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## DRAFT

# Investigation and Review of the Federal Bureau of Prisons' Custody, Care, and Supervision of Jeffrey Epstein at the Metropolitan Correctional Center in New York, New York

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March 2023

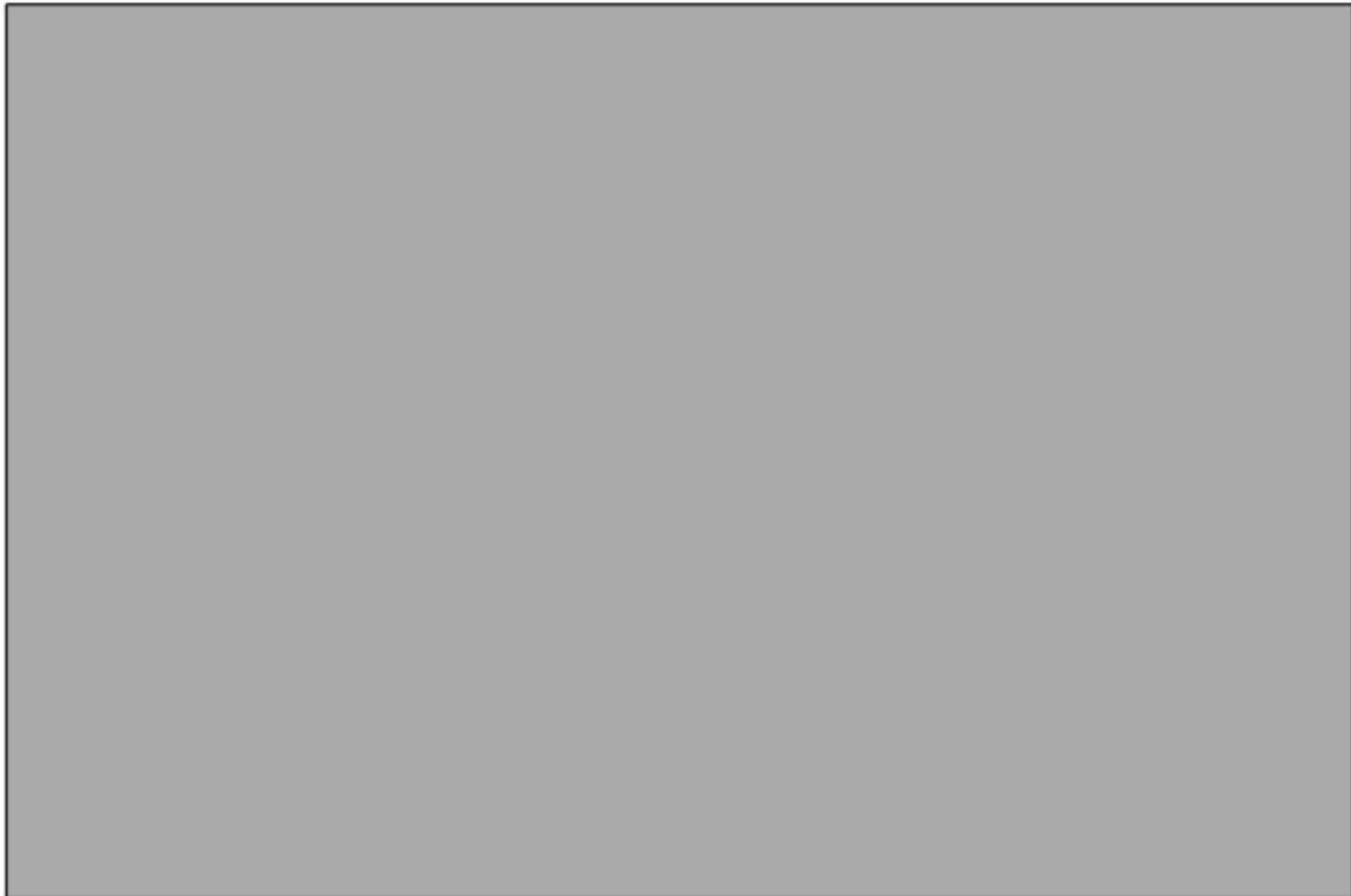
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The Evening Watch SHU Officer in Charge told the OIG that he was the SHU Officer in Charge on August 9 from approximately 2:00 p.m. until 10:00 p.m. The Evening Watch SHU Officer in Charge said he relieved the Day Watch SHU Officer in Charge from his duties and worked in the SHU with Senior Officer Specialist 5, a Material Handler, Correctional Officer 2, and Correctional Officer Tova Noel. The Evening Watch SHU Officer in Charge stated that when he began his shift, Epstein was visiting with his attorneys in the attorney conference room. The Evening Watch SHU Officer in Charge told the OIG that he did not recall having a conversation with the Day Watch SHU Officer in Charge about Epstein needing a cellmate. When advised that the Day Watch SHU Officer in Charge was confident about their conversation, the Evening Watch SHU Officer in Charge stated, "I don't necessarily want to call anyone a liar[] per se, but I don't remember him speaking to me about this. So, maybe he spoke to [Senior Officer Specialist 5], and maybe I was standing there, and he thought I heard him." The Evening Watch SHU Officer in Charge said if Inmate 3 had left MCC New York with all of his belongings, then someone should have found another inmate to replace him because Epstein was required to have a cellmate.

The Evening Watch SHU Officer in Charge told the OIG that he eventually learned later that evening that Epstein did not have a cellmate. According to the Evening Watch SHU Officer in Charge, after Epstein returned from his attorney visit and placed a telephone call, he escorted Epstein to his cell and saw that Inmate 3 was not there. According to the Evening Watch SHU Officer in Charge, after he realized that Epstein did not have a cellmate, he, Noel, and the Material Handler, all of whom were working in the SHU that evening, talked about Epstein needing a new cellmate. The Evening Watch SHU Officer in Charge said SHU staff could not just put anyone in the cell with Epstein. In his interview with the OIG, the Evening Watch SHU Officer in Charge stated that he called someone (he could not recall who) and notified that person that Epstein did not have a cellmate.



The Evening Watch SHU Officer in Charge told the OIG that he was present in the SHU on August 9 during the time of Epstein's telephone call but did not overhear Epstein's conversation. The Evening Watch SHU Officer in Charge also said that while Epstein was having his telephone call, the officers were distracted by the actions of another inmate.



In his interview with the OIG, the Evening Watch SHU Officer in Charge acknowledged that neither he nor any other SHU staff member conducted the 4:00 p.m. SHU count on August 9. The Evening Watch SHU Officer in Charge verified that it was his handwriting and signature on the 4:00 p.m. SHU count slip and said he had prepared the count slip ahead of time because “[t]here was so much going on” in the SHU that day. The Evening Watch SHU Officer in Charge confirmed that Noel’s name and signature also appeared on the 4:00 p.m. count slip.<sup>33</sup> During his OIG interview, the Evening Watch SHU Officer in Charge reviewed BOP documents regarding the inmate’s transfer from the SHU and acknowledged further that based on that transfer, the number of inmates listed on the SHU count slip he and Noel submitted for the 4:00 p.m. count, the count slip was incorrect.

The Evening Watch SHU Officer in Charge told the OIG that Noel filled out the round sheet on behalf of everyone who was working in the SHU during his shift. The Evening Watch SHU Officer in Charge was not certain if all of the rounds were actually conducted. [REDACTED]

The available video showed that at approximately 7:49 p.m. on August 9, Epstein was escorted toward the L Tier stairway by an individual believed to be the Evening Watch SHU Officer in Charge.<sup>50</sup>

<sup>50</sup> The OIG found the video captured by the camera at the entrance to the 10 South Unit to be of low quality. Due to the video's low quality and the distance between the camera and the SHU common area, the OIG was able to observe movement of individuals within the SHU but was not always able to conclusively identify the individuals. The OIG was also not always able to determine the specific destinations of the individuals seen in the video given that the camera only captured partial views of the stairways to the various SHU tiers. The OIG found that movements captured on the video were generally consistent with employee actions described by multiple witnesses and certain actions documented in BOP records.

On August 9, [REDACTED] the Evening Watch SHU Officer in Charge, [REDACTED] [REDACTED] assigned to the MCC New York SHU as their permanent quarterly assigned post and served as the SHU Officer in Charge during their respective shifts.<sup>59</sup> The OIG investigation found that each of these employees knew that Epstein was required to have a cellmate at all times per the Psychology Department's directive.

The OIG further found that on August 9 [REDACTED] the Evening Watch SHU Officer in Charge [REDACTED] became aware at various times during their respective shifts that Epstein's cellmate, Inmate 3, had been transferred from the institution with all of his belongings, a status known to all MCC New York staff members as meaning the inmate was being permanently transferred out of the institution. [REDACTED]

The OIG investigation also found that during the next shift in the MCC New York SHU, [REDACTED] the Evening Watch SHU Officer in Charge [REDACTED] became aware that Epstein was without a cellmate. The Evening Watch SHU Officer in Charge told the OIG that when he escorted Epstein back to his cell after Epstein's telephone call, he saw that Inmate 3 was not there and then he, Noel, and the Material Handler discussed the need for Epstein to have a new cellmate. The Evening Watch SHU Officer in Charge also told the OIG that he notified an unspecified supervisor. [REDACTED]

The OIG investigation concluded that on August 9, 2019, [REDACTED] the Evening Watch SHU Officer in Charge [REDACTED] failed to notify a supervisor as required after Epstein's cellmate was permanently removed from the MCC New York SHU, which constituted a violation of BOP standards of conduct. Additionally, [REDACTED] inaction violated MCC New York SHU Post Orders because none [REDACTED] [REDACTED] documented the fact the Epstein needed a new cellmate as required. Finally, [REDACTED] officers failed to exercise good judgment and common sense, as required by the SHU Post Orders, by not immediately undertaking steps through their chain-of-command to ensure that a high-profile inmate who had been released from suicide watch and psychological observation 10 days earlier had an appropriate cellmate.

*Continued*

[REDACTED] The Evening Watch SHU Officer in Charge told the OIG that although he knew that Epstein needed to be assigned another cellmate, SHU staff could not just put anyone in the cell with Epstein. [REDACTED]

[REDACTED] the Evening Watch SHU Officer in Charge told the OIG that they notified supervisory personnel regarding the need to assign Epstein a new cellmate. Based on a lack of corroborating evidence for these assertions, the OIG found that [REDACTED] lacked candor in their OIG interviews in violation of BOP policy. [REDACTED]

[the Evening Watch SHU Officer in Charge]

[redacted] admitted that [redacted] did not conduct all of the mandatory rounds and inmate counts in the SHU on the evening of August 9 and the morning of August 10. [redacted]

The OIG investigation and review concluded that the Evening Watch SHU Officer in Charge, [REDACTED] failed to conduct the mandatory rounds and inmate counts during [REDACTED] respective shifts in the MCC New York SHU on August 9 and 10, 2019, and that [REDACTED] actions constituted violations of 5 C.F.R. §§ 2635.101(b)(5) and 2635.705(a), BOP Program Statements 3420.11 and 5500.14, and MCC New York SHU Post Orders.

## 2. False Statements [REDACTED]

The OIG's investigation and review found that on August 9 and 10, 2019, the Evening Watch SHU Officer in Charge, [REDACTED] made false statements when [REDACTED] falsified BOP records by attesting that [REDACTED] had completed the mandatory rounds and inmate counts when, in fact, [REDACTED] had not.

Federal law provides that "whoever, in any matter within the jurisdiction of the executive...branch of the Government of the United States, knowingly and willfully...makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry" has violated 18 U.S.C. § 1001(a)(3).

As discussed above, the OIG found that the Evening Watch SHU Officer in Charge, [REDACTED] failed to conduct all of the mandatory rounds and inmate counts. As part of each institutional inmate count, BOP policy and MCC New York SHU Post Orders require two correctional officers to conduct each count and memorialize the number of inmates in the SHU on an official MCC New York form, often called a count slip.<sup>69</sup> On the count slip, both correctional officers are required to fill in the date and time the count had been performed, write the total number of inmates physically present in the unit counted, and then sign the count slip. Once the correctional officers complete and sign the count slips, the count slips are then collected and delivered to the MCC New York Control Center. Officers assigned to the Control Center are responsible for comparing the count slips from each housing unit to the institution's overall inmate count sheet to ensure that each inmate was accounted for.<sup>70</sup> Only after all the count slips have been collected from each housing unit, and the numbers on the count slips had been matched to the

<sup>69</sup> This BOP form is officially entitled "Metropolitan Correctional Center; New York, New York; Official Count Slip."

<sup>70</sup> The official name for the document used to record an institutional count is "Bureau of Prisons Count Sheet."

institution's overall inmate count sheet, could the institutional count be deemed "cleared" or completed.

The Evening Watch SHU Officer in Charge, [REDACTED] prepared and/or signed a false count slip to create the impression that they had fulfilled their inmate accountability responsibilities when, in fact, they had not.<sup>71</sup> [REDACTED] admitted to the OIG that instead of performing their assigned duties, they pre-filled the count slips with the number of inmates they believed were in the SHU based on what officers from the previous shift had told them and signed off on the documents knowing that they falsely attested to having completed the counts. [REDACTED]

[REDACTED] The U.S. Attorney's Office of the Southern District of New York declined prosecution for the Evening Watch SHU Officer in Charge [REDACTED].

The OIG investigation has found that the Evening Watch SHU Officer in Charge, [REDACTED] knowingly and willingly falsified BOP records in violation of federal law by attesting that they had completed the mandatory rounds and inmate counts on the evening of August 9, 2019, and morning of August 10, 2019.

<sup>71</sup> The Evening Watch SHU Officer in Charge [REDACTED] signed the 4:00 p.m. count slip; [REDACTED]

The Evening Watch

SHU Officer in Charge told the OIG that he and other staff members did not conduct any cell searches during his shift in the SHU on August 9.

[REDACTED]  
[REDACTED] that the Evening Watch SHU Officer in Charge failed to ensure that MCC New York staff assigned to the SHU conducted cell searches and himself failed to log cell searches in violation of BOP policy and MCC New York SHU Post Orders. Additionally, the OIG found that it was a performance failure for [REDACTED]  
[REDACTED] the Evening Watch SHU Officer in Charge, [REDACTED] who served as the SHU Officer in Charge during [REDACTED] respective shifts on August 9 and 10, 2019, to have permitted Epstein to have an excessive amount of linens in his cell.

The Evening Watch SHU Officer in Charge told the OIG that although he knew that Epstein needed a new cellmate, he said that SHU staff did not have the authority to assign a new cellmate, which was consistent with what MCC New York supervisory personnel told the OIG.