UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY, Plaintiff, v. FEDERAL BUREAU OF PRISONS, Defendant.	20-CV-00833 (PAE)

DECLARATION OF NICOLE MCFARLAND

I, Nicole McFarland, declare as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons ("BOP"), as a Staff Attorney at the Metropolitan Correctional Center ("MCC"). I have served in this role since December 2019. Prior to that time, I was the Senior Staff Attorney at MDC Brooklyn from January 2009 until December 2019 and the Staff attorney at FCI Fort Dix from September 2005 until January 2009. I have been employed by the BOP since September 2005.
2. As a Staff Attorney, my duties include coordinating searches at MCC when a Freedom of Information Act ("FOIA") requires MCC staff to undertake a search for responsive documents. In this capacity, I typically work with staff at BOP's Central Office. In this case, I communicated with BOP Government Information Specialist Kara Christenson regarding Plaintiff's FOIA requests.
3. I submit this declaration in support of the BOP's motion for summary judgment and to

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describe BOP's search at MCC for records responsive to the FOIA requests submitted by Plaintiff.

4. The statements made in this declaration are based upon my personal knowledge, conversations and communications with other BOP staff, and information available to me in my official capacity and about which I have become knowledgeable.

5. To conduct the search at MCC for records responsive to Plaintiff's FOIA request, I conferred with staff at MCC and staff at Central Office to determine that the following individuals would likely have documents responsive to Plaintiff's request: Lieutenant, MCC Associate Warden; MCC Chief Psychologist; Executive Assistant to the MCC Warden; Case Management Coordinator in the MCC Records Department; Special Investigave Agent at the MCC; Deputy Regional Counsel for the Northeast Regional Office and former BOP Staff Attorney at the MCC; former MCC Warden; and Unit Managers. Based on my conversations with staff at MCC and Central Office and my own experience, no other individuals at MCC, or who formerly worked at MCC, are reasonably likely to have records responsive to Plaintiff's request.

6. I asked each of the individuals identified in Paragraph 5 to search their electronic and non-electronic files for documents responsive to Plaintiff's FOIA requests. Each of them advised me that he or she conducted a manual search of electronic and non-electronic files for documents responsive to Plaintiff's FOIA requests. Their searches included a search of drives on BOP's computer system where individual BOP employees can save documents. Separate from these searches conducted by individuals, a search for email records and searches of other BOP electronic systems, including SENTRY and TRULINKS, for records responsive to

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Plaintiff's FOIA requests was conducted by Central Office and is detailed in the Declaration of Kara Christenson (the "Christenson Declaration").

7. The results of the searches conducted by MCC in response to Plaintiffs' requests are described in the following paragraphs.

8. **SHU LOGS** – With respect to Plaintiff's request for "[t]he signed log in the Special Housing Unit at MCC that shows when prison staff did rounds on July 22 and 23, and Aug. 9 and 1," MCC staff determined that the SHU log books in question were handed over to the Office of the Inspector General ("OIG") on or about August 22, 2019. With the exception of the scanned copies of certain log book pages described in the Christenson Declaration, the searches at MCC did not return additional records responsive to this request.

9. **SENTRY QUARTER'S HISTORY** – With respect to Plaintiff's request for "[a]ll quarter entries (showing which cells he was housed in) for Jeffrey Epstein at MCC[,]" Central Office conducted a search of the SENTRY database, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request, apart from records relating to Epstein that indicated which cell or part of the facility he was housed in.

10. **CIM CLEARANCE SHEET/SEPARATEE DATA** – With respect to Plaintiff's request for "CIM Clearance and Separatee data sheet for Jeffrey Epstein at MCC[,]" Central Office conducted a search of the SENTRY database, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

11. **DISCIPLINARY RECORDS** – With respect to Plaintiff's request for "chronological disciplinary records for Jeffrey Epstein at MCC[,]" Central Office conducted a search of the SENTRY database, as described in the Christenson Declaration. The searches at MCC did

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not return additional records responsive to this request.

12. **INTAKE SCREENING FORM** – Based on my own experience and conversations with BOP staff at MCC and Central Office, the DROP File for Epstein was the only likely place where "the intake screening form for Jeffrey Epstein at MCC" would be located. To locate the DROP File for Epstein, I requested that the Case Management Coordinator for the MCC Records Department, obtain the file. The Case Management Coordinator obtained the file, which did not contain records responsive to Plaintiff's request for intake screening forms. Based on my own experience and conversations with MCC and Central Office staff, there are no other locations likely to produce records responsive to this request.

13. **SECURITY DESIGNATION** – With respect to Plaintiff's request for "the security designation records for Jeffrey Epstein at MCC[,]" Central Office conducted a search of the SENTRY database, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

14. **INMATE PROFILE** – With respect to Plaintiff's request for "the inmate profile for Jeffrey Epstein at MCC[,]" Central Office conducted a search of the SENTRY database, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

15. **INCIDENT REPORTS** – With respect to Plaintiff's request for "[a]ll incident reports related to Jeffrey Epstein at MCC[,]" Central Office conducted a search of the SENTRY database, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request

16. **MEDICAL REPORTS** - With respect to Plaintiff's request for "all medical reports related

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to Jeffrey Epstein at MCC [,]" Central Office conducted a search of the Bureau Electronic Medical Record ("BEMR") database, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

17. **VISITOR LOG** – With respect to Plaintiff's request for visitor "[t]he signed visitor log for Jeffrey Epstein at MCC[,]" MCC staff searched for responsive log books and located one log book showing a visitor for Jeffrey Epstein on July 30, 2020. MCC staff determined that any other responsive log books were handed over to OIG on or about August 22, 2019. With the exception of the scanned copies of certain log book pages described in the Christenson Declaration, the searches at MCC did not return additional records responsive to this request.

18. **MEETING DOCUMENTS** – With respect to Plaintiff's request for "[d]ocuments showing when MCC staff held meetings regarding Jeffrey Epstein, and who attended[,]" Central Office conducted a search for responsive emails and meeting invites within the GROUPWISE system, as described in the Christenson Declaration. In addition, MCC staff searched for responsive records. The individuals identified in Paragraph 5 who searched for responsive records include all MCC staff likely to have attended any staff meetings regarding Epstein and therefore the only MCC staff reasonably likely to have responsive records. The searches at MCC did not locate documents responsive to Plaintiff's request.

19. **SUICIDE WATCH REMOVAL MEETING DOCUMENTS** – With respect to Plaintiff's request for "[a]ll records generated from the meeting at MCC during which it was decided that Jeffrey Epstein would be taken off suicide watch[,]" Central Office conducted a search for responsive emails and meeting invites within the GROUPWISE system, as described in the Christenson Declaration. In addition, MCC staff searched for responsive records. The

individuals identified in Paragraph 5 who searched for responsive records include all MCC staff likely to have attended any meetings regarding the removal of Epstein from suicide watch and therefore the only MCC staff reasonably likely to have responsive records. The searches at MCC did not locate documents responsive to Plaintiff's request relating to any meeting regarding the removal of Epstein from suicide watch.

20. **POST- WATCH REPORT** – With respect to Plaintiff's request for "the Post-Watch report compiled in order to take Jeffrey Epstein off suicide watch[,]" Central Office conducted a search of the BEMR, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

21. **OVERTIME SIGN-UP SHEETS** – With respect to Plaintiff's request for "[t]he overtime sign-up sheets for the Special Housing Unit (9 South) at MCC for Aug. 9 and 10, and on July 22 and 23[,]" Central Office conducted a search of the Roster/Overtime Program, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

22. **STAFF AUGMENTING RECORDS** – With respect to Plaintiff's request for "[d]ocuments showing which staff were augmented at MCC and what positions they worked in on Aug. 9 and 10, and on July 22 and 23[,]" Central Office conducted a search of the Roster/Overtime Program, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

23. **VIDEO CAMERA FOOTAGE** – With respect to Plaintiff's request for "[a]ll video camera footage at MCC pertinent to the Jeffrey Epstein suicide and the first suicide attempt[,]" MCC staff determined that all responsive video footage had been handed over to the Federal Bureau

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of Investigation on or about August 10, 2019. Nonetheless, MCC searched the Special Investigator Administrator's office, the place where video camera footage responsive to the request would ordinarily be located. No responsive video footage was located.

24. **SUICIDE ATTEMPT AND SUICIDE RECORDS** – With respect to plaintiff's request for "[a]ll BOP documents pertaining to Jeffrey Epstein's suicide and first suicide attempt[,]" in addition to the searches by Central Office described in the Christenson Declaration, MCC staff located responsive records through their searches of their files.

25. **SUICIDE WATCH REMOVAL DOCUMENTS** With respect to Plaintiff's request for "[a]ll BOP documents, including email correspondence and meeting minutes, pertaining to the decision to remove Jeffrey Epstein from suicide watch[,]" Central Office conducted a search for responsive emails and meeting invites within the GROUPWISE system and a search for psychological records in the BEMR database, as described in the Christenson Declaration. In addition, MCC staff searched for responsive records. The individuals identified in Paragraph 5 who searched for responsive records include all MCC staff reasonably likely have records responsive to plaintiff's request, including meeting minutes or email correspondence. In particular, the individuals identified in Paragraph 5 who searched for responsive records include all MCC staff likely to have attended any meetings regarding the removal of Epstein from suicide watch. The searches at MCC located responsive records, including saved email correspondence but no meeting minutes. The results of the MCC staff's search largely overlapped with the results of Central Office's search of the GROUPWISE and BEMR systems, but also located the Form 583 for Epstein's apparent suicide attempt, and memoranda and reports of Epstein's apparent suicide attempt. After these searches were

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conducted, I double-checked with the Executive Assistant to the MCC Warden and the MCC's chief psychologist and confirmed that they did not have any meeting minutes or any record of a meeting held to determine that Epstein would be removed from suicide watch. The Executive Assistant to the MCC Warden and MCC's chief psychologist are the only individuals likely to have attended or to have been aware of such a meeting, and thus the only MCC staff reasonably likely to have responsive records.

26. **SPECIAL INVESTIGATIVE REPORTS** – With respect to Plaintiff's request for "[a]ll BOP special investigation reports mentioning Jeffrey Epstein[,]" Central Office conducted a search of the BOP Special Investigative Section, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

27. **CORRESPONDENCE** - With respect to Plaintiff's request for "[a]ll BOP correspondence with the U.S. Attorney's Office regarding Jeffrey Epstein[,]" Central Office conducted a search of the BOP GROUPWISE system, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

28. **PHONE LOGS** – With respect to Plaintiff's request for a "full log of Mr. Epstein's phone calls to and from the MCC[,]" Central Office searched the TRUVIEW system, as discussed in the Christenson Declaration. In addition, MCC staff searched for responsive records and located memoranda regarding calls that Epstein had made on legal lines at the MCC. Several of his calls on the MCC legal line were described in memoranda saved on MCC computer systems and located by MCC staff. Other than these memoranda, no systematic record or log was located of Epstein's calls while he was incarcerated.

29. **EMAIL COMMUNICATIONS** – With respect to Plaintiff's request for "[a]ll email correspondence to and from Mr. Epstein while he was at the MCC (including any

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correspondence through the Corrlinks system or any other email system he had access to[,]" Central Office conducted a search of the TRULINCS system. The searches at MCC did not return additional records responsive to this request.

30. **VISITOR LOGS** – With respect to Plaintiff's request for "[t]he full log of people who visited Mr. Epstein while he was at the MCC and when they visited[,]" MCC staff searched for responsive log books and located one log book showing a visitor for Jeffrey Epstein on July 30, 2020. MCC staff determined that any remaining responsive log books were handed over to OIG on or about August 22, 2019. With the exception of the scanned copies of certain log book pages described in the Christenson Declaration, the searches at MCC did not return additional records responsive to this request.

31. **VISITOR LISTS** – With respect to Plaintiff's request for "[t]he full list of people that Mr. Epstein had requested to be on his approved visitor list[,]" Central Office conducted a search of the TRUVIEW system, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

32. **EMAIL LIST** – With respect to Plaintiff's request for "[t]he full list of people that Mr. Epstein had requested to be on his approved email correspondence list[,]" Central Office conducted a search of the TRUVIEW system, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

33. **APPROVED CALL LIST** – With respect to Plaintiff's request for "[t]he full list of people that Mr. Epstein had requested to be on his approved call list[,]" Central Office conducted a search of the TRUVIEW system, as described in the Christenson Declaration. The searches at MCC did not return additional records responsive to this request.

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34. **RECORDINGS OF TELEPHONE CALLS** – With respect to Plaintiff's request for a "recordings of the last three phone conversations that Mr. Epstein had[,]" Central Office searched the TRUVIEW system, as discussed in the Christenson Declaration. In addition, MCC staff searched for responsive records, and did not locate any recording of any calls by Epstein. BOP has determined that no recording was made of Epstein's calls on any legal or non-legal line.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 5th day of August 2020.

N McFarland

Nicole McFarland
Staff Attorney
Metropolitan Correctional Center
Bureau of Prisons

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