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Southern District of New York

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Correctional Officers Charged With Falsifying Records On August 9th And 10th At The Metropolitan Correctional Center

Defendants Allegedly Created Records Falsely Attesting to Required Checks of Inmates the Defendants Never Did in the Special Housing Unit on the Night Inmate Jeffrey Epstein Committed Suicide

Geoffrey S. Berman, the United States Attorney for the Southern District of New York, Guido Modano, Special Agent in Charge of the Department of Justice Office of the Inspector General, New York Field Office ("DOJ OIG"), and William F. Sweeney Jr., Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), announced today the unsealing of an indictment charging federal correctional officers TOVA NOEL and MICHAEL THOMAS with making false records and conspiring to make false records and to defraud the United States by impairing the lawful functions of the Metropolitan Correctional Center ("MCC"), a Manhattan detention facility that houses federal inmates. NOEL and THOMAS surrendered this morning. The case is assigned to Southern District of New York U.S. District Judge Analisa Torres.

U.S. Attorney Geoffrey S. Berman said: "As alleged, the defendants had a duty to ensure the safety and security of federal inmates in their care at the Metropolitan Correctional Center. Instead, they repeatedly failed to conduct mandated checks on inmates, and lied on official forms to hide their dereliction."

DOJ OIG Special Agent in Charge Guido Modano said: "Correctional Officers swear an oath to carry out their duties. Completing rounds to verify inmate counts and certifying the accuracy of logs are important tasks to ensure the safety and security of institutions and the wellbeing of inmates. Those who shirk their duties but falsely state they have completed them place the institution, fellow employees, inmates, and the public at risk."

FBI Assistant Director William F. Sweeney Jr. said: "Security protocols are in place to protect the public, fellow officers and inmates being held in the MCC. We allege these officers falsified records to create the appearance they were following those protocols. The security risks created by this type of behavior are immense. The message here is simple - citizens place their trust in those who have taken an oath to serve and protect the public, and when that trust is deliberately violated by public servants, who instead choose to break those regulations, then they will be held accountable."

According to the Indictment^[1] filed today in Manhattan federal court:

On August 10, 2019, NOEL and THOMAS repeatedly failed to complete mandated counts of prisoners under their watch in the MCC's Special Housing Unit ("SHU"). Instead, for substantial portions of their shifts, NOEL and THOMAS sat at their desk, browsed the internet, and moved around the common area of the SHU. To conceal their failure to perform their duties, NOEL and THOMAS repeatedly signed false certifications attesting to having conducted multiple counts of inmates that they did not do. As a result of those false statements, the MCC believed prisoners in the SHU were being regularly monitored when, in fact, as a result of the defendants' conduct, no correctional officer conducted any count or round of the SHU from approximately 10:30 p.m. on

August 9 until approximately 6:30 a.m. on August 10, at which time, NOEL and THOMAS discovered the body of MCC inmate Jeffrey Epstein, who had committed suicide overnight while unobserved.

Background on Relevant Individuals & Entities

The MCC is a federal administrative detention facility located in Manhattan that is run by the Federal Bureau of Prisons. The MCC employs correctional officers, whose primary duty is to ensure the care, custody, and control of the inmate population of the MCC. NOEL has been employed as a correctional officer at the MCC since approximately 2016, and THOMAS has been employed as a correctional officer at the MCC since approximately 2007. Both NOEL and THOMAS were regularly assigned to work shifts in the SHU at the MCC.

Correctional officers assigned to guard inmates in the SHU – and throughout the MCC – are required to conduct institution-wide counts of inmates at regular, scheduled intervals to ensure that each inmate is alive and accounted for within the MCC. Two officers are required to complete the institutional count for each housing unit, including the SHU, and are further required to document their performance of the count on an official MCC form called a count slip. In addition to the institutional count, MCC correctional officers assigned to the SHU are required to complete rounds every thirty minutes to ensure that each inmate is alive and accounted for within his cell. Correctional officers working in the SHU are required to complete a form documenting the date and time of each 30-minute round in each area of the SHU.

On July 6, 2019, Epstein was arrested and detained at the MCC on sex trafficking charges, and was subsequently assigned to the SHU due to risk factors for suicidality and safety concerns. After an apparent suicide attempt on July 23, 2019, Epstein was transferred to suicide watch and then psychological observation. Upon being moved back to the SHU on July 30, 2019, the MCC took steps to guard against future suicide attempts by Epstein, including by assigning Epstein to the cell closest to the correctional officers' desk. Conducting the required institutional counts and thirty-minute rounds in the SHU were also part of the MCC's procedures for ensuring the safety of inmates, including Epstein.

The Events of August 9-10, 2019

On August 9, 2019, NOEL was assigned to work in the SHU from 4:00 p.m. on August 9, 2019, to 8:00 a.m. on August 10, 2019. THOMAS was assigned to work with NOEL in the SHU from 12:00 a.m. until 8:00 a.m. on August 10, 2019. From 4:00 p.m. on August 9 to 8:00 a.m. on August 10, the officers on duty in the SHU, including NOEL and THOMAS, were responsible for conducting five institutional counts at 4:00 p.m. and 10:00 p.m. on August 9, and at 12:00 a.m., 3:00 a.m., and 5:00 a.m. on August 10. NOEL and THOMAS were also responsible for completing forms attesting to the completion of each of those counts. In fact, NOEL, and then NOEL and THOMAS, repeatedly failed to complete mandated counts in the SHU. Instead for substantial portions of their 12:00-8:00 a.m. shifts, NOEL and THOMAS sat at their desk, browsed the internet, and moved around the common area of the SHU. During that time period, NOEL and THOMAS were the only correctional officers assigned to the SHU. Aside from two other officers who briefly visited the common area of the SHU, as confirmed by video surveillance, no one else entered the SHU, no one conducted any counts or rounds throughout the night, and no one entered the area in which Epstein was housed.

To conceal their failure to complete their duties, NOEL signed false certifications attesting to having conducted counts of inmates at 4:00 p.m. and 10:00 p.m., and NOEL and THOMAS signed false certifications attesting to having conducted counts of inmates at 12:00 a.m., 3:00 a.m., and 5:00 a.m. when, in truth and in fact, they never conducted such counts. As a result of those false reports, the MCC believed prisoners in the SHU were being regularly monitored and accounted for when, in fact, no correctional officer conducted any count or round of the SHU from approximately 10:30 p.m. on August 9 until approximately 6:30 a.m. on August 10, at which time, NOEL and THOMAS discovered

the body of Epstein, who had committed suicide by hanging himself earlier that morning while unobserved.

* * *

NOEL, 31, and THOMAS, 41, are each charged with one count of conspiring to defraud the United States by impairing, obstructing, and defeating the lawful functions of the MCC, and to make false records, which carries a maximum sentence of five years in prison. NOEL is also charged with five counts of making false records, and THOMAS is also charged with three counts of making false records, each of which carries a maximum sentence of five years in prison.

The statutory maximum and mandatory penalties are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendants would be determined by the judge.

Mr. Berman praised the outstanding investigative work of the Office of the Inspector General, the FBI, and the New York City Police Department.

This case is being handled by the Office's Public Corruption Unit. Assistant U.S. Attorneys Rebekah Donaleski and Nicolas Roos are in charge of the prosecution.

The charges contained in the Indictment are merely accusations. The defendants are presumed innocent unless and until proven guilty.

[1] As the introductory phrase signifies, the entirety of the text of the Indictment, and the description of the Indictment set forth herein, constitute only allegations, and every fact described therein should be treated as an allegation.