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 KARA CHRISTENSON

I, Kara Christenson, declare as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons ("BOP"), as a Government Information Specialist ("GIS") for Central Office, stationed at the Federal Medical Center in Rochester, Minnesota ("FMC Rochester"). I have been assigned to Central Office since August 2016. Prior to that time, I served as a Paralegal for the North Central Regional Office ("NCRO") from September 2008 to August 2016. From June of 1994 through September of 2008, I served in various legal support positions for the Legal Department at the Federal Medical Center (FMC) in Rochester, MN. I have been employed by the BOP since March 1992.

2. As a Government Information Specialist, my duties include serving as a Freedom of Information Act (FOIA) Specialist responsible for all facets of processing FOIA and Privacy Act (PA) requests, with primary responsibility for analysis of, responses to, and monitoring of requests for BOP records pursuant to 5 U.S.C. § 552. I also provide litigation support for the FOIA

requests assigned to me. In addition to these responsibilities, I am authorized to review for final BOP disposition the FOIA determination responses prepared by other GIS staff in my office.

3. I submit this declaration in support of the BOP's motion for summary judgment, to describe BOP's search for records responsive to the FOIA requests submitted by Plaintiff, review of responsive records, and application of exemptions to responsive records.

4. The statements made in this declaration are based upon my personal knowledge and information available to me in my official capacity and about which I have become knowledgeable.

I. PLAINTIFF'S FOIA REQUESTS

A. FOIA Request 2019-05665

5. In an email dated August 13, 2019, the BOP received a FOIA request from Plaintiff. The FOIA request sought documents "about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019." See Attachment 1, Plaintiff's FOIA request dated August 13, 2019. Specifically, Plaintiff sought the following records:

(1) The 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 10;

(2) All quarter entries (showing which cells he was housed in) for Jeffrey Epstein at MCC;

(3) The CIM Clearance and Separatee data sheet for Jeffrey Epstein at MCC;

(4) The chronological disciplinary records for Jeffrey Epstein at MCC;

(5) The intake screening form for Jeffrey Epstein at MCC;

(6) The security designation records for Jeffrey Epstein at MCC;

(7) The inmate profile for Jeffrey Epstein at MCC;

(8) All incident reports related to Jeffrey Epstein at MCC;

(9) All medical reports related to Jeffrey Epstein at MCC;

(10) The signed visitor log for Jeffrey Epstein at MCC;

(11) Documents showing when MCC staff held meetings regarding Jeffrey Epstein, and who attended;

(12) All records generated from the meeting at MCC during which it was decided that Jeffrey Epstein would be taken off suicide watch;

(13) The Post-Watch report compiled in order to take Jeffrey Epstein off suicide watch;

(14) The overtime sign-up sheets for the Special Housing Unit (9 South) at MCC for Aug. 9 and 10, and on July 22 and 23; and

(15) Documents showing which staff were augmented at MCC and what positions they worked in on Aug. 9 and 10, and on July 22 and 23.

See id.

6. In a separate email, also dated August 13, 2019, the BOP received a second FOIA request from Plaintiff for documents "about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019." See Attachment 2, Plaintiff's FOIA request dated August 13, 2019, Email 2. Specifically, Plaintiff sought the following records:

(1) All video camera footage at MCC pertinent to the Jeffrey Epstein suicide and the first suicide attempt;

(2) All BOP documents pertaining to Jeffrey Epstein's suicide and first suicide attempt;

(3) All BOP documents, including email correspondence and meeting minutes, pertaining to the decision to remove Jeffrey Epstein from suicide watch;

(4) All BOP special investigation reports mentioning Jeffrey Epstein; and

(5) All BOP correspondence with the U.S. Attorney's Office regarding Jeffrey Epstein.

See id.

7. Because these two email requests from the Plaintiff were dated the same date and received by the BOP on the same date, the BOP consolidated the requests as one request and assigned this consolidated request FOIA Request Number 2019-05665. On September 23, 2019, the BOP issued its final determination response regarding FOIA Request 2019-05665. See Attachment 3, Determination Response for FOIA Request 2019-05665. In its final determination response, the BOP categorically denied the request because "any records responsive to your request are categorically exempt from disclosure pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552 (b)(5); (b)(6); (b)(7)(A); (b)(7)(C); (b)(7)(E); and (b)(7)(F). Id. The BOP also advised Plaintiff, as to exemption (b)(7)(A), the application of the exemption was temporarily utilized "to protect active and on-going law enforcement proceedings." Id.

8. Plaintiff appealed the BOP's determination response to the Office of Information Policy ("OIP"), and in response, OIP affirmed the BOP's determination response on partially modified grounds. See Attachment 4, OIP Determination Response on Plaintiff's Appeal. Specifically, OIP determined the "BOP properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A) and it is reasonably foreseeable that disclosure of this information would harm the interests protected by this provision." Id. OIP did not adjudicate the applicability of the other exemptions asserted by the BOP. Id.

B. FOIA Request 2020-01336

9. In an email dated December 12, 2019, the BOP received a third FOIA request from Plaintiff for documents "about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019." See Attachment 5, Plaintiff's FOIA request dated December 12, 2019. Specifically, Plaintiff sought the following records:

(1) The full log of Mr. Epstein's phone calls to and from the MCC;

(2) All email correspondence to and from Mr. Epstein while he was at the MCC (including any correspondence through the Corrlinks system or any other email system he had access to);

(3) The full log of people who visited Epstein while he was at the MCC when they visited;

(4) The full list of people that Mr. Epstein had requested to be on his approved visitor list;

(5) The full list of people that Mr. Epstein had requested to be on his approved email correspondence list; and

(6) The full list of people that Mr. Epstein had requested to be on his approved call list.

See id.

10. In an email dated January 2, 2020, the BOP received a fourth FOIA request from Plaintiff for documents "about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019." See Attachment 6, Plaintiff's FOIA request dated January 2, 2020. Specifically, Plaintiff sought the following records:

(1) The full recordings of the last three phone conversations that Mr. Epstein had.

See id.

11. In a response to the Plaintiff dated January 9, 2020, the BOP advised Plaintiff that the January 2, 2020, request and the December 19, 2020, request were aggregated under FOIA

Request Number 2020-01336. See Attachment 7, January 9, 2020, Aggregation of Requests Response Letter. The BOP did not issue a final determination response concerning FOIA Request 2020-01336 prior to the filing of this action. On January 30, 2020, Plaintiff filed its Complaint in this case.

II. SEARCH FOR RECORDS

12. The BOP initiated a search of its records systems to identify records and other information potentially responsive to Plaintiff's FOIA requests. This search process entailed my consulting with staff across BOP divisions, offices, and facilities regarding the various items requested in Plaintiff's FOIA requests, and determining which BOP divisions, offices or facilities likely maintained potentially responsive records; staff undertaking searches for records; and staff subsequently forwarding any potentially responsive records to me for review to determine whether the records were responsive to the request, whether any records were duplicates of any other records received in response to the search; whether any records were exempt in whole or in part pursuant to any FOIA exemption; and whether any non-exempt information could be reasonably segregated from otherwise exempt records pursuant to FOIA to provide maximum release of the records.

A. BOP's Search for Records and Records Retrieved

13. **SHU LOGS** – Based the experience and training of myself and other staff involved in searching for records, it was determined that the SHU at MCC New York is the most likely place to locate records responsive to the 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."

However, the SHU log books in question were handed over to the Office of the Inspector General ("OIG") on or about August 22, 2019. Therefore, the BOP is no longer in possession of the log books that are the subject of the FOIA request, and no responsive records were located. Scanned copies of certain log book pages, count slips, or other records showing when staff conducted rounds in the SHU were retained in the electronic files of certain individual staff members at MCC and were located through their searches for these documents.

14. **SENTRY QUARTER'S HISTORY** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the SENTRY database was the most likely place where records responsive to the request for "[a]ll quarter entries (showing which cells he was housed in) for Jeffrey Epstein at MCC" would be located. The BOP SENTRY database is a real-time information system consisting of various applications for processing sensitive but unclassified (SBU) inmate information and for property management. Data collected and stored in the system include information relating to the care, classification, subsistence, protection, discipline, and programs of federal inmates. To search SENTRY for responsive information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 and the transaction code of PP37 for Quarters history. The search returned the Inmate History Quarters for inmate Epstein, which was produced to Plaintiff on June 22, 2019, with redactions.

15. **CIM CLEARANCE SHEET/SEPARATEE DATA** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the SENTRY database was the most likely place where the "CIM Clearance and Separatee data sheet for Jeffrey Epstein at MCC" would be located. To search SENTRY for responsive information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 and the transaction code

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of PP10 for CIM and Separatee information. This SENTRY search returned the CIM Clearance and Separatee data sheet for inmate Epstein, which was produced to Plaintiff in full on June 22, 2019.

16. **DISCIPLINARY RECORDS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the SENTRY database was the most likely place where the "chronological disciplinary records for Jeffrey Epstein at MCC" would be located. To search SENTRY for responsive information, staff used Jeffrey Epstein's unique inmate Register Number of 76318-054 and the transaction code of PD15 for disciplinary history. This SENTRY search returned the disciplinary history for inmate Epstein which was produced to Plaintiff in full on June 22, 2019, and one incident report for Epstein, which was withheld in full as noted in the attached index at Entry 1.

17. **INTAKE SCREENING FORM** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the DROP File was where records responsive to the request for "the intake screening form for Jeffrey Epstein at MCC" would be located. A DROP File is a temporary, condensed version of a typical inmate Central File. (Program Statement 5800.17, Inmate Central Files, Privacy Folder and Parole Mini-Files) Only inmates in pre-trial status have their records maintained in a DROP File. Upon an inmate's sentencing, the DROP File records are incorporated into a regular Central File that follows the inmate for the remainder of incarceration. The DROP File contains records such as remand orders, some displinary information, personal property records and routine custody related records. Based on my experience, I requested staff at MCC New York conduct a search of inmate Epstein's DROP file for a copy of his Intake Screening Form as that is the location most reasonably expected

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to locate the form. A review of inmate Epstein's DROP file did not produce records responsive to Plaintiff's request for the Intake Screening Form. Based on my own experience and conversations with MCC staff, there are no other locations reasonably expected to produce results.

18. **SECURITY DESIGNATION** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the SENTRY database was the most likely place where "the security designation records for Jeffrey Epstein at MCC" would be located. To search SENTRY for responsive information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 and the transaction codes of PPG0 for Security Designation and PPG6 for Classification. The search returned the security designation for inmate Epstein, and produced to Plaintiff in full on June 22, 2019.

19. **INMATE PROFILE** – Based on the experience and training of myself and other staff involved in searching for records, it was determined that the SENTRY database was the most likely place where "the inmate profile for Jeffrey Epstein at MCC" would be located. To search SENTRY for responsive information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 and the transaction code of PP44 for Inmate Profile. The search returned the inmate profile security designation for inmate Epstein, and produced to Plaintiff in full on June 22, 2019.

20. **INCIDENT REPORTS** – Based on the experience and training of myself and other staff involved in searching for records, it was determined that the SENTRY database was the most likely place where "[a]ll incident reports related to Jeffrey Epstein at MCC" would be located. To search SENTRY for responsive information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 and the transaction code of PD15 for disciplinary history. This SENTRY search returned the disciplinary history for inmate Epstein which was produced to Plaintiff in full

on June 22, 2019, and one incident report for Epstein, which was withheld in full as noted in the attached index at Entry 1.

21. **MEDICAL REPORTS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the Bureau Electronic Medical Record (BEMR) was the most likely place where "all medical reports related to Jeffrey Epstein at MCC." BEMR is the electronic medical records repository for the BOP that contains all medical records for inmates in BOP custody. To search BEMR for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his medical records. The search returned any medical, dental, optical and/or psychological records for inmate Epstein. The psychological records were withheld in full, as noted on the attached index at Entry 19. BOP is currently revewing the remaining BEMR records to segregate non-exempt information and intends to release the records in part.

22. **VISITOR LOG** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the TRUVIEW database was the most likely place where visitor log information for inmate Epstein would be located. TRUVIEW is a BOP database that combines several inmate information databases (i.e., inmate finances, call lists, messaging, visiting, and volunteer management) into one program. Regarding inmate visitors, the TRUVIEW contains a log of all inmate visits. To search TRUVIEW for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his visitor information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019. Scanned copies of certain log book pages showing visitors to Epstein were

retained in the electronic files of certain individual staff members at MCC and were located through their searches for these documents. The search returned two pages of scanned visitor logs, which BOP is reviewing for segregable non-exempt information and intends to release in part.

23. **MEETING DOCUMENTS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of staff emails would be the most likely way to locate records responsive to the request for "[d]ocuments showing when MCC staff held meetings regarding Jeffrey Epstein, and who attended." The email search is described in Paragraphs 44-46, infra. Additional searches for meetings documents are described in the Declaraton of Nicole McFarland (the "McFarland Declaration").

24. **SUICIDE WATCH REMOVAL MEETING DOCUMENTS** – Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of staff emails would be the most likely way to locate records responsive to the 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." The email search is described in Paragraphs 44-46, infra. Additional searches for meetings documents are described in the McFarland Declaration.

25. **POST- WATCH REPORT** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of staff emails and BEMR were the most likely ways to locate "the Post-Watch report compiled in order to take Jeffrey Epstein off suicide watch." The email search is described in Paragraphs 44-46, infra, and the BEMR search is described in Paragraph 21, supra. The BOP located the psychological records

for Epstein from BEMR, including a post-suicide watch report for Epstein prepared as part of his removal from suicide watch, which was withheld in full, as noted in the attached index at Entry 19.

26. **OVERTIME SIGN-UP SHEETS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the Roster/Overtime Program was the most likely place where "[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" would be located. The Roster/Overtime Program is a web based program that allows staff to submit overtime requests, submit Quarterly Preferences, view Daily Assignments, and view the Mandatory Overtime List. The search returned the MCC daily assignment rosters for August 9 and 10, 2019, and July 22 and 23, 2019, which were withheld in full, except for one page released in part from each roster on June 22, 2020, as noted in the attached index at Entries 7-9.

27. **STAFF AUGMENTING RECORDS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the Roster/Overtime Program was the most likely place where "Documents showing which staff were augmented at MCC and what positions they worked in on Aug. 9 and 10, and on July 22 and 23" would be located. The search returned the MCC daily assignment rosters for August 9 and 10, 2019, and July 22 and 23, 2019, which were withheld in full, except for one page released in part from each roster on June 22, 2020, as noted in the attached index at Entries 7-9.

28. **VIDEO CAMERA FOOTAGE** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the Special Investigativer Agent's (SIA) office was the most likely place where video camera footage responsive to the

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request for "[a]ll video camera footage at MCC pertinent to the Jeffrey Epstein suicide and the first suicide attempt" would be located. After consulting with the custodian for such records, it was determined that the BOP does not have possession of responsive records because all video/NICE vision equipment was handed over to the FBI on or about August 10, 2019.

29. The BOP sought to preserve video footage from July 23, 2019, the night of Epstein's apparent suicide attempt, pursuant to a preservation request in a criminal case. However, the BOP inadvertently preserved footage showing a different area within MCC, and the video footage from the SHU at MCC no longer exists on the backup system because of a technical error. *See* Letter from the Government dated January 9, 2020, Dkt. No. 182, *United States v. Tartaglione*, No. 16-cr-832 (KMK).

30. **SUICIDE ATTEMPT AND SUICIDE RECORDS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the Bureau Electronic Medical Record (BEMR) and a search for Forms 583 and related documents were the best methods to locate records responsive to the request for "[a]ll BOP documents pertaining to Jeffrey Epstein's suicide and first suicide attempt." To locate medical and psychological records responsive to this request, BOP searched BEMR. BOP's BEMR search is detailed supra at Paragraph 21. The psychological records were withheld in full, as noted on the attached index at Entry 19. BOP is currently revewing the remaining BEMR records to segregate non-exempt information and intends to release the records in part.

31. With regard to the Form 583 and related documents, MCC Staff located the Form 583 and related documents concerning Epstein's apparent suicide attempt on July 23, 2019 as described in the McFarland Declaration. Because staff at MCC New York did not have access to

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the Form 583 and related documents concerning Epstein's suicide on August 10, 2019, I requested these records from the Correctional Programs Division in the Central Office of the Bureau of Prisons (BOP). Based on my knowledge and experience, I am aware that the Correctional Programs Division (CPD) has access to all Form 583s and related documents regardless of the institution that created the Form 583 as they are the Division that has overall responsibility for all Correctional Services Departments in the BOP. Accordingly, once I became aware staff at MCC New York no longer had access to the Form 583 and related documents from August 10, 2019, knowing that the CPD was the location most reasonably expected to maintain the Form 583 and related documents concerning Epstein's suicide on August 10, 2019, I requested, and received, the records from them. The 583 Forms were withheld in full, as noted in the attached Index at Entries 15 and 18.

32. BOP staff also located additional reports prepared following Epstein's apparent suicide attempt and Epstein's suicide, including a psychological reconstruction of inmate death and responses thereto, including a memorandum; a document titled MCC New York Updates; draft letters to Epstein's brother, Chief Judge McMahon and Judge Berman; a letter to the MCC warden dated August 14, 2019; photo sheets from Epstein's July 23, 2019 apparent suicide attempt and Epstein's August 10, 2019 suicide, a chain of custody form from Epstein's July 23 apparent suicide attempt, reports of the July 23, 2019 apparent suicide attempt, memoranda and reports of Epstein's August 10, 2019 suicide. MCC staff located these documents by manually searching their files for records pertaining to Epstein's July 23, 2019 apparent suicide attempt and Epstein's August 10, 2019 suicide. These records were withheld in full or withheld in part as noted in the attached Index at Entries 2, 10, 11, 12, 13, 14, 16, 17, 18, 20, 35, and 36.

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33. **SUICIDE WATCH REMOVAL DOCUMENTS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that, in addition to any records that may exist in the BEMR for inmate Epstein, a search of staff emails was the other place where records responsive to the request for "[a]ll BOP documents, including email correspondence and meeting minutes, pertaining to the decision to remove Jeffrey Epstein from suicide watch" would be. The email search is described in Paragraphs 44-46, infra, and the scope and results of the BEMR search are described in Paragraph 28, supra. These records were withheld in full as noted in the attached Index at Entries 19 and 52. Additional searches for documents pertaining to the decision to remove Epstein from suicide watch are described in the McFarland Declaration.

34. **SPECIAL INVESTIGATIVE REPORTS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the BOP Special Investigative Section ("SIS") database known as TRUINTEL was the best way to locate records responsive to the request for "[a]ll BOP special investigation reports mentioning Jeffrey Epstein." The SIS database contains information related to investigation of both inmates and staff. To search the SIS database for special investigation reports about inmate Epstein, staff used inmate Epstein's unique inmate register number of 76318-054 to retrieve any and all special investigative reports maintained by the BOP about inmate Epstein. The search returned one Inmate Investigative Report for inmate Epstein, which was withheld in full, as noted on the attached index at Entry 9.

35. **CORRESPONDENCE** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of staff emails was the most

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effective way to locate records responsive to the request for "[a]ll BOP correspondence with the U.S. Attorney's Office regarding Jeffrey Epstein." The email search is described in Paragraphs 44-46, infra.

36. **PHONE LOGS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the TRUVIEW database was the most likely place where a "full log of Mr. Epstein's phone calls to and from the MCC" would be located. Regarding inmate telephone calls, TRUVIEW contains a list of all people who were approved to be on inmate Epstein's telephone list, and it also has a log of all inmate telephone calls not made on a legal line. To search TRUVIEW for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his telephone call information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019.

37. **EMAIL COMMUNICATIONS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the TRULINCS database was the most likely place where "[a]ll email correspondence to and from Mr. Epstein while he was at the MCC (including any correspondence through the Corrlinks system or any other email system he had access to[]" would be located. TRULINCS is a BOP database that is comprised of two main components. One component is the inmate application used solely by the inmates and provides inmates the capability to manage their contact list for emails, communicate with members of the public on an inmate's contact list via email, and communicate with staff. To search TRULINCS for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to check for email communications to and from inmate Epstein. The search

did not return any results for emails to/from Epstein's TRULINCS account - either to/from any member of the public or to/from staff.

38. **VISITOR LOGS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the TRUVIEW database was the most likely place where "[t]he full log of people who visited Mr. Epstein while he was at the MCC and when they visited" would be located. Regarding inmate visitors, the TRUVIEW contains a log of all inmate visits. To search TRUVIEW for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his visitor information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019.

39. In addition, staff at MCC searched for physical visitor logs and located one log book showing a visitor for Jeffrey Epstein on July 30, 2019. A copy of the page from the log book showing this visit was produced to the Plaintif with redactions on June 22, 2019. All other physical visitor logs were handed over to the OIG on or about August 22, 2019, and the BOP is no longer in possession of these logs.

40. **VISITOR LISTS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the TRUVIEW database was the most likely place where "[t]he full list of people that Mr. Epstein had requested to be on his approved visitor list." would be located. To search TRUVIEW for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his visitor information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019.

41. **EMAIL LIST** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the TRUVIEW database was the most likely place where "[t]he full list of people that Mr. Epstein had requested to be on his approved email correspondence list" would be located. To search TRUVIEW for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his visitor information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019.

42. **APPROVED CALL LIST**- Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the TRUVIEW database was the most likely place where "[t]he full list of people that Mr. Epstein had requested to be on his approved call list" would be located. Regarding inmate approved call lists, the TRUVIEW database contains a log of all people who are approved to be on an inmate's call list. To search TRUVIEW for inmate related information, staff used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his visitor information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019.

43. **RECORDINGS OF TELEPHONE CALLS** - Based on the experience and training of myself and other staff involved in searching for records, it was determined that the TRUVIEW database was the most likely place where the approved call list information for inmate Epstein would be located to determine if there were any "recordings of the last three phone conversations that Mr. Epstein had." To search TRUVIEW for inmate related information, staff

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used Jeffrey Epstein's unique inmate register number of 76318-054 to retrieve all of his call information. The search returned the Federal Bureau of Prisons/TRUVIEW/Inmate Center Report for inmate Epstein, produced to Plaintiff with redactions on June 22, 2019. Epstein did not have any calls listed there, and so no recordings of Epstein's calls were located. As noted above, Epstein did make telephone calls on the legal line at the MCC, but these calls were unmonitored, unrecorded and not logged in TRUVIEW, such that there is no system to search for records of them.

III. BOP'S EMAIL SEARCH

44. Below is a description of the email search for records as it relates to requests for which a search of email records was conducted, as noted above. Based on the experience and training of myself and other staff involved in searching for records, it was determined that a search of the BOP's GROUPWISE email system was appropriate as GROUPWISE is the BOP's email client platform for staff. Based on the scope of the requests, the GROUPWISE email accounts for the below identified BOP staff was the most likely place where communications about inmate Epstein would likely be located, as these BOP staff were key decision makers at the institution, regional, and central office levels of the BOP and were likely involved and likely made recommendations about Mr. Epstein's classification while he was confined at MCC New York. The email search was conducted using both the staff member's name and his or her unique BOP identifier and other particularized search terms based on the Plaintiff's FOIA Requests. The staff whose emails were searched were as follows:

(1) Acting Director Hurwitz;
(2) Former Regional Director Johnathan Ray Ormond;
(3) Regional Counsel Darrin Howard;

(4) Deputy Regional Counsel Adam Johnson;
(5) Correctional Programs Administrator Sukenna Stokes;
(6) Warden Lamine N'Diaye;
(7) Associate Warden Shirley Skipper Scott;
(8) Associate Warden Charisma Edge;
(9) Associate Warden Brian Best;
(10) Executive Assistant Lee Plourde;
(11) Supervisory Attorney Nicole McFarland;
12) Captain Jermaine Darden; and
(13) Chief of Psychology Elissa Miller.

45. Based on the scope of the FOIA request, the search terms used for the search and the date range for the search were as follows:

(1) Jeffrey Epstein, 76318-054, MCC, New York, meetings, suicide watch, suicide, AUSA, USAO and

(2) 7/6/2019 (Date Epstein went into custody at MCC) through 1/9/2020 (the date of Complainant's last FOIA Request).

46. The email search produced 1911 records, which totaled 18,062 pages. After review of the records, it was determined that 3176 pages of these records were responsive and non-duplicative.

III. APPLICATION OF EXEMPTIONS

Segregability

47. I and other FOIA staff reviewed and continue to review the records located in response to Plaintiff's FOIA requests to determine whether or not there is any non-exempt information in the records that could be reasonably segregated and released. We have already determind that 584 pages contain such information, and those pages were released, with appropriate redactions, to Plaintiff on June 22, July 7, and July 10. Other than these 584 pages

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and the records listed as withheld in full on the attached index, I and other FOIA staff continue to review the remaining records because we currently believe that they contain segregable information, such that the additional records could be released in part. Each of the records withheld in full includes exempt information that is inextricably intertwined with any non-exempt information in the document, such that segregating any non-exempt information would be of little to no informational value.

48. All of the responsive records withheld in full by BOP are withheld under FOIA Exemption 7(A), except for the 2 pages of draft letters at Entry 11 of the attached index and the 57 pages of email records at Entry 54 of the attached index, withheld under Exemption 5 and discussed below. The basis for withholdings under Exemption 7(A) is explained in the accompanying declaration of Counsel to the Acting United States Attorney Russell Capone. In addition to the withholdings in full under Exemptions 7(A) and 5, BOP has also withheld certain records or portions of records under Exemptions 5, 6, 7(A), 7(C), 7(E), and 7(F).

A. Withholdings under Exemption 5

49. Title 5 U.S.C. § 552(b)(5) ("Exemption 5") excludes from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency." 5 U.S.C. § 552(b)(5). Exemption 5 incorporates all the normal civil discovery privileges, including the deliberative process privilege andand the attorney-client privilege. BOP has withheld records in full and in part under the deliberative process privilege. As noted in the attached index, BOP has withheld in full under the deliberative process privilege the incident report for Epstein's July 23, 2019 apparent suicide attempt, the psychological

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reconstruction of Epstein's suicide and responses thereto, and draft letters to Epstein's brother and Chief Judge McMahon and Judge Berman.

a. The incident report for Epstein's July 23, 2019, apparent suicide attempt is predecisional because it preceded the decisions to remove Epstein from suicide watch and to house him in a particular cell in the SHU with a cellmate. Decisions concerning cell designation for inmates and whether to cell an inmate with another inmate or with a particular inmate are policy decisions involving open and frank conversations by senior BOP staff to include security staff, medical staff, unit staff, and executive staff. These discussions are particularly amplified when dealing with high profile inmates and for which the inmate's incarceration with the BOP is the subject of great media and public attention. Thus, the incident report was prepared to assist BOP in making those decisions because it documents details of Epstein's apparent suicide attempt that were relevant to the determination of whether he would be removed from suicide watch and how and where he would be housed thereafter. It was deliberative because it bears on the exercise of a policy-oriented judgment by assisting in the application of BOP's policies of releasing certin inmates from suicide watch and housing them in specific circumstances based on details of their psychological profile and any suicide attempt. Release of the incident report would hamper BOP employees' abilities to frankly discuss the circumstances of suicide attempts and assess BOP's suicide prevention policies.

b. The psychological reconstruction of Epstein's suicide and responses thereto are predecisional because they preceded BOP's decisions regarding how to respond to Epstein's suicide and was prepared to assist in deciding which actions to take. Specifically, the psychological reconstruction report was part of a review by BOP following Epstein's suicide of MCC's suicide prevention policies, including a determination of whether MCC's suicide prevention policies needed to be changed. It was also part of a review to determine whether or not wider changes, such as changes in personnel or leadership at MCC, were necessary. Further, the purpose of the report is to provide Senior BOP staff information for which to consider future policy considerations throughout the BOP concerning the care and custody of inmates. Thus, these reports are ultimately recommendations in that they not only point out factual information, but with this factual information Senior BOP staff are able to consider strategic initiatives. The report is deliberative because it contains multiple recommendations—and responses to certain recommendations—for how MCC should change its suicide preventation policies and measures, including, for example, recommendations about double-celling and direct observation of inmates, duration of suicide watches, how to structure such

watches. These recommendations are used by Senior BOP officials in terms of policy considerations that impact BOP operations across facilities. Further, any such recommendations are discussed by Senior BOP officials and as such requires the frank and open assessment by these officials in reaching a decision to adopt a policy recommendation. Release of the report would hamper frank and open discussions and assessments by these officials in reaching policy decisions.

c. The draft letters are predecisional because they were prepared in advance of final letters sent to individuals and to assist in determining the content of the final letters. Agency formal letters are purposed as final Agency policy directives and members of the public and press view Agency letters no differently than officially adopted policy statements. As such, draft letters are not the Agency's final response and like other policy related documents, Agency letters are not an official statement of the Agency until a final letter is prepared and dispatched They are deliberative because they bear on the exercise of a policy-oriented judgment in that they are part of BOP's determination of how best to inform family members and other relevant parties of the death of an inmate. Their release would harm BOP's ability to determine how best to inform family members and other relevant parties of the death of an inmate.

Certain email records have also been withheld in part under the deliberative process privilege.

d. One category of emails pertains to Epstein's July 23, 2019, apparent suicide attempt and incarceration. These emails are predecisional because they were prepared to assist BOP in making decisions about Epstien's incarceration, including whether he would remain –on suicide watch and whether he would be housed with a cellmate. They are deliberative because they bear on the exercise of a policy-oriented judgment, namely the application of BOP's policies of releasing certin inmates from suicide watch and housing them under particularized housing measures, including based on details of their psychological profile and any suicide attempt. The decision to place an inmate on suicide watch or to remove an inmate from suicide watch involves involves policy deliberations from several BOP senior level stakteholders from medical staff, psychology staff, Correctional Program Division Staff, security staff, and executive staff. Release of the information in these emails would hamper BOP's employees' ability to frankly discuss decisions regarding placing inmates on and removing inmates from suicide watch and to discuss suicide prevention policies.

e. One category of emails pertains to press inquiries concerning Epstein and his death and how BOP will respond to them. They are predecisional because they were prepared in advance of BOP's decisions regarding whether and how to change policies at MCC, including suicide prevent policies, following Epstein's death and in advance of BOP's decisions regarding whether and how to respond to press inquiries about Epstein. They were prepared to assist in how deciding how BOP would respond to inquiries because they are communications, including deliberations, between BOP employees about how to respond. They are deliberative because they consist of BOP's considerations of how to respond and include drafts of responses to press inquiries and discusions of what responses should be provided. They are also deliberative because they bear on BOP's decisions regarding whether and how polcies at MCC, including suicide prevention policies, should change, in that they include details of Epstein's death, the response or reaction of BOP employees to details of Epstein's death, and discussion of steps taken at MCC following Epstein's death, including responding to press inquiries. Release of the information in these emails would hamper BOP's decisionmaking processes in determining how to communicate with the press and its assessment of policies at facilities where suicides occur.

f. One category of emails pertains to Epstein's suicide and BOP's response to Epstein's suicide. They are predecisional because they preceded BOP's decisions regarding how to respond to Epstein's suicide and were prepared to assist in deciding –areas of policy consideration for the BOP's suicide preventation strategies. Specifically, they relate to deliberations within BOP and MCC following Epstein's suicide about MCC's policies, including its suicide prevention policies. They are deliberative because they include communications that were part of a review to determine whether or not policy changes, such as changes in suicide perevention policies, personnel or leadership at MCC, were necessary. Release of the emails would hamper BOP employees' frank discussion of suicide prevention policies (and leadership and personnel decisions) at its facilities and whether it is necessary to change these policies (or leadership or personnel).

50. As indicated at Entry 54 in the attached index, one 56-page set of emails was withheld in full under the attorney-client privilege. This group of withheld emails consists of communications between BOP employees and BOP's attorneys, Assistant United States Attorneys in the Civil Division of the USAO-SDNY, concerning requests for documents related

to Epstein, preservation of documents related to Epstein, and how to respond to requests pursuant to Department of Justice regulations (known as *Touhy* regulations). As communications between attorneys and a client, these emails were properly withheld under Exemption 5. Release of these emails would negatively affect BOP's ability to seek out and receive frank legal counsel.

Threshold Justification For Application of Exemption 7

51. As a threshold to applying Exemption 7, an agency has to demonstrate that the "records or information [were] compiled for law enforcement purposes." 5 U.S.C. §552(b)(7).

52. The BOP is a law enforcement agency. The term "law enforcement officer" is defined as "an employee of the Bureau of Prisons or Federal Prison Industries, Inc." See, e.g., 5 U.S.C. § 8401(17)(D)(i). Furthermore, BOP employees perform law enforcement functions. They possess the authority to make arrests, 18 U.S.C. § 3050; seize evidence, 18 U.S.C. § 4012; and execute searches on inmates and visitors to the institution, 28 C.F.R. §§ 511.10-511.12, 552.10-552.14. Additionally, the BOP is tasked with the law enforcement mission of protecting inmates, staff, and the community. See 18 U.S.C. § 4042(a)(1)-(3) ("The Bureau of Prisons, under the direction of the Attorney General, shall (1) have charge of the management and regulation of all Federal penal and correctional institutions; (2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise; (3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States . . . .").

53. All of the records withheld in full or in part were compiled for law enforcement purposes because they were compiled in the exercise of BOP's statutory authority to detain arrested individuals before trial pursuant to a judicial order. All of these records relate to a

specifically identified inmate and concern the conditions of his incarceration (including his housing location, medical records, visitor lists, security designation, staff decisions concerning the inmate's status at MCC New York, and the like). They were compiled in order to carry out BOP's responsibilities to protect the safety, security, and orderly operation of BOP facilities, specifically MCC New York, to protect the public, and/or to protect the safety and care of the inmate who is the subject of the records in question. In addition, some of the records were compiled as part of the investigations into Epstein's incarceration and death and serve as investigatory tools. Some were also compiled for the specific law enforcement of purpose of preventing suicides at BOP facilities and ensuring the safety of inmates in BOP facilities. The records at issue in this FOIA request meet the law enforcement threshold of Exemption (b)(7).

Records Withheld Pursuant to Exemptions 6 and 7(C)

54. U.S.C. § 552(b)(6), ("FOIA Exemption 6"), protects from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

55. U.S.C. § 552(b)(7)(C) ("Exemption 7(C)") exempts from disclosure records or information compiled for law enforcement purposes where its production "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C).

56. Some of the records withheld by BOP contain contain personal information withheld in part under Exemptions 6 and 7(C) (the "6 & 7(C) Records"). The 6 & 7(C) Records include personnel files within the meaning of Exemption 6, such as overtime logs for the MCC. The remainder of the 6 & 7(C) records are "similar files" within the meaning of Exemption 6 because they contain information about particular, identifiable individuals. This information

includes personally identifying information, such as names and contact information, of various third-party individuals other than Epstein.

57. Exemptions 6 and 7(C) each require a balancing of the privacy interests implicated by disclosure of a record with the public interest in its disclosure. The privacy interests implicated by the 6 & 7(C) Records include the privacy interests of BOP employees, BOP inmates other than Epstein, Epstein's surviving family members, visitors or senders of funds to BOP inmates, legal counsel for BOP inmates, USAO-SDNY employees, and journalists. The 6 & 7(C) Records contain personally identifying information, such as names and contact information, for each of these categories of individuals and detail their association with Epstein or their involvement or interest in Epstein's incarceration, death, or the response of BOP or the USAO-SDNY to Epstein's death. Release of this information - particularly in light of the intense media interest in and public speculation concerning Epstein's death - could reasonably be expected to expose these third parties to unwanted scrutiny, embarrassment, and even harassment or retaliation.

58. The sole public interest to be weighed against these privacy interests under both Exemption 6 and 7(C) is the public's understanding of government operations. The personal information withheld from the 6 and 7(C) Records will not significantly contribute to the public's understanding of the operation or activities of the government or further the purpose of the FOIA by informing the public of the government's activities. The withheld personal information does not provide significant insight into government activities or operations in connection with Epstein's incarceration or the response of BOP, the USAO-SDNY, or any other government agency to Epstein's death. For example, the names of BOP employees in the

withheld records do not provide members of the public with a greater understanding of how BOP works.

59. The large volume of publicity and often unfounded speculation concerning the circumstances of Epstein's death increase the likelihood that disclosure of the information withhed under Exemptions 6 and 7(C) would cause an unwarranted invasion of personal privacy.

60. In light of the public and unfounded speculation on Epstein's death and the media coverage thereof, it is reasonable to expect that individuals identified through disclosures by the government as associated with Epstein's incarceration and death, or investigation of the charges against Epstein or the circumstances of his death, could be targeted or harassed. Accordingly, publicizing the identity, contact information, or other personal information of a particular individual's associations or interactions with Epstein, or participation in the investigation of and response to his death, will amount to a significant invasion of personal privacy, with no meaningful contribution to the public's understanding of how the government works.

61. For each category of individuals with personally identifying information present in the 6 & 7(C) Records, the individual privacy concerns outweigh the putative public interest in their disclosure.

a. The disclosure of personally identifying information of BOP employees, such as their names or contact information, would significantly invade their personal privacy without contributing to a public understanding of how BOP works. As noted above, disclosing the names or contact information of BOP employees does not provide insight into how BOP works because individual employees' names or contact information are not relevant to how BOP works.

b. The disclosure of personally identifying information of BOP inmates, such as their names or contact information, would significantly invade their personal privacy without contributing to a public understanding of how BOP works.

The names or contact information of particular inmates is not relevant to and provides no greater understanding of how BOP works.

c. The disclosure of personally identifying information of visitors or senders of funds to BOP inmates, such as their names and contact information, would significantly invade their personal privacy without contributing to a public understanding of how the government works: identification of the individuals who visited or sent money to Epstein or other inmates does not shed light on BOP conduct or how BOP or any other government agency works.

d. The disclosure of personally identifying information of legal counsel to Epstein and other BOP inmates, such as their names and contact information, would significantly invade their personal privacy without contributing to a public understanding of how the government works: identification of counsel to Epstein and other inmates does not shed light on BOP conduct or how BOP or any other government agency works.

e. The disclosure of personally identifying information of USAO-SDNY employees, such as their names and contact information, would significantly invade their personal privacy without contributing to a public understanding of how the USAO-SDNY works: the particular names or contact information of USAO-SDNY employees is not relevant to and does not provide any insight into how the USAO-SDNY operates.

f. The disclosure of personally identifying information of journalists, such as their names and contact information, would significantly invade their personal privacy without contributing to a public understanding of how the government works: the provision of information about journalistic approaches to gathering information is not a public interest protected by Exemption 6 or 7(C).

62. Some of the 6 & 7(C) Records also contain information implicating the privacy interests of Epstein's surviving family. These records contain highly personal details about Epstein's suicide, including graphic images of his body after he committed suicide. Release of images of a deceased family member's body and the details of his suicide could reasonably be expected to cause hardship and pain to surviving family members by interfering with their mourning or remembering of the deceased person. The publicity and unfounded speculation surrounding Epstein's death would heighten this risk of hardship and pain. The release of records

containing highly personal details about Epstein's suicide, such as photographs of his body, would clearly constitute (and, at a minimum, could reasonably be expected to constitute) an unwarranted invasion of his family members' personal privacy. Such details about Epstein's suicide provide no significant information to the public about how the government works.

63. The release of the personally identifying information in the 6 & 7(C) records would clearly constitute (and, at a minimum, could reasonably be expected to constitute) an unwarranted invasion of the personal privacy of of BOP employees, BOP inmates other than Epstein, Epstein's surviving family members, visitors or senders of funds to BOP inmates, legal counsel for BOP inmates, USAO-SDNY employees, or journalists.

Records Withheld Pursuant to Exemption 7(E)

64. Title 5 U.S.C. § 522 (b)(7)(E) ("Exemption 7(E)") exempts from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law."

65. Some of the records withheld by BOP contain information or discussion of law enforcement techniques and procedures or guidelines for law enforcement investigations or prosecutions, as indicated on the attached index (the "7(E) Records"). As explained above, all of the records withheld in full or in part, including the 7(E) Records, were compiled for law enforcement purposes, including the incarceration of Epstein or other inmates and the investigation of the circumstances of Epstein's death.

66. The 7(E) Records fall wholly or in part within the scope of Exemption 7(E) because they include information or discussions that would disclose law enforcement techniques and procedures and their use in investigating incidents that occurred during Epstein's incarceration, including his suicide. Specifically, in terms of non-email records, as noted in the attached index, the psychological reconstruction of Epstein's suicide and responses thereto would disclose BOP's techniques and procedures in investigating inmate suicides. More specifically, disclosure of this report will reveal the specific techniques the BOP uses to reconstruct a suicide to include its information and evidence gathering strategies. Revealing this information to third parties will allow inmates the ability to learn how to manufacture and then subsequently disguise their instruments used to commit suicide. When inmates are armed with this information, it will prevent staff from locating these instruments during the routine course of cell checks and contraband searches. This will lead to more suicide attempts and ultimately, successful suicides by inmates.

67. The Inmate Investigative Report would disclose BOP's techniques and procedure in investigating incidents involving inmates, which could lead to inmates taking actions to circumvent BOP's investigatory techniques. The MCC New York Updates would disclose how BOP investigates and tracks certain incidents and events within its facilities. The letter to the MCC warden regarding a visit by an after action team would disclose BOP's investigatory techiniques and procedures for investigating inmate suicides. The photo sheets from Epstein's July 23 apparent suicide attempt, a chain of custody form from Epstein's July 23 apparent suicide attempt, memoranda and reports of the July 23 apparent suicide attempt, and the Form 583 for Epstein's apparent suicide attempt would disclose BOP's investigatory techniques and

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procedures for investigating inmate suicide attempts. The release of the same will permit inmates to circumvent detection by staff of potential risks of suicides and thus increase the risk inmates will successfully commit suicide. Suicide attempts and successful suicides not only create a risk of danger and harm to the inmate attempting a suicide, but also place an inmate's cellmate in danger and place staff who respond to the attempted suicide or completed suicide in danger.

68. Certain email records also contain information falling within the scope of Exemption 7(E). First, some emails pertaining to Epstein's July 23, 2019, apparent suicide attempt and his incarceration at MCC New York contain information that would would disclose BOP's investigatory techniques and procedures for investigating inmate suicide attempts. The release of the same will permit inmates to circumvent detection by staff of potential risks of suicides and thus increase the risk that an inmate will successful commit suicide. Second, some emails pertaining to Epstein's suicide and BOP's response to Epstein's suicide contain information that would disclose BOP's investigatory techniques and procedures for investigating inmate suicides.

Records Withheld Pursuant to Exemption 7(F)

69. Title 5 U.S.C. § 522 (b)(7)(F) ("Exemption 7(F)") exempts from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . could reasonably be expected to endanger the life or physical safety of any individual."

70. Some of the records withheld by BOP contain the personally identifying information, such as names and contact information, of third-party individuals involved in law

enforcement investigations, as indicated on the index prepared by BOP (the "7(F) Records"). Each of the 7(F) Records were compiled for law enforcement purposes, namely the incarceration of Epstein or the response of the USAO-SDNY and BOP to Epstein's death.

71. The 7(F) Records fall in part within the scope of Exemption 7(F) because the release of the personally identifying information contained in these records could reasonably be expected to endanger the life or physical safety of BOP employees and USAO-SDNY employees whose personally identifying information is contained in the 7(F) Records. BOP and USAO-SDNY employees work with inmate and criminal defendants who, upon their release from incarceration or during their incarceration, might target BOP or USAO-SDNY employees for reprisal, who in many metropolitan cities live in the cities where they work, who frequently utilize public transportation, and who regularly engage in community and social activities in those cities. The release of personally identifying information of BOP or SDNY-USAO employees increases the risks of such targeting or harassment because it would make it easier for identified employees to be targeted or harassed. Because of the attention and speculation surrounding Epstein's death, it is reasonable to expect that individuals identified through disclosures by the government as associated with Epstein's incarceration and death, investigating the charges against Epstein, or investigating the circumstances of Epstein's death could be targeted.

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

EFTA00015679

Executed this 5th day of August 2020.

Kara Christenson
Government Information Specialist
FOIA/PA Section (Central Office)
Bureau of Prisons

EFTA00015680

Attachment 1

OGC Electronic Freedom of Information - NYT FOIA request -- BOP #1, filed 8/13/19

From: "Ivory, Danielle" <danielle.ivory@nytimes.com>
To: <OGC_EFOIA@bop.gov>
Date: 8/13/2019 4:58 PM
Subject: NYT FOIA request -- BOP #1, filed 8/13/19

Hi, I am enclosing a FOIA request, below. Please let me know if I can be of any help in explaining this or narrowing it.

Many thanks,

Danielle

Danielle Ivory
Reporter
The New York Times
620 Eighth Avenue
New York, NY 10018
Office phone: 212-556-1596
Mobile phone: 917-280-2607
Email: danielle.ivory@nytimes.com

Aug. 13, 2019

Bureau of Prisons
OGC_EFOIA@BOP.GOV

FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

Requested records

“Records” means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, telephone conversations, faxes, emails, documents, photographs,

minutes of meetings, records of meetings in any form, and any other compilation of data from which information can be obtained. All of the foregoing are included in this request if they are in the possession of or otherwise under the New York Times requests for Records of the following type in the possession, custody, or control of OSHA.

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552 et seq ("FOIA"), I request copies of (or access to) documents about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019, specifically (hereafter described as “the records”):

(1) The 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 10.

(2) All quarter entries (showing which cells he was housed in) for Jeffrey Epstein at MCC.

(3) The CIM Clearance and Separatee data sheet for Jeffrey Epstein at MCC.

(4) The chronological disciplinary records for Jeffrey Epstein at MCC.

(5) The intake screening form for Jeffrey Epstein at MCC.

(6) The security designation records for Jeffrey Epstein at MCC.

(7) The inmate profile for Jeffrey Epstein at MCC.

(8) All incident reports related to Jeffrey Epstein at MCC.

(9) All medical reports related to Jeffrey Epstein at MCC.

(10) The signed visitor log for Jeffrey Epstein at MCC.

(11) Documents showing when MCC staff held meetings regarding Jeffrey Epstein, and who attended.

(12) All records generated from the meeting at MCC during which it was decided that Jeffrey Epstein would be taken off suicide watch.

(13) The Post-Watch report compiled in order to take Jeffrey Epstein off suicide watch.

(14) The overtime sign-up sheets for the Special Housing Unit (9 South) at MCC for Aug. 9 and 10, and on July 22 and 23.

(15) Documents showing which staff were augmented at MCC and what positions they worked in on Aug. 9 and 10, and on July 22 and 23.

The Bureau of Prisons web-based inmate locator shows that only one Jeffrey Epstein is listed in the BOP system, so identifying the correct Jeffrey Epstein should not be a problem for the bureau.

I am a reporter for The New York Times, an accredited and recognized newsgathering organization. I request the Records to inform the public about matters of public concern.

ONGOING LAW ENFORCEMENT PROCEEDINGS/INVESTIGATIONS

As to any records located in the investigative files of pending investigations, you may not assert Exemption 7(A) without conducting a document-by-document review to determine whether release of the records would interfere with ongoing law enforcement proceedings.

The United States District Court of the District of Columbia recently "remind[ed] the FBI of its obligation to conduct record-level reviews at the administrative level before refusing to produce records contained in its investigative files." Tipograph v. Dep't of Justice, 83 F. Supp. 2d 234 (D.D.C. Mar. 18, 2015)

In addition, the FOIA Improvement Act of 2016 added a provision instructing federal agencies to withhold records only when their release would work some foreseeable or is prohibited by law, not just because they may technically be exempt.

Even if the records might otherwise be exempt, an agency may withhold them only if their disclosure would actually harm the interest protected by the exemption, or if it is prohibited by some other law. 5 U.S.C 552(a)(8). The agency does need to identify what reasonably foreseeable harm would flow from release of the information being withheld, consider partial disclosure of the information, take reasonable steps to segregate and release nonexempt information.

RESPONSE TIME

FOIA requires that your agency respond to this request within 20 business days. This request is segregable, and your agency may not withhold entire records because of one section that you believe is exempt from disclosure. Under federal law, if you choose to withhold any such parts of the records from disclosure, you must specify in a written response the factual and legal basis for withholding any part of the Records.

ESTIMATED DATE OF COMPLETION

I respectfully request that you provide me with a reasonably estimated date of completion. See 5 U.S.C. § 552(a)(7)(B)(ii). If the estimated date of completion is being significantly delayed because of a portion of the request needs to be processed by another agency, please inform me which agency that is and whether it has provided you with an estimated date of completion.

FORMAT OF REQUESTED RECORDS

I am further requesting that the Records be provided to me on computer files in the same format as they are currently maintained at the agency, pursuant to Burka v. Dept. of Health & Human Svcs., 87 F.3d 508 (D.C. Cir. 1996). As you know, providing documents electronically is cheaper than mailing hard copies.

FEE WAIVER

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii). FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press, 489 U.S. 749, 773–74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires "[d]ocuments shall be furnished without any charge or at a [reduced] charge . . . disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

EXPEDITED PROCESSING

There is extreme public interest in records concerning the prison stay and death of Jeffrey Epstein, who was accused of sexually abusing scores of women and underage girls. Not only has a person died in federal custody, but the death has generated multiple conspiracy theories implicating government works at the highest levels and taxpayer money. Disclosure of the records request is in the public interest because disclosure is likely to contribute significantly to the understanding of the operations or activities of the government. In addition, as one of the largest circulation newspapers in the United States, The New York Times plays an important role in sharing information with the public and helping the public understand how the federal government works. Disclosure of the records is not primarily in the commercial interest of myself or The New York Times but is intended to facilitate reporting on the

operations of government.

Please contact me if I may assist in your office's response to this request.

Yours,

Danielle Ivory

--
Danielle Ivory
The New York Times
Office: 212-556-1596
Cell: 917-280-2607
Fax: 646-349-2536
Signal encrypted chat: 917-280-2607

Attachment 2

OGC Electronic Freedom of Information - NYT FOIA request -- BOP #2, filed 8/13/19

From: "Ivory, Danielle" <danielle.ivory@nytimes.com>
To: <OGC_EFOIA@bop.gov>
Date: 8/13/2019 5:00 PM
Subject: NYT FOIA request -- BOP #2, filed 8/13/19

Hi, I am enclosing a FOIA request, below. Please let me know if I can be of any help in explaining this or narrowing it.

Many thanks,

Danielle

Danielle Ivory
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620 Eighth Avenue
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Email: danielle.ivory@nytimes.com

Aug. 13, 2019

Bureau of Prisons
OGC_EFOIA@BOP.GOV

FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

Requested records

"Records" means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, telephone conversations, faxes, emails, documents, photographs,

minutes of meetings, records of meetings in any form, and any other compilation of data from which information can be obtained. All of the foregoing are included in this request if they are in the possession of or otherwise under the New York Times requests for Records of the following type in the possession, custody, or control of OSHA.

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552 et seq ("FOIA"), I request copies of (or access to) documents about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019, specifically (hereafter described as “the records”):

(1) All video camera footage at MCC pertinent to the Jeffrey Epstein suicide and the first suicide attempt.

(2) All BOP documents pertaining to Jeffrey Epstein's suicide and first suicide attempt.

(3) All BOP documents, including email correspondence and meeting minutes, pertaining to the decision to remove Jeffrey Epstein from suicide watch.

(4) All BOP special investigation reports mentioning Jeffrey Epstein.

(5) All BOP correspondence with the U.S. Attorney’s Office regarding Jeffrey Epstein.

The Bureau of Prisons web-based inmate locator shows that only one Jeffrey Epstein is listed in the BOP system, so identifying the correct Jeffrey Epstein should not be a problem for the bureau. For this request, records generated by BOP employees based in New York, Texas, and in Washington, DC, should be searched.

I am a reporter for The New York Times, an accredited and recognized newsgathering organization. I request the Records to inform the public about matters of public concern.

ONGOING LAW ENFORCEMENT PROCEEDINGS/INVESTIGATIONS

As to any records located in the investigative files of pending investigations, you may not assert Exemption 7(A) without conducting a document-by-document review to determine whether release of the records would interfere with ongoing law enforcement proceedings.

The United States District Court of the District of Columbia recently “remind[ed] the FBI of its obligation to conduct record-level reviews at the administrative level before refusing to produce records contained in its investigative files.” Tipograph v. Dep’t of Justice, 83 F. Supp. 2d 234 (D.D.C. Mar. 18, 2015)

In addition, the FOIA Improvement Act of 2016 added a provision instructing federal agencies to withhold records only when their release would work some foreseeable or is prohibited by law, not just because they may technically be exempt.

Even if the records might otherwise be exempt, an agency may withhold them only if their disclosure

would actually harm the interest protected by the exemption, or if it is prohibited by some other law. 5 U.S.C 552(a)(8). The agency does need to identify what reasonably foreseeable harm would flow from release of the information being withheld, consider partial disclosure of the information, take reasonable steps to segregate and release nonexempt information.

RESPONSE TIME

FOIA requires that your agency respond to this request within 20 business days. This request is segregable, and your agency may not withhold entire records because of one section that you believe is exempt from disclosure. Under federal law, if you choose to withhold any such parts of the records from disclosure, you must specify in a written response the factual and legal basis for withholding any part of the Records.

ESTIMATED DATE OF COMPLETION

I respectfully request that you provide me with a reasonably estimated date of completion. See 5 U.S.C. § 552(a)(7)(B)(ii). If the estimated date of completion is being significantly delayed because of a portion of the request needs to be processed by another agency, please inform me which agency that is and whether it has provided you with an estimated date of completion.

FORMAT OF REQUESTED RECORDS

I am further requesting that the Records be provided to me on computer files in the same format as they are currently maintained at the agency, pursuant to Burka v. Dept. of Health & Human Svcs., 87 F.3d 508 (D.C. Cir. 1996). As you know, providing documents electronically is cheaper than mailing hard copies.

FEE WAIVER

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii). FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press, 489 U.S. 749, 773–74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires "[d]ocuments shall be furnished without any charge or at a [reduced] charge . . . disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. §

552(a)(4)(A)(iii).

EXPEDITED PROCESSING

There is extreme public interest in records concerning the prison stay and death of Jeffrey Epstein, who was accused of sexually abusing scores of women and underage girls. Not only has a person died in federal custody, but the death has generated multiple conspiracy theories implicating government works at the highest levels and taxpayer money. Disclosure of the records request is in the public interest because disclosure is likely to contribute significantly to the understanding of the operations or activities of the government. In addition, as one of the largest circulation newspapers in the United States, The New York Times plays an important role in sharing information with the public and helping the public understand how the federal government works. Disclosure of the records is not primarily in the commercial interest of myself or The New York Times but is intended to facilitate reporting on the operations of government.

Please contact me if I may assist in your office's response to this request.

Yours,

Danielle Ivory

--
Danielle Ivory
The New York Times
Office: 212-556-1596
Cell: 917-280-2607
Fax: 646-349-2536
Signal encrypted chat: 917-280-2607

Attachment 3

U.S. Department of Justice
Federal Bureau of Prisons

Central Office
320 First St., NW
Washington, DC 20534

September 23, 2019

Danielle Ivory
The New York Times
620 Eighth Avenuse
New York, NY 10018
danielle.ivory@nytimes.com

Request Number: 2019-05665

Dear Ms. Ivory:

This is in response to the above referenced Freedom of Information Act (FOIA) request, which we received on August 13, 2019. Specifically, you request various documents regarding inmate Jeffrey Epstein.

After a thorough review of your request, we have determined that any records responsive to your request are categorically exempt from disclosure. Accordingly, this Office is not required to conduct a search for the requested records. Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, records are withheld in full from disclosure to you under the following exemptions:

(b)(5) - inter- or intra-agency correspondence which would not be available to a party other than a party in litigation with the agency
(b)(6) - constitutes a clearly unwarranted invasion of personal privacy
(b)(7)(A) - could reasonably be expected to interfere with law enforcement proceedings
(b)(7)(C) - constitutes an unwarranted invasion of personal privacy
(b)(7)(E) - discloses investigative techniques and procedures
(b)(7)(F) - could reasonably be expected to endanger the life or physical safety of any individual

Please note, exemption (b)(7)(A) is a temporary exemption utilized to protect active and on-going law enforcement proceedings. Because of its temporary nature, you may wish to consider refiling your request for records in the future. Should you chose to refile your request, the status of law enforcement proceedings will be reevaluated and a determination made at that time as to the continued applicability of exemption (b)(7)(A).

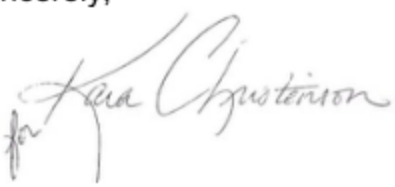
If you have questions about this response please feel free to contact me at kchristenson@bop.gov or the Federal Bureau of Prisons' (BOP) FOIA Public Liaison,

Mr. C. Darnell Stroble at (202) 616-7750 or 320 First Street NW, Suite 936, Washington DC 20534 or ogc_efoia@bop.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; telephone at (202) 741-5770; toll free at (877) 684-6448; or facsimile at (202) 741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Sixth Floor, 441 G Street NW, Washington, DC 20001. Your appeal must be postmarked within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Eugene E. Baime
Supervisory Attorney

Attachment 4

U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Alexandra Perloff-Giles, Esq.
The New York Times Company
620 8th Avenue
New York, NY 10018
aperloffgiles@nytimes.com

Re: Appeal No. DOJ-AP-2020-000123
Request No. 2019-05665
CDT:CCG

VIA: Email

Dear Alexandra Perloff-Giles:

You appealed from the action of the Federal Bureau of Prisons (BOP) on your Freedom of Information Act request for access to records concerning specific documents related to Jeffery Epstein and his death at Metropolitan Correctional Center on August 10, 2019. I note that your appeal concerns the withholdings made by BOP.

After carefully considering your appeal, I am affirming, on partly modified grounds, BOP's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. BOP properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A) and it is reasonably foreseeable that disclosure of this information would harm the interests protected by this provision. This provision concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.[1]

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the BOP in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

[1] Please be advised that since this Office determined that records responsive to your request were properly withheld in full under Exemption 7(A), this Office did not adjudicate the applicability other exemptions cited.

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

3/5/2020

X 

Matthew W. Hurd
Acting Chief, Administrative Appeals Staff
Signed by: MATTHEW HURD

Attachment 5

From: "Ivory, Danielle" <danielle.ivory@nytimes.com>
To: <OGC_EFOIA@bop.gov>
Date: 12/12/2019 3:05 PM
Subject: NYT FOIA to BOP, Epstein logs

Hi, I am enclosing a FOIA request, below. Please let me know if I can be of any help in explaining this or narrowing it.

Many thanks,

Danielle

Danielle Ivory

Reporter

The New York Times

620 Eighth Avenue

New York, NY 10018

Office phone: 212-556-1596

Mobile phone: 917-280-2607

Email: danielle.ivory@nytimes.com

Dec. 12, 2019

Bureau of Prisons

FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

Requested records

"Records" means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, telephone conversations, faxes, emails, documents, photographs, minutes of meetings, records of meetings in any form, and any other compilation of data from which information can be obtained. All of the foregoing are included in this request if they are in the possession of or otherwise under the New York Times requests for Records of the following type in the possession, custody, or control of OSHA.

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552 et seq ("FOIA"), I request copies of (or access to) documents about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019, specifically (hereafter described as "the records"):

(1) The full log of Mr. Epstein's phone calls to and from the MCC.

(2) All email correspondence to and from Mr. Epstein while he was at the MCC (including any correspondence through the Corrlinks system or any other email system he had access to.)

(3) The full log of people who visited Mr. Epstein while he was at the MCC and when they visited.

(4) The full list of people that Mr. Epstein had requested to be on his approved visitor list.

(5) The full list of people that Mr. Epstein had requested to be on his approved email correspondence list.

(6) The full list of people that Mr. Epstein had requested to be on his approved call list.

The Bureau of Prisons web-based inmate locator shows that only one Jeffrey Epstein is listed in the BOP system, so identifying the correct Jeffrey Epstein should not be a problem for the bureau. For this request, records generated by BOP employees based in New York, Texas, and in Washington, DC, should be searched.

I am a reporter for The New York Times, an accredited and recognized newsgathering organization. I request the Records to inform the public about matters of public concern.

ONGOING LAW ENFORCEMENT PROCEEDINGS/INVESTIGATIONS

As to any records located in the investigative files of pending investigations, you may not assert Exemption 7(A) without conducting a document-by-document review to determine whether release of the records would interfere with ongoing law enforcement proceedings.

The United States District Court of the District of Columbia recently "remind[ed] the FBI of its obligation to conduct record-level reviews at the administrative level before refusing to produce records contained in its investigative files." Tipograph v. Dep't of Justice, 83 F. Supp. 2d 234 (D.D.C. Mar. 18, 2015)

In addition, the FOIA Improvement Act of 2016 added a provision instructing federal agencies to withhold records only when their release would work some foreseeable or is prohibited by law, not just because they may technically be exempt.

Even if the records might otherwise be exempt, an agency may withhold them only if their disclosure would actually harm the interest protected by the exemption, or if it is prohibited by some other law. 5 U.S.C 552(a)(8). The agency does need to identify what reasonably foreseeable harm would flow from release of the information being withheld, consider partial disclosure of the information, take reasonable steps to segregate and release nonexempt information.

RESPONSE TIME

FOIA requires that your agency respond to this request within 20 business days. This request is segregable, and your agency may not withhold entire records because of one section that you believe is exempt from disclosure. Under federal law, if you choose to withhold any such parts of the records from disclosure, you must specify in a written response the factual and legal basis for withholding any part of the Records.

ESTIMATED DATE OF COMPLETION

I respectfully request that you provide me with a reasonably estimated date of completion. See 5 U.S.C. § 552(a)(7)(B)(ii). If the estimated date of completion is being significantly delayed because of a portion of the request needs to be processed by another agency, please inform me which agency that is and whether it has provided you with an estimated date of completion.

FORMAT OF REQUESTED RECORDS

I am further requesting that the Records be provided to me on computer files in the same format as they are currently maintained at the agency, pursuant to Burka v. Dept. of Health & Human Svcs., 87 F.3d 508 (D.C. Cir. 1996). As you know, providing documents electronically is cheaper than mailing hard copies.

FEE WAIVER

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii). FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press, 489 U.S. 749, 773–74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires "[d]ocuments shall be furnished without any charge or at a [reduced] charge . . . disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

EXPEDITED PROCESSING

There is extreme public interest in records concerning the prison stay and death of Jeffrey Epstein, who was accused of sexually abusing scores of women and underage girls. Not only has a person died in federal custody, but the death has generated multiple theories implicating government works at the highest levels and taxpayer money. Disclosure of the records request is in the public interest because disclosure is likely to contribute significantly to the understanding of the operations or activities of the government. In addition, as one of the largest circulation newspapers in the United States, The New York Times plays an important role in sharing information with the public and helping the public understand how the federal government works. Disclosure of the records is not primarily in the commercial interest of myself or The New York Times but is intended to facilitate reporting on the operations of government.

Please contact me if I may assist in your office's response to this request.

Yours,

Danielle Ivory

--
Danielle Ivory
The New York Times
Office: 212-556-1596
Cell: 917-280-2607
Fax: 646-349-2536
Signal encrypted chat: 917-280-2607

Attachment 6

OGC Electronic Freedom of Information - New York Times FOIA to BOP (Phone recording)

From: "Ivory, Danielle" <danielle.ivory@nytimes.com>
To: <OGC_EFOIA@bop.gov>
Date: 1/2/2020 9:10 AM
Subject: New York Times FOIA to BOP (Phone recording)

Hi, I am enclosing a FOIA request, below. Please let me know if I can be of any help in explaining this or narrowing it.

Many thanks,

Danielle

Danielle Ivory
Reporter
The New York Times
620 Eighth Avenue
New York, NY 10018
Office phone: 212-556-1596
Mobile phone: 917-280-2607
Email: danielle.ivory@nytimes.com

Jan. 2, 2020

Bureau of Prison

FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

Requested records

"Records" means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, telephone conversations, faxes, emails, documents, photographs, minutes of meetings, records of meetings in any form, and any other compilation of data from which

information can be obtained. All of the foregoing are included in this request if they are in the possession of or otherwise under the New York Times requests for Records of the following type in the possession, custody, or control of OSHA.

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552 et seq ("FOIA"), I request copies of (or access to) documents about Jeffrey Epstein who died at the Metropolitan Correctional Center (MCC) on Aug. 10, 2019, specifically (hereafter described as “the records”):

(1) The full recordings of the last three phone conversations that Mr. Epstein had.

The Bureau of Prisons web-based inmate locator shows that only one Jeffrey Epstein is listed in the BOP system, so identifying the correct Jeffrey Epstein should not be a problem for the bureau. For this request, records generated by BOP employees based in New York, Texas, and in Washington, DC, should be searched.

I am a reporter for The New York Times, an accredited and recognized newsgathering organization. I request the Records to inform the public about matters of public concern.

ONGOING LAW ENFORCEMENT PROCEEDINGS/INVESTIGATIONS

As to any records located in the investigative files of pending investigations, you may not assert Exemption 7(A) without conducting a document-by-document review to determine whether release of the records would interfere with ongoing law enforcement proceedings.

The United States District Court of the District of Columbia recently “remind[ed] the FBI of its obligation to conduct record-level reviews at the administrative level before refusing to produce records contained in its investigative files.” Tipograph v. Dep’t of Justice, 83 F. Supp. 2d 234 (D.D.C. Mar. 18, 2015)

In addition, the FOIA Improvement Act of 2016 added a provision instructing federal agencies to withhold records only when their release would work some foreseeable or is prohibited by law, not just because they may technically be exempt.

Even if the records might otherwise be exempt, an agency may withhold them only if their disclosure would actually harm the interest protected by the exemption, or if it is prohibited by some other law. 5 U.S.C 552(a)(8). The agency does need to identify what reasonably foreseeable harm would flow from release of the information being withheld, consider partial disclosure of the information, take reasonable steps to segregate and release nonexempt information.

RESPONSE TIME

FOIA requires that your agency respond to this request within 20 business days. This request is segregable, and your agency may not withhold entire records because of one section that you believe is exempt from disclosure. Under federal law, if you choose to withhold any such parts of the records

from disclosure, you must specify in a written response the factual and legal basis for withholding any part of the Records.

ESTIMATED DATE OF COMPLETION

I respectfully request that you provide me with a reasonably estimated date of completion. See 5 U.S.C. § 552(a)(7)(B)(ii). If the estimated date of completion is being significantly delayed because of a portion of the request needs to be processed by another agency, please inform me which agency that is and whether it has provided you with an estimated date of completion.

FORMAT OF REQUESTED RECORDS

I am further requesting that the Records be provided to me on computer files in the same format as they are currently maintained at the agency, pursuant to Burka v. Dept. of Health & Human Svcs., 87 F.3d 508 (D.C. Cir. 1996). As you know, providing documents electronically is cheaper than mailing hard copies.

FEE WAIVER

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii). FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press, 489 U.S. 749, 773–74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires "[d]ocuments shall be furnished without any charge or at a [reduced] charge . . . disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

EXPEDITED PROCESSING

There is extreme public interest in records concerning the prison stay and death of Jeffrey Epstein, who was accused of sexually abusing scores of women and underage girls. Not only has a person died in federal custody, but the death has generated multiple theories implicating government works at the highest levels and taxpayer money. Disclosure of the records request is in the public interest because disclosure is likely to contribute significantly to the understanding of the operations or activities of the government. In addition, as one of the largest circulation newspapers in the United States, The New York Times plays an important role in sharing information with the public and helping the public

understand how the federal government works. Disclosure of the records is not primarily in the commercial interest of myself or The New York Times but is intended to facilitate reporting on the operations of government.

Please contact me if I may assist in your office's response to this request.

Yours,

Danielle Ivory

--
Danielle Ivory
The New York Times
Office: 212-556-1596
Cell: 917-280-2607
Fax: 646-349-2536
Signal encrypted chat: 917-280-2607

Attachment 7

U.S. Department of Justice
Federal Bureau of Prisons

Central Office
320 First St., NW
Washington, DC 20534

January 9, 2020

Danielle Ivory
The New York Times
620 Eighth Avenuse
New York, NY 10018

Request Number: 2020-01336

Dear Ms. Ivory:

This is in response to the above referenced Freedom of Information Act (FOIA) request. On 01-02-2020, you submitted a FOIA request to the Federal Bureau of Prisons (BOP). A copy of your request is attached.

After reviewing your request, the BOP determined the request should be aggregated into one request, which is request number 2020-01336. This request was made on 12-12-2019, which is the date you submitted the earliest request being aggregated. This will ensure you are not disadvantaged by our action.

Department of Justice regulations provide for the aggregation of requests where "a component reasonably believes that a requester...is attempting to divide a single request into a series of requests for the purpose of avoiding fees...." The regulation continues, "Components may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees." 28 C.F.R. § 16.10(h) (2015). BOP's decision to aggregate is based on the time both requests were filed and the interrelation of the records sought in each request. We do not know if any fees will be associated with this request and will inform you of any estimated fees prior to us searching for or copying any responsive records.

Regarding your request for expedited treatment, you provided insufficient information to support your claim regarding an urgency to inform the public. This Office cannot identify a particular urgency to inform the public about an actual or alleged federal government activity beyond the public's right to know about government activities generally.

You provided insufficient information to support your claim you are primarily engaged in disseminating information that would warrant placing your request before all other requests.

Therefore, your request will be processed in the order in which it was received.

If you would like to discuss how to make your request less burdensome, please feel free to contact the undersigned, this office, or the Federal Bureau of Prisons' (BOP) FOIA Public Liaison, Mr. C. Darnell Stroble at 202-616-7750, 320 First Street NW, Suite 936, Washington DC 20534, or ogc_efoia@bop.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information, Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Sixth Floor, 441 G St., NW, Washington, DC 20001, or you may submit an appeal through OIP's FOIAonline portal by creating an account at: https://www.foiaonline.gov/foiaonline/action/public/home. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

S. Arellano

S. Arellano, for
Eugene E. Baime, Supervisory Attorney

New York Times v. BOP, 20 Civ. 833 (SDNY)
Index of Withholdings in Full

Entry	Page count2	Description	Status
1	2	Incident Report of Jeffrey Epstein's July 23, 2019 Apparent Suicide Attempt	Withheld in Full (WIF) under 5 - Deliberative Process Privilege, 7(A); other exemptions applicable in part
2	37	Psychological Reconstruction of Inmate Death	WIF under 5- Deliberative Process Privilege, 7(A), 7(E); other exemptions applicable in part
3	23	Overtime Logs for MCC, 07/22/19-07/23/19	WIF under 7(A); other exemptions applicable in part
4	23	Overtime Logs for MCC, 08/09/19-08/10/19	WIF under 7(A); other exemptions applicable in part
5	8	MCC Daily Assignment Roster for 07/22/19	WIF under 7(A), except for one page released in part; other exemptions applicable in part
6	7	MCC Daily Assignment Roster for 07/23/19	WIF under 7(A), except for one page released in part; other exemptions applicable in part
7	9	MCC Daily Assignment Roster for 08/09/19	WIF under 7(A), except for one page released in part; other exemptions applicable in part
8	10	MCC Daily Assignment Roster for 08/10/19	WIF under 7(A), except for one page released in part; other exemptions applicable in part
9	5	Inmate Investigative Report	WIF under 7(A), 7(E); other exemptions applicable in part
10	4	MCC New York Updates	WIF under 7(A), 7(E); other exemptions applicable in part

11	2	Draft Letters	WIF under 5 - Deliberative Process Privilege; other exemptions applicable in part
12	129	Responses to Psychological Reconstruction of Inmate Death	WIF under 5 - Deliberative Process Privilege, 7(A), 7(E); other exemptions applicable, in part
13	2	Letter to Warden dated August 14, 2019	WIF under 7(A), 7(E); other exemptions applicable, in part
14	16	Photo Sheet from 07/23/19 Apparent Suicide Attempt	WIF under 7(A); other exemptions applicable in part
15	7	Memo and Report from 07/23/19 Apparent Suicide Attempt (Form 583)	WIF under 7(A), 7(E); other exemptions applicable, in part
16	2	Photo Sheet from 07/23 Apparent Suicide Attempt	WIF under 7(A); other exemptions applicable in part
17	1	Chain of Custody Form from 07/23 Apparent Suicide Attempt	WIF under 7(A), 7(E); other exemptions applicable, in part
18	4	Reports of 07/23 Apparent Suicide Attempt	WIF under 7(A), 7(E); other exemptions applicable, in part
19	48	Psychological records of Epstein	WIF under 7(A); other exemptions applicable in part
20	18	Memo and Report from 08/10 Suicide (Form 583)	WIF under 7(A); other exemptions applicable in part
21	1	Memo from Unit Manager dated 08/10/19	WIF under 7(A); other exemptions applicable in part
22	28	Count Documents (e.g., Watch Calls, Body Alarm Records, SHU Lists)	WIF under 7(A); other exemptions applicable in part
23	145	Count Documents (30 Minute Check Sheets)	WIF under 7(A); other exemptions applicable in part
24	181	Count Documents (e.g., Count Slips, Rosters, Out-Count Forms)	WIF under 7(A); other exemptions applicable in part
25	20	Investigative Documents from Suicide (e.g., Chain of Custody Forms)	WIF under 7(A); other exemptions applicable in part

26	1	Attorney Room Visitor Log dated 07/21/2019	WIF under 7(A); other exemptions applicable in part
27	3	Investigative Documents from Suicide	WIF under 7(A); other exemptions applicable in part
28	4	08/10/2020 TRUINTEL Reports (including email)	WIF under 7(A); other exemptions applicable in part
29	1	Memo to Warden dated 08/13/2019	WIF under 7(A); other exemptions applicable in part
30	24	Count Documents	WIF under 7(A); other exemptions applicable in part
31	5	Investigative Documents from Suicide	WIF under 7(A); other exemptions applicable in part
32	8	TRUINTEL Reports (8/9/19-8/10/19)	WIF under 7(A); other exemptions applicable in part
33	5	Count Documents (e.g., 30 Minute Check Sheets)	WIF under 7(A); other exemptions applicable in part
34	4	SHU Records	WIF under 7(A); other exemptions applicable in part
35	46	Photo Sheets from 08/10/19 Suicide	WIF under 7(A); other exemptions applicable in part
36	14	Photo Sheets from 07/23/19 Apparent Suicide Attempt	WIF under 7(A), 7(E); other exemptions applicable, in part
37	3	Count Documents (Inmate Assignment Charts -August 2019)	WIF under 7(A); other exemptions applicable in part
38	27	SHU Weekly Review (08/08/2019)	WIF under 7(A); other exemptions applicable in part
39	1	Cop Out Note	WIF under 7(A); other exemptions applicable in part
40	2	SHU Computer Screenshots	WIF under 7(A); other exemptions applicable in part
41	4	Psychological Reconstruction Responses	WIF under 7(A); other exemptions applicable in part
42	1	SHU Computer Screenshots	WIF under 7(A); other exemptions applicable in part

43	4	24-hour death report and death notification (including email)	WIF under 7(A); other exemptions applicable in part
44	13	Office of Chief Medical Examiner Documents	WIF under 7(A); other exemptions applicable in part
45	40	Psych Observation Logs	WIF under 7(A); other exemptions applicable in part
46	16	Suicide Watch Logs (including one SENTRY page)	WIF under 7(A); other exemptions applicable in part
47	1	SHU Computer Screenshots	WIF under 7(A); other exemptions applicable in part
48	1	Memo dated 08/12/2019	WIF under 7(A); other exemptions applicable in part
49	7	Lieutenant's Log (08/09-08/10)	WIF under 7(A); other exemptions applicable in part
50	1	Scan of sign	WIF under 7(A); other exemptions applicable in part
51	2	Memo dated 08/10/2019	WIF under 7(A); other exemptions applicable in part
52	Approximately 986	Emails pertaining to Epstein's July 23, 2019 apparent suicide attempt, Epstein's mental health, and Epstein's incarceration prior to his suicide.	WIF under 7(A); other exemptions applicable in part
53	Approximately 1,162	Emails relating to Epstein's death, investigations into Epstein's death, the circumstances of his suicide, and the Bureau of Prisons's response to Epstein's death	WIF under 7(A); other exemptions applicable in part
54	56	Emails between BOP Employees and Assistant United States Attorneys in the United State's Attorneys Office for the Southern District of New York	WIF under 5 - Attorney-Client Privilege; other exemptions applicable in part