



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 10, 2020

BY EMAIL

Jason E. Foy
Foy & Sepowitz LLC

Montell Figgins, Esq.
Law Offices of Montell Figgins

Re: *United States v. Tova Noel and Michael Thomas*, No. 19 Cr. 830

Dear Counsel:

We write in response to your discovery request letters, dated January 29, 2020. This letter is designated as Protected Material pursuant to the Protective Order entered in this matter.

Thomas Request. The Government refers to its prior response to this request, as stated at the November 25, 2019 pretrial conference.

Noel Request No. 1-10, 12-13. With respect to your other requests, we note, at the outset, that many of these requests are extremely broad and pertain to information that does not appear to be relevant to the case. To the extent material called for by these requests is within the Government's possession and subject to disclosure at this time, the Government has already disclosed such information to you, including by letter dated January 24, 2020. To the extent these requests call for information that is not currently in the Government's possession or which is not subject to disclosure, you identify no legal basis or authority for these requests, and we are not aware of any authority requiring us to obtain and/or disclose this information.

Noel Request No. 11. The name of the MCC technician referenced in the Government's previous letter is **XX**.

Noel Request No. 16. The Government has already produced the available video surveillance in its possession for July 23, 2019 for the Special Housing Unit. The Government attaches hereto two public filings in *United States v. Tartaglione*, 16 Cr. 832 (KMK), which reference these issues.

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Noel Requests No. 14-5, 17-23. These requests, in general terms, call for information about where particular evidence may be located within the discovery produced to date. As you note, you seek this information to “assist in expediting the ability of the defense to be ready for trial.” Accordingly, with respect to Noel Requests No. 14-15, 17-23, at your request and solely as a courtesy to aid you in your review of discovery, the Government is providing the information that follows. The Government’s response to your requests should not be used for any other purpose, nor should it be construed as a representation that only these files or portions of the surveillance video are potentially relevant to the Government’s case or any potential defense, or as a representation that the identified portions are the only portions of surveillance video that would be responsive to your requests. The Government expressly reserves the right to identify and/or offer at trial additional material as probative of any of the issues identified in these requests.

Noel Request No. 14. With respect to August 9, 2019, we direct your attention to the following video files: CH0080_20190809195956; CH0080_20190809205956, CH0080_20190809215956; CH0080_20190809225956. With respect to August 10, 2019, the following video files contain this activity: CH0080_20190809235959; CH0080_20190810005959; CH0080_20190810025959; CH0080_20190810035959; CH0080_20190810045959; and CH0080_20190810055959.

Noel Request No. 15. While the Government has not conducted a review of every time Jeffrey Epstein was captured on MCC surveillance during the more than 30 days he was housed there prior to his death and does not purport to provide such an exhaustive response, as a courtesy and to aid in your review of the discovery, we direct your attention to the following: on August 9, 2019 Epstein was captured leaving his cell to make a phone call at approximately 18:53:54 – 18:54:46 (CH0080_20190809175956). Epstein was escorted back to his cell at approximately 19:49:25 – 19:49:39 (CH0080_20190809185956).

Noel Request No. 17. We direct your attention to files CH0080_20190809145956 and CH0080_20190809155956, during approximately 15:45:00 – 16:15:00 on August 9, 2019.

Noel Request No. 18. We direct your attention to files CH0080_20190809205956 and CH0080_20190809215956, during approximately 19:45:00 – 20:15:00 on August 9, 2019.

Noel Request No. 19. We direct your attention to file CH0080_20190809215956, during approximately 22:29:00 – 22:34:00.

Noel Request No. 20. We direct your attention to files CH0080_20190809225956 CH0080_20190809235959, during approximately 23:45:00 (August 9) – 00:15:00 (August 10).

Noel Request No. 21. The Government does not presently believe this interaction was captured by surveillance video.

Noel Request No. 22. The Government refers you to the forensic examination of the computers used by defendants Noel and Thomas during August 9 to 10, 2019, which were previously produced in discovery (SDNY_00000021 – SDNY_00000075). The Government also refers you to the following files during the following times, which show the defendants at the desk

during the periods of time in which they were using computers, as shown by the forensic examination referenced above: files CH0080_20190809225956, CH0080_20190809235959, CH0080_20190810005959, CH0080_20190810025959, CH0080_20190810035959, CH0080_20190810045959, and CH0080_20190810055959, during approximately (8/9) 23:39:00 – (8/10) 00:15:00, (8/10) 03:54:00 – 03:57:00, (8/10) 04:29:00 – 05:04:00, and (8/10) 05:10:00 – 06:20:00 as to defendant Noel, and approximately (8/10) 00:35:00 – 01:15:00 and (8/10) 06:00:00 – 06:20:00 as to defendant Thomas.

Noel Request No. 23. The Government refers you to files CH0080_20190810005959, CH0080_20190810015959, and CH0080_20190810025959 during approximately 00:01:00 – 03:15:00 on August 10, 2019.

We are available at your convenience to discuss any further.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: _____ /s/

Assistant United States Attorneys