

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

June 27, 2013

The New York State Commission of Correction
Chairman Thomas A. Beilein
Commissioner Phyllis Harrison-Ross M.D.
Alfred E. Smith State Office Building
80 South Swan Street, 12th Floor
Albany, New York 12210

Re: Daniel McDonnell

Dear Chairman Beilein and Commissioner Harrison-Ross,

On June 26, 2013 a Newsday reporter, Zachary Dowdy, called the Suffolk County District Attorney's Office seeking comment on a recently released final report of the New York State Commission of Correction regarding the death of Daniel McDonnell, an inmate in custody of the Suffolk County Police Department. Since the Suffolk County District Attorney's Office had not received nor reviewed the document, Mr. Dowdy kindly forwarded it to us.

Unfortunately we were dismayed to discover that the Commission report criticized the Suffolk County District Attorney's Office for failing to conduct a proper investigation into Mr. McDonnell's death. This criticism was leveled with no notice, no interview of prosecutors or a review of office investigative documents. Incredibly, we were also given no chance to respond to these baseless and inaccurate findings before they were made public.

While this Office understands and supports the mandate of the Commission to investigate in-custody deaths, it is ironic that you would criticize us for an investigative failure based upon your own completely absent investigation.

A prosecutor's burden of proof is beyond a reasonable doubt. We are also bound by ethical and professional rules of conduct. Apparently you feel the Commission is not bound by similar standards.

EXECUTIVE OFFICES

BUILDING 77 • NORTH COUNTY COMPLEX • VETERANS MEMORIAL HIGHWAY • HAUPPAUGE NY 11788
TELEPHONE (631) 853-4169 • FAX TRANSMITTAL (631) 853-5820

I would also point out that while the report also criticizes the Suffolk County Medical Examiner, it is my understanding that no one from the Commission interviewed anyone from that Office or looked at any of the documentation in support of the autopsy report. According to the Medical Examiner the medical conclusions in the Commission report demonstrate a complete lack of understanding of the principles of forensic pathology.

I cannot stress enough how disturbing it is that we now have to defend ourselves in the press against irresponsible accusations from a State Commission that does not have the courtesy and professionalism to conduct the most basic of inquiries before releasing this critical report.

A similar letter is being sent to the Governor of the State of New York addressing our concerns over the failure of your investigation.

Very truly yours,

THOMAS J. SPOTA
Suffolk County District Attorney

TJS/czs