

1
2
3
4
5x
6
7
8
9x
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES GRAND JURY
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :
-V- :
TOVA NOEL and :
MICHAEL THOMAS :
(2019R01089) :

United States Courthouse
Foley Square
New York, New York
November 14, 2019
2:18 p.m.

A P P E A R A N C E S :


Assistant United States Attorney

ISAAC GARDNER
Acting Grand Jury Reporter

1 (Colloquy Precedes)
2 (Witness Enters Room)
3 (Time Noted: 2:21 p.m.)

4 [REDACTED] [REDACTED] called as a witness, having been duly sworn by
5 the Foreperson of the Grand Jury, was examined and
6 testified as follows:

7 BY MS. [REDACTED]:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. Would you please state and spell your name?

11 A. [REDACTED] [REDACTED]. [REDACTED].

12 Q. Where do you work?

13 A. The FBI.

14 Q. I'll ask you to just speak into the microphone a
15 little bit more.

16 What's your title at the FBI?

17 A. Special agent.

18 Q. Are you assigned to a particular unit at the FBI?

19 A. Yes, the Violent Crimes Task Force.

20 Q. In preparing to testify today, have you spoken
21 with other people, including other law enforcement officers
22 about this case?

23 A. Yes.

24 Q. Have you reviewed reports and documents prepared
25 by others regarding this case?

1 A. Yes.

2 Q. Will your testimony be based in part on those
3 conversations and documents?

4 A. Yes.

5 MS. [REDACTED]. Ladies and gentlemen, some of the
6 testimony you'll hear today from Special Agent [REDACTED] will
7 include hearsay. That means that she will not be testifying
8 solely from her personal observations, but what others have
9 told her and what she's read in reports and documents
10 prepared by others.

11 Hearsay evidence is admissible and proper in the
12 grand jury proceedings, and you're permitted to rely on it
13 in determining whether there's probable cause to indict the
14 Defendants. If you want to hear the testimony of other
15 witnesses, you can request it and we'll make reasonable
16 efforts to bring that witness before you.

17 BY MS. [REDACTED]:

18 Q. Special Agent [REDACTED], before we get into the result
19 of the investigation, could you just describe for the grand
20 jury what your investigation has entailed since August 10th,
21 2019?

22 A. Numerous interviews of employees at MCC and
23 inmates that were housed at MCC. There was extensive,
24 intensive video review of the video available in the SHU
25 from July 23rd to August 10, 2019. And there have been

1 records that were subpoenaed and reviewed from MCC regarding
2 their records, bank records and phone records.

3 Q. And you said "SHU," is that the Special Housing
4 Unit at the MCC?

5 A. Yes.

6 Q. We'll get to that in a moment. Why was the video
7 review only of July 23rd through August 10th of this year?

8 A. Because that was the available video that we had
9 of the Special Housing Unit in MCC.

10 Q. So MCC didn't have video before July 23rd?

11 A. Correct.

12 Q. So let's talk about some of the relevant people
13 and entities that we'll be discussing today.

14 First, what is the MCC?

15 A. It is a federal detention facility that's located
16 in Manhattan, and it's run by the Federal Bureau of Prisons,
17 or BOP. It is used to house inmates who have been charged
18 with federal crimes in the Southern District of New York and
19 are awaiting trial.

20 Q. Does the MCC employ correctional officers?

21 A. Yes.

22 Q. What is their function?

23 A. Their primary duty is to ensure the care, custody
24 and control of the inmates who are housed at MCC.

25 Q. Who is Tova Noel?

1 A. She is one of the Defendants in this
2 investigation. She is a correctional officer at MCC. She
3 has been employed there since 2016. As of August 2019, her
4 primary assignment was in the SHU at MCC.

5 Q. What shifts did she work on August 8th, August 9th
6 and August 10th?

7 A. On August 8th, she worked a regular shift from 12
8 p.m. to 8 p.m. in the SHU. And then on August 9th, she
9 worked a regular shift from 4 p.m. to 12 p.m. in the SHU.
10 And then she worked an overtime shift in the SHU from
11 12 a.m. to 8 a.m.

12 Q. Who is Michael Thomas?

13 A. He is also a Defendant and also employed at MCC
14 since approximately 2007. In around 2013, he was assigned
15 as a materials handler supervisor, but he would also work
16 overtime shifts as a correctional officer.

17 Q. What shifts did Thomas work on August 8th, 9th and 10th
18 and 10th?

19 A. On August 8th, he was on leave. And then on
20 August 9th, he worked an overtime shift from 12 a.m. to 8
21 a.m. in the SHU. And then August 10th, he worked in the SHU
22 from 12 a.m. to 8 a.m.

23 Q. Who was Jeffrey Epstein?

24 A. And then Jeffrey Epstein was an inmate in MCC
25 between his arrest of July 6th and August 10th, and he was

1 detained there pending trial for sex trafficking charges.

2 Q. I'd like to talk about the MCC and Special Housing
3 Unit generally. How many inmates are housed at the MCC at
4 any given time?

5 A. Approximately 750.

6 Q. What is the SHU, or Special Housing Unit?

7 A. That is a unit that is separated from the general
8 inmate population, and that is to ensure the safety of those
9 inmates and staff.

10 Q. Where within the MCC is the SHU located?

11 A. It's on the ninth floor.

12 Q. On the ninth floor?

13 A. Um-hmm.

14 Q. How many inmates are housed in the SHU at any
15 given time?

16 A. Approximately -- around 70, give or take a few.

17 Q. I'd like to talk about how you get into the SHU.
18 So a correctional officer, how would they get into the SHU
19 from the first floor of the MCC?

20 A. Pretty much access into the SHU is through the
21 control center, which is on the first floor of MCC, and the
22 correctional officer would request access to the doors
23 leading into the SHU from control.

24 Q. And just to clarify, the control center controls
25 access; is that right?

1 A. Correct.

2 Q. So an officer gets off the elevator on the ninth
3 floor, and then what happens?

4 A. And then there's a door leading into the -- like
5 another little room before you get to the SHU. But that
6 door, the officer has to request access from control in
7 order to access it.

8 Q. So control buzzes the officer into the first
9 locked door?

10 A. Yes.

11 Q. And then what happens?

12 A. And then there's another locked door that the
13 officer inside of the SHU has the key for, and that officer
14 unlocks the door and lets the other correctional officer in.

15 Q. Okay. This is a photograph of the SHU; is that
16 right?

17 A. Yes.

18 Q. What is the vantage point that we're looking at?

19 A. Right in front, there's a desk with computers.
20 This is the correctional officers' desk. And then you are
21 looking out into what they call the multi-purpose area of
22 the SHU.

23 Q. So you described, when you get off of the ninth
24 floor, there's one locked door that's controlled by the
25 control center?

1 A. Yes.

2 Q. And then there's a second locked door that can be
3 opened from the inside by an officer in the SHU?

4 A. Correct.

5 Q. So once you go through the second locked door,
6 where would you be?

7 A. Then you would be in that big, massive, like,
8 center space right there.

9 Q. The multi-purpose area?

10 A. The multi-purpose area.

11 Q. Okay. And then how are the cells divided within
12 the SHU?

13 A. The cells are contained within tiers, and there
14 are six tiers in the SHU.

15 Q. Is a tier like a hallway?

16 A. Yes.

17 Q. How many tiers are there within the SHU?

18 A. Six.

19 Q. How many cells are there within each tier?

20 A. Eight.

21 Q. So directing your attention to the stairway up on
22 the upper left, what does that lead to?

23 A. That's L-tier.

24 Q. Is that one of the tiers?

25 A. Yes, that's one of the tiers.

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area [REDACTED]
Balt. & Annap. [REDACTED]

1 Q. How is it accessed you to each tier controlled
2 (verbatim)?

3 A. There is a metal door, what is referred to as a
4 grill, and it is accessed by a key, and that key is held by
5 one of the SHU officers.

6 Q. So there's a locked door here to get into the
7 tier; is that right?

8 A. Yes.

9 Q. And then within the tier, are the cell doors also
10 locked?

11 A. Yes.

12 Q. Who has access to the cell doors?

13 A. That would be one of the SHU officers as well.

14 Q. How is that controlled, is it a key?

15 A. It's a key, um-hmm.

16 Q. Can you see one of the cell doors up on the upper
17 left of this photograph?

18 A. Yes.

19 Q. What are the cells made out of?

20 A. Metal and concrete.

21 Q. What is an institutional count?

22 A. An institutional count is when the correctional
23 officers go around and count the inmates inside of their
24 cells.

25 Q. Does the BOP require correctional officers at the

FREE STATE REPORTING, INC.
Court Reporting Transcription
D.C. Area [REDACTED]
Balt. & Annap. [REDACTED]

1 MCC to conduct regular counts?

2 A. Yes.

3 Q. Why?

4 A. That is -- basically, it serves two purposes, and
5 one is a welfare check to make sure that the inmates are
6 alive. And then two, it's to make sure that all the inmates
7 that are supposed to be there are there.

8 Q. So no one's escaped?

9 A. Exactly.

10 Q. On weekdays, what time is the institutional count?

11 A. There's a 4 p.m., a 10 p.m., a 12 a.m., a 3 a.m.
12 and a 5 a.m.

13 Q. So five institutional counts --

14 A. Yes.

15 Q. -- per weekday?

16 A. Per weekday

17 Q. Okay. Is it one of the most basic and essential
18 aspects of the correctional officers' job?

19 A. Yes.

20 Q. Is the count itself to ensure that the inmates are
21 alive and haven't escaped? Is that one of the most
22 important and essential functions of the institution, of the
23 MCC?

24 A. Yes.

25 Q. Can you describe how -- focusing just on the SHU,

1 how do officers conduct the institutional count?

2 A. So it takes two officers. By policy, you're
3 supposed to have two officers. One officer has the key to
4 the grill, which is the access into the tier, and then the
5 other officer would have the key to each cell. The officer
6 with the key to the grill lets the other officer in. That
7 officer goes down the tier, or down range. And they are to
8 at least look inside each cell and make sure that the
9 inmates are alive. And they count how many are in that
10 cell. And then that officer comes back down.

11 The two officers are to switch places, and the
12 other officer goes down, counts, and then comes back. And
13 then the two officers will compare the numbers that they got
14 of the inmates on that tier.

15 Q. Okay. And in the SHU, there's six tiers.

16 A. Yes.

17 Q. So the officers do that? That same one goes down
18 and counts, the other goes down and counts, and they switch.
19 They do that six times; is that right?

20 A. Yes.

21 Q. Once they have the total number for the housing
22 unit, what do they do with that?

23 A. At that point, they call the control center and
24 give them that number that they, that they have for the
25 count.

1 Q. So, for instance, if the correctional officers
2 have 72 inmates in the SHU, they would call the control
3 center and say, we have 72 inmates; is that right?

4 A. Yes.

5 Q. Are they also required to document the count on a
6 count slip?

7 A. Yes.

8 Q. Is the count slip an official MCC document?

9 A. Yes.

10 Q. What information is on a count slip?

11 A. It is the number of inmates counted, the date, the
12 time, and then the officers are supposed to print and sign
13 their names as well as the -- what unit it is for that
14 count.

15 Q. Once the officers complete the count slip, say the
16 4 p.m. count, what happens to the physical count slip?

17 A. It's taken down to the control center.

18 Q. What does the control center do once they've
19 collected all the count slips from all the housing units?

20 A. They compare it to how many inmates are on record.
21 So the roster, basically.

22 Q. So, for instance, if the roster says we have 750
23 inmates, the control center would add up all of the count
24 slips, and if it reaches 750, then what happens?

25 A. Then the count can be cleared.

1 Q. What happens if a housing unit turns in an
2 incomplete or incorrect count slip?

3 A. Then at that point, that unit would have to do a
4 bed book count.

5 Q. A bed book count?

6 A. Um-hmm.

7 Q. Backing up. Can the control center clear the
8 institutional count if one of the count slips is incorrect
9 or incomplete?

10 A. No.

11 Q. So the housing unit that has the wrong, or
12 incomplete, count slip has to do a bed book count?

13 A. Right.

14 Q. What is that?

15 A. That's pretty much when the officers have to,
16 basically do a redo, but it's more intensive in that they
17 have to compare each individual inmate to the inmate roster.

18 Q. Are records of the institutional count maintained
19 by the MCC?

20 A. Yes.

21 Q. Are they provided to a supervisor at the MCC?

22 A. Yes.

23 Q. So on this slide, we have a video that we're going
24 to play. Can you just describe before we play the video the
25 vantage points that we're looking at from this camera angle?

1 A. Basically, this is looking down into the multi-
2 purpose area. Over in the corner right there, you see a
3 desk; that is the correctional officers' desk.

4 Q. So is this the opposite vantage point to the
5 photograph you saw earlier?

6 A. Yes.

7 Q. I'm going to press "play." This is just an
8 example of a count; is that correct?

9 A. Correct.

10 Q. And I'll ask you to narrate what we're seeing as
11 it's playing. And it's been sped up, right?

12 A. Yes. So that is two officers that you use.
13 They're going to each tier. And being that this is an
14 example of a 3 a.m. count, they have that flashlight just so
15 they can look inside and see inmates inside their cells.

16 Q. Just speaking about the count, you mentioned that
17 you had reviewed hundreds of hours of videotape from July
18 23rd through August 10th; is that right?

19 A. Yes. It was myself and an analyst, another FBI
20 employee that reviewed the video.

21 Q. What was one of the purposes of that video review
22 for such a long time period?

23 A. It was to review the times around the times that
24 the count should have been conducted to see if correctional
25 officers actually did counts in MCC in the SHU area.

1 Q. What did you find?

2 A. That the majority of the counts were conducted.

3 Q. How did you determine whether a count was
4 conducted?

5 A. So we would review -- so let's say, for instance,
6 this 3 a.m. we would review 2:30 a.m. to 3:30 a.m. So a
7 count, by policy, is supposed to be conducted around 3 a.m.
8 So we would give them that little leeway of 30 minutes
9 before and 30 minutes after.

10 Q. How could you tell if a count was done?

11 A. As we saw in this video, you would see the two
12 officers, which, by policy, is what's required, go to each
13 and every tier. So if we saw two officers go to each and
14 every tier, that's what's indicative of a count being
15 conducted.

16 Q. Within 30 minutes --

17 A. Within that --

18 Q. -- of either side of the actual institutional
19 count?

20 A. Yes.

21 Q. Okay. Looking at this camera angle, is this the
22 only camera angle that was available in the SHU?

23 A. Yes.

24 Q. Where were the cameras supposed to have been in
25 the SHU?

1 A. There was another camera, basically to the right
2 of this one out in the multi-purpose area. And then there
3 were other cameras in the tiers themselves.

4 Q. Based on the investigation, did you come to learn
5 why those cameras were not recording or functioning?

6 A. Yes. Those cameras were on another DVR, and there
7 was a system failure previously on that DVR that, basically,
8 the cameras stopped recording because of that.

9 Q. Did that happen in advance of August 9th?

10 A. Yes.

11 Q. So you've reviewed hundreds of hours of this
12 camera angle; is that right?

13 A. Yes, extensive, extensive video.

14 Q. And you're able to see whether officers walked
15 towards each of the six tiers; is that right?

16 A. Yes, you can see whether they walked towards them,
17 yes.

18 Q. Are there any cameras in the SHU that are into
19 each individual inmate's cell?

20 A. No.

21 Q. Would that be an invasion of privacy?

22 A. Probably, yes.

23 Q. So I'd like to talk about what 30-minute rounds
24 are. So you talked about the institutional count that
25 applies to every housing unit at the MCC. Does the SHU have

1 any additional counts or rounds that are required?

2 A. Yes. They are supposed to do rounds every 30 to
3 40 minutes.

4 Q. What's the purpose of those -- we'll call them
5 30-minute rounds?

6 A. It's pretty much kind of like a count. It's like
7 a welfare check of the inmates, except, at this time, they
8 don't actually count each inmate.

9 Q. So two officers are required to walk down each
10 tier every 30 minutes; is that right?

11 A. Yes.

12 Q. And that's 24-hours a day; is that right?

13 A. Correct.

14 Q. Are the officers required to document the fact
15 that the counts were performed?

16 A. Yes.

17 Q. Or the rounds were performed?

18 A. Yes.

19 Q. How do they do that?

20 A. They do that on a 30-minute check sheet.

21 Q. Is this an example of such a sheet up here on the
22 slide?

23 A. Yes.

24 Q. Can you describe what it shows?

25 A. So that's one for the Special Housing Unit, the

1 SHU, and it's for Tier G. And then it says when a count --
2 I mean, I'm sorry, when a round started and when it ended.
3 And then it gives the total. And then the officer is
4 supposed to sign off on that.

5 Q. Is the 30-minute round form signed and reviewed by
6 a supervisor during each shift?

7 A. Yes.

8 Q. You mentioned earlier that Jeffrey Epstein first
9 arrived at MCC on July 6th, 2019?

10 A. Yes.

11 Q. When was he assigned to the SHU?

12 A. On July 10th, 2019.

13 Q. Why was he assigned to the SHU?

14 A. Because he was a high-profile inmate, and also
15 because of what he was being charged with, there are risk
16 factors for suicide and safety concerns that go along with
17 that.

18 Q. Who determined that he had risk factors for
19 suicide?

20 A. The psychologists at MCC.

21 Q. Please describe what, if anything, happened on 22
22 July 23rd, 2019.

23 Q. On July 23rd, 2019, Epstein was housed in the SHU,
24 and some MCC officers responded to an emergency call, and
25 Epstein was found on the floor of his cell with a bed sheet

1 around his neck.

2 Q. Is that a photograph of the sheet on the right on
3 this slide?

4 A. Yes.

5 Q. Were either of the Defendants one of the officers
6 who responded to this incident?

7 A. Yes, Thomas, [REDACTED] Thomas.

8 Q. What happened after Epstein was found in this way?

9 A. At that point, he was transferred out of the SHU
10 and put on suicide watch.

11 Q. What is suicide watch?

12 A. Suicide watch is when an inmate is housed in a
13 cell in the hospital wing and under constant supervision by
14 either staff or a specially trained inmate.

15 Q. When an inmate is on suicide watch, can they wear
16 their own clothes?

17 A. No.

18 Q. What are -- what must they wear?

19 A. It's a suicide smock.

20 Q. The photo on the left, is that a picture of the
21 suicide smock?

22 A. Yes.

23 Q. How long was Epstein on suicide watch?

24 A. He was on suicide watch for approximately 24
25 hours.

1 Q. What happened after that?

2 A. And then at that point, he was transferred to
3 psychological observation.

4 Q. What is psychological observation?

5 A. It's like a step down from suicide watch. They're
6 still constantly under observation, but it's less
7 restrictive.

8 Q. Based on your interviews with the psychology
9 staff, did you come to learn that approximately a week on
10 suicide watch and psychological observation was a usual
11 amount of time or an unusual amount of time to be on that
12 status?

13 A. Unusual.

14 Q. In what way?

15 A. Longer than usual.

16 Q. On July 30th, 2019, what happened?

17 A. He was transferred back to the SHU.

18 Q. Did the psychology department provide any
19 instructions about whether he should be housed with a
20 cellmate?

21 A. Yes. They recommended that he would be housed --
22 that he should be housed with a cellmate.

23 Q. Was he in fact assigned a cellmate?

24 A. Yes.

25 Q. Which cell was Epstein assigned to when he

1 returned to the SHU on July 30th?

2 A. He was on L-tier. And the picture that you
3 showed earlier and you said, is that a cell that you can
4 see, it was, it was that one.

5 Q. Is that the closest cell to the officers' desk?

6 A. Yes.

7 Q. When you're sitting at the desk, can the officers
8 see all the way into the cell?

9 A. No.

10 Q. When you're an inmate in that cell and you're
11 standing at the window of the cell, can you see down into
12 the officers' desk?

13 A. Yes.

14 Q. And approximately how many feet away was Epstein's
15 cell from the officers' desk?

16 A. Fifteen.

17 Q. On this slide, starting with the photo on the
18 left, what does this depict?

19 A. That is what I referred to as the grill, that
20 first door leading inside a tier, and that's L-tier.

21 Q. And then looking in the photograph in the center,
22 what does this depict?

23 A. That's Epstein's cell.

24 Q. And the door is open; is that right?

25 A. Yes, um-hmm.

1 Q. So looking into the cell, this is what you would
2 see head on; is that right?

3 A. Um-hmm.

4 Q. And then what's the photo on the right?

5 A. That's the right side of his cell that you can't
6 see just looking straight in.

7 Q. What, if anything, happened 8 a.m. on August 9th, 8
2019?

9 A. That's when Epstein's cellmate was transferred out
10 of MCC.

11 Q. Was his cellmate transferred out in a routine
12 pre-arranged transfer?

13 A. Yes.

14 Q. Was Epstein reassigned a cellmate?

15 A. No.

16 Q. Who were the officers on duty in the SHU from the
17 afternoon of August 9th into the morning of August 10th?

18 A. August 9th, the 4 p.m. to 12 p.m. was
19 Officer Noel. Also, there was Officer [REDACTED] and then
20 Officer [REDACTED].

21 Q. The first officer you mentioned, is that
22 [REDACTED] [REDACTED]?

23 A. Yes.

24 Q. And we'll refer to him as Officer 1, or
25 [REDACTED]. What time did he work on the SHU on August

1 9th?

2 A. He as there 2 p.m. to 10 p.m.

3 Q. And the other officer, is that [REDACTED] [REDACTED]?

4 A. Yes.

5 Q. And we can refer to him as Officer 2, or
6 Officer [REDACTED]. What time did he work in the SHU on
7 August 9th?

8 A. 4 p.m. to 12 a.m.

9 Q. What time did Officer Thomas, Michael Thomas, work
10 in the SHU on August 10th?

11 A. 12 a.m. to 8 a.m.

12 Q. Who were the officers on duty in the SHU from 12
13 a.m. August 10th through 8 a.m. August 10th?

14 A. That was Officer Noel and Officer Thomas.

15 Q. And they were the only officers on duty; is that
16 right?

17 A. Yes.

18 Q. Let's talk about the 4 p.m. institutional count on
19 August 9th. Who was responsible for conducting the count?

20 A. That was around the 4 p.m. would have been
21 Officer Noel and [REDACTED].

22 Q. Based on the video review, did they conduct the
23 count?

24 A. No.

25 Q. Did they sign a count slip that falsely stated

1 that they had performed the 4 p.m. count?

2 A. Yes.

3 Q. Is that the count slip you see right here?

4 A. Yes.

5 Q. Did the control center clear the 4 p.m. count in
6 reliance on this false count slip?

7 A. Yes.

8 Q. What happened that evening?

9 A. So Epstein returned to the SHU from his attorney
10 conference. And then at that point, he -- in the SHU, he
11 was escorted by Officer Noel and another officer -- I
12 couldn't quite see exactly who that was -- to L-tier.

13 Q. What time was Epstein escorted back into his cell?

14 A. Approximately 7:49 p.m.

15 Q. And the other officer, was it either [REDACTED]
16 or Officer [REDACTED]?

17 A. Yes.

18 Q. Did Officer Noel and the other officer, whoever it
19 was, leave Epstein's tier shortly thereafter?

20 A. Yes.

21 Q. Let's talk about the 10 p.m. institutional count.
22 Who was responsible for conducting that count?

23 A. That was Officer Noel and Officer [REDACTED].

24 Q. Did the video show that they conducted the 10 p.m.
25 count?

1 A. No.

2 Q. Did they sign a false count slip saying that the
3 10 p.m. count had been done?

4 A. Yes.

5 Q. In reliance on that count slip, did the control
6 center clear the 10 p.m. count?

7 A. Yes.

8 Q. So I want to ask you about some movement on the
9 video at either side of the 10 p.m. count, which was not
10 done. Did you see any movement at approximately 9:20?

11 A. Yes. Two officers, one being Officer Noel, were
12 moving to several of the tiers. They didn't go to all of
13 them, but I couldn't quite tell exactly what they were doing
14 on the tiers at that time.

15 Q. So you saw them walk up to some, but not all the
16 tiers, at about 9:20?

17 A. Um-hmm. Yes.

18 Q. Okay. And then did you see any movement again at
19 10:30?

20 A. Yes. Officer Noel, by herself, went up to each
21 tier.

22 Q. After Officer Noel -- and was that brief? Did she
23 spend a brief amount of time --

24 A. It was a brief amount of time, um-hmm.

25 Q. After Officer Noel walked up to each tier at

1 10:30, did you see anyone else go up to Epstein's tier after
2 10:30 p.m.?

3 A. I did not see anyone else, no.

4 Q. Let's talk about the 12 a.m. count. You mentioned
5 that Officer Thomas came on duty at 12 a.m. replacing
6 Officer [REDACTED]; is that right?

7 A. Yes.

8 Q. So who was responsible for conducting the 12 a.m.
9 institutional count?

10 A. That was Officer Noel and Officer Thomas.

11 Q. Did the video show that they conducted the 12 a.m.
12 count?

13 A. No.

14 Q. Did they sign and complete a false count slip
15 saying that they had completed that count?

16 A. Yes.

17 Q. Is that the count slip we see here?

18 A. Yes.

19 Q. In reliance of that false count slip, did the
20 control center clear the 12 a.m. count?

21 A. Yes.

22 Q. Who was responsible for conducting the 3 a.m. and
23 5 a.m. institutional counts?

24 A. Officer Noel and Officer Thomas.

25 Q. And that was in the SHU, correct?

1 A. Yes.

2 Q. Did the video show that they completed either the
3 3 a.m. or the 5 a.m. count?

4 A. No.

5 Q. They did not?

6 A. No.

7 Q. Did they sign and complete false count slips
8 saying that they had in fact completed the 3 a.m. and the
9 5 a.m. counts?

10 A. Yes.

11 Q. And are those the count slips we see here?

12 A. Yes.

13 Q. Did the control center, in reliance on these false
14 count slips, clear the 3 a.m. and 5 a.m. counts?

15 A. Yes.

16 Q. So earlier, we saw an example of a count that was
17 done, correct?

18 A. Um-hmm.

19 Q. So I'd like to play -- which count is this?

20 A. The 5 a.m.

21 Q. Okay. On August 10; is that right?

22 A. Yes.

23 Q. Okay. So describe what we're seeing.

24 A. So in reviewing the hours 4:30 a.m. to 5:30 a.m.
25 this is pretty much the activity that you see during that

1 time.

2 Q. And that is no activity?

3 A. Right.

4 Q. Did Noel and Thomas conduct any of the required
5 30-minute rounds during their shift from 12 a.m. to
6 approximately 6:30 a.m.?

7 A. No.

8 Q. Did Noel complete and sign 30-minute round forms
9 saying that they had in fact done so?

10 A. Yes.

11 Q. Approximately how many false entries did she make
12 on those 30-minute round forms?

13 A. Approximately 75.

14 Q. Let's talk about what they were doing overnight.
15 What were Noel and Thomas doing overnight when they were not
16 doing counts or rounds?

17 A. So for the most part, they were over at the
18 correctional officers' desk. Every now and then, you would
19 see Noel kind of -- like in that previous example, around 5,
20 she would kind of get up and in that multi-purpose area, and
21 then go back over to the desk. So there was a general lack
22 of movement throughout the night.

23 Q. Were Noel and Thomas using the computers?

24 A. Yes, they were on the computer. Noel searched for
25 furniture sales and benefit websites. And then Thomas,

1 around 1 a.m., 4 a.m., and 6 a.m., he searched for
2 motorcycle sales and looked at sports news.

3 Q. At approximately 4 a.m., did anyone come into the
4 SHU?

5 A. Yes, one of the overnight supervisors.

6 Q. What happened?

7 A. She entered the SHU through that door 46, which is
8 off to the right of the camera view, and walked over towards
9 the desk where Noel and Thomas was. And then she left.

10 Q. Did any other officer come into the SHU during the
11 night?

12 A. There was one other officer, and that was around
13 5:30 a.m., and that officer was working in 10 South, which
14 is through that door 46. Michael Thomas had given him a
15 break, and he came into the SHU and went out of view, and
16 got some food and came back to his duty location in
17 10 South.

18 Q. Aside from those two and Noel and Thomas, did you
19 see anyone else in the SHU that night?

20 A. No.

21 Q. At approximately 6 a.m. on August 10th, did you
22 see any movement on the camera?

23 A. Yes. Usually after 6 a.m. is when the inmates in
24 the SHU are served breakfast, so there was a cart that was
25 rolled into the SHU in that multi-purpose area.

1 Q. And shortly after 6:30 a.m., what did you see?

2 A. Officer Noel and Officer Thomas got up from the
3 desk and they went towards L-tier.

4 Q. And that was the tier in which Epstein was housed,
5 correct?

6 A. Correct.

7 Q. At 6:33 a.m., what happened?

8 A. There was an alarm that was activated in the SHU.
9 Epstein was found alone in his cell but not responsive. And
10 you can see on the camera, there is, like, a flurry of
11 activity at that time.

12 Q. Who was the first person to respond to the alarm
13 that had been activated?

14 A. It was --

15 Q. Other than Thomas and Noel?

16 A. One of the supervisors.

17 Q. What happened when the supervisor got to the SHU?

18 A. When he got to the SHU, he was approached by Noel,
19 and she told him that Epstein hung himself.

20 Q. Did the supervisor arrive within 1 to 2 minutes of
21 the alarm being activated?

22 A. Yes.

23 Q. When the supervisor walked up to Epstein's cell,
24 what did he see inside?

25 A. He saw Officer Thomas performing CPR on Epstein,

1 who was on the floor.

2 Q. Who was one of the second people to arrive at the
3 scene? I'll rephrase that.

4 A. Okay.

5 Q. In the investigation, did a law enforcement agent
6 speak to a nurse who arrived shortly after the supervisor to
7 the scene?

8 A. Yes.

9 Q. What did the nurse see?

10 A. The nurse saw CPR being performed on Epstein. He
11 was on the floor, and there was a noose around his neck.

12 Q. Did the nurse attempt to revive Epstein?

13 A. Yes.

14 Q. Was there any sign of life?

15 A. No.

16 Q. Was Epstein transferred to a hospital shortly
17 thereafter?

18 A. Yes.

19 Q. What happened?

20 A. He was pronounced dead?

21 Q. Did the New York State Office of the Chief Medical
22 Examiner conduct an autopsy on Mr. Epstein's body?

23 A. Yes.

24 Q. What did they determine?

25 A. That Epstein died from -- it was a suicide by

1 hanging.

2 Q. When the supervisor responded to the SHU during
3 the scene that we just described where Epstein was still --
4 his body was still in the cell, did the supervisor speak
5 with Thomas and Noel?

6 A. Yes.

7 Q. And what happened?

8 A. Noel and Thomas basically said they were, like, we
9 messed up, we didn't do the 3 a.m. or the 5 a.m. count.

10 Q. So what did Noel specifically say?

11 A. She said we didn't complete the 3 a.m. or the
12 5 a.m. counts. And then Thomas said that -- don't blame
13 her, it wasn't her fault, we messed up.

14 Q. Did Thomas also say, we didn't do any rounds?

15 A. Yes.

16 Q. Special Agent [REDACTED], you mentioned earlier that
17 you reviewed bank accounts. Did you review the bank
18 accounts, or did you or other FBI personnel review the bank
19 accounts, for Officers Thomas and Noel?

20 A. Yes.

21 Q. Was there any evidence that they were bribed in
22 any way?

23 A. No.

24 Q. Special Agent [REDACTED], have you told the grand jury
25 everything you know about this case, or you merely answered

1 the questions I've asked?

2 A. I answered the questions that you asked.

3 Q. And when you testified about conversations you had
4 with others or documents you reviewed, did you testify to
5 the exact words used or just the substance of the
6 conversations and documents?

7 A. The substance.

8 Q. Are you willing to return to the grand jury if the
9 grand jurors have any questions for you?

10 A. Yes.

11 MS. [REDACTED]. With the Foreperson's permission,
12 I'll ask that Special Agent [REDACTED] be excused.

13 FOREPERSON. Sure.

14 (Witness Excused)

15 (Time Noted: 3:01 p.m.)

16 (Colloquy Follows)

17

18

19

20

21

22

23

24

25

1 (Colloquy Precedes)

2 (Witness Recalled)

3 (Time Noted: 3:14 p.m.)

4 FOREPERSON. The witness is reminded that she's
5 still under oath.

6 BY MS. [REDACTED]:

7 Q. Special Agent [REDACTED], you testified about the
8 existence of time stamps on the video that you discussed.
9 Focusing in particular on August 9th and August 10th.

10 A. Yes.

11 Q. Did you take steps to ensure that those time
12 stamps were accurate?

13 A. Yes.

14 Q. And were they accurate?

15 A. Yes.

16 Q. Describe one of the things that you did to ensure
17 that they were accurate.

18 A. For instance, the body alarm went off at
19 approximately 6:33, and on camera, that's where you see the
20 flurry of activity in the SHU.

21 Q. So where there are independent records of events
22 occurring, you also saw that happening on the recorded time
23 stamp of the video?

24 A. Yes.

25 Q. Was the video you reviewed for August 9th and 10th

1 continuous, or did it show any signs that it had been
2 tampered with in any way?

3 A. No.

4 Q. Yes, it was continuous?

5 A. It was continuous and did not show signs that it
6 was tampered with.

7 Q. Okay. You testified that the majority of counts
8 were actually done prior to August 9th. Did you ever see --
9 I'll rephrase that. Was one count -- more than one count
10 ever missed in a row?

11 A. No.

12 Q. And today, you testified about Noel and Thomas
13 missing five counts in a row; is that correct?

14 A. Yes, well, Noel would have missed the five, but,
15 yes.

16 Q. What do supervisors do to ensure that the counts
17 are actually done?

18 A. That's something that they take the officer's word
19 on. That when the officer says, I did this; they take that
20 as the truth.

21 Q. Do officers receive any training about the counts
22 and the importance of the counts?

23 A. They receive annual refresher training concerning
24 what their job duties. They have post orders posted at --
25 where they are stationed, and they are to read those. And

1 through interviews that we conducted, that was one thing
2 that many of the officers said was that the counts are
3 important, they are supposed to be done.

4 Q. What do supervisors do to ensure that the
5 30-minute rounds are done?

6 A. I'm sorry, can you --

7 Q. What do supervisors do to ensure that the
8 30-minute rounds are done?

9 A. As far as the 30-minute rounds, that is -- again,
10 that's one of the things that the supervisors are saying
11 that when my correctional officers tell me that they did
12 this, then that's their word, they're giving me their word
13 that they actually conducted that 30-minute round.

14 Q. You testified about reviewing the bank accounts
15 for the officers and saw no evidence that they were bribed.
16 Based on the investigation, did the investigation reveal
17 that the officers had engaged in any unusual spending
18 patterns purchased expensive items or taken any steps to
19 show that they had an influx of cash after the August 10th
20 suicide?

21 A. No.

22 Q. You saw no evidence of that?

23 A. No.

24 Q. And Special Agent [REDACTED], just a clean-up question,
25 you've been testifying about a PowerPoint that I've marked

1 Grand Jury Exhibit 1. Did you review this prior to
2 testifying?

3 A. Yes.

4 Q. And is it accurate, and did it aid you in
5 testifying here today?

6 A. Yes.

7 MS. [REDACTED]. With that, I'll ask for the
8 witness to be excused.

9 FOREPERSON. Sure.

10 (Witness Excused)

11 (Time Noted: 3:18 p.m.)

12 (Colloquy Follows)

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I hereby certify that the foregoing is a true and accurate transcription, to the best of my skill and ability, from my electronic notes of this proceeding.

November 15, 2019
Date

Isaac Gardner
Acting Grand Jury Reporter
Free State Reporting, Inc.