U.S. Department of Justice
Federal Bureau of Prisons

Metropolitan Correctional Center
150 Park Row
New York, New York 10007

Office of the Warden

January 27, 2020

MEMORANDUM FOR HUGH J. HURWITZ, ASSISISTANT DIRECTOR,
REENTRY SERVICES DIVISION

FROM: M. Licon-Vitale, Warden, MCC New York

SUBJECT: Institution Response to Psychological Reconstruction
Inmate Epstein, Jeffrey (76318-054)

This is the response to the psychological reconstruction of inmate Epstein, Jeffrey (76318-054) dated December 27, 2019.

2. 30 Minute Rounds

The substance of the two hour Captain video review and six hour IDO video review is unclear. Please clarify the requirement for the Captain and IDO. Additionally, please identify the documentation used to maintain accountability of the reviews.

Institution Response:

Video review requirements have been instituted by NERO. Specifically, on Tuesday of each week, the institution is notified by NERO of the date, time, and SHU range in which to download video. The video is a two hour block. The video is to be reviewed by the Captain. During the reviews the Captain is looking for strict adherence to the requirements that rounds be conducted at least once during every 30-minute period, not to exceed 40 minutes between rounds and that all scheduled counts are being conducted in the SHU. The Captain will then submit an assurance memo to the institutional executive staff and Correctional Services Administrator (CSA) indicating the designated video footage was reviewed, and corrective actions which were taken for any deficiencies noted. This memorandum will be submitted to the Regional Office by COB on Friday of that same week. Institutional Duty Officers (IDOs) are required to review 6 hours of SHU video. The surveillance footage is downloaded by the institutional SIA and a compact disk is provided to the IDOs for review. The IDOs are reviewing the video for accuracy of the 30 minute rounds. All reviews are documented in the weekly IDO Report.

3. Cellmate Assignments

Documentation exists reflecting the role of the local Psychology Services department in communicating the importance of Mr. Epstein's status as a sex offender with specific needs to the Associate Warden. This includes consultation with the Psychology Services Branch in Central Office. The communication chain and decision making of Executive Staff lacks transparency as there is no documentation of the process or staff members present when decisions were made about the housing of Mr. Epstein. After the fact explanations may not accurately reflect what occurred.

Institution Response:

As was noted, there was no documentation indicating Psychology Services was present when housing decisions were made regarding Mr. Epstein. Psychology services is present at the weekly SHU meeting, Executive Staff meetings, and weekly Opening and Close-Out meetings. During these meetings, the Chief Psychologist or Acting Chief Psychologist are present to provide recommendations and feedback to the Executive Staff on housing concerns regarding inmates with mental health issues or risk factors for suicidality. When an inmate presents with unique risk factors associated with individuals who have been charged with and/or convicted of a sex offense, careful evaluation is made with regard to housing these inmates with appropriate cellmates. Moving forward, a plan has been established to have a sign-in sheet and checklist at these meetings where housing issues are addressed, indicating who was present and what the housing plan is for these inmates with psychological concerns. These checklists will be maintained in a binder by the Associate Warden of Programs. Please see the attached checklist.

4. Documentation Accuracy

Professional responsibility requires taking into account multiple descriptions of an incident as noted in your response. However, when discrepancies exist these should be compiled and noted in documentation to decrease the likelihood of conflicting conclusions.

As noted in the reconstruction report, an incident report must be written within 24 hours of having the information that an inmate likely violated BOP rules. An incident report was written for Mr. Epstein prior to a determination of whether he engaged in self-directed violence or was assaulted on July 23, 2019. Staff had ample time to wait for the outcome of the SIS investigation of this incident. The incident report presumed self-directed violence, although SIS was not able to determine whether this incident was self-directed violence or an assault. Generating the incident report for self-directed violence is evidence of a local bias about the July 23, 2019, incident that still exists amongst some staff at MCC New York. Preconceived notions challenge the ability to remain open about alternative explanations, and subsequent systemic changes may be needed.

Please develop and provide local training for all staff that at a minimum reviews the time frame for writing incident reports and offers guidance when there is not clear evidence of an infraction. Include an outline of the training and evidence of staff who attended the training.

Institution Response:

Additional information (slides) has been included in our Annual Training presentations for Report Writing. In addition to the established training, the slides further differentiate and provide guidance to staff regarding when it is appropriate to write an Incident Report and when, in cases of a lack of evidence, a memorandum is more appropriate. The additional information is being provided to all staff as a part of Annual Training. Annual Training began the week of January 6, 2020, and will continue through the week of March 8, 2020.

5. Telephone Calls
As noted in the response, there is a lack of documentation to substantiate that a lieutenant facilitated two telephone calls to Mr. Epstein. However, this does not address the report of two telephone calls being provided. This response implies that the reporting of two staff members is inaccurate.

The response neglects the documented telephone call to Mr. Epstein's deceased mother.

Institution Response:

On August 29, 2019, Warden J. Petrucci, signed a referral related to [redacted] failure to follow policy in allowing Epstein to complete an unmonitored phone call. The referral was submitted to the Office of Internal Affairs on that same date and is pending further action at this time.

7. Follow-Up
Please provide documentation for the follow-up training provided to staff detailing the content of the training and to whom it was provided.

Institution Response:

As recommended by Central Office, the Chief Psychologist has conducted suicide prevention trainings during Department Head Meetings, e-mail correspondence, SHU Staff Trainings, and Lieutenant's Trainings. The follow-up training sign-in sheets, Department Head Meeting Minutes, and e-mails provided by psychology staff regarding PSY ALERT Inmates are attached for your review.

8. Inmate Accountability and Assignment Accuracy
Periodic and unannounced checks are now conducted in SHU to determine pp30 assignments and actual inmate placement match. Please provide an operational definition of periodic. Please do the same for routine, as it relates Executive Staff bed book counts in all units. Where will the periodic and routine reviews be documented and will they include the identity (e.g., name and title) of staff who complete them?

Institution Response:

An Executive Staff and Duty Officer schedule has been implemented to conduct daily 4 P.M. and 10 A.M. weekend bed book counts. Any discrepancies noted are documented and sent via email to Unit Mangers and Captain at the conclusion of each count for corrective action. Please see the attached schedule.

9. Attorney Log Books
Please provide a copy of the log book audit.

Institution Response:

The audit revealed the **Random Visitor Log Book** did not reflect visitor pat searches after May 19, 2019. In addition, the log book does not offer a column to annotate a staff witness. The **Contractor/Volunteer Log Book** was not always filled in properly. The **Law Enforcement Log Book** was up to date; however, the time of departure was not always documented. The **Attorney Log** was missing inmate register numbers and more often than not was legible. There was no **Visitor Denial Log** created. The audit conducted on September 25, 2019, is attached for your review.

Additional corrective measures will now include the Activities Lieutenant checking all Front Lobby log books. The Captain will ensure these checks are included in the Lieutenant's Daily Log for Day Watch and Evening Watch. In addition, the Activities Lieutenant will address any discrepancies immediately through on the spot training and/or performance log entries.

13. Sex Offense Risk Factors

Psychologists are subject matter experts in sex offender risk factors and they play a crucial role in sharing this knowledge through traditional settings such as ICT, AT, and institutional meetings. However, Executive Staff play a pivotal role in establishing and addressing institutional culture and promoting and participating in training. A lack of a broad understanding of sex offender specific risk factors requires an intentional training approach led by Executive Staff. They must be out front talking about inmates with a sex offense, expressing an understanding of sex offender dynamics, modeling agency condoned expectations for the understanding and treatment of inmates with a sex offenses, and assisting with institutional trainings. These practices encourage a broader acceptance by line staff.

Institution Response:

The MCC New York Executive Staff are out front talking about inmates with sex offenses, and expressing an understanding of sex offender dynamics, modeling agency expectations for the understanding and treatment of inmates with sex offenses. This is done through departmental meetings, trainings, staff recalls and walking and talking throughout the institution.

ATTACHED DOCUMENTS:
Institution Duty Officer Report
Cellmate Review
Report Writing "Back to Basics Training"
SHU Suicide Prevention Training
Department Head Meeting minutes
PSY ALERT inmates
Bed Book Count Schedule (Exec Staff/IDO)
Bed Book Audit (emails)
Log Book Audit
Executive Staff List