



**INCIDENT REVIEW REPORT**

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|--|--|--|
| Report Date<br>7-8-11  |  |  |
| Offender Name<br>Byron Scherf  | Offender DOC #<br>287281                           | Critical Incident Review #<br>033-11-P   |
| Name of Initiator<br>Dan Pacholke, Deputy Director of Prisons, Command A | Team Leaders<br>Jeffrey A. Uttecht, Superintendent | Team Members<br>Robert Herzog; Associate Superintendent; Sandi Diimmel, Associate Superintendent; Keri Towle; Correctional Officer 2; Lori Wonders, Administrative Assistant 4 |

| INCIDENT   |   |
|--|---|
| Date and Time: 1/29/11 2100  | Location: Monroe Correctional Complex Washington State Reformatory Chapel |
| <p>Brief Description of Incident:</p> <p>At 2100 a routine scheduled formal count was initiated. At 2114 while conducting count Unit [redacted] Officer [redacted] discovered that offender Scherf was not in his cell. Officer [redacted] notified Unit [redacted] Officer [redacted] who then reported the missing offender information to [redacted] At 2114 [redacted] notified [redacted] that offender Scherf was missing from his assigned cell. [redacted] assumed [redacted] and initiated an emergency escape response. [redacted] took immediate and appropriate steps to verify the offender was missing by ordering Shift [redacted] to have a search of the cell and "A" Unit completed, and to initiate facility wide area and building searches. Other staff reviewed the offender out counts to determine if offender Scherf was in another approved location, and searched the visit room where Scherf had been earlier in the day.</p> <p>[redacted] immediately gave verbal directions to numerous officers to begin searches. Officer [redacted] and Officer [redacted] were instructed to search the PAB and Chapel. While in route to those buildings they made contact with Officer [redacted]</p> <p>Officer [redacted] observed the lights to the Chapel on and the front door to the Chapel open. Officer [redacted] immediately informed Officers [redacted] and [redacted] At approximately 2119 all three officers entered the Chapel and Officer [redacted] observed Scherf sitting in a chair located within feet of the Chapel entry doors. Offender Scherf was placed in restraints and escorted to Shift Commanders office.</p> <p>On First Shift at approximately 2218 during the equipment inventory staff in Main Control discovered the Chapel Officer equipment was still checked out to Officer Biendl. Knowing she should have been off shift an immediate notification was made to First Shift [redacted] Staff twice attempted telephone contact with Officer Biendl at her personal residence without success.</p> <p>[redacted] ordered an immediate staff response to the Chapel to conduct a search for Officer Biendl. Upon arrival staff discovered Officer Biendl in the "sanctuary" and quickly began CPR. The Chapel was immediately secured as a crime scene and criminal investigation responsibilities became those of the Monroe Police Department.</p> <p>Offender Scherf was escorted to the fourth floor of the infirmary and placed on a continuous two person watch.</p> <p>WSR was officially placed on total lockdown.</p> |   |
| Name, Title, and Address of All Employees Involved: [redacted]   |   |

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[REDACTED] and [REDACTED]. Contact address for all staff is Monroe Correctional Complex, PO Box 777 Monroe, WA 98272.

Name, DOC Numbers of All Offenders Involved: **Byron Scherf #287281**

Location and Description of Property Damaged: **Chapel, evidence identified and marked throughout the Chapel. Carpet from stage area has been gathered and removed as evidence.**

#### REVIEW

##### Chronological Summary of Facts/Events:

**January 29, 2011**

1330 -- 3rd Shift on-duty

Uneventful shift prior to count

1430 -- (approx.) Scherf to Visit

1616 -- Count clear Scherf returns to unit

1750 -- Scherf to Chapel

2030 -- Recall announced by Main Control (No R/M or other officer posted in zone 3)

2031 -- (Time is approximate) Based on criminal investigation information, Offender Scherf exits the Chapel and as he approaches the Chapel gate informs another offender that he has to return to the Chapel for his hat. Scherf then closes the Chapel gate and reenters the Chapel.

2032:15-- K-241 radio keyed

2032:31-- K-241 radio keyed and a noise is heard that is unusual enough to catch several staff members' attention. The CIR team listened to the taped recordings of Officer Biendl's radio being keyed open. The recordings were reviewed in an office that was quiet and without other distraction. Additionally, the review team had the benefit of knowing in advance exactly when to listen for Officer Biendl's radio recording. The first radio transmission was extremely brief (approx 1 sec) and no noise (verbal or background) could be heard. The second radio transmission occurred approximately 16 seconds later and also was extremely brief (approx 1 sec). A sound is heard in the second recording. After listening to the second recording several times, the review team believed the noise to be of human origin. It is extremely important to note:

- The recordings were isolated to only those of Officer Biendl's radio. Other radio chatter occurring at or near the same time was not reviewed. The keying of Officer Biendl's radio could easily have been missed or unheard due to other radio transmissions.
- While listening to a radio, it is extremely common to hear background noises including human voices when a push-to-talk button is depressed. It is also common to hear a loud "screech or squeal" like noise when two radios are close to each other and one of the radios push-to-talk button is depressed.
- The review team members are not trained to conduct professional analysis of voice recordings and as such offer no opinion on the nature of the noise heard on the second recording.

2045 -- Tower 9 log book entry records Chapel clear. ([REDACTED] does not remember if Biendl radioed clear or waved. Typically it was 2030 or 2031 when she cleared. [REDACTED] states he's cleared with Biendl 400+ times.

2100 -- Formal Count initiated

2110 -- Scherf (cell A112) discovered missing from cell by A-Unit Officers [REDACTED] and [REDACTED] A-Unit [REDACTED] notifies Main Control that Scherf is missing.

2114 -- Main Control [REDACTED] receives notification from Officer [REDACTED] that Scherf is missing and reports information to [REDACTED] "A" Unit officers search unit for Scherf.

2114 -- [REDACTED] assumes Initial [REDACTED] and directs:

- Shift [REDACTED] to verify Scherf's absence from cell

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- Shift [REDACTED] to initiate facility wide area searches (Note: building searches never completed)
- 2119 -- [REDACTED] goes to Chapel to search for missing inmate/finds lights on and door open in Chapel vestibule. Notifies Officers [REDACTED] and [REDACTED] and discovers Scherf sitting in chair in vestibule area. Scherf states to officers he fell asleep. Scherf placed in restraints by Officer [REDACTED] and escorted to Shift Lt's office for interview.
- 2120 -- Picture card count initiated. [REDACTED] assumes [REDACTED].
- 2120 -- [REDACTED] interviews Scherf.
- Note: During interview with Scherf [REDACTED] notes:
- That Scherf states he was hiding in the Chapel and planned to escape on graveyard by climbing the wall.
  - Sees blood on Scherf's clothing and Scherf states it happened earlier playing racquetball, has clothing secured as evidence.
- 2142 -- Scherf's cell secured as crime scene.
- 2201 -- Picture Count cleared.
- 2218 -- 1<sup>st</sup> Shift Officer [REDACTED] (in Main Control to assist with equipment check-in/out) discovers Biendl failed to turn in her equipment and notifies 1<sup>st</sup> Shift [REDACTED] Officer [REDACTED] also in control helping out.
- 2218 -- 1<sup>st</sup> Shift [REDACTED] attempts contact with Officer Biendl by calling Biendl's home phone, no answer.
- 2225 -- [REDACTED] informed that Biendl's equipment is missing, orders ORST to begin search of Chapel. Staff responding to Chapel include [REDACTED], [REDACTED], 1<sup>st</sup> Shift [REDACTED], 1<sup>st</sup> Shift Officers [REDACTED] and [REDACTED] (3<sup>rd</sup> Shift [REDACTED] makes second call to Biendl residence then responds to chapel).
- 2226 -- Officer [REDACTED] discovers Officer Biendl on Chapel stage. Emergency life saving measures begin. [REDACTED] and [REDACTED] unwrap cord from around Officer Biendl's throat. [REDACTED] begins rescue breathing while [REDACTED] begins chest compressions.
- 2228 -- 1<sup>st</sup> Shift Medical on-site. [REDACTED], [REDACTED], [REDACTED], [REDACTED].
- 2230 -- [REDACTED] identifies Chapel as crime scene. Officer [REDACTED] assigned as Crime Scene Officer.
- 2232 -- [REDACTED] requests additional staff from TRU and recalled ERT to assist in security and escorts.
- 2235 -- Monroe Fire Department Medics (Hunt, Sloan, Henning, O'Connell) and Monroe PD Officer Stamey, and Sgt. Fuller arrive. Medics begin assisting.
- 2245 -- Rescue efforts ceased.
- 2247 -- [REDACTED] arrived at the facility.
- 2259 -- MCC [REDACTED] arrived.
- 2254 -- EMS departs facility.
- 2255 -- ERT recalled (2310 All ERT notified).
- 2256 -- ERT [REDACTED] briefed by [REDACTED] Assigned to secure facility access points and provide additional staff to shift.
- 2258 -- Officer [REDACTED] assumes crime scene security post.
- 2315 -- [REDACTED] (1<sup>st</sup> Shift) begins CISM de-briefs.
- 2318 -- Monroe Police Department Detective Robinson arrived.
- 2335 -- Scherf ordered secured in 4<sup>th</sup> floor of Hospital. Escort from IMU to Hospital completed at 0010.

**January 30, 2011**

- 0010 -- Scherf 2 on 1 watch initiated.
- 0045 -- [REDACTED] assumes [REDACTED].
- 0100 -- Snohomish County Medical Examiner on site/ departs shortly after arrival.
- 0110 -- Media Center activated.
- 0200 -- WSR placed on total lockdown
- 0220 -- Monroe PD Officer Erdmann on site with Evidence Tech.
- 0336 -- Video of Chapel cameras given to MPD Officer Stamey.

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0500 (approx) - [REDACTED] and [REDACTED] make in person notification contact with Jayme Biendl family.  
0545 - [REDACTED] designated as [REDACTED]  
0600 - Formal De-brief held for WSR staff by [REDACTED] and CISM staff.

**Summary of Witness Statements (Include Name of Each Witness):**  
**Emergency Response and Incident Command System Review:**

Zones of Control

The third shift at WSR has [REDACTED] R/M posts seven days a week. For R/M coverage purposes the WSR is divided into three zones (see attached facility map). On third shift [REDACTED] R/M's are assigned to cover one of three zones. The remaining [REDACTED] R/M's are assigned as rovers and circulate throughout the facility.

Per the R/M Post Orders in effect on January 29 2011, unless approved to leave by the Shift Sergeant or Shift Lieutenant R/M's are required to remain in their assigned zone of control. During scheduled offender movement periods the Zone 1 R/M stands at the entry to A/B living units and the Zone 2 R/M at the entrance to C/D units. The Zone 3 R/M stands on the walkway where offender movement to and from the Program Activities Building (PAB) and Chapel buildings can be observed. The [REDACTED] rover R/M's would assist in supervising offenders leaving the Gym and moving through the Tower 9 turnstiles.

The main walkway extends from Tower 9 to Gate 7. The Chapel is accessed directly from the main walkway. Another narrow sidewalk intersecting with the main walkway leads to the PAB entrance. Movement on the sidewalk is contained by a chain link fence on one side and the PAB on the other. This narrow PAB walkway is of particular concern to staff. [REDACTED] From Tower 9 [REDACTED] by the Field House building. The [REDACTED] the entire walkway necessitates the posting of an officer in zone 3 where the PAB and main walkways intersect. From this intersection an officer can observe the front of the Chapel and the entire narrow walkway leading to the PAB entrance.

Staff interviewed stated the importance of being in this zone is to mitigate the risk presented by offenders using the narrow walkway during movements and to observe the PAB and Chapel entry areas. When different staff were interviewed and asked to identify on a facility map where the officer would stand to observe the movement in Zone 3, R/M officers consistently pointed to the same location that is within 30 yards of the Chapel entry.

Clearing Zones

From interviews with custody staff, the CIR team learned how zones and buildings were cleared of offender movement. At the 2030 recall movement all offenders are required to return to their assigned living unit. When the officers assigned to the PAB, Chapel, Field House, Gate 7, Education and Visit Room believe their area is clear of offenders; they contact Tower 9 and report their area as clear. Once the Tower 9 officer receives the "clear" announcement notification from each of these areas, a single entry is made in the Tower 9 logbook reporting these areas as "clear".

After giving the "clear" notification, the assigned officer(s) then conduct an interior security check of their assigned building to ensure all offenders have left, interior doors are secure and nothing else appears out of order. These officers then lock the primary entry doors of their building and walk out of Zone 3.

Once all the offender traffic on the walkways in Zone 3 has moved through the Tower 9 turnstile the Zone 3 R/M announces Zone 3 traffic as clear. As Zones 2 and 3 1 becomes clear of all outdoor offender traffic the Zone 1 and 2 R/M notify Tower 9 that their zone is "clear". The Zone 1, 2, and 3 "clear" announcements are not logged in the Tower 9 logbook.

Pre-Incident Tone-R/M Zone Assignments

Among the R/M's interviewed (except Officer [REDACTED], each complained that when Officer [REDACTED] was assigned to Zone 3 it was common for him to leave the Zone 3 area of coverage. Officer [REDACTED] stated that it was OK to be out of Zone 3 during movement and to stand near the base of Tower 9 to assist in pat searches of offenders exiting the recreation

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yard (a task assigned to the [redacted] yard officers). Third Shift [redacted] and Third Shift [redacted] stated they expect the R/M's to be in their assigned zone during all movements unless an emergency has them ordered elsewhere.

Several third shift R/M's stated that Shift [redacted] was aware that Officer [redacted] (when assigned Zone 3) was frequently out of his zone (though no one could state that they personally told him of their concern prior to January 29). [redacted] stated he would remind the R/M's to be in their zone and interviews with officers confirmed that [redacted] would remind them while also stating he was tired of hearing that officers were out of their zone during movement periods. (Note: Four of the R/M's interviewed identified RDO Shift [redacted] as a [redacted] who is always adamant about and ensures that R/M's are in their assigned zone during movements).

On April 6, 2011 the CIR team received a copy of a letter addressed from offender Scherf to [redacted] and [redacted]. The letter was originally postmarked with the date of April 4, 2011. Scherf states in the letter that there was no R/M on the walkway between Tower 9 and the Chapel during the 2030 recall movement. Scherf suggested in the letter that any meaningful investigation would include a review of why the R/M's were not posted on the walkway. One inference that could be taken from the Scherf letter is that he looked for and saw the opportunity to return to the Chapel undetected.

#### Initiating Movements

MCC Operational Memorandum, 420.155 "CALLOUT SYSTEMS" states that Main Control is responsible for announcing (initiating) each of the scheduled movements. In advance of the movement being initiated per the O.M. Main Control is responsible to verify that staff are in place at Tower 9 and the PAB/Chapel area. Officer [redacted] (5 day a week [redacted] officer) stated that Main Control used to confirm with him that staff were in place before initiating movement. Officer [redacted] stated that this practice "just stopped" about 1- 1½ years ago.

Officer [redacted] believes the practice stopped because other officers did not like him asking that they get to their assigned zones so movement could be initiated. Officer [redacted] stated his asking other officers to get to their zones for movement was a big source of conflict so he quit asking. This conflict could not be confirmed in other interviews.

[redacted] staff were not aware that an Operational Memorandum existed which requires verifying staff are in place and Main Control Post Orders do not require any verification that staff are in place in advance of announcing movement.

#### Third Shift January 29, 2011 2030 Recall Movement

On January 29, 2011 Officer [redacted] was assigned as the Third Shift Zone 3 [redacted]. Typically on the weekends (as on January 29) the only buildings occupied by offenders are the Gym, Chapel and PAB. That was the case on this night.

Officer [redacted] stated during his interview that on the 2030 recall movement (which returns all offenders to their assigned living unit) he was standing near the base of Tower 9. Officer [redacted] confirmed that his location was outside Zone 3. The Tower 9 officer could not recall if an R/M was in Zone 3 during the 2030 recall and other R/M's stated no officer was present in Zone 3.

The Tower 9 logbook reflects 24 offenders were present in the Chapel at 1950 (the last movement for offenders to access the Chapel). At 2030 the recall movement was announced by Main Control and offenders began departing the PAB and Chapel. PAB Officer [redacted] cleared the PAB, left Zone 3 and moved to the area near the Shift Sgts' office.

[redacted] Officer [redacted] stated that he does not remember how the Chapel officer that night (Jayme Biendl) announced her "all clear". Officer [redacted] stated that normally she would radio the announcement but sometimes she would wave to him from the front of the Chapel (indicating all clear) and then return inside to conduct her security check prior to closing the Chapel and exiting Zone 3.

Shortly after recall was announced several officers remember hearing a noise over the radio. This noise was described by different staff as a screech or a noise that was different enough from normal radio chatter to catch their attention. One officer stated that he waited for an emergency to be announced but not hearing any announcement he moved on to his next task. It should be noted that background noise is often heard on radios when the press to talk switch is

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depressed.

At 2045 [REDACTED] Officer [REDACTED] logs Chapel as clear. Once it was believed that all offenders had returned to their units, staff went about other routine assigned tasks such as completing the fire watch walk through of buildings located in the Industries Complex beyond Gate 7.

At 2100 formal count was initiated. At 2114 while conducting count [REDACTED] Officer [REDACTED] discovers that offender Scherf is not in his cell. Officer [REDACTED] notifies [REDACTED] Officer [REDACTED] who then reports the missing offender information to Main Control [REDACTED]. At 2114 [REDACTED] notifies [REDACTED] that offender Scherf is missing from his assigned cell. [REDACTED] assumed [REDACTED] and instructed Shift [REDACTED] to verify that Scherf is not in his cell and to initiate facility wide area and building searches (OM 410. 360 Escape Preparedness and Response (Escape Response Emergency Checklist).

[REDACTED] gave verbal directions to numerous officers to begin searches. Officer [REDACTED] and Officer [REDACTED] were instructed to search the PAB and Chapel. While enroute to those buildings they make contact with Officer [REDACTED] (During an interview with Officer [REDACTED] he stated that when he met up with Officer [REDACTED] she commented that she is concerned that she locked offender Scherf in the PAB earlier. During the CIR interview with Officer [REDACTED] she stated that she did not search several rooms in the PAB because they were dark and she was nervous thinking an inmate would jump out at her)

Officer [REDACTED] and [REDACTED] head towards the PAB and Officer [REDACTED] heads toward the Chapel to conduct building searches. As Officer [REDACTED] nears the front entry to the Chapel he noticed that the Chapel lights were on and the front door was open.

Officer [REDACTED] then called out to Officers [REDACTED] and [REDACTED] to join him. The three officers enter the Chapel and discover offender Scherf sitting in a chair located just inside the Chapel entry area. Offender Scherf comments to the staff that he had fallen asleep. Officer [REDACTED] then reported by radio that offender Scherf was discovered in the Chapel and is instructed to escort the offender to the Shift Commanders office. Officer [REDACTED] and [REDACTED] escorted offender Scherf to the Shift Commanders office. Officer [REDACTED] documents that he then inspected and secured the Chapel. (In the interview with Officer [REDACTED] he stated that he did not search the sanctuary area where Officer Biendl's body was later found)

At this time (approximately 2120) First [REDACTED] has assumed [REDACTED] and ordered a picture card count. [REDACTED] and [REDACTED] begin interviewing Scherf. Scherf states to the [REDACTED] that he was going to escape. [REDACTED] asked Scherf how he made it through the clearing of the Chapel and Scherf stated he hid behind the pews. Other comments made by Scherf during this interview include:

- Scherf explained the blood observed on his clothing by stating he was hit by playing racquetball; and later stated he was tired of being in prison and had planned to escape on graveyard by climbing over the wall.

[REDACTED] then took pictures of the blood on Scherf's clothing and had the clothes placed in evidence. Scherf was escorted to the IMU for pre-hearing confinement and photographs of injuries found on his body were taken. At the IMU Scherf told the escorting officers that he had been jumped by some Mexicans in the unit stairwell earlier in the day. A review of unit video did not support Scherf's claim of being assaulted.

[REDACTED] and [REDACTED] believing an escape had been prevented had the on-duty Third Shift staff complete incident reports. Based on Scherf's different statements that he had fallen asleep in the Chapel, had hidden in the Chapel planning to escape and a claim that he was assaulted earlier, [REDACTED] felt another plausible explanation was Scherf stayed behind at the Chapel as a way to place himself in protective custody. The Picture Card Count cleared at 2201 and Third Shift staff were allowed to exit the facility.

On First Shift [REDACTED] Officers [REDACTED] and [REDACTED] enter Main Control to assist in running gates to allow movement in and out of the Main Control Salleport and conduct an equipment check. At 2218 Officer [REDACTED] discovers the Chapel officer keys and radio are still checked out to Officer Biendl and reports this missing equipment to First Shift [REDACTED]

Two telephone attempts to contact Officer Biendl failed to receive an answer and at approximately 2220 [REDACTED]

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was briefed that Officer Biendl's equipment was missing and she could not be contacted at her home telephone number. [REDACTED] ordered an immediate search of the Chapel. [REDACTED] and [REDACTED] and Officers [REDACTED] and [REDACTED] respond to the Chapel.

At 2226 upon entry to the Chapel Officer [REDACTED] and [REDACTED] enter the sanctuary. Officer [REDACTED] observed Officer Biendl lying on the stage and he makes an immediate radio call reporting that a staff member was down. Officer [REDACTED] and [REDACTED] unwrapped the cord observed wound around Officer Biendl's throat (3 wraps as reported by [REDACTED]). Officer [REDACTED] began rescue breathing while [REDACTED] began performing chest compressions. At 2230 the Chapel was identified as a crime scene by [REDACTED].

At approximately 2228 medical staff [REDACTED] and [REDACTED] arrive and relieve the custody of medical response. [REDACTED] started an IV drip. [REDACTED] began using the AMBU bag to provide oxygen while [REDACTED] continued with chest compressions. At approximately 2235 Monroe Fire Department medics Hunt, Sloan, Henning, O'Connell along with Monroe PD Officer Stamey and Sgt. Fuller arrive. MFD took over life saving activities. At approximately 2245 rescue efforts were ceased.

[REDACTED] arrived at the facility at 2247 and MCC [REDACTED] arrived at 2259. Monroe Police Department Detective Robinson arrived at 2318.

At 2335 offender Scherf was escorted to the fourth floor of the infirmary and placed on a continuous two person watch. At 0045 [REDACTED] was transferred to [REDACTED].

The remainder of First Shift involved taking the following actions:

- Recalling additional staff from Twin Rivers and the ERT to assist in security and escort functions;
- Making local and Headquarter Duty Officer notifications;
- Implementing CISM; and
- Activating a full Incident Command System response.

At 0200 the WSR was officially placed on total lockdown. At 0600 a formal de-brief was held for WSR staff by [REDACTED] and CISM staff.

From January 30 to March 2, 2011 the WSR transitioned from total lockdown through partial lockdown and back to normal operations. The period of time forward from January 31 was not reviewed in detail by the CIR team except to review official ICS documentation.

#### Why didn't the chapel get searched?

There remains a question of why a search of the Chapel was not completed. A variety of reasons existed that should have led the [REDACTED] to ensure a search of the Chapel was completed. Upon discovering Scherf in the Chapel and after interviewing him, some basic follow-up actions if they had occurred would have led to an earlier discovery of Officer Biendl.

Scherf stated that he hid in the Chapel and was planning on escaping later by climbing the wall. This story should have been viewed as extremely suspicious and not consistent with an inmate who is going to attempt an escape. He was discovered in a building with the front door open, lights on in the area he was discovered, and not attempting to conceal himself in any way. Additionally, Scherf initially told the discovering officers that he had fallen asleep. These inconsistent and implausible explanations by Scherf should have given an experienced uniformed correctional employee immediate reason to ensure the Chapel is given a thorough search.

First; Scherf's story that he was planning to escape is so suspicious that an immediate search should have been conducted to determine if another reason existed that would explain his presence.

Second; after hearing Scherf state he was planning on climbing the wall a basic follow-up action would have been to search for any escape paraphernalia. Obvious locations for that search would have included the Chapel.

Scherf gave two explanations for the blood observed on his clothing. First, he said he got hit playing racquetball and

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later stated that he was assaulted by Mexicans in the unit stairwell. In an attempt to verify his assault allegation, video of the alleged location was reviewed. The recorded video did not confirm Scherf's story of being assaulted. This left the question still remaining: How did blood get on Scherf's clothing? The review of video (an excellent follow-up action to confirm or disprove Scherf's statement) took until near the end of Third Shift. Any additional follow-up to this blood issue which may have led to a search of the Chapel looking for signs of a disturbance may or may not have occurred before First Shift discovered the missing equipment.

Staff in charge of the shift and those dispatched to perform interior searches were of a single minded focus. They knew an offender was missing from his cell and believed a possible escape had occurred or was being attempted. Upon finding Scherf, the discovering staff were instructed to escort him to the Shift Commander's office. As such, securing and escorting the offender became these staffs primary responsibility. Officer ██████ secured the Chapel but did not search the building (his written incident report includes a statement that he inspected and secured the building and a review of the Chapel video indicates a thorough inspection of the building did not occur). He reported to the shift commander's office to brief the Lieutenant and complete a report.

In summary, there was a focus on the fact that the missing offender was apprehended and a belief that the emergency was resolved. The focus shifted to completing the picture count, securing Scherf, and having staff complete reports due to Third Shift ending in less than 40 minutes and staff wanting to leave on time.

#### **Did you consider the chapel officers whereabouts?**

After all CIR interviews and review of incident documentation completed by involved staff the question remained: Was there any thought by on-duty Third Shift staff as to the possible whereabouts of Officer Biendl? One person commented that they thought that when Officer Biendl returned to work she was going to be in trouble for not ensuring the Chapel was clear of inmates before going home. Another staff member leaving at the end of his Third Shift commented that his gut just did not feel right. He was concerned enough that on his way home he contacted another Third Shift staff and asked if they had seen Biendl leave work. Between these two staff, they felt concerned enough that one of them made a phone call back to the facility. By then Officer Biendl had been discovered.

Again, after the discovery of Scherf in the Chapel, no one gave any consideration that Officer Biendl was anywhere but off-site. Her shift ended at 2100 so assumptions were that she was gone from the facility.

Since it was believed that an escape attempt had been averted. Attempts to contact Officer Biendl to verify she had searched the Chapel prior to securing the building would have been a normal follow-up response to as serious an emergency as an escape attempt. By attempting this follow-up action her equipment may have been discovered missing and repeated attempts to call her without success may have raised greater suspicion.

#### **What happened between the time of finding Scherf in the Chapel to the discovery of Officer Biendl in the chapel?**

After the discovery of Scherf in the Chapel and prior to the discovery of Officer Biendl staff engaged in the following tasks:

- Written incident reports were completed by staff involved in the discovery of the missing offender, staff involved in the search for Scherf, and staff involved in the escort of Scherf to the Shift Commanders office and IMU,
- Reviewing video in an attempt to validate Scherf's allegation that he was assaulted,
- Recovering and securing Scherf's clothing as evidence and taking photos of Scherf's body for evidence of being in a physical altercation,
- Securing Scherf's cell to preserve any evidence related to an escape attempt, and numerous duties related to preparing for shift change and pass down with the on-coming shift.

#### Chapel Callouts

To some extent the NIC Review Team Report addressed issues surrounding the callout and inmate movement systems that allows/authorizes offenders to move to and from program areas. In review of the process to account for offenders accessing and leaving the Chapel the CIR team heard that an offender created the two lists. One list was the call-out for general population offenders and another that identified offenders who worked in paid positions or volunteered in the Chapel. These two "callouts" were given to the Chapel officer by an offender who created the callouts. It was reported that Officer Biendl would combine the two lists by writing the names of the paid workers and

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volunteers onto the general population call-out document for the Chapel. Officer Biendl would then put a check mark by or hi-lite the names of the offenders as they accessed the Chapel during movement periods. After each movement officer Biendl would document in her logbook the total number of offenders remaining in the Chapel and report the same to Tower 9. Tower 9 would also document this count of offenders remaining in the Chapel. (NOTE: on January 29<sup>th</sup> there is a discrepancy in the number of inmates recorded in the Chapel logbook after the 1800 movement (60 offenders) and what was documented in the Tower 9 logbook (6).) Process did not include reporting the number of offenders exiting the Chapel during movements. (See NIC report "Single Officer Posts" and "Inmate Movement/Call-outs/Passes".

#### Cartoon

It was reported that a cartoon drawing allegedly created by Scherf and given to Officer Biendl by Scherf depicted a wolf dressed in sheep's clothing sitting on a ledge looking down on some other sheep. Purportedly Officer Biendl received the drawing earlier during her shift on January 29 from Scherf and showed the drawing to an offender. The drawing was then placed on the bulletin board in the Chapel office. According to MCC [REDACTED] the drawing did exist and was taken from the Chapel by Monroe Police during a search of the Chapel and it is now in their possession.

#### Emergency Response and Incident Command System Review

January 29, 2011

#### Phases of Response for Missing Offender Emergency

[REDACTED] Once the [REDACTED] is notified that Scherf is missing from his cell he initiates an emergency response believing a possible escape or escape attempt has occurred.

[REDACTED] took immediate and appropriate steps to verify the offender was missing by ordering a search of the cell, a search of "A" Unit, a review of out counts, and search of the visit room where Scherf had been earlier in the day.

[REDACTED] instructs staff to secure Scherf's cell and orders Shift Sergeant to initiate interior searches. A facility wide emergency notification is not made resulting in a very limited number of staff being aware that a missing inmate emergency exists. Staff unaware that an inmate search was underway includes perimeter officers (a specific checklist item) and officers completing fire watch searches of the industries complex buildings. Many staff became aware that an inmate was missing when a radio report was made announcing the missing inmate was discovered in the Chapel.

[REDACTED] The missing offender was quickly found. Additional evaluation and planning for ongoing emergency response actions in this phase was not necessary.

[REDACTED] Scherf discovered in Chapel by search officers. Offender placed in restraints and escorted to Shift Commanders office. Initial emergency and escape checklists being completed.

[REDACTED] Transfer of command occurs after missing offender found. This transfer of command occurred within a very short time from the initial discovery that offender was missing until offender was found. Discussion between [REDACTED] and [REDACTED] believing the emergency was resolved included a transfer of command to avoid late relief of Third Shift [REDACTED]

[REDACTED] Offender was interviewed, clothing secured as evidence, offender assessed by medical and placed on pre-hearing confinement and escorted to segregation. Involved staff completed incident reports. The demobilize/recovery checklist requires accounting for all staff. No formal accounting for staff occurred. Verification was not sought or received that building searches were completed.

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January 29,30, 2011

Phases of Response for Missing Staff Member

Staff in Main Control discovered the Chapel Officer equipment was still checked out to Officer Biendl. Knowing she should have been off shift an immediate notification was made to Staff twice attempted telephone contact with Officer Biendl at her personal residence phone number.

A staff response was directed to the Chapel to conduct a search for Officer Biendl. Upon arrival and discovery of Officer Biendl, first aid was immediately initiated.

recalled additional staff from TRU and the ERT to assist in security and escort.

The Chapel was immediately secured as a crime scene and criminal investigation responsibilities became those of the Monroe Police Department. The Line of Duty Death emergency checklist was initiated quickly by

Initial demobilization and recovery activities included the securing of evidence, the movement of Scherf to the infirmary for a 2-1 watch by ERT members, collecting staff reports, and supporting the criminal investigation. Line of duty death notifications were completed and the facility was placed on total lockdown. Long term demobilization activities included managing a long term lockdown, providing CISM services, memorial service planning, and returning the facility to normal operations.

Summary

The emergency response to a missing staff person was managed quickly and effectively. Appropriate checklists were utilized. All applicable ICS forms for each of the ICS sections were utilized with daily objectives and planning documents utilized. The evaluation of the long term lockdown is beyond the true scope of this CIR. Those staff involved would best be able to debrief and identify things that went well and where improvements can be made.

**Classification Summary:**

Classification:

- Current cause began June 5, 1997.
- From 1997 to June 2002 Offender Scherf was assigned close custody.
- From June 2002 to January 2011 Offender Scherf was assign medium custody.
- There is no clear documentation of Deputy Director approval for medium custody designation.
- Offender Scherf was required to have annual classification reviews. Classification reviews were conducted timely except in 2004. The review for 2004 was conducted March 2005.

Work Assignments:

- During the current incarceration, Offender Scherf worked in Maintenance, Chapel, Kitchen and Correctional Industries.
- Current work assignment was Correctional Industries.
- Other programming included Office Technology, Information Technology, MRT, Family Dynamics and Fathers

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Day Event.

- Work and other programming assignments were documented in RPM.

Volunteer Activities:

- Inquiries reveal Offender Scherf had volunteer status in the Chapel for at least two years.
- As a volunteer, Offender Scherf had routine and ongoing access to the Chapel. Volunteer activities included assisting in the Chapel library.
- Offender Scherf routinely participated in evening chapel programming.
- Volunteers were not documented in RPM.

Callouts:

- An offender clerk prepares the callout for religious programming.
- On January 29, 2011, Offender Scherf was on the callout for Full Gospel in the Chapel.
- An informal process was used to document chapel volunteers' participation.

**Summary of Facts**

**MCC OM 410.360 Escape Preparedness and Response (Escape Response Emergency Checklist)**

Some initial emergency checklist items were initialed as being completed that appear not to have been. They include:

- Initial Emergency Checklist Item 2e. [REDACTED]
- Initial Emergency Checklist Item 2h. [REDACTED]

Without a formal emergency notification made to alert all staff, some staff voiced a concern that they were placed at risk by not knowing an inmate was missing. At the time of the emergency some staff were involved in routine duties that placed them in various unoccupied buildings. They stated that it would have been nice to know that an offender was missing so they could have been aware of the risk.

410.050 Emergency Management Plan: Requires an ICS level 300 trained staff to command this incident. ICS Training records for [REDACTED] and [REDACTED] do not reflect ever receiving this level training.

The apprehension of the offender occurred very quickly after confirming that he was missing (less than 10 minutes). Had Scherf tried to remain hidden in the Chapel he most likely would have been discovered by the only officer headed to the Chapel to conduct a search. Single officer building searches in an emergency are extremely risky. See recommendations.

The emergency response to a missing staff person was managed quickly and effectively. Appropriate checklists were utilized. All applicable ICS forms for each of the ICS sections were utilized with daily objectives and planning documents utilized. The evaluation of the long term lockdown is beyond the true scope of this CIR. Those staff involved would best be able to debrief and identify things that went well and where improvements can be made.

MCC OM 420.155 Callout Systems: OM requires Main Control to verify staff are present at pre-identified key locations including Tower 9 and Breezeway near the Chapel/PAB in advance of initiating offender movement. Main Control staff state they were unaware of this OM and requirement. From staff interviews the CIR team heard that verification did occur in the past but stopped approximately a year to a year and half ago.

WSR R/M Post Orders; Relief Procedures Section, Item #1. : R/M Post Orders state "You are not to leave your zone of control at any time during the shift without authorization of the Shift Sergeant or Lieutenant." From interviews the CIR team heard that no officer was present in Zone 3 during the 2030 "recall movement".

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**LIST OF APPLICABLE RCWs/WACs/DOC POLICIES AND PROCEDURES**

410.020 Department Emergency Operations Center  
410.040 Incident Command System (ICS)  
410.050 Emergency Management Plan  
410.160 Emergency Information Management  
410.255 Critical Incident Stress Management (CISM) Teams  
410.345 Emergency Staffing Plan  
410.360 Escape Preparedness and Response  
410.375 Facility Lockdown  
410.430 Health Services During An Emergency  
410.700 Employee Line of Duty Death or Life-Threatening Injury  
410.800 Emergency Management System (EMS) Training Requirement  
MCC OM 420.155 Callout Systems  
WSR Response and Movement Officers Post Order

**RECOMMENDATIONS**

- Verify in advance of initiating movements that staff are in their pre-designated zones of control. Define on facility map or in writing where staff are to be posted in their Zone during movements.
- Ensure supervisors routinely observe movement to ensure compliance with offender movement process.
- Develop, implement and monitor a staff accountability process that verifies the status of all staff at the end of their regularly assigned hours of work.
- Ensure Incident Commanders verify that all emergency checklist items have been completed or accomplished. Different statements given by Scherf supported opinions by staff that he was attempting to escape or at was seeking protective custody. Staff believed they had prevented an escape or that Scherf had fallen asleep (as stated) in the Chapel. This tunnel vision appears to have helped facilitate the failure to complete interior building searches.
- During non-emergent operations, use at least two staff to secure buildings. Use teams of a least two staff to conduct building searches during emergency operations.
- Implement current Callout Policy.
- Reinforce supervisory expectation to work as a team and report significant security/safety issues (staff not on post)
- Ensure that a facility wide emergency notification is made whenever an emergency is detected.
- As it applies to closing down buildings define "all clear" to mean the interior building has been searched and secured as necessary, all staff are out of the building and exterior entry/egress doors are locked and secured.
- Consider having Tower 9 responsible for verifying staff are in their assigned locations for movement and initiating movements. This post has the capability to observe whether staff are or are not in place.
- Update custody Post Orders to reflect accurate duty assignments during movements and define in writing the process for "clearing zones" after offender movements.
- If offenders are allowed to volunteer in the Chapel, the offender should obtain the same review/approval as would be required for a paid job. This offender should also be listed on the formal callout with a set schedule.

**ACKNOWLEDGMENT**

Things That Worked Well;


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- Missing inmate concern was called in immediately, before completing count
- Evidence Handling/crime scene preservation were extremely well managed.
- QRST Response on First Shift was well done.
- Escorts to the IMU and Hospital were professionally conducted.
- Life Saving measures were done well.
- Program assignments/classification were completed well documented in RPM/OMNI.

JEFFREY A UTECHT  
 Team Lead (Print)

  
 Team Lead Signature

7-8-11  
 Date

Dan Paeholke  
 Assistant Secretary/designee (Print)

  
 Assistant Secretary/designee Signature

7/11/11  
 Date

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