

From: [REDACTED]
[REDACTED]
[REDACTED] >

Subject: RE: Material Witness PA

Date: Thu, 18 Jun 2020 13:10:08 +0000

Can you discuss with the attache whether that is a normal approach (refusing to proceed because lack of predication)? All we want to do is ask some questions – do they really refuse to permit that, in an interview that would be happening regardless? Also, before doing that, someone should go back to the Nygaard team and confirm that there is nothing more to say. (I don't have the specifics of what we've already said, so I can't do it – but if you want me to handle let me know.)

From: [REDACTED] >
Sent: Thursday, June 18, 2020 9:02 AM
To: [REDACTED]
[REDACTED] >
Subject: FW: Material Witness PA

See below on the MLAT. The only issue for you is the Nygard one I raised briefly earlier this week – the Home Office doesn't think we're predicated on Nygard, and unless we provide further specifics about Andrew's knowledge of or involvement in criminal conduct in that case, they are not going to process that aspect of the MLAT. I take it from our conversation that there is no more info to provide. If so, can we tell them we are withdrawing our request as it pertains to Nygard and only asking them to proceed on Epstein?

From: [REDACTED] >
Sent: Thursday, June 18, 2020 8:58 AM
To: [REDACTED] <[REDACTED]>; [REDACTED] >
Cc: [REDACTED]
Subject: FW: Material Witness PA

[REDACTED] –

Here is my email and the UKCA response. I also had a conversation with Dawn Browne about this to discuss the way forward.

Just as a reminder, they are waiting on any additional information you have on Nygard. If we have given them all we have, then we can just say this. They think the facts on that matter are pretty thin.

With regard to the voluntary interview issue, Dawn explained in more detail why they have been looking for us to exhaust all avenues for voluntary cooperation. They expect that once they approve the MLA and refer it to the police that the Blackfords will file a judicial review action. In that action, they believe Blackfords will claim that the Home Office failed to follow its internal guidelines on reserving MLA assistance to those instances in which voluntary cooperation is not possible. Blackfords will argue that since they have offered voluntary cooperation as recently as early June, the Home Office failed to properly apply its internal guidelines, and the court should direct the Home Office to vacate its approval of the MLA request and send it back to the US to engage on a voluntary basis with the Prince's team.

I pushed back quite hard on this, saying that while it might generally be Home Office practice and policy to provide assistance on police to police basis in the first instance, there is nothing in our MLA treaty which requires this. I also noted that the US routinely assists the UK via the MLA process with cooperative witnesses in the US – we do so by setting up witness testimony via video link, by obtaining witness statements of individuals who have never been approached by UK law enforcement, by seeking documents from individuals who may be fully cooperative, etc.

I indicated to Dawn that if there is now a requirement that we exhaust all informal avenues before sending an MLA request, that conflicts with our treaty and would affect many UK and US cases going forward. I also indicated that this would get raised up the US and UK chains very quickly.

She responded by saying that they were just preparing for what they anticipate will be inevitable judicial review litigation in this matter, and wanted to eliminate any argument, even if not compelling, that there remains an avenue for voluntary cooperation. The Prince's team think this argument must have some purchase because they told the Home Office several months ago that they were willing to voluntarily assist, and then again sent a letter after learning of the MLA request.

One thing we talked about was the back and forth between Blackfords and you in June. I said we were somewhat concerned about sharing that correspondence with them because of the inevitable claim that Blackfords would say we again breached their confidence. How do you feel about sharing that correspondence with the UKCA and/or informing Blackfords that you are doing so?

Thx,

█

From: Creffield Philomena <█>
Sent: Thursday, June 18, 2020 11:15 AM
To: █>; Gibbs Julian <█>; Browne Margaret <█>
Cc: Chadwick, Amanda J (London) <█>
Subject: RE: Material Witness PA

Thanks █

I appreciate you setting out the position regarding the merits of continuing down the non MLA route.

As you know there is further work required and Dawn will continue to liaise with the US prosecution team. The next mile stone appears to be settling the position on the second investigation. Hopefully that can be reached relatively quickly.

As the US Attorney General and the Home Secretary as keen to meet in person, we may yet see each other in person.

All the best
Philomena

Philomena Creffield | Deputy Director & Head of UK Central Authority | International Directorate | BICS Policy & International Group
Home Office | █ | London SW1P 4DF | mob: █

Delivering Judicial Cooperation Globally

EFTA00088021

From: [REDACTED] >
Sent: 18 June 2020 10:59
To: Creffield Philomena <[REDACTED]>; Gibbs Julian <[REDACTED]>;
Browne Margaret <[REDACTED]>
Cc: Chadwick, Amanda J (London) <[REDACTED]>
Subject: Material Witness PA

Dear Philomena, Julian, and Dawn:

Thank you for taking the time to speak with us about the status of our MLA request in the Material Witness PA matter. You asked that we confer and then get back to you on an appropriate timeline for the completion of any discussions with counsel for a voluntary interview. The case team and I have had an opportunity to discuss this, and I have now had an opportunity to review the correspondence between the team and Gary Bloxsome beginning in January 2020.

Having reviewed this, it is plain to me that there has developed a significant mutual lack of trust between the case team and Blackfords. As a result, the possibility of a voluntary interview, done outside the context of the MLA request, is effectively nil. The case team believes, and I agree, that delaying the execution of the MLA request in the hope that Blackfords changes its position on a voluntary interview, will simply be an exercise in futility.

That is not to say that the witness will continue to decline an interview once requested by UK law enforcement in connection with an MLA request. Mr. Bloxsome has repeatedly stated, although without committing to any particular step, that his client is willing to assist the investigation. While there is some reason to question whether these claims are simply posturing, it may be that offering an interview in the context of a more formal request provides a more agreeable forum and structure for the witness. Moreover, in that context, the UKCA and UK law enforcement will see whether the witness will in fact answer questions about the crimes under investigation. As you will recall, the MLA request suggests that the initial approach by UK law enforcement be one for a consensual interview rather than testimony before a UK court. Our hope is that your experience is better than the case team's.

In short, efforts to obtain a truly voluntary interview have been exhausted. The case team has yet to see any commitment from Blackfords to making their client available to be questioned by law enforcement. We again request that the UKCA move forward without further delay.

Finally, my intention was to share with you the written correspondence from Blackfords in February which states in no uncertain terms that, "there is no purpose to be served in continuing to try to assist further." However, Blackfords requested that communication to be "private and confidential," and if we were to share its entirety with you, I am certain that we would be criticized for breaching a requested confidence.

Many thanks for your ongoing assistance in this matter.

Best,

[REDACTED]

[REDACTED]
U.S. Department of Justice Attaché
United States Embassy – London
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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