

NEW YORK STATE COMMISSION OF CORRECTION

In the Matter of the Death : FINAL REPORT OF THE
 : NEW YORK STATE COMMISSION
of Scott Eriksen, an inmate of : OF CORRECTION
the Suffolk County Sheriff's :
Department :

TO: Sheriff Vincent F. DeMarco
Suffolk County Sheriff's Office
100 Center Drive
Riverhead, NY 11901

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 Scott Eriksen who died on June 13, 2005 while an inmate in the custody of the Suffolk County Sheriff's Office, the Commission has determined that the following final report be issued.

FINDINGS:

1. Scott J. Eriksen was a 20 year old male who died 6/13/05 from injuries sustained from a fall during an altercation that occurred in a holding cell at the Suffolk County Sheriff's Criminal Contempt Office on 6/11/05. The absence of adequate policy and procedures for operating a holding cell area and an unnecessary delay in obtaining medical attention were aggravating factors in the circumstances of Eriksen's death.
2. There is no adult criminal history for Scott Eriksen. Eriksen did not have any documented medical or mental health history. It was anecdotally reported to a Suffolk County Sheriff's Deputy during the investigation that Eriksen had a history of a head injury from October 2004, i.e., an assault with a pipe. No other medical history was available for Scott Eriksen.
3. On 6/11/05 at approximately 4:10 p.m., Deputy Sheriffs E.S. and E.H. stopped a vehicle operated by Gary Eriksen and his brother Scott Eriksen. Deputy E.S. had recognized one of the persons in the vehicle as possibly a subject who was to be issued an order of protection and asked Deputy E.H. to run the license plate. The vehicle's registration came back expired. Sgt. J.N. was following behind the patrol vehicle and assisted with the traffic stop. A search of the car and the subjects revealed marijuana on the console, a bag of marijuana on Gary Eriksen, and another bag inside the glove box of the car. Scott Eriksen made an admission that the drugs in the glove box were his and that his brother and he had smoked "pot" approximately 1½ hours before being stopped by the deputies.
4. Scott and Gary Eriksen were arrested and transported by Deputies E.H., E.S. and Sgt. J.N. for processing to the Suffolk County Sheriff's Criminal Contempt Office of the Domestic Violence Unit. This is housed inside the Cohalan Courthouse Complex in Central Islip. After arrival at the office, Scott Eriksen was searched and placed in the holding cell at 4:45 p.m. Gary Eriksen remained outside in the office area for arrest processing. Gary Eriksen is documented as being given access to a phone call at 5:30 p.m. Sgt.

J.N. maintained the Prisoner Activity Log for Scott Eriksen while Deputy E.H. maintained the log on Gary Eriksen. Both logs are begun at 4:45 p.m.

5. Scott Eriksen is documented in Prisoner Activity Log every 15 minutes: 16:45 Placed in holding cell, 17:00 Interviewed defendant, 17:45 Sitting on bench. At approximately 6:00 p.m., a civilian, E.F., from the Sheriff's Bureau of Criminal Investigation Unit arrived to fingerprint both Gary and Scott Eriksen. Gary was printed first and then returned to his chair. Scott Eriksen was then led out of the holding cell by Deputy E.S. to the fingerprint station which is adjacent to the cell entrance. Deputy E.S. stood off of Scott's right shoulder while the civilian, E.F., fingerprinted him. Scott Eriksen was uncooperative during the fingerprint process. He reportedly made vocal outbursts that his arrest was wrong and that "pot" shouldn't be illegal prompting Deputy E.S. to point and instruct him to be quiet. Scott was asked for his social security number which he initially refused to give. Scott's brother Gary, who was seated behind him with Deputy E.H., spoke up and told his brother to cooperative and give his social security number. Scott finally complied and gave the number.
6. At approximately 6:15 p.m., Scott Eriksen completed his fingerprints and Deputy E.S. began to escort Scott Eriksen back into the holding cell. While moving from the print desk to the cell, Eriksen allegedly became combative and attempted to hit Deputy E.S. Deputy E.S. and Eriksen fell into the cell area, striking the bench. Eriksen fell backwards and struck his head on the floor of the cell without breaking his fall. Deputy E.S. then exited the cell and secured the door. Scott Eriksen complained of a small laceration to the back of his head and a small amount of blood was seen on the cell floor. Eriksen did not have any loss of consciousness and did not immediately request any medical attention. Deputy E.S. entered the cell to check on Scott and observed a small cut on the back of his head. Deputy E.S. left the cell and then returned with some wet paper towels to stop the bleeding. Deputy E.S. then left the Criminal Contempt Office with Sgt. N.M. to transport the seized marijuana to the 4th Precinct Headquarters for deposit in an evidence locker. Deputy E.S. was not qualified to make any determinations as to whether to obtain medical treatment for Eriksen. Having been involved in a use of force with head injury, Eriksen should have been examined by a physician without delay.
7. Sgt. J.N. continued to monitor Scott Eriksen in the holding cell. He documented checking on him: 18:45 "sitting on bench," 19:15 "lying on bench." At 7:20 p.m., Gary Eriksen was finished with the arrest processing and was placed into the holding cell with Scott Eriksen. At approximately 7:25 p.m., Scott began yelling from the

holding cell saying his ear hurt. Sgt. J.N. entered the holding cell to check on Eriksen's condition. The sergeant saw no visible injury and told Eriksen to sit and rest and he would check on him in a while. Sgt. J.N. similarly was not qualified to make any determinations as to whether to obtain medical treatment for Eriksen. Having been involved in a use of force with head injury, Eriksen should have been examined by a physician without delay.

8. At 7:30 p.m., it was documented that Scott Eriksen was continuing to hold his head and yell that his ear hurt. Sgt. J.N. decided that he would send Eriksen to the hospital and contacted Sgt. N.M. (now at the 4th Pct.) to arrange for a transport unit. Sgt. N.M. reported back to Sgt. J.N. that he assigned deputies G.N. and S.Z. to transport Eriksen to the emergency room. This was an inadequate emergency response. An ambulance equipped for prehospital care at the paramedic level should have been summoned.
9. At approximately 8:00 p.m., Deputy G.N. arrived to escort Eriksen from the cell to the patrol car. Scott Eriksen was reportedly lying on the cell floor with his head in his brother Gary's lap. Scott informed Deputy G.N. that he could not stand to walk to the patrol car. Deputy G.N. advised Sgt. J.N. who sent a request to the radio room to have an ambulance dispatched to the scene. EMS units from Central Islip Hauppauge Volunteer Ambulance Corps arrived at the station at approximately 8:15 p.m. This procedure used to arrange for deputies from the Domestic Violence Unit to transport Eriksen to the hospital before calling for an ambulance 30 minutes later resulted in an unnecessary and likely critical delay in obtaining medical care.
10. Upon arrival, EMT's found Eriksen lying on his side, [REDACTED] According to documentation, [REDACTED] Eriksen became increasingly combative with [REDACTED] while being back boarded by the EMS personnel. Due to his violent swinging of his arms and legs, handcuffs and leg shackles were applied by the deputy. Eriksen was continually combative with the EMS personnel during transport to the hospital. [REDACTED]
11. Eriksen arrived at Southside Hospital Emergency Room at approximately 8:35 p.m. [REDACTED]
[REDACTED] After consultation with the family, Eriksen was removed from life support on 6/13/05 and pronounced dead.

12. The supervision of Scott and Gary Eriksen in the holding cell area of the Criminal Contempt Office did not comport with the requirements of 9 NYCRR §7504 Minimum Standards for Supervision of Detention Areas. Part 7504 states:

7504.1 Supervision of detention areas.

(a) As a minimum, the condition of prisoners shall be checked, by actual visits to cells and detention rooms, at intervals not to exceed 30 minutes.

(b) In situations where a prisoner's physical or mental condition obviously warrants it, constant observation and supervision shall be provided.

(c) The supervisory visit procedure shall be accomplished either by personnel on full-time duty in the detention area or by those assigned to other duties in police department operations.

(d) A suitable record of supervisory visits shall be maintained in ink and in a legible manner and shall include but shall not necessarily be limited to the following information:

- (1) date;*
- (2) time of each visit;*
- (3) condition of prisoner(s), e.g., awake, sleeping, etc.;*
- (4) other notations considered relevant;*
- (5) signature of officer or matron*

Commission staff were informed during the investigation that the Prisoner Activity Logs are filled out by whoever may be present at that time and that there is no person who is directly assigned to prisoner supervision while the cell is occupied. This practice does not provide for sufficient accountability and continuity of prisoner supervision.

13. The Prisoner Activity Log for Scott Eriksen does not indicate that an actual supervisory check was done on him at 19:30 and 20:00 hours but rather just states he was yelling from the cell and then unable to walk to go out to the hospital. Scott Eriksen had also moved from the bench to the floor with his brother which was not noted or recorded in the log. Deputy E.H. also stated to Commission staff that he did not know Gary Eriksen's location in the cell when he made his 20:00 entry in the Prisoner Activity Log. Both of these are violations of §7504.1(a)(d) in that an actual visit was not made and that the condition of the prisoner was not documented.

14. Eriksen's condition deteriorated at a rapid rate from being verbally responsive at 7:30 p.m. to having no verbal response when EMS staff arrived at 8:15 p.m. The actions of the sergeant who was supervising Eriksen in the holding cell did not comport with 9 NYCRR §7504.1(b) Supervision of Detention Areas, which states:

"In situations where a prisoner's physical or mental condition obviously warrants it, constant observation and supervision shall be provided."

A detainee whose condition has led to the need for medical attention should be subject to constant supervision until such medical attention is rendered.

15. A review of policy and procedure for the Criminal Contempt Office (Domestic Violence Unit) revealed there was no specific delineation of responsibility for conducting supervision of detainees and providing medical care to detainees in the holding cell area. In addition, there was no policy and procedure specific to the use and authorization of a holding cell in the Criminal Contempt Unit.

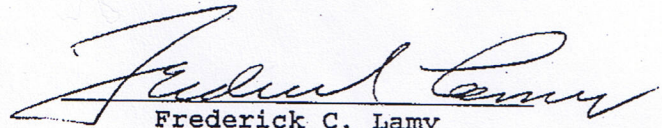
RECOMMENDATIONS:

TO THE SHERIFF OF SUFFOLK COUNTY:

1. Conduct a review of the procedures utilized to obtain medical attention for Scott Eriksen after a use of force with head injury while being detained in the Criminal Contempt holding cell. Attention should be focused on why Eriksen was not immediately referred for examination by a physician, why an ambulance equipped for prehospital care was not summoned, why it then took thirty (30) minutes to obtain transportation for a detainee whose physical condition clearly constituted a medical emergency. Corrective action should immediately be implemented to prevent such lapses and delays in the future.
2. Conduct a review of the procedures used for supervising detainees in the Criminal Contempt holding cell which were not found to be in compliance with 9 NYCRR §7504.1(a)(d)(3,4). A corrective plan of action shall be forwarded to the Commission for review upon completion.
3. Conduct a review of the sergeant who was supervising Scott Eriksen in the Criminal Contempt holding cell who failed to comply with 9 NYCRR §7504.1(b) by not initiating constant supervision for a detainee whose deteriorating condition warranted such. A report of corrective action taken shall be forwarded to the Commission for review upon completion.
4. Since it appears that the Suffolk County Sheriff's Department has established and operates a police lockup (local correctional

facility), the Sheriff should establish specific and comprehensive policies and procedures authorizing the use of the Criminal Contempt Unit as a police lockup, including procedures for the supervision of detainees and use of force procedures including the provision of medical attention after a use of force. All policies and procedures should comply with the requirements of 9 NYCRR 7500, et seq., Minimum Standards for City Jails, Town and Village Lockups. A copy of the policy and procedure manual shall be forwarded to the Commission for review upon completion. NOTE: In a letter to the Medical Review Board dated April 19, 2007 in response to this recommendation, Undersheriff John Meyericks, Jr. stated that policies and procedures for operation of the Criminal Contempt Office were developed and would be forwarded to the Medical Review Board.

WITNESS, HONORABLE FREDERICK C. LAMY, Commissioner, NYS Commission of Correction, 80 Wolf Road, 4th Floor, in the City of Albany, New York 12205 this 22nd day of June, 2007.


Frederick C. Lamy
Commissioner

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