SD Department of Corrections After-Incident Report

Homicide of Senior Correctional Officer Ronald "RJ" Johnson and Escape Attempt by Inmates Rodney Berget and Eric Robert

May 9, 2011

Report on the Homicide of Senior Correctional Officer Ronald "RJ" Johnson and the Escape Attempt by Inmates Rodney Berget and Eric Robert May 9, 2011

On April 12, 2011 two inmates made an unsuccessful escape attempt from the South Dakota State Penitentiary (SDSP) in Sioux Falls. One of the two inmates was wearing portions of a correctional officer's uniform. A search of the prison resulted in the discovery of Senior Correctional Officer Ronald E. Johnson, who was severely injured in the Prison Industries (PI) Building. Officer Johnson was transported to a Sioux Falls hospital where he was later pronounced dead. Inmates Rodney Berget and Eric Robert have each been indicted for first degree murder, first degree murder-kidnapping and simple assault.

This report provides analysis and an overview of the events of April 12, 2011 and the days after Senior Correctional Officer Johnson's murder. It is organized in multiple sections, some containing copies of existing reports and documents. This report communicates the events of April 12, 2011, as well as post-incident actions and responses. It also provides contextual information associated with the major incident and the recommendations resulting from the after action review.

1. Narrative Summary from Major Incident Report

The following information is an excerpt of the Narrative Summary of the Major Incident Report submitted by Associate Warden [redacted] and [redacted] of SDSP. A full copy of the Major Incident Report is included as ***Attachment 1.*** In both the attachment and this narrative, names have been redacted.

> "On April 12, 2011, at approximately 10:45am, Officer [redacted] was relieving officer [redacted] at the West Gate for chow. The food truck showed up and needed to come into the facility. At this time she notified Cpl. [redacted] to shakedown/escort the truck into the facility. Once the truck was inside, there was what appeared to be an "officer" pushing a hand cart with one large cardboard box wrapped with packing tape along with a smaller box. The "officer" was coming from the PI building walking towards West Gate. Officer [redacted] noticed the "officer" had his head down and was wearing a baseball cap. At this time what appeared to be an "officer" entered through the inside gate which was still open from when the truck came inside.

After inmates Berget and Robert were detained, the outside perimeter was secured with weapons and staff. Emergency count was initiated for staff and inmates. Count was cleared at 12:10pm.

Officer Johnson was pronounced dead at 11:50am at Sanford Hospital.

Inmates Berget, Rodney #41951 and Robert, Eric #46127 were transported to the Minnehaha County Jail.

Located near where Officer Johnson was assaulted was a 2 foot pipe that appeared to be used as the weapon and Inmate Berget's prison identification card.

The State Penitentiary initiated lockdown procedures until Wednesday April 13, 2011. During the lockdown procedures, inmates were served meals in their cells. "

The West Gate Control Room is located above the inner and outer gates of the West Gate area. During this incident, Officer [redacted] and Officer [redacted] were in the West Gate Control Room and on the catwalk outside the control room which is above the gates and above the razor wire on the top of the outer (south) gate. **Attachment 2** is an aerial photograph of the State Penitentiary/Jameson Annex prison complex identifying the West Gate and other areas pertinent to this report.

The State Division of Criminal Investigation (DCI), the Sioux Falls Police Department, the South Dakota Highway Patrol, and the Minnehaha County Sheriff's Department responded and provided assistance in securing the outside perimeter. The Sioux Falls Police Department transported Inmates Rodney Berget and Eric Robert to the Minnehaha County Jail.

The State Penitentiary initiated lockdown procedures Tuesday, April 12, 2011. Lockdown continued April 13 with step down on the 14th and the Penitentiary returned to normal operations on the morning of Friday, April 15, 2011.

The DCI is serving as the lead criminal investigative agency. The criminal prosecution of inmates Berget and Robert is being conducted by the Attorney General's office.

2. Prison Industries Building

The Prison Industries Building (PI Building) where Officer Johnson was murdered is located within the secure perimeter of the South Dakota State Penitentiary. See ***Attachment 2 (PI #1)***. It is a two-story building located in the northeast section of the group of buildings making up SDSP. The PI Building houses a sign shop, machine shop, license plate shop, and laundry on the first floor. The Braille/upholstery shop, cabinet and custom furniture shop and print/book bindery shop are located on the second floor. This PI Building was constructed in 1905-06 with additions in 1916-18 and again in

instruction and guidance to staff on the functions and duties of the post. ***Attachment 4*** is a copy of the SDSP PI Building Post Order.

While each prison shop foreman has duties unique to his or her shop, the following are common responsibilities of these foremen: supervising inmates, writing passes, accounting for tools, training inmates on job duties, establishing business relationships with vendors and prison industries customers, maintaining HAZMAT materials, attending staff briefings, controlling contraband by performing random shakedowns of their area, and monitoring and controlling the quality of products being produced and delivered to customers. Prison shop foremen receive pre-service and annual in-service training.

4. Location of the murder of Senior Correctional Officer Johnson

The correctional officer assigned to the PI Building had an office area ("old office") east and slightly north of the "Main PI access/Exit" and adjacent to an area used for storage of industry supplies and equipment ***(see Attachment 3)***. Officer Johnson was found toward the back of this storage area behind some pallets of wood. This is not an area where the officer assigned to this post would normally be located during his duties.

5. Inmate movement

It is not possible to eliminate inmate movement within the Penitentiary. Federal case law holds it is not constitutional to isolate all prisoners convicted of a violent offense as a default incarceration practice. Unfortunately, two-thirds of Penitentiary inmates are incarcerated for violent offenses, and more than two hundred have an escape history.

There are structured inmate release/ring out times for meals, recreation and programming (school, religious activities, work and treatment). Schedules for all activities are posted in the housing units and on the internal prison network. Passes are issued by staff when inmates are called to a specific area (health services, law library, chapel, etc). Inmates are notified of approved movement via loudspeaker. If an inmate does not arrive to a designated location within the designated time, the officer in charge is notified, and the inmate is located.

The staff monitors inmate movement by examining passes and remaining alert for suspicious inmate movement. Inmates are subject to random pat searches, walk through metal detectors, UAs, and breathalyzers. Inmates are assigned seating for meals in the dining hall as directed by staff.

7. Security Audits, Inspections and Controls

South Dakota Department of Corrections (SDDOC) adult institutional staff, trained by the National Institute of Corrections (NIC), annually conduct security audits of institutional procedures throughout SDDOC adult facilities. Penitentiary staff members have been utilized in other correctional facility audits in the state of South Dakota and in other states.

Staff members walk through each cell on each housing unit daily to search for contraband and ensure that all housing rules are being followed. Staff members conduct weekly maintenance inspections of their units and cells. The Multi-Disciplinary Shakedown Team (MDST) searches ("shakes down") different areas of the Penitentiary at different times each week. The MDST consists of 20 plus trained staff from different departments working at the Penitentiary. Penitentiary staff completes urinalysis testing and breathalyzers to deter and detect alcohol or drug use by inmates. Procedures are in place for this testing to occur on each shift. The staff regularly searches "hot spots" or places at risk for making homemade alcohol or other contraband concealment.

The Warden conducts rounds every weekday morning, Monday through Friday, of all the units. The Warden talks with staff and the inmate population, gauges how the units are functioning and observes the cleanliness and order of the facility. While the Warden periodically will conduct these rounds on weekends and holidays, a senior staff member will typically do the weekend rounds. One day a week, the Warden does an in-depth inspection of the facilities, visiting every cell front, the prison industry buildings and Coolidge school. Every week he also visits administrative and disciplinary housing units and makes himself available for staff working those areas and for every inmate housed in these segregation units. Three times a week the Warden personally observes the meal service to monitor quality and quantity and to ensure contract compliance. Twice a week, the staff tests the cell bars throughout the facilities by pounding a rubber mallet against them to ensure their stability. The SDSP has one canine trained in the detection of tobacco and cell phones and a second canine trained in the detection of drugs.

The SDDOC participates in the Performance-Based Measures System (PBMS) a nationwide automated information system developed by the Association of State Correctional Administrators (ASCA) Performance Measures Committee (PMC) to translate the missions and goals of correctional agencies into a set of uniform measurable outcomes. As a participant in PBMS, the SDDOC has outcome measures of how well facilities are meeting correctional responsibilities and how their performance compares with other participants. The PMC establishes uniform indicators of performance and measures. The current ASCA PBMS performance standards are public safety, institutional safety, substance abuse, mental health, academic education, healthcare and justice. For each standard, there are uniform measures of performance,

factors, approval is required by the warden, the DOC director of classification and transfer, and a deputy warden or an associate warden,

Initial classifications are completed by case managers within the admissions and orientation units. Reclassifications are completed by the case manager of the housing unit where the inmate lives. Every classification is subject to audit by other case managers to ensure quality control and assure proper procedures are followed. Each inmate is classified at least annually.

9. Profile of Inmates Housed at Penitentiary

There are 767 individual offenders currently housed at the State Penitentiary. Twenty-three are parolees under the community transition program or under extended detainment and 744 are inmates. Of the 744 inmates, 67 are in specialized housing (disciplinary segregation or special needs). Of the 677 inmates who are housed in general population, six are minimum custody, 159 are low-medium custody, 465 are high-medium custody, and 47 are maximum custody.

To increase chances of rehabilitation, to require productive use of time, and to reduce recidivism, general population inmates are encouraged to attend treatment, work, school, religious programming, and recreation. Inmates may participate in a number of religious and cultural activities within the facilities in Sioux Falls, led by over forty trained volunteer chaplains. Inmates are able to complete their GED and/or take cognitive-behavioral change classes and electives such as job search, Thinking for a Change, computers, financial responsibility, general safety, food safety, 3M building maintenance, and independent studies.

Of the 677 general population inmates housed at the State Penitentiary, 456 are incarcerated for a violent offense, 203 have escape points counted on their classification, and a majority of the 677 have multiple felony convictions. The average number of felony convictions for general population inmates at the State Penitentiary is 2.3. There are 56 inmates serving a life sentence housed in the State Penitentiary. System wide, there are 790 male inmates with escape points counted on their classification and 1,384 incarcerated for a violent offense.

10. Classification of Inmate Rodney Berget #41951

Inmate Berget is a 48-year old male serving a life sentence for kidnapping from Meade County. He was originally charged on June 11, 2003 with kidnapping (three counts), second degree rape, first degree robbery, first degree burglary and commission of a

12. Job Assignments

Penitentiary unit staff manages inmate work lists. As soon as an inmate arrives at a housing unit, his name is added to the bottom of the work list. Once a position becomes available in the shops, kitchen, housing unit, school, chapel, or other locations, the unit staff offers the position to the next appropriate inmate on the list. If an inmate receives a major rule infraction, disciplinary action may include the loss of his job. Inmates who choose not to work while serving their sentence may be subject to a major rule infraction. Unit staff members assign a work position to inmates based on the inmate's institutional adjustment, length of sentence, successful behavior, treatment and educational needs, and skill set.

Inmate Berget was an orderly responsible for recycling the aluminum cans, cardboard and paper products, and other materials, from the West Hall housing unit. He would transport the recycling items from West Hall to the recycling bins located outside the PI building. Inmate Berget was also assigned by unit staff to assist with laundry.

Inmate Robert was a laundry orderly. He was responsible for delivering dirty laundry from West Hall to the laundry and retrieving clean laundry for West Hall.

13. Unit Staff

Unit staff is comprised of a unit manager, unit case manager, and unit coordinator. The unit manager is responsible for the operations of the inmate housing unit. The unit case manager is responsible for the classification of each inmate on the housing unit and assists the unit manager with responsibilities as assigned. The unit coordinator is responsible for managing the accounts, visit lists, disciplinary issues, clothing needs, and work lists for the inmates on the unit.

14. Use of Force Procedures

During Berget's and Robert's attempted escape, staff utilized the appropriate level of force necessary to control the situation and prevent the escape. Although lethal force could have been warranted, the staff chose to use less than lethal force. SDDOC Policy on Use of Force outlines that staff could have shot Berget and Robert to prevent their escape and to prevent further injury to staff. While SDDOC policy authorizes use of lethal force for this type of situation, and the responding staff would have been justified in using lethal force, they chose to contain the situation with non-lethal force. Officer [redacted] recognized the seriousness of the situation and chose not to discharge his

B. In-Service

The 40 hours of annual in-service training consists of mandatory refresher classes such as emergency response/use of force, CPR, principles of security, code of ethics, suicide awareness, con-games, cultural diversity, policy review, and re-certifications. In-service curriculum is also tailored to address the current needs of the facility at the time of the training and provide sessions to fill those needs, such as team building and security threat groups.

C. Firearms Training

Senior staff, unit staff and correctional officers are certified annually and tower staff are certified quarterly on the use of the following firearms: AR-15 rifle, 38 revolver, and shotgun.

17. Staff/Inmate Ratios

On April 12, 2011 there were nine staff working in the PI building: one correctional officer and eight prison shop foremen. No Penitentiary correctional officer positions were cut in the FY 2012 budget.

FY 2012 Staff to Inmate Ratios
1 officer per 5.16 inmates
1 staff per 4.28 inmates

18. Employee Assistance

Staff members involved with the April 12, 2011 incident attended several Critical Incident Stress Management sessions. Senior staff and managers met with individual staff members. Mental health staff and volunteer chaplains were made available for all staff. Staff who wished to attend the memorial service were able to do so. Bishop [redacted] of the [redacted] has offered services to the staff through [redacted]. The staff has been directed to human resources for assistance in retaining services. [redacted], victim witness specialist, has been given names of staff members to contact. Supervisors have been directed to reach out to staff who are struggling to cope with the incident. The senior staff has held several informational briefings to keep the staff informed on events, changes, and how to get help.

Building can be monitored by the PI correctional officer. This will provide improved security and better control of the building. Implemented 4/14/2011.

5. **Add additional correctional officers.** A staffing evaluation was completed of all buildings and correctional officer posts within the Penitentiary. In three specific locations, an additional correctional officer was added to increase security and safety, including one new correctional officer in the PI building. For the PI Building, this allows one officer to make consistent rounds of the building and shop areas, while a second officer works from the PI building main entrance to control egress and limit foot traffic in the PI Building. Implemented 4/14/2011 (one position) and 4/25/2011 (two additional positions).

6. **Adjust inmate work assignments.** A full review of the classification of work-assigned inmates with a history of escape behavior was conducted. All assignments were consistent with industry practice, and SDDOC policies, but work assignments for two inmates were adjusted. Implemented 4/20/2011.

7. **Improve lighting.** A review of the lighting levels of all buildings within the Penitentiary was completed. In a number of locations, rewiring has been conducted to ensure low level light is on at all times. This will reduce the occurrence of dark spots and will increase safety and security. Implemented 4/28/2011.

8. **Strengthen secured perimeter fences.** All secured perimeter walls and fences were evaluated to ensure they were sufficiently secure. Additional razor wire and non-climbing mesh have been added to some areas and electrical conduit has been covered with a metal sheath. Implemented 4/13/2011.

9. **Relocate chemical dependency (CD) offices.** All staff office locations were evaluated to ensure their location was appropriately safe and secure. One office used by chemical dependency (CD) staff has been relocated to allow for increased safety and security and to facilitate better supervision of inmates and staff. Implemented 4/26/2011.

10. **Restrict inmate traffic.** A review of traffic throughout the Penitentiary was evaluated, and changes were made. For example, at all three PI Buildings, inmates without job assignments within those buildings will no longer be allowed access into those facilities. Traditionally, unit orderlies walked from their housing units into the PI building to pick up supplies, drop off laundry, drop off equipment, and conduct other routine duties. Now, unit orderlies will instead drop off and pick up their supplies or equipment at the PI building main entrance. Additionally, within the PI Building, an internal door to the sign shop has been closed to ensure that the assigned correctional officer is able to monitor and observe inmates moving between shops from the new post location. Implemented 4/14/2011.

Attachment 1: Major Incident Report

South Dakota	Attachment: Major Incident Report
Policy	Please refer to DOC policy 1.1.A.3 / 1.5.H.3
Distribution: (Public or Non-Public	Reporting Information to DOC Administration / Use of Force - JCC

MAJOR INCIDENT REPORT

TO: Secretary of Corrections [redacted] **FROM:** [redacted]

NAME OF OFFENDER(S):

Last – First	Offender #	DOB	Crime or Adjudication
Berget, Rodney	41951	5/15/62	Kidnapping/Murder
Robert, Eric	46127	5/31/62	Kidnapping

TYPE OF INCIDENT: Attempted Escape, Staff Assault & Staff Death

DATE OF INCIDENT: 4/12/11 **TIME OF INCIDENT:** 10:45 X AM ☐PM

LOCATION OF INCIDENT: West Gate and PI Office

NARRATIVE SUMMARY: (Provide how the incident occurred, how the incident was discovered and all details of the incident in chronological order).

On April 12, 2011, at approximately 10:45am, Officer [redacted] was relieving officer [redacted] at the West Gate for chow. The food truck showed up and needed to come into the facility. At this time she notified Cpl. [redacted] to shakedown/escort the truck into the facility. Once the truck was inside, there was what appeared to be an "officer" pushing a hand cart with one large cardboard box wrapped with packing tape along with a smaller box. The "officer" was coming from the PI building walking towards West Gate. Officer [redacted] noticed the "officer" had his head down and was wearing a baseball cap. At this time what appeared to be an "officer" entered through the inside gate which was still open from when the truck came inside.

Once in between the gates she realized the "officer" did not swipe his ID badge. Officer [redacted] then stepped outside of the West Gate Control to remind the "officer" to swipe his badge. The "officer" stated he forgot his badge. Officer [redacted] asked Cpl. [redacted], who was also in between the gates, if he recognized the staff. Cpl. [redacted] stated he did not. Officer [redacted] then asked the "officer" his name and he responded "[redacted]". Officer [redacted] asked Cpl. [redacted] if he was related to the "officer" to which he responded he didn't think so. At this time the Cpl noticed that the "officer" was wearing a white t-shirt under an oversized officer jacket and oversized pants. Cpl. [redacted] requested for the OIC to be called to the West Gate. Officer [redacted] called for an OIC to step to West Gate.

Immediately after the call on the radio, inmate Robert, Eric #46127 who had the officer uniform on and inmate Berget, Rodney #41951 who was hiding in the large box, began to assault Cpl. [redacted]. Officer [redacted] called a Code Red Code 3 at West Gate and Officer [redacted] was in the process of returning to his post. Cpl. [redacted] ended up in a fetal position as the inmates assaulted him. Officer [redacted] took the AR 15 out of West Gate Control and yelled to the inmates to stop. Both inmates responded "Go Ahead and Shoot!". When staff started to arrive inmate Berget began to swing a staff radio microphone and inmate Robert began to climb inside of the outside gate. Officer [redacted] hit inmate Robert in the hand with the stock of the weapon to prevent inmate Robert from getting any further into the razor wire in the southwest corner of the outside gate.

WHO WAS INVOLVED?

(include the names of all staff involved in the incident)

[redacted]

Attachment 2: Aerial Photograph of Penitentiary Complex

Attachment 4: SDSP PI Building Post Orders

SDSP PI BUILDING POST ORDERS

6:45a.m.	Check and make sure all shops are unlocked and supervisors are there to run shops. If a supervisor is not available at 7:30 a.m. call Main Control and ask if keys have been checked out for their shop.
7:15 a.m.	Attend Briefing on 5th Floor of Admin Building.
7:45 a.m.	Make rounds do all escorts for PI vehicle through West gate and walk-ins through Main Control, check all passes. When vehicles are coming in, make sure West Gate notifies Unit 8. Check underneath vehicle, collect driver's licenses and hang on clipboard dropped down by West gate Officer. Make sure all PI inmates show up to work within 15 minutes of work ring out. Breaks are not allowed outside. Check all passes and do a minimum of 2 to 3 pat searches an hour.
9:15 a.m.	Make rounds, check passes (all inmate workers must have pass when leaving the shop area unless they are going to lunch break or after work is complete). Inmates not working in Braille unit get pat searched when they leave the shop. Braille workers get pat searched when they go to lunch, break and at night when they go to their cells. Start pat searched at 10:15 a.m. PI step van will be brought in to pick up UPS.
10:20 a.m.	OIC will call the first of three groups for lunch. The inmates will eat and then return to the cell hall for Count.
10:30 a.m.	OIC will call for last three shops for lunch. PI Officer takes lunch.
11:10 a.m.	Take out UPS and pickups when count clears and it is cleared through West gate. Go out front and check PI office for inbound UPS or anything else that needs to be brought into the shops.
11:15-3:00 p.m.	Check passes, check incoming laundry for contraband. Do inmate count when they come back from lunch.
3:30 p.m.	Tool check in all shops. Can be checked before 7:30 a.m., or at 11:50 a.m. or 3:00 p.m.
3:35 p.m.	Pat search Braille shop workers as they return to the cell hall.
3:40 p.m.	Put phone in charger, shut off light and lock doors to office. Also lock west entrance door when leaving for the day. Leave the bars open. Turn Rec list in to Main Control and the Control Rooms. Make sure all inmates are out.
3:45 p.m.	Turn keys in to Main Control.

Last Revised on 9/18/2010

Attachment 6: Radio Emergency Call Codes and Response to Body Alarms

Radio/Body Alarm Policies

All staff and volunteer chaplains entering the secured facilities must either have in their possession a radio or body alarm. Staff are trained on radio procedures during Pre-Service and In-Service. Below are the procedures as defined by Radio Use OM 2.3.A.20:

Emergency Call codes: Code Reds and Code Green:

A. **Code Red emergency**: Code Red emergencies are for call lights, fence alarms and medical emergencies and emergency requests for staff assistance.
   1. Any staff member (including contractual staff and/or staff from another State agency who work on the SDSP premises) that becomes aware of an emergency situation requiring the notification and/or request for help of supervisors or other staff will make a radio call declaring the emergency situation as a **Code Red, code one, two, three, four or five**.
   2. If a staff member does not have a radio, he/she will either notify the closest staff person who possess a radio to make the call or will contact the nearest control room by phone (5555 for the SDSP or 5559 for Jameson) or in person. ***These are emergency numbers that ring into the control rooms that identify the location of the caller.***
   3. In the event that a staff person contacts a control room by phone or in person, control room staff will broadcast the Code Red via the radio.

B. The staff member should first identify himself/herself by name or post, whichever is the most helpful in terms of identifying their location and will make the Code Red call to the nearest control room.

C. The Code Red call will also include the following information:
   1. The nature and/or severity of the emergency; e.g. call light, fight, fire, staff assault, medical emergency, etc.
   2. The location of the emergency; e.g. cell number, unit/section, kitchen, rec building, etc.
   3. The urgency of the response requested by staff, using the following guidelines:
      a. **Code RED, Code ONE:** Staff are to respond at the earliest convenience. An example of Code One response would include responding to an emergency call light in a Special Housing Unit (SHU) or Unit A. Code One response is typically used for important information that needs to be exchanged.
      b. **Code RED, Code TWO:** Staff are to respond by walking quickly to the area. Examples of Code Two response would include responding to an emergency call light in general population, when there is threatening behavior, non-compliance with a direct order or when back-up is required.
      c. **Code RED, Code THREE:** Emergency, Staff needs assistance. This code requires an "All Hands" response. All available uniformed security staff and Unit staff are to respond by running or making their best time to the area where assistance is needed as soon as possible. Code Three response is typically used in the event of an attack, injury, a life threatening situation or a situation that available staff are not able to control. An activated Personal Body Alarm also requires a Code Three response.