STATE OF NEW YORK • EXECUTIVE DEPARTMENT
STATE COMMISSION OF CORRECTION
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October 21, 2014

Sheriff Jeffrey J. Murphy
Washington County Sheriff's Department
399 Broadway
Ft. Edward, New York 12828

Re: Escape of Inmate Matthew Maxwell

Dear Sheriff Murphy:

On September 4, 2014, Inmate Matthew Maxwell escaped from the Washington County Jail by jumping off a loading dock and running through an open facility delivery gate. Inmate Maxwell was observed running through the open gate by departmental off-duty personnel whom immediately gave chase and apprehended him within a short distance from the facility and returned him to the facility admission area. Initial notification to the Commission of the incident was made at 2:10 p.m. by Captain Eugene McKenna, and written notification via Reportable Incident was received from Sergeant Stephen Dougherty at 2:25 p.m.

Under the direction of Director of Operations James Lawrence, on September 24, 2014, Commission staff members Steven Savoy and Todd D'Alessandro conducted a site visit to the facility to conduct a preliminary investigation into the incident. Upon arrival, Commission staff met with you as well as Undersheriff John Winchell, Captain Eugene McKenna, Lieutenant William Breeyear, and Lieutenant Aron Bassett.

The following report outlines the chain of events before, during, and after the escape, as well as the corrective actions taken by you and your staff as a result of this incident. It is important to note that as a result of the prompt and comprehensive corrective actions developed and implemented by your staff, this report need only detail the event and outline said actions. As you will note, following the narrative of this report there are no additional corrective actions required or recommended.

Please acknowledge your receipt of this report at your earliest convenience.

Sincerely,

Thomas A. Beilein
Chairman

Cc: Captain Eugene McKenna

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Description of Events

On September 4, 2014 at approximately 1:13 p.m., Inmate Matthew Maxwell, a trustee assigned to the kitchen, escaped from the facility via the kitchen receiving area. The video surveillance taken at the time from a total of five different cameras indicates that while perched on the loading dock with the overhead door still open, inmate Maxwell placed one box in such a manner as to prevent the kitchen sallyport door from closing and then hid behind several other boxes of supplies he was supposed to be bringing into the facility. He then waited for the nearby sliding gate at the facility perimeter fence to open to allow a truck to exit the facility. When it did, Maxwell jumped from the loading dock, ran along the adjacent fence, and escaped through the open gate.

Two Road Patrol deputies arriving to work to begin their 2:00 p.m. to 12: 00 a.m. shift were about to enter through the north entrance of the facility and observed inmate Maxwell, dressed in his inmate worker clothes, run through the open gate. Both immediately gave chase, while announcing via radio an inmate escape was in progress. Within a two-block area from the facility, Maxwell was discovered hiding behind a fence and was immediately taken into custody and returned to the facility.

A timeline provided to Commission staff indicates the sequence of events; however, Commission staff was informed that the internal clock of the system was '10 minutes off', so the times have been adjusted and noted accordingly:

12:53:30 _ Officer Gebo[1] through Control Sallyport
12:59:11 – Gates opens to let truck in
12:59:30 – Kitchen Door and Overhead opened
01:09:06 – Officer Howard[2] seen in Receiving on portable
01:09:13 – Howard & Craig Phalen[3] leave Receiving (overhead open)
01:10:21 – Maxwell enters Receiving alone (moving boxes)
01:10:48 – Truck at gate waiting to leave
01:13:04 – Gate starts to open
01:13:23 – Truck goes through partially open gate
01:13:39 – Maxwell runs from loading dock
01:13:41 – Gate is fully open
01:13:47 – Maxwell goes through gate
01:13:54 – Trottier[4] and Holcomb[5] pass the gate in pursuit
01:13:55 – Walkup tries to stop Maxwell
01:14:31 – Howard in Receiving looking around
01:14:35 – Howard out on loading dock (Saw us?)
01:15:27 – Howard back in from dock
01:15:30 – Door closing
01:16:50 – Howard checks Receiving again
01:17:34 – Howard checks Receiving again
01:20:00 – Phalen checks Receiving again

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[1] Relieved the Control Officer for a break
[2] Assigned as Facility Kitchen Officer
[3] Facility Dietetic Services Supervisor
[4] Deputy assigned to Road Patrol
[5] Deputy assigned to Road Patrol

Inmate Matthew Maxwell

According to the documentation provided to Commission staff, inmate Maxwell was committed to the Washington County Jail on June 26, 2014 charged with Unlawful Imprisonment 2nd, Assault 3rd, and Assault 2nd. Held in lieu of $5000.00 bail, he was scheduled to reappear in Washington County Court on September 10, 2014. Prior to this, Maxwell, 32, was arrested a total of nine times dating back to October 17, 1998 for four felonies (including one violent felony) and five misdemeanors. He had prior felony convictions and had served state time before being released on parole. Additionally, Maxwell was on probation at the time he was jailed on his current charges. For these reasons, Maxwell was classified as a 'maximum' custody inmate.

However, according to documentation provided to Commission staff, a memorandum dated August 7, 2014 from the Medical Department to the Food Service Department indicates that inmate Maxwell was cleared for work in the facility kitchen. The memorandum was signed by a nurse on the same date, but not signed by the supervisory nurse until September 3, 2014, one day prior to the escape.

A review of the facility classification policy (B-03) in place at the time of the escape does not include any reference to the selection of inmate workers. The only reference to an inmate worker is noted under 'Positive Adjustment Factors' and refers to one of several reasons as to why an inmate's classification should be reviewed. In fact, the procedure for the hiring of an inmate worker simply involved the approval of a shift supervisor. If the inmate was being considered for work in the facility kitchen, medical clearance from a nurse was also required.

Staff Assignments

On the day of the escape, Officer Brian Howard was assigned to the facility kitchen. The civilian food service staff included Craig Phalen, Karen Majewski, Toni McKenna, and Jimmy Byrne. There were a total of five other inmate workers in the kitchen besides inmate Maxwell. Just minutes prior to Maxwell's escape, Officer Tim Gebo relieved Sergeant Terry Vanarnum in the Control Room for a break.

Supervision

According to information included in the internal investigation provided to Commission staff, inmate Maxwell had told several other inmate kitchen workers he planned to escape from the jail if given the opportunity. That opportunity came when the kitchen officer left him alone on the loading dock and went back into the kitchen. No supervision of inmate Maxwell was conducted via the officer while he was supposedly bringing boxes of supplies into the facility that had just been delivered. According to the statement given by the officer, he states he radioed the Control Room to close the overhead door (Door E132B) after the delivery, but the video reveals he did not stay to see the door actually close and ensure it was secured or supervise inmate Maxwell.

Security Override/Warnings

During the site visit, Commission staff visited the Control Room to observe a simulation of the control panel display at the time of the incident. Because the kitchen sallyport door had been propped open (Door E135A) the Control Room Officer had to override security warnings

on the panel twice to open the overhead door at the same time.

Once the Control Room Officer also opened the perimeter gate to allow a truck to exit, inmate Maxwell was provided an unfettered means to escape. Commission staff was informed and subsequently confirmed that this lackadaisical approach regarding the override of the security warning alarms when both the overhead door and the kitchen sallyport doors are open is common practice during deliveries.

Perimeter Gate

At present, the manually controlled sliding gate is operated by the officer assigned to the Control Room. The access road to the facility is a two-lane wide space and when fully open, the sliding gate accommodates this space. There is an electronic sensor on the gate that prevents accidental closure. There are also ground sensors on both sides of the gate that when triggered, sends a signal to the Control Room. A call box positioned outside the gate is used to verbally communicate with the Control Room officer. Video surveillance cameras allow the officer to visually see the area. As stated above, the system must be over-ridden manually by the Control Room officer to allow the kitchen sallyport door and the overhead door on the loading dock to be opened simultaneously. The perimeter gate operates independently.

Officer Conduct

The facility policy and procedure provides for specific immediate actions to be taken by staff in the event of an inmate escape. Under 'Procedure/Escape Discovery/On-duty Correction Officers' the policy states the first action for staff to take:

'When an on-duty Correction Officer suspects or discovers that an escape from the facility has occurred they will immediately notify the Shift Commander'.

According to Officer Brian Howard's statement, he did not notify the Shift Commander that he had an inmate missing until **after** he did the following;

- He radioed the Control Officer to close the overhead door and open the gate after the delivery;
- He then proceeds back into the kitchen to escort a newly hired inmate worker to the mop closet;
- He then toured the kitchen area from front to back;
- He then proceeds to the second loading dock and notices the overhead door and gate still open and observes the Undersheriff, a sergeant, and a 'few unidentified individuals in street clothes' running along the fence;
- He is asked by the Undersheriff if he had 'seen anyone' to which he responds 'No';
- He then radioed the Control Officer to close the gate again;
- He then suspects he had an inmate worker escape;
- He then returns to the kitchen and instructs the workers to line up against a wall and takes a head count and realizes inmate Maxwell is missing;
- He then visually checks all the rooms in the kitchen;
- He then hears a radio transmission calling for a jail lockdown;
- He then escorts the remaining five workers back to C Pod.
- He then notifies Sergeant Dougherty in the Main Corridor that inmate Maxwell is missing.

Note: There are no time references to the above actions included in the officer's statement. However, according to statements provided by the departmental internal investigation, the first radio broadcast of the escape in progress is made at 'approximately 13:20 p.m.' by an off-duty deputy pursuing the fleeing inmate on foot.

But according to Sergeant Stephen Dougherty's statement, he was informed by Captain McKenna via radio to lock down the jail and perform a full facility inmate head count 'on or about 13:05 hours'. This time conflicts with the timeline as recorded in several other statements and reports that state the order from the captain to lock down the facility occurred at approximately 13:30 hours.

In addition, Sergeant Dougherty's statement indicates that immediately after he was informed by Officer Howard that inmate Maxwell was 'missing and may have left the facility' they both 'ran to the kitchen hallway and out through the sallyport doors'. He then states 'When we got outside, Deputy Don Jett was coming in with his patrol car and had Maxwell in custody'. If true, then Officer Howard did not inform a supervisor of the escape until after inmate Maxwell had already escaped, was pursued and captured, placed in a patrol car, and returned to the admission area of the facility.

Miscellaneous

While on site at the facility conducting an investigation into the escape, Commission staff also observed ancillary issues they may have impacted the escape of inmate Maxwell. At one point, Commission staff requested to enter the facility control room. The control room officer was observed opening the door to the control room while still having the sally port door for the secure part of the facility open simultaneously. Based on this observation, Commission staff learned that the doors are not interlocked on the jail management system.

Additionally, while observing the interlock warnings in the control room Commission staff noticed that door # 173 in the facility was highlighted red on the control board. Upon inquiry, Commission staff were informed that this indicated that the door was open. It was also reported that the door had a faulty positioning switch that showed the door as being open even when closed. Commission staff were informed that this had been an issue for several months.

Corrective Actions - Post Event

The facility has taken extensive corrective actions since inmate Maxwell's escape. Commission staff was provided with a comprehensive list, and each action listed was discussed in depth during the site visit. When applicable, supporting documentation was provided to Commission staff as well. This documentation included the internal departmental investigation, pertinent information regarding inmate Maxwell, photographs of the facility area, statements of all staff/persons involved, log book entries, computer readouts, video surveillance on dvd, revised policies and procedures, and a revised inmate classification listing. Specifically, the facility has taken the following actions;

1) The following policy and procedures have been revised; G-05 Logbooks, G-11 Inmate Worker Detail, A-24-1 Captain-Job Description, A-24-2 Lieutenant-Job Description, A-24-3 Sergeant-Job Description, A-24-6 Control Officer, and A-24-9

Kitchen Officer. All staff have received these updates and has signed an acknowledgement of receipt;

2) The entire facility inmate population has been reclassified using the revised Classification policy. All corresponding inmate moves were completed as well;

3) Inmate workers are now selected using the NYS County Corrections Worker and Trustee Flow Chart;

4) The facility is in the process of determining a specific selection procedure for the positions of Kitchen Officer and Control Officer;

5) All protective custody inmates were interviewed and reclassified when applicable;

6) The door position switch for Door E-173 has been replaced and is working properly;

7) Delivery drivers and local police agencies have been notified that there may be delays in access to the facility as the delivery gate will not be opened when an overhead door is unsecured. In addition, they have also been advised not to pass through the gate until it has been completely opened to prevent interference with the automatic closing feature of the gate;

8) Log books are now required in the Medical Office and the Programs Office to track inmate movement to and from these areas;

9) Deliveries are now limited to only one loading dock directly in front of doors E-135A and 135-B. This eliminates inmates from being out of the officer's line of sight when orders are moved into the kitchen area. In conjunction, the door between the two loading docks is now locked at all times when not in use;

10) All storage rooms in the kitchen area are now locked at all times;

11) Keys have been made for the kitchen double doors and are now locked at all times;

12) Metal cans and lids are now being disposed of in a locked cart and stored outside the facility to eliminate any access to inmates;

13) A steel plate has been welded in place to eliminate the space between the end of the fence and the building near the loading dock. This plate extends up to the razor wire at the top of the fence;

14) Razor wire has been installed along the roof area above the loading dock;

15) Black Creek has been contacted to add an interlock for the Control Room door, the two sliding sallyport doors, the exterior sliding gate, and the exterior overhead doors;

16) All sergeants now conduct no less than three facility tours per shift. A captain now conducts a facility-wide tour daily;

17) The room within the medical area in which medications are stored is now secured at all times;

18) The facility has hired a DOCCS consultant for a complete facility review;

19) The facility is considering a new policy and procedure in which only one lane will be utilized for entrance/exit through the rear gate;

20) Black Creek is in the process of adding an additional sensor to the rear gate;

21) The Black Creek server time issue has been corrected and now records the correct time on the DVR recorder;

22) The facility has contracted for a complete rebuild for the perimeter gate. Plans have been submitted to the Commission for approval as of this writing. Upgrades will include a timer to close the gate after a predetermined length of time preventing the gate from remaining open when a vehicle enters/exits the facility.

Action Required

None.

Recommendations

None.