

NEW YORK STATE COMMISSION OF CORRECTION

Albany, New York



**AN ESCAPE FROM THE HERKIMER COUNTY JAIL
ON FEBRUARY 26, 2007
HERKIMER, NEW YORK**

DANIEL L. STEWART
Chairman

FREDERICK C. LAMY
Commissioner

FRANCES T. SULLIVAN
Commissioner

INTRODUCTION

Pursuant to Article 3, Sections 45(2) and 45(3) of the New York State Correction Law, Commission of Correction staff conducted several site visits to the Herkimer County Jail to investigate the escape of three inmates that occurred on February 26, 2007.

This report details the investigation conducted by Commission staff. It further discusses the incident and presents the Commissions findings, resulting action required, and recommendations.

I. SUMMARY OF INCIDENT

On February 26, 2007 three inmates escaped from the Herkimer County Jail between the hours of 18:30 and 19:01. The Commission's Officer of the Day received a call from Captain Tom McGrail at approximately 20:00 hours reporting the escape. The escapees were identified as Joshua L. Hight, Bradley A. Olmstead, Jr. and Brett J. Insogna. Inmates Hight and Olmstead were apprehended shortly after their escape. Commission staff was later informed by Captain McGrail that inmate Insogna had been apprehended in Johnstown, New York at approximately 20:45 hours. The Commission received a reportable incident report on February 27, 2007 regarding this incident.

II. METHODOLOGY

This investigation was initiated as a result of an incident report to the Commission's Officer of the Day (O.D.) on February 26, 2007. At approximately 20:00 hours the Officer of the Day was informed an escape had occurred at the Herkimer County Jail. The OD contacted Captain Thomas Mc Grail (Jail Administrator) and was informed of the following:

- Three inmates under the age of 19 had escaped at 19:00 hours from the trustee block of the jail through a cell window. These individuals were Joshua L. Hight, Bradley A. Olmstead, Jr., and Brett J. Insogna.
- Inmates Hight and Olmstead were apprehended shortly after the escape. Inmate Insogna was apprehended later in the evening in Johnstown, New York.
- A note was found in one of the inmate's cell stating that they had been working on the window for several weeks.

The information included in this report is based on a thorough review of the Herkimer County Sheriff's Department policy and procedures, reports pertaining to the incident and interviews conducted by Commission staff with Herkimer County Jail staff, inmates Joshua L. Hight, Bradley A. Olmstead, Jr., and Brett J. Insogna. Commission staff also toured the facility including the trustee housing area and inspected the security features of the physical plant.

III. PERSONS INTERVIEWED

Corrections Officer Eileen French
Corrections Officer Carmen Newtown
Corrections Officer John White
Corrections Sergeant Jim Drake
Inmate Joshua Hight
Inmate Brett J. Insogna

IV. INVESTIGATION OF INCIDENT

On February 27, 2007, Commission staff members Steven Savoy and Erin Purdy visited the Herkimer County Jail. A meeting was held with the Sheriff, Undersheriff and jail administrative staff. Commission staff informed Herkimer County officials that the Commission would be

conducting an investigation of the escape of inmates from the jail that occurred on February 26, 2007.

Commission staff conducted a tour of the trustee housing unit. Upon entering the unit, Commission staff was directed to the shower area. Jail officials pointed out a piece of metal that was missing from the top of the shower. It had been determined that this piece of missing metal had aided in the escape. The metal was used to remove the caulking around the window. Commission staff entered cell # 3 in the trustee block. New York State Police had removed for evidence the metal screening that originally covered the window. The glass security window was pushed open at the bottom and revealed a small opening. Further inspection of the cell revealed a metal institutional breakaway hook was missing. Jail staff could not ascertain where this item was or how long it had been missing. It was also observed in the trustee block that the food ports to the cells were in the open position and not secured.

A review of the facility DVR (Digital Video Recording) revealed that at approximately 18:35 hours an inmate exited the north side of the building by going through a window and jumping onto a snow bank from a second story window sill. Additionally, at 18:39 and 18:40 two more people are seen exiting the building in the same manner.

Brett J. Insogna was admitted to the custody of the Herkimer County Sheriff's Office on December 30, 2006 with charges of Assault 2nd and Attempted Robbery. Records indicated that Mr. Insogna was classified as a maximum security minor and was assigned to the "trustee cell block" and assigned to cell # 1.

Joshua L. Hight was admitted to the custody of the Herkimer County Sheriff's Office on January 31, 2007 with charges of Petit Larceny. Records indicate that Mr. Hight was classified as a minimum security minor and was assigned to the "trustee cell block" and assigned to cell # 2.

On March 1, 2007 Commission staff members Steven Savoy, Erin Purdy and Elisha Hamilton conducted interviews with Officer Eileen French, Officer Carmen Newtown, Officer John White and Sergeant Jim Drake. On March 22, 2006, Commission staff members Steven Savoy and Chester Martinez conducted interviews with inmates Brett J. Insogna , and Bradley A. Olmstead, Jr..

Bradley A. Olmstead, Jr. was admitted to the custody of the Herkimer County Sheriff's Office on February 26, 2007 with charges of Petit Larceny. Records indicated that Mr. Olmstead was not classified due to arriving at the facility on the day of the escape. Mr. Olmstead was booked into the facility at 14:12 hours and was assigned to the "trustee cell block" and assigned to cell # 3.

Corrections Officer Eileen French was present on the afternoon shift on February 26, 2007 at the Herkimer County Jail. Officer French was assigned to the second floor North/South block. Officer French stated that at approximately 1901 hours, inmates were discovered missing from the trustee block by Corrections Officer Carmen Newtown. This occurred when inmates were being called out of their housing unit to attend church services. Officer French stated based on procedure and practice, she assists the 2 East officer when the officer completes supervisory rounds in the trustee block. While assigned to the 2 North/South post, the 2 North/South officer stands in the

doorway to the trustee block. The 2 East officer hands the keys over to the 2 north/south officer, enters the unit and completes a tour of the area. This is recorded utilizing a time recording device. Officer French stated that inmates are locked in their cells at night in the trustee block. In order for this to occur, an officer must enter the unit and double lock the cells. *Note: Double locking the cell engages a dead bolt locking mechanism.* Officer French stated that the trustee cell doors allow inmates to open their cell from the inside if they are not in the double lock position. Officer French further stated that food ports to the trustee cells are routinely left open so that inmates can enter their cells. Officer French also stated that the facility has a procedure in place to search inmate's cells on the B and C line shifts each day. These searches are documented by officers.

Correction Officer Carmen Newtown was present on the afternoon at the Herkimer County Jail on February 26, 2007. He was assigned to the 2 East post. This post also conducts supervisory rounds of the trustee block. Officer Newtown stated that during his 1900 hour supervisory round he discovered that there were no inmates in the trustee block, he immediately contacted the shift supervisor. Records indicate that the previous supervisory round was conducted at 18:30 hours. Officer Newtown stated that inmates cells are searched twice per day, once on the B line (7a.m. -3 p.m.) and once on the C line shift (3 p.m.-11 p.m.). Officer Newtown stated that the trustee cells open from the inside unless they are double locked. If they are not in the double lock mode they can be opened by putting a hand through the food port and turning the inside handle.

Corrections Officer John White was present on the afternoon shift at the Herkimer County Jail on February 26, 2007. Officer White was assigned as the med officer. He stated that on that date at approximately 1900 hours he was assigned to supervise church services in the recreation room on the second floor. During this time he stated that Corrections Officer Carmen Newtown discovered inmates were missing from the trustee block. He stated that the facility was locked down, however church services continued until they were completed. Officer White stated that inmate food ports are allowed to remain open in the trustee block area and he believed that this was for ventilation. He stated that he has witnessed inmates and officers open doors in the trustee block by reaching through the food ports and turning the inside handle. When inmates are not in the housing unit, facility procedure is that cell doors are closed and double locked. Additionally, food ports are to be secured.

Sergeant Jim Drake was present on the afternoon shift at the Herkimer County Jail on February 26, 2007, assigned as the shift supervisor. Sergeant Drake stated that correction officers are expected to conduct a facility count upon each shift change. He further stated that cell inspections are done during the B and C-line shifts. These searches are documented and then forwarded to the shift supervisor for review. Sergeant Drake stated that facility policy dictates that the shift supervisor is required to tour the facility at least once per shift. He further stated that food ports being left open in the trustee block has become a routine to allow inmates to enter their cells.

Commission staff interviewed inmate Brett J. Insogna on March 22, 2006 at the Herkimer County Jail. Insogna stated that he had worked on his escape for a period of approximately four weeks. He stated that he recalled an officer entered the area and did not *double lock*¹ cell number 3 after opening the cell. He stated that he was assigned to cell # 1 in the trustee block. Insogna stated

¹ Cells in the trustee area must be double locked in order to secure inmates in their cells. The double lock function engages a dead bolt lock. If not double locked the door can be opened from the inside of the cell.

that he was able to manipulate the cell # 3 door lock with a toothbrush which then allowed him access to the cell. The first tool he was able to obtain was a metal piece off the top of the shower. He would remove the piece and return it prior to officers making rounds. Once he discovered that officers did not notice it missing, he stored it in cell # 3 under the mattress. He further observed one of the clothing hooks on the wall had been welded. He easily pried the hook off the wall and stated he used it as a tool. This piece of metal was strong enough to allow him to pry open the security screen by using the metal piece as a wedge. Once the screen was open, he stated that it remained open for a period of approximately four weeks. During daylight hours he would stuff toilet paper next to the screen so that day light would not shine in, alerting officers.

Insogna stated that officers made regular rounds in the housing unit approximately every 30 minutes. He stated that he knew when officer were coming because he would hear keys and knew the officer always toured the housing area next to the trustee block prior to entering. This allowed Insogna to exit the cell, shut the door and go back into his own cell by putting his arm through the open food port and opening the cell from the inside. This was due to his cell also not being double locked.

Over a short period of time, after opening the metal screen, he stated he was able to remove a metal piece on the side of the window. He then was able to use this as a tool to work on removing the security calking. He informed Commission staff that he used his spoon² during each meal to also remove the calking from the window.

Insogna stated during the interview that he had eight pairs of gloves he used so that he would not cut himself while working on his escape. He stated that all inmates are issued a pair of gloves and a hat to leave in their cell. He kept these in his cell so that officers would not be suspicious when conducting cell inspections. He stated that on several occasion he would go to exercise and not take his gloves or hat with him. Before entering the exercise area he would take a hat and gloves from a box, upon exiting the recreation area he would tell officers that the items were his as issued, and in this way accumulated eight pair.

Joshua Hight was interviewed by Commission staff on March 22, 2007 at the Herkimer County Jail. He stated that at different times he and Brett Insogna were housed in different areas of the facility. Approximately one month before while housed in the trustee block, he and inmate Insogna were housed in cell # 2 and #3 respectively. They were moved off the trustee housing unit and again returned a short time later. This was due to the trustee area being utilized for female housing. Upon being returned to the trustee housing area, an officer unlocked cells #2 and #3 assuming that inmates Insogna and Height were housed in the cells. At that time inmate Insogna asked the officer to unlock cell # 1 which he was assigned. When the officer did this, Cell # 3 was never placed back into the double lock position and thereby became available to Insogna for four weeks. Joshua Height arrived at the Herkimer County Jail on January 31, 2007. He stated that after being at the jail approximately 1 week he discovered that Brett Insogna was attempting to escape from the facility. He stated that at times he would assist in working on the window in cell # 3. He further stated that inmate Brett Insogna worked on his escape plan every day. He stated that officers made checks of the housing unit about every thirty minutes. Insogna would hear doors

² Herkimer County Jail issues metal spoons to inmates at meal times. These are collected and counted at the conclusion of meal time and returned to the kitchen.

opening and closing in the 2 North/South block, which allowed him enough time to exit cell # 3 and return to his own cell prior to officers entering the area.

Height stated that food ports in the trustee housing area are left open to allow inmates access into their cells. This is done by reaching through the food port and turning the inside knob. He further stated that he had witnessed correction officers opening the cells in the same manner. He stated that the food port to cell # 3 was closed and locked while inmate Insogna worked on his escape. Inmate Insogna was able to open the lock by utilizing a plastic spoon or toothbrush to jimmy the lock. This could be done due to the lock not being in the double lock position. He stated that on several occasions he would take gloves and hats from a box prior to entering the recreation area. He would then take this back to his housing area for inmate Insogna to use.

On February 26, 2007 inmate Brad Olmstead Jr. arrived on the second floor of the jail at approximately 1455 hours. Mr. Height stated that an officer escorted inmate Olmstead into cell # 3 of the trustee block and told him to make the bed. This officer apparently did not notice the security screen being open or the pieces of glass that were on the floor. After the officer left the area, Joshua went in to speak to Olmstead. They had known each other in the past. Height informed Olmstead that Insogna was attempting to get out of the jail. They discussed telling the officers about this but felt if they did so they would be blamed for the damage and charged with attempted escape. Brett Insogna knew on February 26th that officers were going to check cell # 3 now that an inmate had been assigned to the cell. Because of this Insogna kicked at the window and was able to break out a small portion of the bottom of the window. Once this was completed Insogna exited the building by jumping off the window ledge. Height and Olmstead discussed whether they should escape. At first they were not going to do this. However, after a short discussion they felt they would also be charged with attempted escape and they decided to also exit the building.

V. FINDINGS

1. The initial log book entries revealed that log entries did not contain all the required elements of 9 NYCRR §7003.6, and as such are in violation of Part 7003, Security and Supervision. Initial log entries made by officers do not consistently document all required elements of this section which are:
 - Review the records maintained pursuant to subdivisions (j) of section 7003.3 of this Part and, subsequent to such review, initial such written records;
 - Obtain all necessary keys for the assigned area in accordance with the provisions of section 7003.9 of this Part;
 - Inspect all supplies, equipment, locks, gates, bars, screens, security windows and other securing devices; and
 - Perform any other necessary security functions as determined by the chief administrative officer.

2. Additionally, interviews with correctional staff revealed that these requirements are at other times not documented and/or not completed.
3. Inmate Insogna was classified as a maximum security inmate and Joshua Hight as a minimum security inmate. Housing these inmates in the same housing area was a violation of 9 NYCRR Part 7013, Classification and Correction Law 500-b, based on the security classification differences of these inmates.
4. Commission staff was informed that each newly admitted inmate receives the required tuberculosis screening (PPD injection) which subsequently requires a period of 48 to 72 hours before the results can be read by the medical staff. The facility disregards the 48 to 72 hour time frame for medical clearance and allows all new inmates to be placed in general population shortly after their arrival to their housing unit. Because their initial screening and risk assessment is incomplete, this practice is a violation of 7013.7(2).
5. Facility weekly lock inspection records required by 7003.10 indicate that a weekly inspection was done on January 31, 2007, February 7, 2007 and February 23, 2007. Herkimer County officials were unable to produce inspection records for the period February 7 to 23, 2007. Additionally, on all three documented occasions a checkmark was denoted next to cell # 3 in the trustee block, indicating that its lock was inspected and functional.
6. Facility staff violated the procedure that requires officers to search inmate cells once each during the B and C tours. It is evident that cell # 3 in the trustee block was not searched due to it not being assigned occupancy. Moreover, Cell # 3 was noted to be in checked on Jan 31, Feb 7 and Feb 23 while inmate Insogna's removal of the window was in progress.
7. This investigation revealed that the food ports in the 2 North/South trustee block are routinely left open to allow inmates and staff to get into cells. Operationally, officers do not enter the trustee block with cell keys on their person. These keys are held by another staff member and then returned to the housing officer after the tour is completed.
8. The investigation revealed that due to the age and poor maintenance of the Herkimer County Jail, the inmates were able to breach two security points. First, due to the security calking around the steel frame security window being missing, enough space was available for the screen to be pried open. The security screens are only secured by two pins that protrude into the frame. Secondly, the security glass window was breached by continually working to remove aged security calking which eventually led to the security window failure.
9. The facility currently utilizes a time recording system (Guard Plus) that requires officers to document when housing area tours are made. Facility policy dictates that

this recording device is used on all three shifts. Time recording records for February 26, 2007 indicate that there were several occasions where officer's supervisory rounds were completed in excess of 30 minute intervals.

VI. ACTIONS REQUIRED

1. The facility administration shall require that all staff assuming assigned housing area posts complete and record all of the requirements set forth in 9 NYCRR §7003.6, Requirements of facility staff members prior to assuming responsibilities in an assigned housing area.
2. The facility administration shall comply with Correction Law 500-b and 9 NYCRR Part 7013 by requiring that inmates of different security classifications are not commingled in any housing areas.
3. The facility shall develop policy and procedure to require that all inmates remain sequestered until classified and cleared by the medical department.
4. Pursuant to 9 NYCRR §7003.10, the facility administration shall require that inspections of locks and other securing devices are completed and documented on a weekly basis.
5. The facility administration shall develop policy and procedure that requires officers to utilize keys for the opening of inmate cells in the trustee area. Additionally, policy shall dictate that food ports are not to be left unsecured allowing inmates entrance to a cell. Unoccupied cells shall be double locked.
6. The facility administration shall conduct a comprehensive review of the integrity of the security windows at the facility and develop a plan to enhance such security where needed.
7. The administration shall require that officers conduct supervisory rounds at intervals not to exceed 30 minutes in length.
8. The facility administration shall conduct a comprehensive review of policy and procedures regarding Security and Supervision, Admissions, Emergency Preparedness, and all post orders to measure and document compliance with *Minimum Standards*.
9. The facility administration shall develop a system to account for all outdoor clothing at all times i.e., coats, gloves, and hats.

VII. RECOMMENDATIONS

1. The facility should consider revising the current classification system of three security levels, to two security levels in order to have more flexibility in

appropriately housing inmates.

2. To enhance security, the facility administration should consider replacing the metal spoon currently utilized by inmates with an appropriate alternative.
3. Facility staff should be briefed on all risk elements and security breakdowns associated with this incident and on all policy/procedure changes that resulted from the incident.