

From: "[REDACTED]" >
To: "[REDACTED]" >, "[REDACTED]" >
Subject: RE: Email to [REDACTED] and [REDACTED] re MCC
Date: Thu, 24 Jun 2021 01:11:21 +0000

This looks good to me.

From: [REDACTED] >
Sent: Wednesday, June 23, 2021 7:20 PM
To: [REDACTED] >
Cc: [REDACTED] >
Subject: Re: Email to [REDACTED] and [REDACTED] re MCC

Thanks very much. Suggested edits below. My edit to the concluding language was to conform to the letter [REDACTED] submitted to PAE last month (that [REDACTED] and I pulled off the docket today and had not seen before). Our read was that we told PAE we are withdrawing our 7a objections based on Noel due to the DPs, without any conditions (like the defendants complying with their DPs or the case actually being nolledd). If that's accurate, then I think we should not give [REDACTED] the impression that she is deciding anew whether to remove the 7a objections. Happy to discuss if you had a different understanding.

On Jun 23, 2021, at 6:27 PM, [REDACTED] > wrote:

Hi [REDACTED] and [REDACTED]:

I'm writing to give you an update on the Office of Inspector General interviews with Tova Noel and Michael Thomas, the two MCC guards that were charged with falsifying count and round forms, and related FOIA litigation. As you know, the Office entered into deferred prosecution agreements with both defendants, which were adopted by the Court on May 25, 2021. Pursuant to those agreements, as you know, the defendants were required to meet with special agents from the OIG about matters that will likely be covered in a future OIG report. The OIG completed 7 hour interviews with the defendants on June 17 and June 22, 2021. In summary, in the interviews:

- Both defendants admitted that they falsified round and count forms. According to both defendants, they did not speak about falsifying the forms, Noel simply "pre-filled" the forms, meaning she filled in all the information at the beginning of their shift. Thomas stated that he slept almost the entirety of his shift. Noel said that she attempted to wake Thomas but couldn't, and that she spent most of the evening on her computer. They both acknowledged that they did not do the counts at midnight, 3 a.m., or 5 a.m., or any of the rounds. Noel also admitted that she did not do the 4 p.m. count, although she maintains that she did a count at 10 p.m. (Accordingly to the agents, they credit that Noel truly believes she did the 10 p.m. count, although the video evidence, which they showed her, shows that she visited some but not all of the tiers and thus did not complete a full count. She persisted in her memory that she did the count, which appears to be genuine although technically mistaken).
- Thomas also admitted that he falsely completed rounds and count forms on other occasions, although he could not remember the dates since he does not work frequently in the SHU. Noel told the agents about three other MCC employees who had falsified round or count forms.
- According to Thomas, on August 10 when he woke up he went to serve breakfast and knocked on Epstein's door without receiving any answer. He entered the cell, saw Epstein hanging while standing upright, partially suspended by a piece of fabric attached to a bed post. Thomas pulled Epstein to the floor and attempted chest

compressions. Epstein was not responsive and Thomas called for assistance. According to Noel, upon hearing Thomas she activated her body alarm and went to the cell, which she did not enter. She saw Thomas attempting CPR on Epstein who at that point was on the ground. Other MCC employees arrived at the scene at some point and took Epstein away.

- Both defendants are adamant that no one entered the SHU or went down the tier that evening, and state that Epstein's cell was locked the whole time.
- Overall, OIG believes the defendants answered truthfully. During the interviews, the defendants – particularly Thomas – said they did not recall certain facts. While the agents wish the defendants had a better recollection, they were comfortable with the response due to the amount of time that has passed, and because Thomas was sleeping for much of the night. The agents believe there is a 20% chance that OIG would need to meet with the defendants again, and if there was a follow-up meeting, it'd likely be short and for purposes of factual clarification.

As you know, [REDACTED] is handling the office's response to a FOIA request by the New York Times relating to records concerning Epstein. Because of the deferred prosecution agreements, the Office told Judge Engelmayer that we will remove the 7(A) withholding based on the Noel/Thomas case and produce some records concerning Epstein. Some of those records relate to our case, including reports prepared after Epstein's suicide and some of the count forms. We previously had a deadline of June 25, 2021, to provide those records, although we are seeking a week-long extension in order to allow us additional time to review the defendants' interviews and reach agreement as to whether they fulfilled their obligation to provide truthful information in those interviews. As noted above, we and the agents believe the defendants did in fact provide truthful information. Based on how the interviews went, it seems very likely that the defendants will complete their deferred prosecutions successfully and there will never be a trial. Therefore, I am not concerned about the records sought by the FOIA request being made public and would recommend we proceed forward with the production, pending your agreement.

We'll prepare a draft UMR for your review relating to the fact that some of the Epstein records will likely become public.

Let us know if you have any questions.

Thanks,

[REDACTED]

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