental health met with the incarcerated individual on September 13, 2021 for a callout. It was noted “the patient is seen on a clout as he does not come over for group and is either on the phone or unavailable when clinician is on the gallery”. They were described as doing “relatively well”. It appeared there were “several outbursts within the past week” due to a plumbing issue in the incarcerated individual’s cell. Mental health noted again they were making progress towards their treatment goals and engaging in programming. The individual had been compliant with medications and reported that they were still using drugs to cope. The end of the progress note stated that the individual “is social and active in programming on the gallery. He enthusiastically engages with peers and staff.”

A regular mental health referral dated September 21, 2021 indicated that the incarcerated individual requested to speak with mental health and expressed they believe people were out to get them.¹² On September 22, 2021 mental health staff saw the incarcerated individual on the gallery. They reported feeling “better” and expressed feeling “blessed” and “enlightened now that he has been reading some spiritual information”. They were “upset when he submitted the referral but was okay now”. Mental health encouraged them to be “more interactive in the program and involved in

¹¹ Psychiatric Progress Note dated July 21, 2021.

¹² Mental Health Referral dated September 21, 2021.

groups and one to one sessions". It was noted that the individual had several outbursts within the past week. Mental health staff noted that they are "social and active in programming and activities on the gallery" and "enthusiastically engages with peers and staff". Mental health encouraged the incarcerated individual to continue their "current level of socialization and progress toward his treatment goals". The incarcerated individual mentioned that their family visits them, but they are currently having "problems in the marriage".

According to a JPAY letter to a family member dated October 7, 2021 at 1:14PM, the individual appeared to be optimistic and future oriented. They wrote that they were "grateful" for "zero violence" on their institutional record over "this bid and last". The incarcerated individual mentioned they made a cross and put it "high" on the wall "to focus on". The cross had several colors and they described each relating to different attributes such as "green is purity", "red is love", "pink is unconditional love", and etc. They described "discovering the blessing" is to "wear a robe of so many colors".¹³

A regular mental health referral was completed on [REDACTED] at 1:45 a.m. due to the incarcerated individual expressing their need to meet with mental health and making verbal statements that they do not trust anyone.¹⁴

On [REDACTED] at 10:50 a.m., security staff was securing the gallery after recreation when they arrived to the incarcerated individual's cell and observed a sheet covering the cell gate. Security staff called out and ordered the individual to remove the sheet with no answer. Staff moved the sheet discovered the individual hanging from a shelf mounted on the side wall with a belt around their neck. The individual was motionless and did not respond to staff calling their name. Security staff called a medical emergency over the radio and cut the belt off with the gallery rescue knife the incarcerated individual was laid down on the gallery floor and nursing staff arrived at 10:52 a.m. Security staff brought two automated extended defibrillators; however, no shock was advised. CPR was initiated and Narcan was administered four times with no desired effect. An ambulance arrived to the gallery at 11:05 a.m. and emergency medical technician took over CPR. The staff doctor at Phelps Memorial Hospital was called, and CPR was terminated. They were pronounced deceased at 11:30 a.m.¹⁵

Justice Center Findings:

¹³ JPAY letter delivery receipt dated October 7, 2021.

¹⁴ Mental Health Referral dated [REDACTED] at 1:45 AM.

¹⁵ Correspondence dated [REDACTED].

1. **In the months leading up to the incarcerated individual's suicide, their clinical documentation appeared inconsistent, repetitive, and pertained to another individual.**

- **There were no documented efforts made by mental health staff to understand more about the incarcerated individual's mental state.**

It is clearly documented that the incarcerated individual had major problems with their mood and made a very serious suicide attempt in the past. Their mood and ability to tolerate their negative emotions was clearly troubled, but there were no documented details into exactly what the negative emotions were, thoughts they were struggling with, and the nature of the problems they were experiencing. Furthermore, much of the information documented in the clinical record appeared to be repetitive and uninformative.¹⁶

- **Despite the increased changes in the incarcerated individual's clinical presentation and 1S MHS, their ██████████ notes contained the same statements between August 17, 2021 and September 13, 2021.**

The incarcerated individual's ██████████ notes dated August 17, 2021 through September 22, 2021, included several repetitive statements and documented inconsistencies regarding the mental status of the individual. At the beginning of these progress notes in the *Focus of Session* section, the individual is described as "paranoid and suspicious of staff and other." On September 13, 2021, mental health staff describe them as not engaging in programming or interacting with clinicians on the gallery. Mental health staff were encouraging the individual "to maintain his current level of socialization and progress toward his treatment goals." Furthermore, in the September 22, 2021, ██████████ note, the individual is also encouraged to be "more interactive in the program and involved in the groups and one to one sessions" although it was also documented that they should "maintain his current level of socialization and progress toward his treatment goals." Each of the ██████████ progress notes also had the same final statement in the *Focus of Session* section: "patient is content with his current treatment and placement. He is social and active in programming and activities on the gallery. He enthusiastically engages with peers and staff. Patient is

¹⁶ ██████████ Note dated May 2, 2021, July 15, 2021, August 17, 2021, September 13, 2021, and September 22, 2021.

encouraged to maintain his current level of socialization and progress toward his treatment goals.”¹⁷

- **There was information pertaining to another incarcerated individual in the *Focus of Session* section of four consecutive [REDACTED] notes.**¹⁸

According to the documentation provided to the Justice Center, each progress note indicates, “[REDACTED] states he fights to remain clean in spite of being in an environment where drugs are rampant and offered to him regularly”. It is unclear who mental health staff are referring to.

Recommendations:

To ensure the appropriate continuity of care, it is imperative that progress notes are individualized, accurately reflect the individual’s current mental health needs, and outlines the progress made towards treatment goals. This is especially important when the incarcerated individual is considered a MHSL 1S. The Justice Center recommends that OMH clinical staff be retrained on CNYPC Corrections Based Operations Policy #9.30 Progress Notes, specifically the *Focus of Session* section which should document the chief compliant, current issues and the content of the session/group topic.

- 2. There is no documentation regarding how active drug use impacted the incarcerated individual’s mental health status, their medication, or behaviors prior to their suicide.**

[REDACTED] notes written between August 17, 2021 and September 22, 2021 reflect that mental health staff recorded the incarcerated individual admitting several times to current drug use. The individual reported using drugs as a means to help them cope with “all he experiences.” There is no documentation to elaborate what drugs they used, how this was impacting their medication, or exploring any changes it may have had on their mental health status.¹⁹ According to documentation received by the Justice Center, there does not appear to be any further information regarding the individual’s drug use or if DOCCS was notified regarding the concern.

¹⁷ [REDACTED] Note dated August 17, 2021, September 13, 2021, and September 22, 2021.

¹⁸ [REDACTED] Note dated July 15, 2021, August 17, 2021, September 13, 2021, and September 22, 2021.

¹⁹ [REDACTED] Note dated August 17, 2021, September 13, 2021, and September 22, 2021.

Request:

The Justice Center requests clarification regarding if any there was any additional inquiry into the individual's reports of drug use and if the individual was discussed at the DOCCS and OMH bimonthly joint medical meeting. If it's determined there was a concern regarding the incarcerated individual's drug use and their mental health status, please provide documentation including any requested urine analysis showing this matter was properly followed up on.



Review conducted by: _____
Kathryn Farley, Supervising Facility Review Specialist



KATHY HOCHUL
Governor

ANN MARIE T. SULLIVAN, M.D.
Commissioner

MOIRA TASHJIAN, MPA
Executive Deputy Commissioner

June 27, 2023

Davin Robinson
Deputy Director of Outreach, Prevention and Support
Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, New York 12054

Dear Ms. Robinson:

We received your letter dated May 23, 2023 in response to the Justice Center's (JC) review of the mental health services provided to [REDACTED] (DIN# [REDACTED]), an incarcerated patient who died on [REDACTED] at Sing Sing Correctional Facility (CF).

Please note that in the first paragraph of the Background Section, the Justice Center writes that [REDACTED] had "a parole hearing scheduled for September 2021." According to the records available to Office of Mental Health (OMH) staff, his initial parole hearing was not until August 2036, with a Parole Eligibility date of December 15, 2036.

In the third paragraph, the Justice Center writes, "It is unknown when they were released from the RCTP [Residential Crisis Treatment Program] dorm as the admission and discharge are not noted on their OMH Chronological Record." However, the Justice Center received four other chart documents showing that [REDACTED] was discharged from RCTP on March 4, 2021: the February 26, 2021 RCTP Monitoring Sheet; the March 4, 2021 Psychiatric Progress Note; the March 4, 2021 RCTP Observation/Dorm Progress Note; and the March 4, 2021 RCTP Nursing Progress Note. The matter of this RCTP admission not being on the Chronological Record was addressed via the Corrections-Based Operations (CBO) Risk Management Special Investigation.

The Justice Center claims at multiple junctures in this review that there is no documentation about various elements of care. OMH disagrees with these claims. Below are the Justice Center's findings and requests from the above-referenced review, and the Office of Mental Health's (OMH) response to each.

Recommendation #1:

"To ensure the appropriate continuity of care, it is imperative that progress notes are individualized, accurately reflect the individual's current mental health needs, and outlines the progress made towards treatment goals. This is especially important when the incarcerated individual is considered a MHSL 1S. The Justice Center recommends that OMH clinical staff be retrained on CNYPC Corrections Based Operations Policy #9.30 Progress Notes, specifically the Focus of Session section which should document the chief compliant, current issues and the content of the session/group topic."

OMH Response:

The Justice Center's claim that "There were no documented efforts made by mental health staff to understand more about the incarcerated individual's mental state" is inaccurate. [REDACTED]

[REDACTED] Progress Notes and Psychiatric Progress Notes document attempts to re-engage [REDACTED] particularly when he stopped participating in programming. Mental health staff worked with him to process his feelings of suspicion of others, while also acknowledging and encouraging the positive relationships he had with his family and peers; his desire to be admitted to the Transitional Intermediate Care Program (TrICP) as he was fearful of being housed in Protective Custody (PC); his struggle to remain sober when "drugs [were] rampant and offered to him regularly"; and his reports of improvement and gained self-awareness upon his admission to the TrICP. Of note, staff's reference to [REDACTED] were the result of a spelling error; the information was about [REDACTED], not another patient.

The documentation errors noted do not mean that staff did not attempt to build rapport with the patient and understand his struggles and symptomology. In the year and a half since [REDACTED] passing, Central New York Psychiatric Center (CNYPC) [REDACTED] staff have attended mandatory trainings regarding the importance of reviewing progress notes and ensuring they are unique to the patient and the callout. This continues to be addressed with treatment teams in post-suicide case reviews and quarterly suicide incident review presentations.

Request #2:

"The Justice Center requests clarification regarding if any [sic] there was any additional inquiry into the individual's reports of drug use and if the individual was discussed at the DOCCS and OMH bimonthly joint medical meeting. If it's determined there was a concern regarding the incarcerated individual's drug use and their mental health status, please provide documentation including any requested urine analysis showing this matter was properly followed up on."

OMH Response:

Of note, the associated finding for this request states, "[REDACTED] notes written between August 17, 2022, and September 22, 2022..." The year for these notes should be 2021.

As explained in previous responses regarding 2021 cases, DOCCS had suspended drug testing at that time. Since then, there has been further discussion with DOCCS, resulting in clarification that OMH staff are now able to order drug testing directly if there are clinical concerns, without needing to refer the individual to DOCCS. Staff are regularly reminded to continue discussing these cases at the twice monthly Joint Medical Meeting.

The 7/21/21 Psychiatric Progress Note clearly documents that DOCCS staff were aware of [REDACTED] drug use and need for treatment, and OMH's staff encouragement of same: "He stated he had spoken to his DOCCs counselor about attending [Narcotics Anonymous] meetings, with an expectation these will restart soon, and he stated that the [REDACTED] has spoken of starting substance use meetings as well."

OMH disagrees with the Justice Center's claim that "There is no documentation regarding how active drug use impacted the incarcerated individual's mental health status, their medication, or behaviors prior to their suicide." The Justice Center goes on to inaccurately claim, "there is no documentation to elaborate what drugs they used...". This claim also fails to take into consideration that [REDACTED] was initially not open about his drug use and later reported that he was working to stay drug free. Examples of clinical documentation:

- 9/15/20 Psychiatric Progress Note: "...he refused to name what he was using."

- 3/1/21 Psychiatric Progress Note: “He spoke of recent drug use which he has attempted to minimize...”
- 3/3/21 Psychiatric Progress Note: “...he stated he was caught attempting to use Suboxone. He stated he was undergoing withdrawal, had not had any opiate since the day prior to his admission...”
- 3/4/21 Psychiatric Progress Note: “He stated of the K2, ‘the worst is over/I want to keep it going.’”
- 3/25/21 Psychiatric Progress Note: “He stated he was staying drug free...”
- 5/19/21 Psychiatric Progress Note: “Pt. again presented motivated to stay in the TrICP and drug free...”

Psychiatric Progress Notes clearly documented that [REDACTED], and [REDACTED] frequently discussed his drug use, the impact of withdrawal, medication interactions, his desire to be admitted to TrICP to help him abstain from drug use and remain compliant with medications, and the benefits he experienced upon being prescribed Seroquel and moving to TrICP.

Sincerely,

Li-Wen Lee, M.D.
Associate Commissioner
Division of Forensic Services

cc: Danielle Dill, Psy.D., Executive Director, CNYPC
William Vertoske, Deputy Director, Corrections Based Operations, CNYPC
File