



U.S. Department of Justice

*United States Attorney
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April 28, 2021

Submitted Ex Parte and Under Seal By ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *The New York Times Co. v. Federal Bureau of Prisons*, 20 Civ. 833 (PAE)

Dear Judge Engelmayer:

This Office represents defendant the Federal Bureau of Prisons (“BOP”) in this Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, action brought by plaintiff the New York Times Company (the “Times”) seeking the release of certain records related to Jeffrey Epstein. I write respectfully to update the Court on the status of *United States v. Noel*, 19-cr-830 (AT), and to explain the basis for the Government’s request, submitted contemporaneously by public letter motion, to extend the deadlines for the parties to submit a proposed schedule for the production of remaining documents and for the Government to produce remaining documents.

Today, this Office preliminarily approved and submitted to Pretrial Services for its review deferred prosecution agreements covering both of the defendants in *Noel*. Before the agreements can be finalized, Pretrial Services must accept the defendants for supervision pursuant to the proposed agreements and conduct a Pretrial Services investigation in advance of doing so. Pretrial Services has indicated that this process will be completed within forty-five days, although this Office is seeking to expedite Pretrial Services’s review. Following Pretrial Services’s review, the defendants must review and accept the final agreements. In the event Pretrial Services is able to expedite its review, the Government estimates that approximately one month remains before any final deferred prosecution agreements could be submitted to Judge Torres and publicly disclosed, including to the Times.

The Government understands that its proposed schedule is not as expeditious as the Court initially ordered, but believes there is an increasing likelihood that *Noel* will resolve shortly. The Government’s present request is intended to conserve the resources of the Government and the Court with respect to the Government’s reliance on Exemption 7(A) on the basis of the *Noel* prosecution. The Government has made and will continue to make best efforts to process records in connection with its reliance on other exemptions and Exemption 7(A) on the basis of *United States v. Tartaglione*, 16-cr-832 (KMK). The Government also intends to precisely mark out its reliance on Exemption 7(A) on the basis of the *Noel* prosecution in its upcoming production of documents withheld in full or in part under Exemption 7(A) on the basis of *Tartaglione*.

Because of the sensitive and confidential nature of this Office's efforts to resolve *Noel*, the Government respectfully requests that this letter be filed *ex parte* and under seal and that it remain under seal until *Noel* is resolved.

I thank the Court for its consideration of this submission.

Respectfully submitted,

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