



U.S. Department of Justice

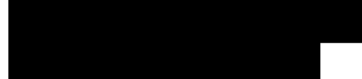
Office of Professional Responsibility

*950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530
(202) 514-3365*

July 29, 2026

By Email

CREW



foia@citizensforethics.org

Re: OPR FOIA No. F24-00095 4th Interim Response

Dear CREW:

This letter is in response to your April 24, 2024, Freedom of Information Act (FOIA) request to the Office of Professional Responsibility (OPR) seeking the following records from January 1, 1994 to the date this request is processed:

1. All records relating to former Assistant United States Attorney Terra Morehead (AUSA Morehead) at the Office of the United States Attorney for the District of Kansas (USAO Kansas), that pertain to proven or alleged violations by AUSA Morehead of any provisions of law or constitution, any provisions of the United States Attorney's Manual adopted by the Department of Justice, any ethical duties imposed upon AUSA Morehead in her capacity as a government prosecutor as set forth in the Kansas Rules Relating to Discipline of Attorneys, or any other professional misconduct.
2. All records relating to AUSA Morehead's conduct as a prosecutor for the State of Kansas or any political subdivisions thereof, that pertain to proven or alleged violations by Morehead of any provisions of law or constitution, any ethical duties imposed upon Morehead in her capacity as a government prosecutor as set forth in the Kansas Rules Relating to Discipline of Attorneys, or any other professional misconduct.
3. All records relating to any DOJ investigations, actions (including but not limited to case reassignments and disciplinary measures), or decisions not to take action, in regard to AUSA Morehead's conduct as an AUSA or prosecutor for the State of Kansas, including those relating to proven or alleged violations by AUSA Morehead of any provisions of law or constitution, any provisions of the United States Attorneys' Manual adopted by the Department of Justice, any ethical duties imposed upon AUSA Morehead in her capacity as a government prosecutor as set forth in the Kansas rules Relating to Discipline of Attorneys, or any other professional misconduct.

OPR received your request on April 25, 2024, and has assigned to it request number **F24-00095**. Please refer to that number in any correspondence pertaining to this matter.

For this fourth interim response, OPR processed a total of 509 pages responsive to your request. Enclosed please find 124 pages of responsive records. Of the 124 pages, seven pages (Bates-numbered F24-00095 01540 to 01546) are appropriate for release without excisions, and 117 pages (Bates-numbered F24-00095 01547 to 01663) are appropriate for release with excisions made pursuant to Exemptions 5, 6, and 7(C) of the FOIA, 5 U.S.C. § 552(b)(5), (b)(6), and (b)(7)(C). Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Exemption 7(C) pertains to information compiled for law enforcement purposes which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

OPR determined that 62 pages (Bates-numbered F24-00095 01664 to 01725) contained information of interest to the Executive Office for U.S. Attorneys (EOUSA); one page (Bates-numbered F24-00095 01726) contained information of interest to EOUSA and the Office of Information Policy (OIP) (for the Office of the Deputy Attorney General (ODAG)); eight pages (Bates-numbered F24-00095 01727 to 01734) contained information of interest to OIP (for ODAG); and 13 pages (Bates-numbered F24-00095 01735 to 01747) contained information of interest to the U.S. Marshals Service (USMS). We will send these pages for consult to EOUSA, OIP, and USMS pursuant to 28. C.F.R. § 16.4(d).

Because 289 pages originated with EOUSA (Bates-numbered F24-00095 01748 to 02036), OPR will refer these pages to EOUSA for processing and direct response to you.

Because 12 pages originated with USMS (Bates-numbered F24-00095 02037 to 02048), OPR will refer these pages to USMS for processing and direct response to you.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal with the Office of Information Policy.

Sincerely,



Margaret McCarty
Senior Associate Counsel

Attachment: F24-00095 Processed Page Count Chart

cc: AUSA Sam Escher
U.S. Attorney's Office for the District of Columbia

Nikhel Sus
[REDACTED]

Lauren Bingham
[REDACTED]

Attachment to OPR's July 2026 Interim Response (F24-00095 Processed Page Count Chart)			
Monthly Interim Responses	Bates Nos.	Release in Full to CREW=RIF Release in Part to CREW=RIP Consult=C Referral=R Withheld in Full=WIF	No. of Pages Processed
April 2026	1-502	RIF=6 RIP=11 C=485 (EOUSA, DEA, ATF, USMS)	502
May 2026	503-1003	RIF=2 RIP=22 C=450 (EOUSA, DEA, ATF, USMS) R=27 (OIG, EOUSA, CRM)	501
June 2026	1004-1539	RIF=4 RIP=127 C=87 (EOUSA, OIG, OIP, USMS, ATF, DEA) R=311 (EOUSA, OIG, CRM, USMS, DEA) WIF=7	536
July 2026	1540-2048	RIF=7 RIP=117 C=84 (EOUSA, OIP, USMS) R=301 (EOUSA, USMS)	509
		Total Processed	2048

From: [Drouet, Suzanne \(OPR\)](#)
To: [Ragsdale, Jeffrey \(OPR\)](#)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Morehead transmittals
Date: Tuesday, June 20, 2023 4:54:47 PM
Attachments: [OPR-#491968-v1-Final_Report_Transmittal_Memo.DOTX](#)
[OPR-#491969-v2-Final_Report_Transmittal_to_Morehead_s_Counsel.DOCX](#)

The attached are ready for your review and signature. They are dated to go out tomorrow.

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: Morehead
Date: Thursday, March 2, 2023 10:17:13 AM
Attachments: [morehead.compare.docx.TXT](#)

Jeff has reviewed the report and is fine with the conclusions. He had a few edits, which I've added, along with a few additional edits of mine (including a couple of cases that I had previously found and forgot to insert). I've made a comparison version so you can see the changes. Please review carefully and make sure everything remains accurate and if you don't think the cases add much, we can delete.

If you are okay with the edits, you don't have to do anything. If you need to make a change, you will need to go into the DM version, #13.

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: Napue issue
Date: Wednesday, January 11, 2023 8:18:00 AM

Here is the language from John's report.

Further, at least two circuits have held that there is no *Napue* violation if the allegedly inaccurate or perjurious testimony was brought out by the defense in cross-examination, as Mr. Kim's was here. *United States v. O'Keefe*, 128 F.3d 885, 894 (5th Cir. 1997), *cert. denied*, 523 U.S. 1078 (1998) ("When the defense elicits the alleged perjury on cross-examination, no material falsehood has occurred because the government has not itself knowingly presented false testimony."); *United States v. Aichele*, 941 F.2d 761, 766 (9th Cir. 1991) ("The alleged perjury Aichele claims – involving contact between [a government witness] and Aichele between 1966 and 1989, including an inculpatory confession – was prompted by Aichele's cross-examination; even assuming the testimony was perjured, the government did not elicit it.").

Of course, a potential *Napue* violation (which concerns whether a conviction should be vacated) is a different kettle of fish from determining whether a prosecutor committed misconduct. An uncorrected false statement by a government witness on cross-examination could still demonstrate a lack of candor (either under the rules or the general duty of candor) or potentially even prejudice to the administration of justice even if it did not meet the *Napue* standard.

From: [Cummings, John M. \(OPR\)](#)
To: [Lyles, Shamelle \(OPR\)](#)
Cc: [Ragsdale, Jeffrey \(OPR\)](#); [Drouet, Suzanne \(OPR\)](#)
Subject: Morehead Written Response.PDF
Date: Monday, November 15, 2021 5:02:14 PM
Attachments: [Morehead Written Response.PDF](#)

Shamelle,

We have received AUSA Morehead's response to our request for written response in case number 20210630. We are still working on getting all of the accompanying exhibits, but hope to resolve that issue by tomorrow.

Thanks, John

From: [Drouet, Suzanne \(OPR\)](#)
To: [Ragsdale, Jeffrey \(OPR\)](#)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Morehead bar referral
Date: Wednesday, September 27, 2023 5:14:17 PM
Attachments: [OPR-#497921-v2-Letter to Kansas Bar.DOCX](#)

For your review and signature.

From: [Drouet, Suzanne \(OPR\)](#)
To: [Ragsdale, Jeffrey \(OPR\)](#)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Morehead draft ROI
Date: Monday, February 27, 2023 2:15:45 PM
Attachments: [OPR-#481970-v12-Draft_Report.DOCX.TXT](#)

The attached is ready for your review. We make multiple findings of knowing and/or intentional misconduct relating to discovery and candor.

From: [Drouet, Suzanne \(OPR\)](#)
To: [Ragsdale, Jeffrey \(OPR\)](#)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: morehead final report
Date: Wednesday, June 14, 2023 11:41:28 AM
Attachments: [OPR-#491967-v9-Final_Report.DOCX](#)
[morehead.comparison.docx](#)
[OPR-#492636-v1-Morehead_OPR_Response_to_Draft_Report.PDF](#)

Attached is a clean and comparison version showing changes from the draft. Also attached is Morehead's response to the draft report for your convenience.

From: [Cummings, John M. \(OPR\)](#)
To: (b) (6); [Gonzalez, Gregory \(OPR\)](#)
Cc: (b) (6)
Subject: RE: Transcript and Errata Form Request (Morehead IV)
Date: Thursday, June 23, 2022 12:30:00 PM

(b) (6)

It usually takes about 10 business days, although it has been taking longer during Covid. I will let you know as soon as we receive it. In the meantime, I will get you an NDA so that box is checked before the transcript arrives.

Stay safe,

John

From: (b) (6)
Sent: Thursday, June 23, 2022 11:59 AM
To: Cummings, John M. (OPR); (b) (6); Gonzalez, Gregory (OPR)
Cc: (b) (6)
Subject: [EXTERNAL] Transcript and Errata Form Request (Morehead IV)

Mr. Cummings,

Good morning.

I wanted to touch base regarding the transcript and errata form for the interview Ms. Morehead participated in two weeks ago. When do you anticipate we will receive them?

Best,

(b) (6)

(b) (6)
Attorney
Brownell Landrigan, PC
1818 N Street NW, Suite 520
Washington, DC 20036
202-822-1701
202-822-1914 (fax)
www.brolanlaw.com

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attachments, and notify the sender or Brownell Landrigan at 202-822-1701.

From: [Gonzalez, Gregory \(OPR\)](#)
To: (b) (6)
Cc: (b) (6)
Subject: RE: U.S. Department of Justice - Office of Professional Responsibility Confidential Correspondence
Date: Tuesday, April 25, 2023 7:42:00 AM
Attachments: [image001.png](#)
[image002.png](#)

(b) (6)

My management has authorized a final extension until May 12. We will not be able to authorize any further extensions.

On the report redactions, those sections of the report contain material taken from sealed filings in the (b) (6), (b) (7)(C) case.

So, we are unable to give you an NDA or other approval allowing you access to that material.

Thank you,

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

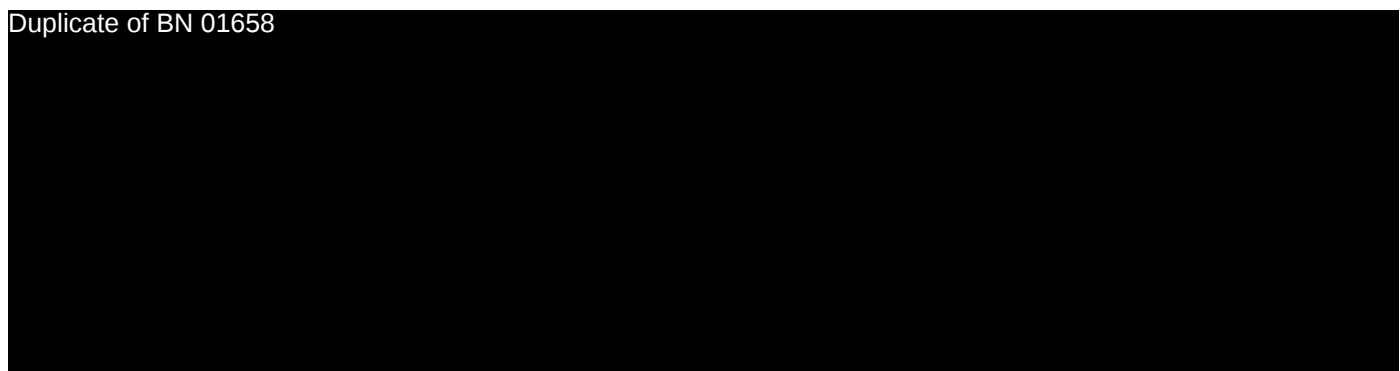
(b) (6)

202-514-5050 fax



From: (b) (6)
Sent: Monday, April 24, 2023 4:45 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Cc: (b) (6)
Subject: [EXTERNAL] Re: U.S. Department of Justice - Office of Professional Responsibility Confidential Correspondence

Duplicate of BN 01658



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Cc: [Ragsdale, Jeffrey \(OPR\)](#)
Subject: RE: U.S. Department of Justice - Office of Professional Responsibility Confidential Correspondence
Date: Friday, March 10, 2023 7:40:44 AM
Attachments: [image002.png](#)
[image003.png](#)

Yes, to the extension.

No, to the interviews (standard policy)

Yes, to the exhibits, unless there is something sensitive or unusual in any of them. Presumably these are all ones that we cited in the report. What is the ^{(b) (6), (b) (7)} to (b) (6) email about?

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, March 9, 2023 6:42 PM
To: Ragsdale, Jeffrey (OPR) (b) (6); Drouet, Suzanne (OPR)
(b) (6)
Subject: FW: U.S. Department of Justice - Office of Professional Responsibility Confidential Correspondence

Jeff and Suzanne,

We received this request from Morehead's lawyers for additional time for their response as well as a request to view transcripts from our witness interviews and various documents that we cited in the report.

How should we handle this? I can put the docs together without much difficulty.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

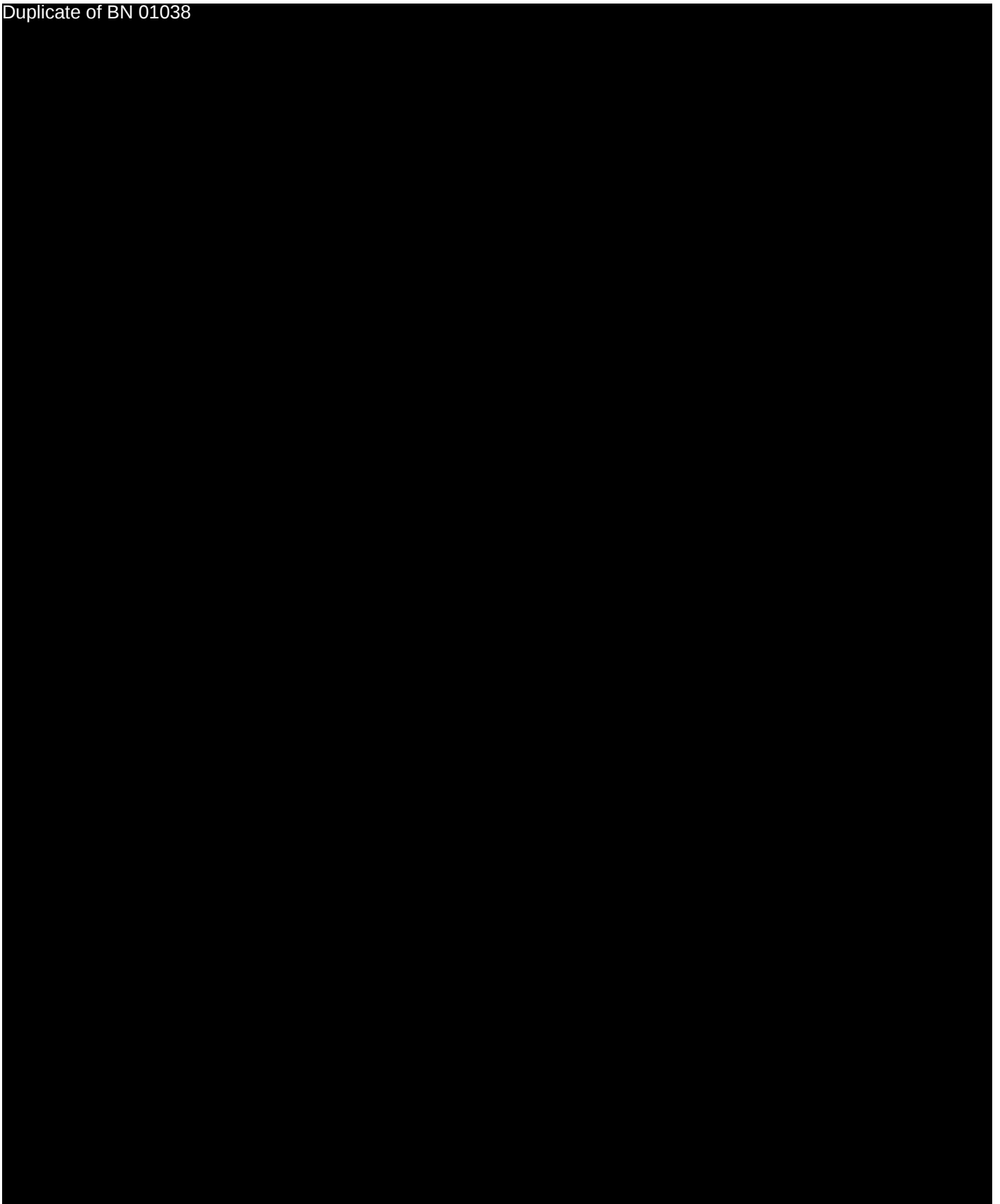


From: (b) (6)
Sent: Thursday, March 9, 2023 4:41 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Cc: Cochran, Carlita (OPR) (b) (6)

(b) (6)

Subject: [EXTERNAL] Re: U.S. Department of Justice - Office of Professional Responsibility
Confidential Correspondence

Duplicate of BN 01038



From: [Gonzalez, Gregory \(OPR\)](#)
To: (b) (6)
Subject: RE: OPR Report Question--Terra Morehead
Date: Tuesday, December 5, 2023 7:50:00 AM
Attachments: [image002.png](#)
[image003.png](#)

Thanks for the email. The report is the Department's final conclusion. You are correct that the PMRU review and approval of OPR's findings did involve Morehead's response. But, that process occurred prior to us informing you of the report conclusions. Here is the part of our website that explains the process.

5. Are OPR's professional misconduct findings subject to review?

In certain circumstances, yes. The Professional Misconduct Review Unit (PMRU) has the authority to review findings of professional misconduct made by OPR in matters involving most Department attorneys. PMRU generally does not review poor judgment findings.

When OPR determines that an attorney subject to PMRU's jurisdiction has committed professional misconduct, OPR provides its report of investigation directly to PMRU for review without making a disciplinary recommendation. If PMRU determines that OPR's misconduct findings are not supported by the evidence, it refers the matter to the United States Attorney or component head for action consistent with PMRU's determination. PMRU's determination is the Department's final decision on the matter.

If PMRU determines that OPR's misconduct findings are supported by the evidence, PMRU makes a disciplinary recommendation based on input from the subject attorney and the subject attorney's component. PMRU may issue a reprimand, suspension, or removal. **In cases involving violations of rules of professional conduct, PMRU may request that OPR refer the matter to bar authorities for disciplinary proceedings.**

Let me know if you need anything else.
Thanks!

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Alice Walker (b) (6)
Sent: Monday, December 4, 2023 6:14 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: [EXTERNAL] OPR Report Question--Terra Morehead

Greg,

I wanted to clarify with you about the report that we received. Would it be considered a final finding/conclusion of misconduct?

In our system, a report is done and then it goes to a hearing for a recommendation by a panel and then up to the Kansas Supreme Court. However, my recollection of our discussion is that if your report is approved, after she has a chance to make comments, it is the final finding of misconduct.

Can you clarify for me? I am trying to determine its admissibility in my proceedings.

Thank you,
Alice L. Walker, Deputy Disciplinary Administrator
Office of the Disciplinary Administrator
701 Southwest Jackson Street – First Floor
Topeka, Kansas 66603-3729

Main: (b) (6)
Fax: 785-783-8385
(b) (6)

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State of Kansas

From: [Gonzalez, Gregory \(OPR\)](#)
To: [Alice Walker](#)
Subject: OPR Response to DOC REQ #2
Date: Friday, January 19, 2024 10:59:00 AM
Attachments: [OPR-#494148-v1-Morehead_Final_Report_Exhibits.PDF](#)
[image001.png](#)
[image002.png](#)

Greg Gonzalez
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(b) (6)

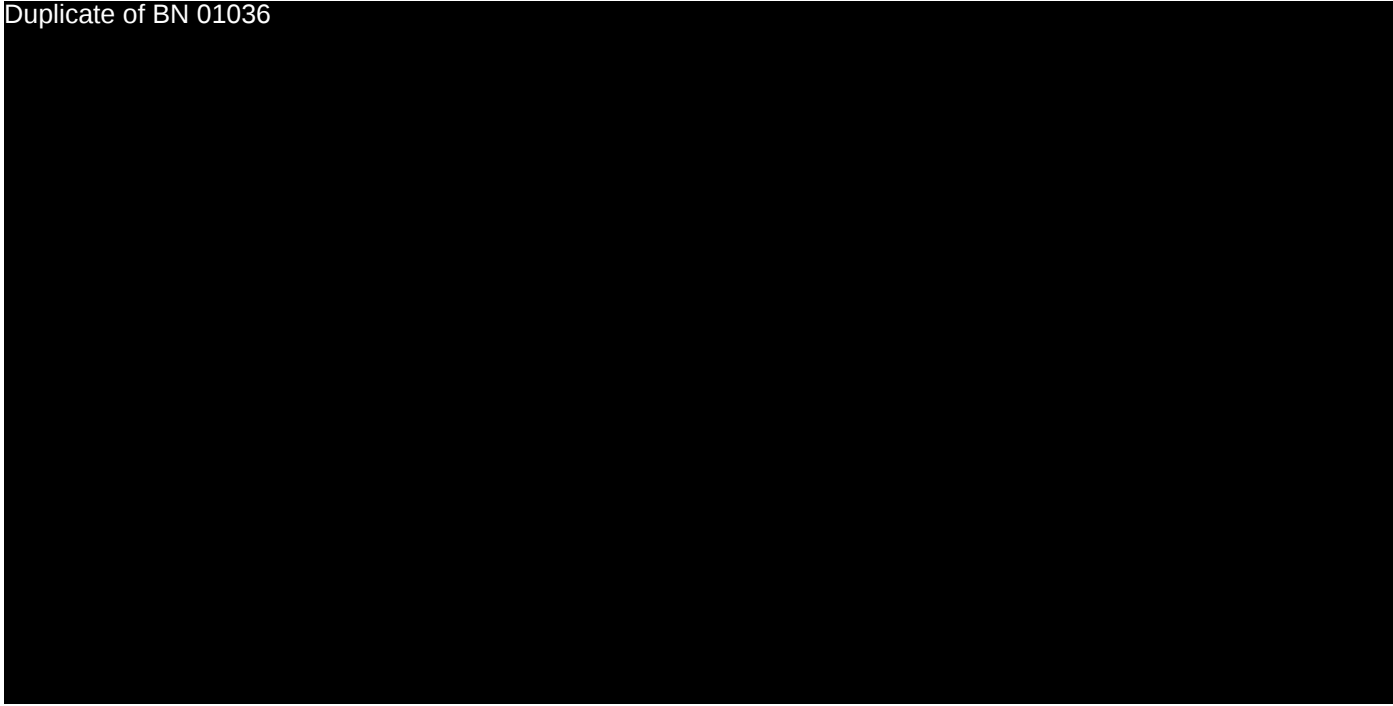
202-514-5050 fax

seal



From: Alice Walker (b) (6)
Sent: Thursday, January 18, 2024 5:54 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: [EXTERNAL] RE: OPR Bar Referral - RE: Terra Morehead

Duplicate of BN 01036



From: [Cummings, John M. \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: Re: (b) (6), (b) (7)(C) convictions?
Date: Tuesday, June 7, 2022 8:37:50 AM
Attachments: [image001.png](#)
[image001.png](#)
[image001.png](#)

No worries, all fair questions.

Sent from my iPhone

On Jun 7, 2022, at 7:55 AM, Gonzalez, Gregory (OPR)

(b) (6) wrote:

Thanks for getting back to me on all my questions. Sorry for all the emails, I am just trying to get my hands around everything before the interview.

I will review the list first thing today.

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Cummings, John M. (OPR) (b) (6)

Sent: Monday, June 6, 2022 10:26 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: (b) (6), (b) (7)(C) - convictions?

(b) (5), (b) (6), (b) (7)(C)

Let me know if you want to talk through tomorrow.

Can you let me know about the list I sent you, I want to get that notice out to defense counsel.

Thanks, JC

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Monday, June 6, 2022 1:41 PM

To: Cummings, John M. (OPR) <(b) (6)>

Subject: (b) (6), (b) (7)(C) - convictions?

(b) (5), (b) (6), (b) (7)(C)

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Kansas Bar
Date: Wednesday, June 14, 2023 11:10:44 AM
Attachments: [image001.png](#)

Hmm, interesting.

From: Gonzalez, Gregory (OPR) (b) (6) >
Sent: Wednesday, June 14, 2023 10:35 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: Kansas Bar

I circled back with the bar. They are still waiting on doing their hearing until they hear from us. The bar attorney told me that because the court made a misconduct finding against Morehead on the record that Morehead would have to rebut that at a hearing...

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Wednesday, June 14, 2023 8:58 AM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: Kansas Bar

Yes. There will be a further delay so I think it is fair to let them know why. You can reemphasize that our findings are not final until they go through the PMRU process (b) (5)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 14, 2023 8:48 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: Kansas Bar

Just to make sure we are on the same page here.

(b) (5)

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) <(b) (6)>

Sent: Wednesday, June 14, 2023 8:38 AM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: Kansas Bar

I think we expect to issue next week. However, you should alert her that there is the PMRU process and we can officially ship anything off to her until we get authorization to do so.

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Wednesday, June 14, 2023 8:13 AM

To: Drouet, Suzanne (OPR) (b) (6) >

Subject: Kansas Bar

Alice Walker from the Kansas Bar asking about our progress on Morehead.
I plan to call her back and say that we are still working on it.
Is that OK?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: [Gonzalez, Gregory \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#)
Subject: RE: Morehead letters
Date: Thursday, March 2, 2023 10:38:00 AM
Attachments: [OPR-479314.PDF.DRF](#)
[image001.png](#)

The attorneys and Morehead signed the same agreement (attached).

We didn't talk about the sealed docs during the interview, and the attorney was present the entire time.

Keep in mind that the court's findings against Morehead (resulting from the sealed docs) are publicly available on the docket.

So, the issue is not the topic, but literally the language and attachments contained in the filings.

I reviewed the transcript again and did not see any issues. I also did not see anything in Morehead's written response.

Also, even if there was something in there, the attorneys probably have it already.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6) >
Sent: Thursday, March 2, 2023 10:31 AM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: Morehead letters

In the letter to Morehead's counsel, we refer to a "June 23, 2022 confidentiality agreement that you and your co-counsel (b) (6) signed. What about Morehead? Did she sign the same on or a different one?

Also, regarding the redactions—did we talk about the stuff we are redacting from the report in the

interview and if so, was the attorney present?

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Cc: [Ragsdale, Jeffrey \(OPR\)](#)
Subject: RE: Morehead question
Date: Wednesday, April 19, 2023 5:30:34 PM
Attachments: [image001.png](#)

(b) (5)

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Wednesday, April 19, 2023 5:24 PM

To: Drouet, Suzanne (OPR) (b) (6)

Cc: Ragsdale, Jeffrey (OPR) (b) (6)

Subject: RE: Morehead question

Will do!

What about the confidentiality agreement issues with the bar asking Morehead questions about our process?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, April 19, 2023 4:54 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Cc: Ragsdale, Jeffrey (OPR) (b) (6)

Subject: RE: Morehead question

Greg, you can inform the bar that we expect to issue a final report in early May and that if there is a misconduct finding, it goes to the PMRU and blah, blah, blah (description of the PMRU process).

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Tuesday, April 18, 2023 2:48 PM
To: Drouet, Suzanne (OPR) (b) (6); Ragsdale, Jeffrey (OPR)
(b) (6)
Subject: Morehead question

Jeff and Suzanne,

I received a call from Alice Walker at the Kansas Bar about the Morehead investigation. She wanted an update about where things are. I told her that the Department does not have a final report or decision yet.

She asked me if there was any confidentiality agreement preventing her from talking to Morehead to find out where in the process we are.

I think Alice is trying to determine whether the case is in the draft report or PMRU stage. I told her I would speak with management and circle back.

I looked at our confidentiality agreement and noted that it only covers docs we provided to Morehead, not our process.

Would Morehead violate that agreement by informing the bar that she received a draft report from us?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: MOREHEAD RESPONSE OUTLINE ETC
Date: Friday, May 19, 2023 5:18:39 PM
Attachments: [image001.png](#)
[OPR-492765.docx.DRF](#)

I've edited the proposed changes. Unfortunately, I didn't realize that the changes were already made in the report, and I edited the outline document. So you will need to transfer that over.

(b) (5)

For future reference, the outline document made things more difficult. You can just put whatever changes you want into the document in track changes, and I'll edit off of that.

Thanks.

Have a nice weekend.

SKD

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, May 19, 2023 10:57 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: MOREHEAD RESPONSE OUTLINE ETC

Duplicate of BN 01643

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: morehead transmittal memo
Date: Wednesday, June 21, 2023 2:39:14 PM
Attachments: [image001.png](#)

That works. Good to go.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 2:33 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: morehead transmittal memo

Sorry, this is the right one. Too many tabs open here.

[Greg Gonzalez](#)
[Senior Counsel](#)
[U.S. Department of Justice](#)
[Office of Professional Responsibility](#)
[950 Pennsylvania Ave. NW,](#)
[Washington, D.C. 20530](#)

(b) (6)

[202-514-5050 fax](#)



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 1:59 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: morehead transmittal memo

In the footnote, we have "disciplinary file" twice in the sentence.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 1:05 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: morehead transmittal memo

Just making sure these are OK with you

[Greg Gonzalez](#)
[Senior Counsel](#)

U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 12:45 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: morehead transmittal memo

(b) (5), (b) (6), (b) (7)(C)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 12:23 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: morehead transmittal memo

Will do/

(b) (5), (b) (6), (b) (7)(C)

Greg Gonzalez
Senior Counsel

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Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) <(b) (6)>
Sent: Wednesday, June 21, 2023 12:21 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: morehead transmittal memo

She can. I think she has sent out reports before. You need to be explicit as to what reports go where so she sends the redacted report to the attorney (is there stuff in the exhibits that also has to be redacted?). are you sending the extra reports to Masling or is she?

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 12:04 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: morehead transmittal memo

Is Madison sending these out?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
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950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, June 21, 2023 12:00 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: morehead transmittal memo

Good to go.

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Wednesday, June 21, 2023 9:56 AM

To: Drouet, Suzanne (OPR) (b) (6)

Subject: RE: morehead transmittal memo

I will split them up when you give me the green light

Greg Gonzalez

Senior Counsel

U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Ave. NW,

Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, June 21, 2023 9:53 AM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: morehead transmittal memo

Thanks. The exhibits should be a separate document please.

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Wednesday, June 21, 2023 9:13 AM

To: Drouet, Suzanne (OPR) (b) (6)

Subject: RE: morehead transmittal memo

Here it is.

I did not put in DM yet.

Note, when you print it, only print page 1-77.

The rest of the pages are the exhibits.

Greg Gonzalez
Senior Counsel
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Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) <(b) (6)>
Sent: Wednesday, June 21, 2023 9:06 AM
To: Gonzalez, Gregory (OPR) <(b) (6)>
Subject: RE: morehead transmittal memo

Is the report in a pdf?

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 21, 2023 8:24 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: FW: morehead transmittal memo

Let me know when you are satisfied with the report and I will get everything together to send out

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Ragsdale, Jeffrey (OPR) (b) (6)

Sent: Wednesday, June 21, 2023 8:18 AM

To: Drouet, Suzanne (OPR) (b) (6); Gonzalez, Gregory (OPR)
<(b) (6)>

Subject: RE: morehead transmittal memo

Thanks.

From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, June 21, 2023 8:11 AM

To: Ragsdale, Jeffrey (OPR) <(b) (6)>

Subject: morehead transmittal memo

From: [Ragsdale, Jeffrey \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Morehead transmittals
Date: Thursday, March 2, 2023 3:09:39 PM
Attachments: [OPR-#489324-v2-Draft Transmittal letter to Morehead s Counsel.pdf.TXT](#)
[OPR-#489318-v2-Draft Transmittal Letter to USAO.pdf.TXT](#)

thanks

From: Drouet, Suzanne (OPR) (b) (6)

Sent: Thursday, March 2, 2023 10:45 AM

To: Ragsdale, Jeffrey (OPR) (b) (6)

Cc: Gonzalez, Gregory (OPR) (b) (6)

Subject: Morehead transmittals

The attached are ready for your review and signature.

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Morehead
Date: Thursday, September 14, 2023 3:55:05 PM

A couple of tweaks, but this looks fine.

(b) (6)

OPR received the email below from your client Terra Morehead requesting OPR's approval to forward our report of investigation to Kansas bar disciplinary authorities.

As you are aware, OPR provided the report to Ms. Morehead, Mr. (b) (6), and Ms. (b) (6) pursuant to a confidentiality agreement that does not authorize you to provide the report to others.

OPR's report of investigation is not the final decision from the Department on this matter until the PMRU has completed its review, affirmed OPR's findings and conclusions, and authorized OPR to report the matter to the bar authorities.

Nevertheless, OPR understands that Ms. Morehead is currently under investigation by Kansas bar disciplinary authorities for matters similar to those addressed in the OPR report of investigation.

Therefore, OPR does not object to you or Ms. Morehead notifying the bar of the fact that OPR has made adverse findings against Ms. Morehead.

However, OPR does not authorize you to provide OPR's report of investigation to anyone not covered in the confidentiality agreement. If authorized by the PMRU, OPR will provide its report to the bar.

To that end, as the bar discipline matter moves forward, Mr. (b) (6) may want to reach out to OPR to obtain the appropriate approval to review the report.

Feel free to call me at the numbers below if you have any questions or concerns.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

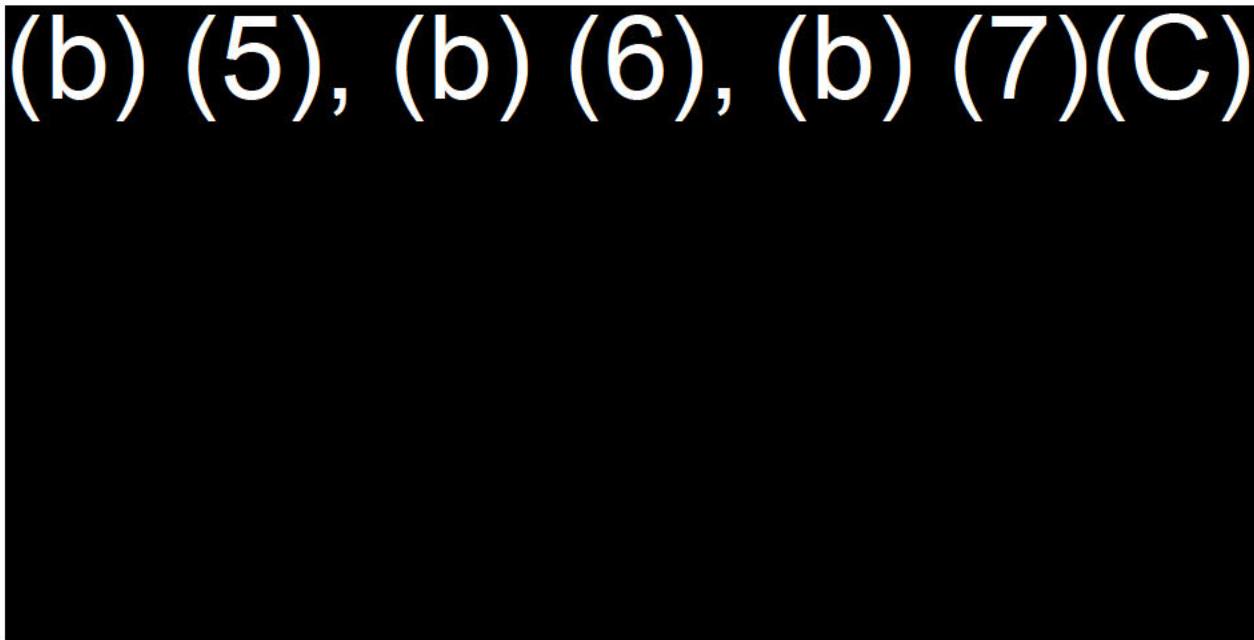
-----Original Message-----

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, September 14, 2023 2:45 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: Morehead

Here you go. I am headed out on leave at 3pm.
I could send this out tonight when I return home or first thing tomorrow.

(b) (6)

(b) (5), (b) (6), (b) (7)(C)



Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

>

> -----Original Message-----

> From: Terra Morehead (b) (6)

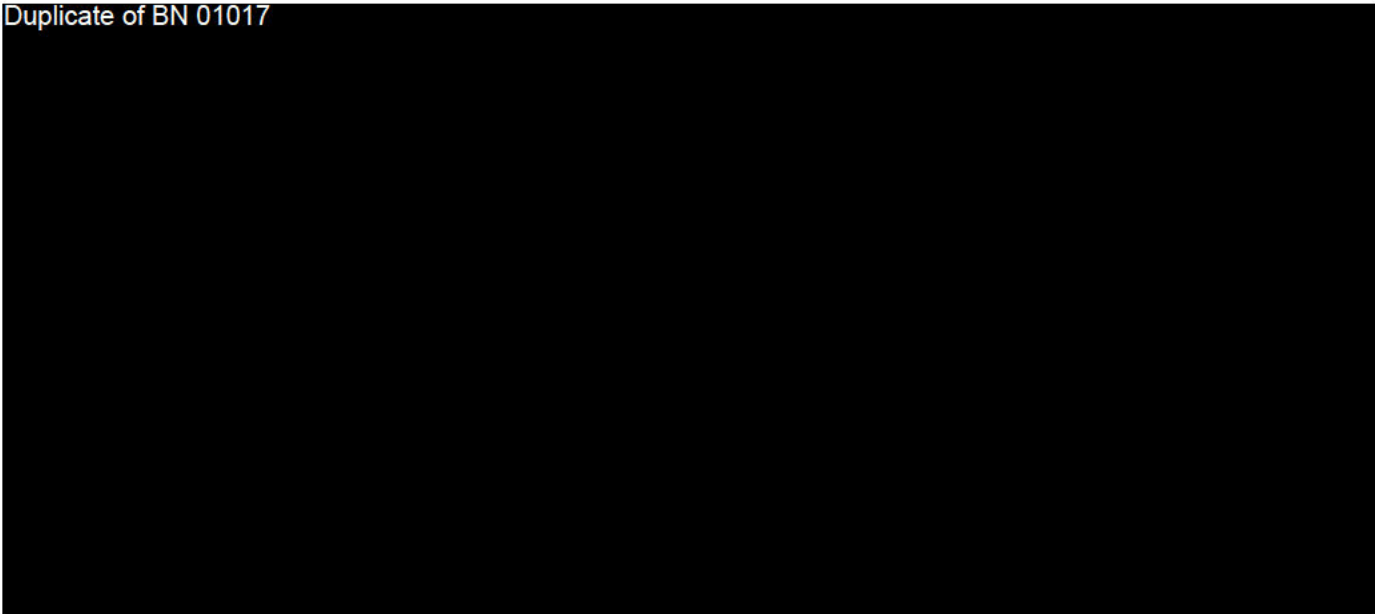
> Sent: Thursday, September 14, 2023 1:25 PM

> To: Masling, Mark (ODAG) (b) (6)

> Cc: (b) (6)

> Subject: [EXTERNAL]

Duplicate of BN 01017



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Morehead
Date: Thursday, September 14, 2023 2:31:15 PM

Greg, put something together and I'll take a look at it. I have to go into a training but I will be back around 3:15.

-----Original Message-----

From: Ragsdale, Jeffrey (OPR) (b) (6)
Sent: Thursday, September 14, 2023 2:30 PM
To: Drouet, Suzanne (OPR) (b) (6)
Cc: Gonzalez, Gregory (OPR) (b) (6)
Subject: Re: Morehead

No.

Sent from my iPhone

> On Sep 14, 2023, at 2:28 PM, Drouet, Suzanne (OPR) (b) (6) wrote:

(b) (5)

> Jeff, do you have any concern about the self-report?

>

> -----Original Message-----

> From: Gonzalez, Gregory (OPR) (b) (6)
> Sent: Thursday, September 14, 2023 2:02 PM
> To: Drouet, Suzanne (OPR) (b) (6)
> Subject: RE: Morehead

>

> Just to make sure we are on the same page.

> We are telling them, obviously not to send the OPR report to the bar.

> But, can she inform the bar that OPR concluded that she committed misconduct?

> (b) (5)

>

> Greg Gonzalez
> Senior Counsel
> U.S. Department of Justice
> Office of Professional Responsibility
> 950 Pennsylvania Ave. NW,
> Washington, D.C. 20530

(b) (6)

> 202-514-5050 fax

>

>

>

> -----Original Message-----

> From: Drouet, Suzanne (OPR) (b) (6)
> Sent: Thursday, September 14, 2023 1:47 PM

> To: Gonzalez, Gregory (OPR) (b) (6)
> Subject: RE: Morehead
>
> Yes. They can sort it out.
>
> -----Original Message-----
> From: Gonzalez, Gregory (OPR) (b) (6) >
> Sent: Thursday, September 14, 2023 1:43 PM
> To: Drouet, Suzanne (OPR) (b) (6)
> Subject: RE: Morehead
>
> (b) (6) and (b) (6) were her lawyers in the OPR case.
> (b) (6) is her lawyer for purposes of the bar referral.
> It might be best for me to just email all three of them at the same time (b) (6) to make sure
we are the same page.
> Does that work?
>
> Greg Gonzalez
> Senior Counsel
> U.S. Department of Justice
> Office of Professional Responsibility
> 950 Pennsylvania Ave. NW,
> Washington, D.C. 20530
> (b) (6)
> 202-514-5050 fax
>
>
>
> -----Original Message-----
> From: Drouet, Suzanne (OPR) (b) (6)
> Sent: Thursday, September 14, 2023 1:40 PM
> To: Gonzalez, Gregory (OPR) (b) (6)
> Subject: Morehead
>
> FYI re Morehead
>
> -----Original Message-----
> From: Masling, Mark (ODAG) (b) (6)
> Sent: Thursday, September 14, 2023 1:38 PM
> To: Terra Morehead (b) (6)
> Cc: (b) (6)
Ragsdale, Jeffrey (OPR) (b) (6) >; Drouet, Suzanne (OPR) (b) (6)
> Subject: RE: [EXTERNAL]

Duplicate of BN 01732

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Morehead
Date: Monday, February 27, 2023 8:42:49 AM
Attachments: [image001.png](#)

(b) (5)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Monday, February 27, 2023 8:25 AM
To: Drouet, Suzanne (OPR) <(b) (6)>
Subject: RE: Morehead

(b) (5), (b) (6), (b) (7)(C)

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Saturday, February 25, 2023 6:35 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: Morehead

(b) (5)

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Cummings, John M](#)
Subject: RE: Morehead
Date: Wednesday, December 28, 2022 12:02:25 PM
Attachments: [image001.png](#)

Never mind. Just saw that you had sent them. Thanks.

From: Drouet, Suzanne (OPR)
Sent: Wednesday, December 28, 2022 12:02 PM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: Morehead

He probably would have contacted you if he found anything. Can you send me the supplemental materials he sent or the DM numbers. Thanks.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, December 28, 2022 12:01 PM
To: Drouet, Suzanne (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: Morehead

He sent us some additional docs and email, which I incorporated into the report.
I can follow up and see if he found anything else since then

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

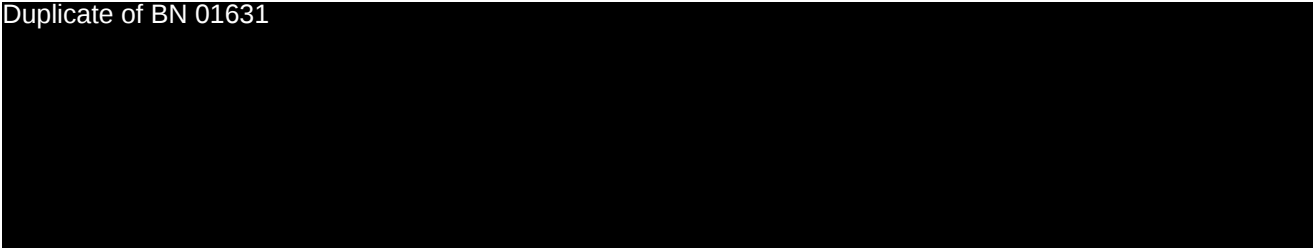
(b) (6)

202-514-5050 fax



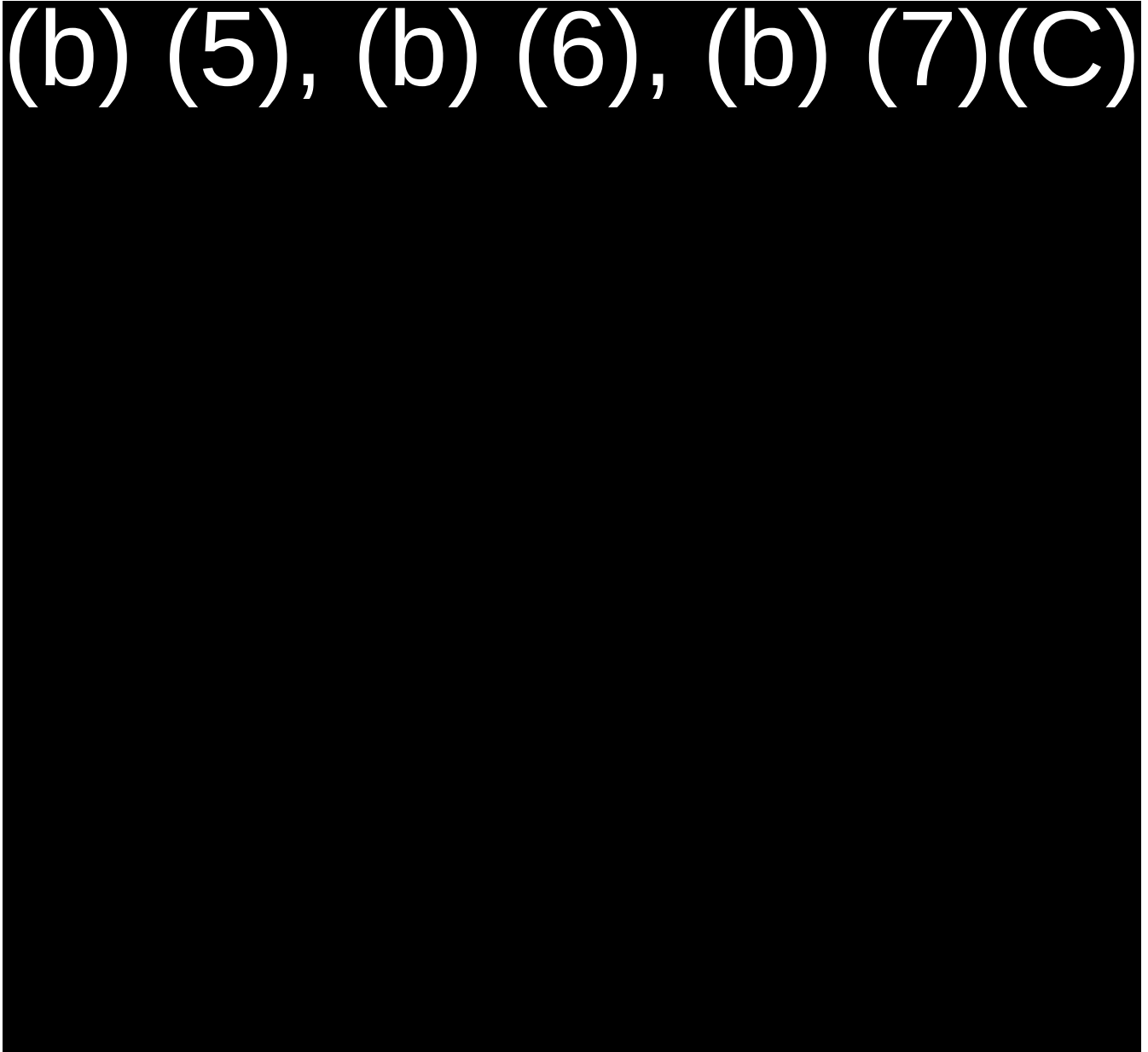
From: Drouet, Suzanne (OPR) (b) (6)
Sent: Wednesday, December 28, 2022 11:56 AM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: Morehead

Duplicate of BN 01631



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Ragsdale, Jeffrey \(OPR\)](#)
Subject: RE: Morehead's Response
Date: Saturday, May 13, 2023 8:52:38 AM
Attachments: [image001.png](#)

(b) (5), (b) (6), (b) (7)(C)



Greg, happy to discuss next week, if you want to talk about what we should address.

SKD

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, May 12, 2023 3:51 PM
To: Drouet, Suzanne (OPR) (b) (6); Ragsdale, Jeffrey (OPR)
(b) (6)
Subject: Morehead's Response

FYI

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Morehead, Terra (USAKS) <(b) (6)>

Sent: Friday, May 12, 2023 3:49 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Cc: (b) (6)

Subject: Response to Draft Report

Mr. Gonzalez:

Please find attached my response to the draft report. In advance, thank you for your consideration.

Terra D. Morehead
Assistant U.S. Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101
(b) (6)

From: [Gonzalez, Gregory \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#)
Subject: RE: Napue issue
Date: Thursday, January 19, 2023 2:17:00 PM
Attachments: [image002.png](#)
[image003.png](#)
[DuBose v Lefevre \(1\).pdf](#)
[US v Alli.pdf](#)
[Drake v Portuondo.pdf](#)
[U S ex rel Washington v Vincent \(1\).pdf](#)

I have looked deeper (maybe too deep) into this issue and I just wanted to raise some concerns with the cite in the report you are editing.

(b) (5)

I attached three 2nd Cir. cases dealing with Napue issues arising from cross examination (*DuBose, Lefevre, Washington*). Most other circuits seem to address *Napue* similar to this 2nd Cir. quote.

The principles governing this case are simple and well-settled. Knowing use by the State of perjured testimony deprives the defendant of due process, violating the Fourteenth Amendment and requiring a new trial. This is so whether the prosecutor makes the false statements himself or allows the false statements of a witness to go uncorrected. [Giglio v. United States, 405 U.S. 150, 153, 92 S.Ct. 763, 765, 31 L.Ed.2d 104 \(1972\)](#); [Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct. 1173, 1177, 3 L.Ed.2d 1217 \(1959\)](#); [Mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct. 340, 341, 79 L.Ed. 791 \(1935\)](#); [Taylor v. Lombard, 606 F.2d 371, 375 \(2d Cir. 1979\)](#), cert. denied, [— U.S. —, 100 S.Ct. 1346, 63 L.Ed.2d 781 \(1980\)](#); [United States ex rel. Washington v. Vincent, 525 F.2d 262, 267 \(2d Cir. 1975\)](#), cert. denied, [424 U.S. 934, 96 S.Ct. 1147, 47 L.Ed.2d 341 \(1976\)](#). It makes no difference that the materially false testimony goes only to the credibility of a witness. [Napue v. Illinois, supra, 360 U.S. at 269, 79 S.Ct. at 1177](#); [United States ex rel. Washington v. Vincent, supra, 525 F.2d at 267](#).

(b) (5)

Despite defense counsel's efforts on cross-examination, the government had an independent obligation immediately to take steps to correct known misstatements of its witnesses. [United States v. LaPage, 231 F.3d 488, 492 \(9th Cir.2000\)](#). This obligation obtained even though the government did not solicit the false testimony and the false testimony went only to the credibility

of the witness, not to substantive evidence. [Napue v. Illinois, 360 U.S. 264, 269–70, 79 S.Ct. 1173, 3 L.Ed.2d 1217 \(1959\)](#). The scope of this duty reflects the prosecution's fundamental responsibility to promote justice, fairness, and truth, rather than simply to win. See [Blueford, 312 F.3d at 968](#).

(b) (5)

Greg Gonzalez
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(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, January 18, 2023 5:41 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: Napue issue

Thanks. We will need to add that to John's report.

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Wednesday, January 18, 2023 3:58 PM

To: Drouet, Suzanne (OPR) (b) (6)

Subject: RE: Napue issue

Here is a 9th Cir. case that seems to go the other way:

Despite defense counsel's efforts on cross-examination, the government

had an independent obligation immediately to take steps to correct known misstatements of its witnesses. [United States v. LaPage](#), 231 F.3d 488, 492 (9th Cir.2000). This obligation obtained even though the government did not solicit the false testimony and the false testimony went only to the credibility of the witness, not to substantive evidence. [Napue v. Illinois](#), 360 U.S. 264, 269–70, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959). The scope of this duty reflects the prosecution's fundamental responsibility to promote justice, fairness, and truth, rather than simply to win. See [Blueford](#), 312 F.3d at 968.

Greg Gonzalez
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(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, January 18, 2023 7:37 AM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: Napue issue

Hmm, quite interesting. Comment #10 seems to make clear that they intend it to apply to cross-examination situations.

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Tuesday, January 17, 2023 4:13 PM

To: Drouet, Suzanne (OPR) (b) (6)

Subject: RE: Napue issue

I need to spend some time looking deeper into this, but at first blush, this could be an area where the caselaw re *Napue* differs from the way the Bar enforces the RPC...

Take a look at this language in the comments to the rule (these comments are based on the ABA version and the same as those in NY where John's report is focused).

Kansas **RPC 3.3(a)(3)** says:

a lawyer shall not knowingly

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

The Rule has these two comments relative to the issue of witness cross examination.

[2] This Rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

Remedial Measures

[10] Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross-examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures. In such situations, the advocate's proper course is to remonstrate with the client confidentially, advise the client of the lawyer's duty of candor to the tribunal and seek the client's cooperation with respect to the withdrawal or correction of the false statements or evidence. If that fails, the advocate must take further remedial action. If withdrawal from the representation is not permitted or will not undo the effect of the false evidence, the advocate must make such disclosure to the tribunal as is reasonably necessary to remedy the situation, even if doing so requires the lawyer to reveal information that otherwise would be protected by Rule 1.6. It is for the tribunal then to determine what should be done--making a statement about the matter to the trier of fact, ordering a mistrial or perhaps nothing.

(1) *United States v. Aichele*, 941 F.2d 761, 766 (9th Cir. 1991) ("The alleged perjury Aichele claims – involving contact between [a government witness] and Aichele between 1966 and 1989, including an inculpatory confession – was prompted by Aichele's cross-examination; even assuming the testimony was perjured, the government did not elicit it.");

(2) *Williams v. Ryan*, 2020 U.S. Dist. LEXIS 222746 at *16 (D. Ariz. 2020) (citing *Aichele* and *O'Keefe*);

(3) *United States v. O'Keefe*, 128 F.3d 885, 894 (5th Cir. 1997), *cert. denied*, 523 U.S. 1078 (1998) ("When the defense elicits the alleged perjury on cross-examination, no material falsehood has occurred because the government has not itself knowingly presented false testimony.");

(4) *United States v. Grace*, 2019 U.S. Dist. LEXIS 147752 at *19-20 (M.D. La. 2019) (allegedly inaccurate testimony was elicited on cross-examination by defense counsel, and "[a]s such, it is not material" and therefore there was no *Napue* violation), citing *O'Keefe*.

There are other cases in the Fifth and Ninth Circuits but this will do for now. As I mentioned, I have not found such a case in the Second Circuit.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
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950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



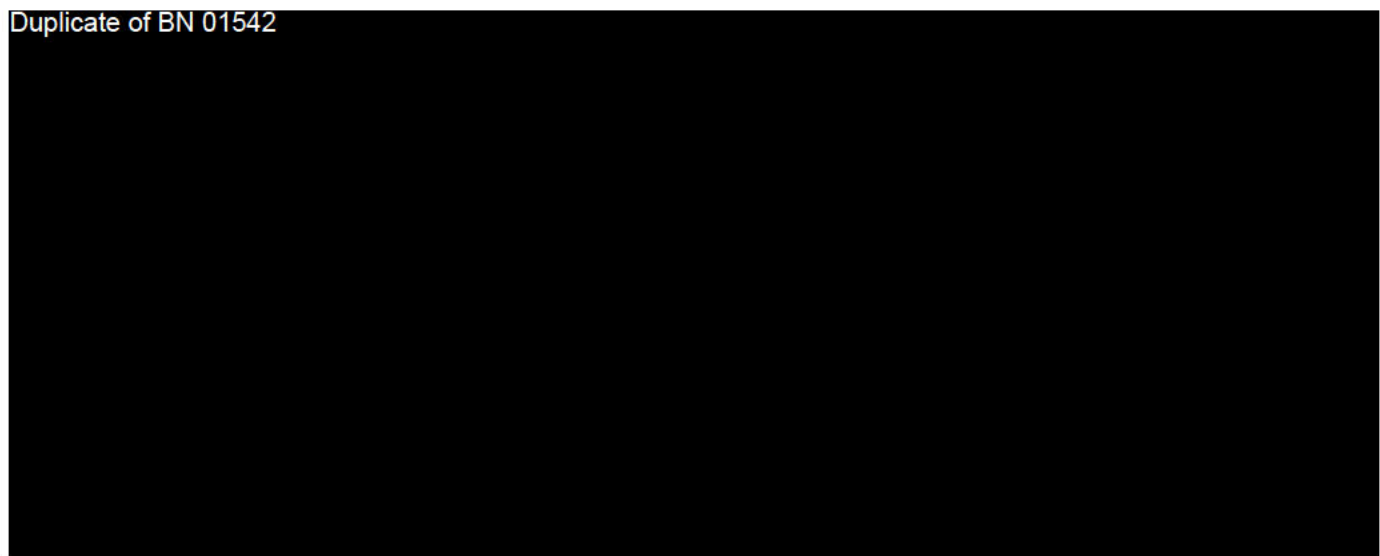
From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, January 11, 2023 8:18 AM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: Napue issue

Duplicate of BN 01542



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Napue witness cross issue in prior OPR report & ODAG memo
Date: Thursday, January 19, 2023 4:05:33 PM
Attachments: [image001.png](#)

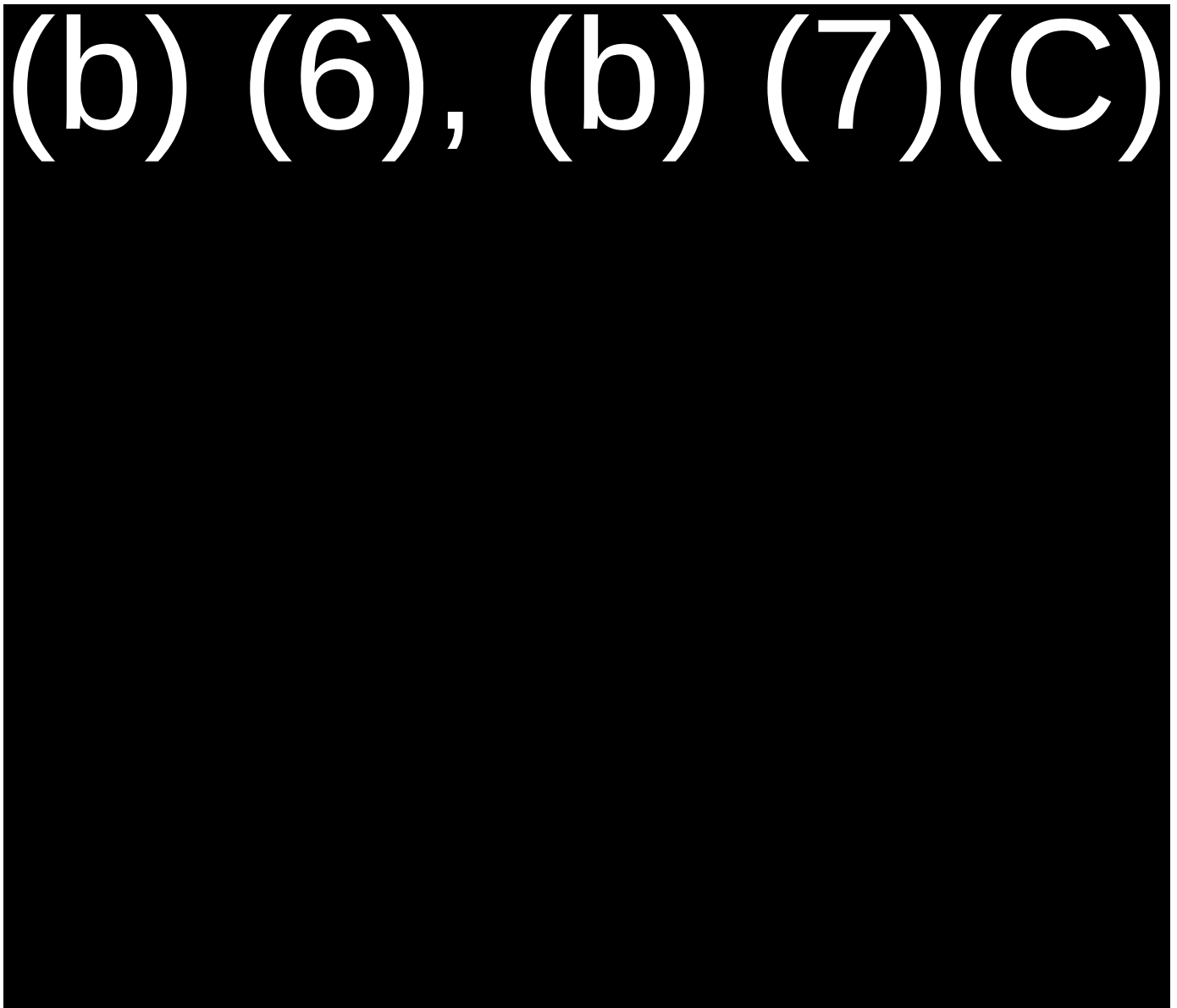
When I have a moment, I'll combine all of the research into one document (outside of your emails to me) and put it into the P&P Manual, so it will be accessible for the next time.

Thanks for going down this trail.

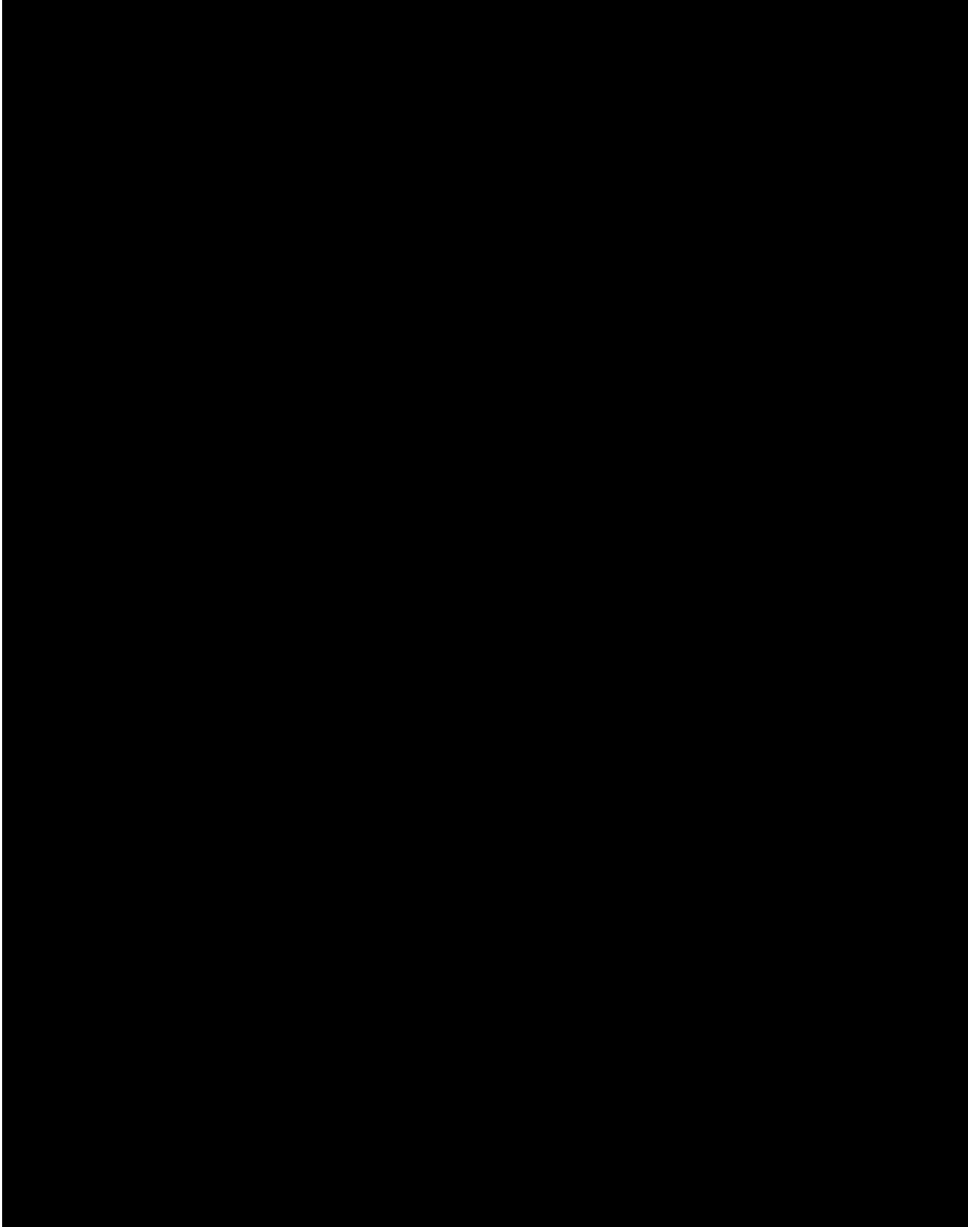
From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, January 19, 2023 3:17 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: Napue witness cross issue in prior OPR report & ODAG memo

Suzanne,

(b) (6), (b) (7)(C)



(b) (5), (b) (6), (b) (7)(C)



Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Cummings, John M](#)
Subject: RE: New 2255 in (b) (6), (b) (7)(C) Case
Date: Tuesday, November 29, 2022 9:48:52 AM
Attachments: [image001.png](#)

(b) (5)

[REDACTED]

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Tuesday, November 29, 2022 9:46 AM
To: Drouet, Suzanne (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: New 2255 in (b) (6), (b) (7)(C) Case

The 2255 cites this attached priv log from the (b) (6), (b) (7)(C) calls litigation, which indicates that (b) (6), (b) (7)(C) called his attorney the night before he jumped. It appears from the cryptic description in the log that (b) (6), (b) (7)(C) and his attorney likely discussed his cooperation at that time.

During his trial testimony, (b) (6), (b) (7)(C) also said he was had not discussed his possible sentence with his attorney. The priv log also contradicts that.

Greg Gonzalez
Assistant Counsel
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(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Tuesday, November 29, 2022 7:54 AM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: New 2255 in (b) (6), (b) (7)(C) Case

Well, well—I was wondering if they were ever going to get around to filing it.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Monday, November 28, 2022 6:50 PM
To: Drouet, Suzanne (OPR) (b) (6) Cummings, John M
(b) (6)
Subject: New 2255 in (b) (6), (b) (7)(C) Case

Filed today.

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Ragsdale, Jeffrey \(OPR\)](#)
Subject: RE: Notice of Proposed Removal
Date: Wednesday, August 23, 2023 2:59:25 PM
Attachments: [image001.png](#)
[image002.png](#)

Let's wait a bit and see how this plays out. Maybe she won't contest it because she is leaving and the bar already is investigating.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Tuesday, August 22, 2023 11:27 AM
To: Ragsdale, Jeffrey (OPR) (b) (6); Drouet, Suzanne (OPR)
(b) (6)
Subject: RE: Notice of Proposed Removal

Should I update the Kansas Bar and let them know that we expect to have this wrapped up in the next 2 months?

Greg Gonzalez
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(b) (6)

202-514-5050 fax

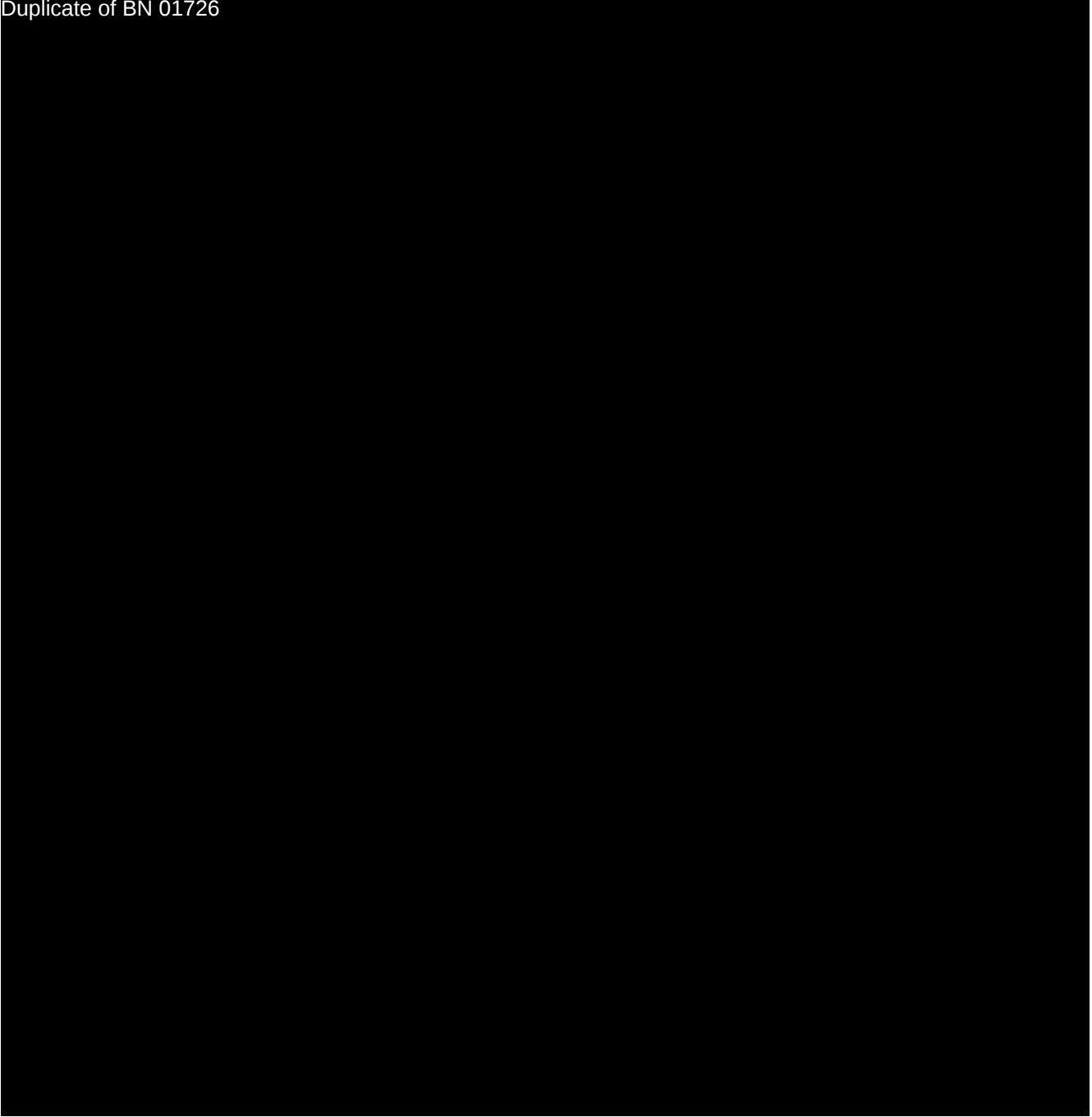


From: Ragsdale, Jeffrey (OPR) (b) (6)
Sent: Tuesday, August 22, 2023 10:03 AM
To: Drouet, Suzanne (OPR) (b) (6); Gonzalez, Gregory (OPR)
(b) (6)
Subject: FW: Notice of Proposed Removal

From: Masling, Mark (ODAG) (b) (6)
Sent: Tuesday, August 22, 2023 9:21 AM
To: Weinsheimer, Bradley (ODAG) (b) (6); Ragsdale, Jeffrey (OPR)
(b) (6)

Subject: FW: Notice of Proposed Removal

Duplicate of BN 01726



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: One more edit question
Date: Friday, January 13, 2023 1:06:02 PM
Attachments: [image001.png](#)

(b) (5)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, January 13, 2023 12:56 PM
To: Drouet, Suzanne (OPR) <(b) (6)>
Subject: One more edit question

Is the highlighted portion of your edit supposed to be a footnote?

(b) (5), (b) (6), (b) (7)(C)

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility

950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



(b) (5), (b) (6), (b) (7)(C)

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: OPR Bar Referral - RE: Terra Morehead
Date: Friday, September 29, 2023 8:23:24 AM
Attachments: [image001.png](#)

Looks good.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, September 29, 2023 8:20 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: OPR Bar Referral - RE: Terra Morehead

How about this?

(b) (5), (b) (6), (b) (7)(C)

Thank you,

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Thursday, September 28, 2023 5:11 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: OPR Bar Referral - RE: Terra Morehead

I made a few tweaks.

(b) (5), (b) (6), (b) (7)(C)

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, September 28, 2023 5:06 PM
To: Drouet, Suzanne (OPR) (b) (6) Ragsdale, Jeffrey (OPR)
(b) (6)

Subject: RE: OPR Bar Referral - RE: Terra Morehead

Here is a draft reply email with language I took from the (b) (6), (b) (7)(C) transmittal letter

From: Drouet, Suzanne (OPR) <(b) (6)>
Sent: Thursday, September 28, 2023 4:24 PM
To: Gonzalez, Gregory (OPR) (b) (6); Ragsdale, Jeffrey (OPR) (b) (6)
Subject: RE: OPR Bar Referral - RE: Terra Morehead

See if you can find one our standard letters to the bar giving them the report so we can make sure there is not some language we need to include in a cover email.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, September 28, 2023 4:20 PM
To: Ragsdale, Jeffrey (OPR) (b) (6); Drouet, Suzanne (OPR) (b) (6)
Subject: RE: OPR Bar Referral - RE: Terra Morehead

I am just asking about sending them the report now.
They also want some underlying documents, and I assume that we can talk with them about making specific requests for certain items after they have reviewed the report.

Greg Gonzalez
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(b) (6)

202-514-5050 fax



From: Gonzalez, Gregory (OPR)
Sent: Thursday, September 28, 2023 4:18 PM
To: Ragsdale, Jeffrey (OPR) (b) (6); Drouet, Suzanne (OPR) (b) (6)

Subject: FW: OPR Bar Referral - RE: Terra Morehead

Here is a letter from the Kansas Bar asking for the Morehead report.
Can I email them the REDACTED version of the report now?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Gayle Larkin (b) (6)

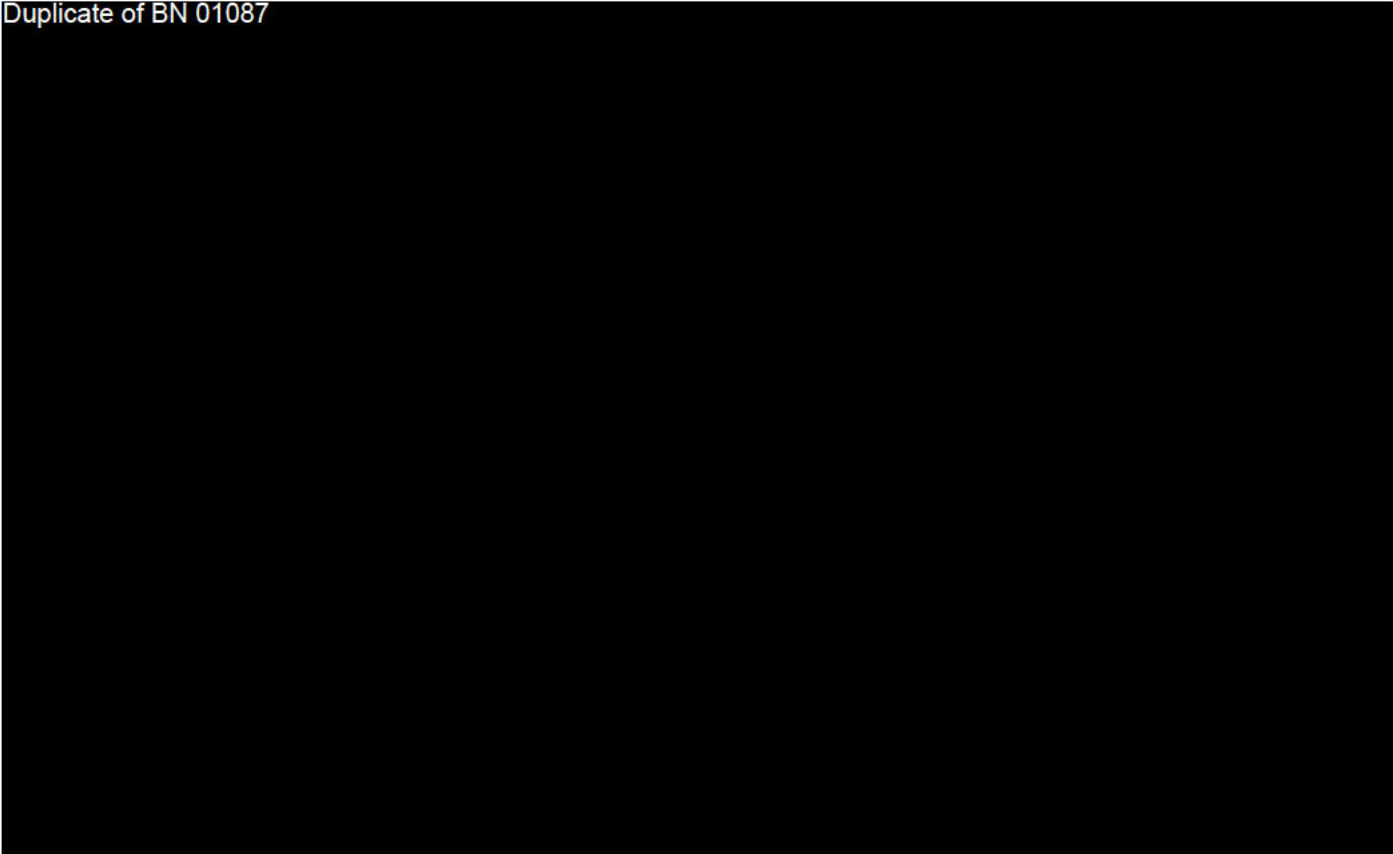
Sent: Thursday, September 28, 2023 4:15 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Cc: Alice Walker (b) (6); Matthew Vogelsberg (b) (6)

Subject: [EXTERNAL] RE: OPR Bar Referral - RE: Terra Morehead

Duplicate of BN 01087



From: [Ragsdale, Jeffrey \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Drouet, Suzanne \(OPR\)](#)
Subject: RE: OPR Bar Referral - RE: Terra Morehead
Date: Friday, September 29, 2023 7:45:47 AM
Attachments: [image001.png](#)

This seems fine to me.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, September 28, 2023 5:06 PM
To: Drouet, Suzanne (OPR) (b) (6); Ragsdale, Jeffrey (OPR) (b) (6)
Subject: RE: OPR Bar Referral - RE: Terra Morehead

Here is a draft reply email with language I took from the (b) (6), (b) (7)(C) transmittal letter

(b) (5), (b) (6), (b) (7)(C)

Thank you,

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

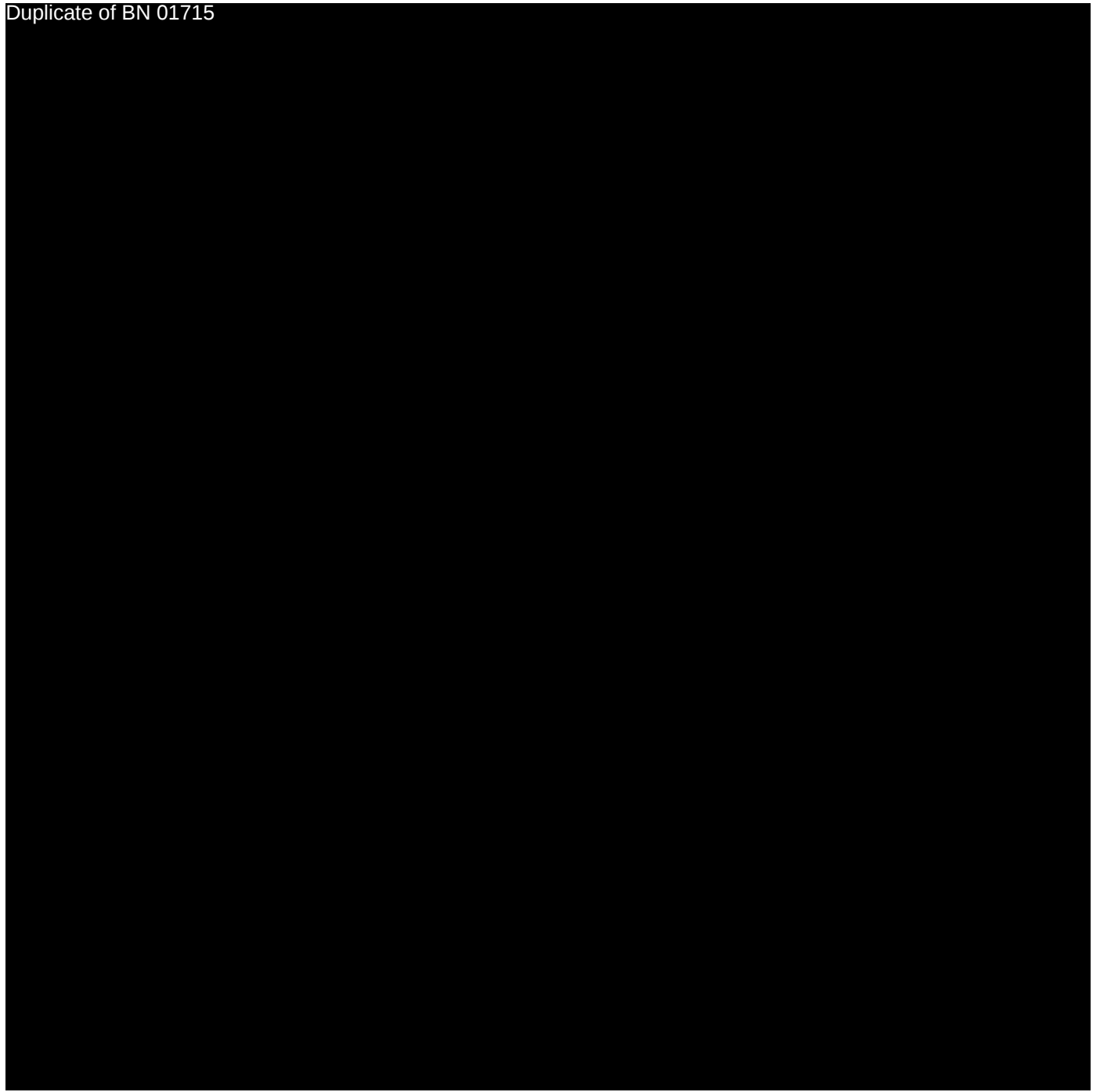
202-514-5050 fax



From: [Cummings, John M. \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: FW: (b) (6), (b) (7)(C)
Date: Thursday, June 2, 2022 11:33:45 AM

From: Cummings, John M. (OPR)
Sent: Thursday, June 2, 2022 9:31 AM
To: Slinkard, Duston (USAKS) (b) (6)
Subject: FW: (b) (6), (b) (7)(C)

Duplicate of BN 01715



From: [Cummings, John M. \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Quick Question
Date: Friday, June 10, 2022 9:49:24 AM
Attachments: [image001.png](#)

Agreed.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, June 10, 2022 9:49 AM
To: Cummings, John M. (OPR) (b) (6)
Subject: FW: Quick Question

In looking through these docs, I noticed at least one docs labeled draft version of OPR response. This could possibly be an attorney/client doc, so I suggest that we not open it.

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
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950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Washington-Watson, Sheila (OPR) (b) (6)
Sent: Friday, June 10, 2022 9:29 AM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: Quick Question

All done!

Sheila Washington-Watson
Office of Professional Responsibility
IT Specialist

(b) (6)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, June 10, 2022 9:02 AM

To: Washington-Watson, Sheila (OPR) (b) (6)

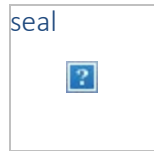
Subject: RE: Quick Question

Thanks!

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Washington-Watson, Sheila (OPR) (b) (6)

Sent: Friday, June 10, 2022 9:02 AM

To: Gonzalez, Gregory (OPR) (b) (6) >

Subject: RE: Quick Question

Good Morning Greg,

I'll email you when I'm done.

Thank you,

Sheila Washington-Watson
Office of Professional Responsibility
IT Specialist

(b) (6)

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Friday, June 10, 2022 8:28 AM

To: Washington-Watson, Sheila (OPR) (b) (6)

Cc: Cummings, John M. (OPR) (b) (6)

Subject: FW: Quick Question

Sheila,

Can you please put this info o the G Drive for me an John unt the folder MOREHEAD
SUPPLEMENTAL EMAILS.
Thanks!

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: USAEO-CSS-Digital-Analysis <USAEO-CSSDigitalAnal@usa.doj.gov>

Sent: Friday, June 10, 2022 8:26 AM

To: Mullinix, Michelle (USAEO) (b) (6) Gonzalez, Gregory (OPR)

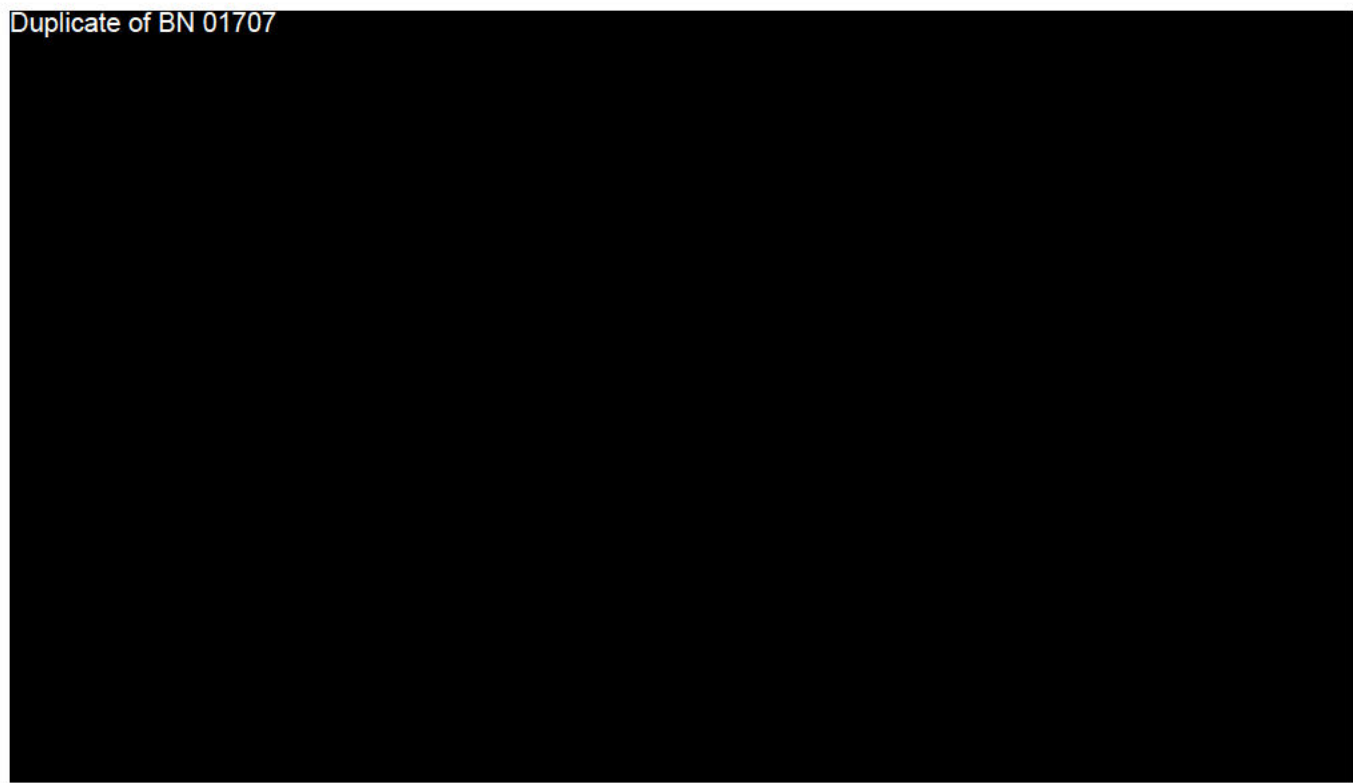
(b) (6) >

Cc: USAEO-CSS-Digital-Analysis <USAEO-CSSDigitalAnal@usa.doj.gov>; Brown, Jason (USAEO)

(b) (6)

Subject: RE: Quick Question

Duplicate of BN 01707



From: [Cummings, John M. \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#); [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Sealed Stuff Re: Morehead interview
Date: Wednesday, June 1, 2022 5:19:28 PM
Attachments: [image001.png](#)

Thanks, will review the documents tonight. The USMS documents were discussed in open court and in the court's order, and as I recall the more complete set of USMS documents was turned over in post-trial discovery and not under seal. Will review the individual documents and discuss with Greg.

From: Drouet, Suzanne (OPR) (b) (6)
Sent: Wednesday, June 1, 2022 5:10 PM
To: Cummings, John M. (OPR) (b) (6); Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: Sealed Stuff Re: Morehead interview

The first question is whether these are documents that we will need during the interview, and if so, whether the contents of them have otherwise been discussed in open court or in other documents that were publicly filed. If the answer to that is no, then you will need to speak to her counsel to see if there is something in place, like a court order, to provide him with access. If not, then he needs to obtain one allowing him access to the sealed documents. If he isn't licensed in the district, then it all becomes more complicated—either the USAO will have to file it or he will need to agree to step out of the interview when we discuss those materials with Morehead.

From: Cummings, John M. (OPR) (b) (6)
Sent: Wednesday, June 1, 2022 5:02 PM
To: Gonzalez, Gregory (OPR) (b) (6); Drouet, Suzanne (OPR) (b) (6)
Subject: RE: Sealed Stuff Re: Morehead interview

Greg,

Thanks for catching this. The short answer is no, I do not know. We raised a similar issue with USAO-KS before we interviewed (b) (6) but that was related to the materials provided by USMS, not a sealed filing..

What is our standard protocol? Should I simply check with counsel to make sure they obtained clearance or do we take a more proactive role with the court through USAO-KS?

Thanks,
John

From: Gonzalez, Gregory (OPR) (b) (6)

Sent: Wednesday, June 1, 2022 2:02 PM

To: Cummings, John M. (OPR) (b) (6); Drouet, Suzanne (OPR)

(b) (6)

Subject: Sealed Stuff Re: Morehead interview

John,

Do you know if Morehead's counsel got clearance to view the sealed docs in (b) (6), (b) (7)(C)?

I went to the docket in LEXIS and DKT 185, 186, 187, 191, 192, 193, and 195 still appear to be under seal.

Morehead mentions two of the docs in her written response and included them in the attachment (#191 & 195).

Her counsels are CC'd on the response (with attachments).

Here is the section of the written response:

Apparently in other sealed documents filed by Ms. (b) (6), (b) (7)(C) additional allegations of misconduct against me were also made to Judge Crabtree, including that I had failed to turn over criminal history and exculpatory information regarding (b) (6), (b) (7)(C) and criminal history pertaining to (b) (6), (b) (7)(C) which were filed on (b) (6), (b) (7)(C) six days before the scheduled (b) (6), (b) (7)(C) sentencing hearing. On April 12, 2021, Mr. (b) (6), (b) (7)(C) forwarded the defendant's sealed memo and attachments. (Attachment 87 (b) (6), (b) (7)(C) – Email from (b) (6), (b) (7)(C) with Doc. 191 (Attachment 87-0 Sealed sentencing Memo); Doc. 191-1 (Attachment 87-1 (b) (6), (b) (7)(C) Crim History); Doc. 191-2 (Attachment 87-2 (b) (6), (b) (7)(C) Addl. Crim. History)¹⁶; Doc. 191-3 (Attachment 87-3 Jo County Crim Records); Doc. 191-4 (Attachment 87-4 Articles re: Terra and office).) Mr. (b) (6), (b) (7)(C) asked that I contact him, which I did, to arrange a meeting to go over the allegations. Because I was no longer counsel of record, I could not access anything that was filed under seal, so I had not seen any of the sealed filings prior to Mr. (b) (6), (b) (7)(C) sending them to me. Mr. (b) (6), (b) (7)(C) filed a motion to continue the sentencing and asked for a two-week extension until (b) (6), (b) (7)(C) to respond to the defendant's motion. The Court granted the motion and set the new sentencing date for (b) (6), (b) (7)(C).

Greg Gonzalez

Assistant Counsel

U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Ave. NW,

Washington, D.C. 20530

(b) (6)

202-514-5050 fax

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: BAR REQUEST FOR INFE - RE: Morehead
Date: Friday, January 19, 2024 10:56:15 AM
Attachments: [image001.png](#)
[image002.png](#)

Yup.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, January 19, 2024 10:55 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: BAR REQUEST FOR INFE - RE: Morehead

Will do!
Does this transmittal language work ?

Alice,

OPR provides the documents you requested pursuant your Office's September 28, 2023 agreement to keep OPR's report confidential, consistent with Kansas Supreme Court Rule 237, which governs confidentiality regarding disciplinary investigations and proceedings in Kansas. Please consult with OPR if it becomes necessary for you to use these documents (including OPR's report of investigation) in a public proceeding.

Due to the file size of the requested documents, I will transmit the remainder of the requested document in a separate email.

Please confirm your receipt of the documents, and feel free to reach out to OPR if you need additional information.

Thank you,

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Friday, January 19, 2024 10:38 AM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: FW: BAR REQUEST FOR INFE - RE: Morehead

See Peggy's comment below regarding releasing the documents to the bar. With her caveat, I am fine with the release.

From: McCarty, Margaret S (OPR) (b) (6)
Sent: Friday, January 19, 2024 10:33 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: BAR REQUEST FOR INFE - RE: Morehead

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

From: Drouet, Suzanne (OPR) (b) (6)
Sent: Friday, January 19, 2024 10:25 AM
To: McCarty, Margaret S (OPR) (b) (6)
Subject: FW: BAR REQUEST FOR INFE - RE: Morehead

Peggy,

This is an issue concerning disclosure of our underlying materials to the bar in the Morehead case (which you might remember was a serious case that ended up with us making multiple intentional misconduct findings). The bar wants a number of our underlying documents, mostly emails that were referenced (and generally quoted) in the report, as well as Morehead's statements (interview, etc.) to us. (b) (5)

(b) (5)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, January 19, 2024 10:03 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: BAR REQUEST FOR INFE - RE: Morehead

Duplicate of BN 01083

From: [Drouet, Suzanne \(OPR\)](#)
To: [Cummings, John M. \(OPR\)](#)
Subject: RE: OPR Request for Written Responses (Morehead)
Date: Monday, September 13, 2021 10:03:45 AM

An extension to October 15 is fine (I don't like that open ended three weeks after she is granted access; if she never asks for it or the USAO delays in granting it, we are sitting around waiting). You can let him know that all the files should be back with the USAO and that Morehead can have access to them (presumably we have informed the USAO to give her access).

From: Cummings, John M. (OPR) (b) (6)
Sent: Monday, September 13, 2021 9:55 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: FW: OPR Request for Written Responses (Morehead)

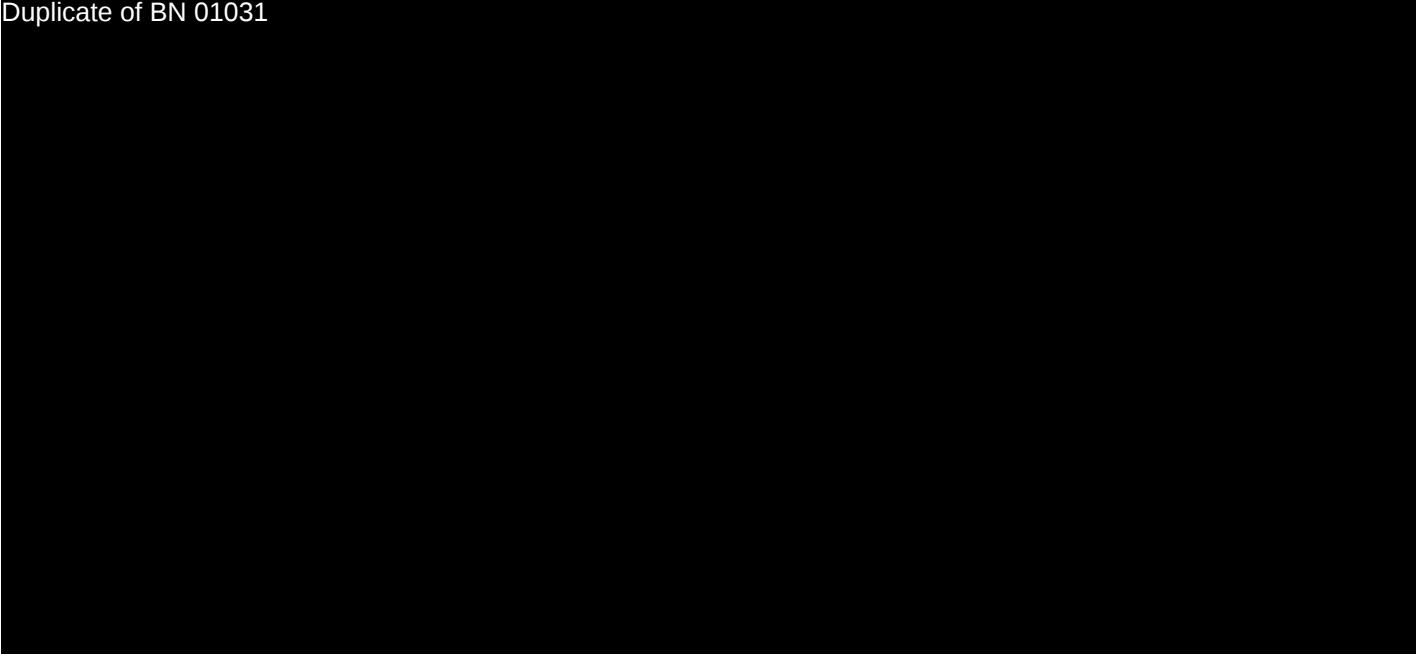
Suzanne,

Happy Monday. I am inclined to grant this request. The files have now been returned to USAO-KS and Acting USA Duston Slinkard previously informed me that Morehead had asked for access to the files. Let me know if you concur.

John

From: (b) (6)
Sent: Monday, September 13, 2021 9:47 AM
To: Cummings, John M. (OPR) (b) (6)
(b) (6)
Subject: RE: OPR Request for Written Responses (Morehead)

Duplicate of BN 01031



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Other Napue related Cir. cases re: testimony arising in cross
Date: Thursday, January 19, 2023 2:52:33 PM
Attachments: [image002.png](#)
[image003.png](#)

Thanks. Excellent research. (b) (5)

(b) (5)

FYI, Jeff and I had a conversation this morning with the Kansas US Attorney, Dustin Slinkard, and (b) (6), (b) (7)(C) about this matter. They are in the process of responding to a defense motion raising the discovery issue. (b) (5)

(b) (5)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Thursday, January 19, 2023 2:23 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: Other Napue related Cir. cases re: testimony arising in cross

Suzanne,

Here are some other cases addressing the application of Napue to testimony arising in cross examination.

This is a pretty broad scope, but I spent today trying to find cases similar to O'Keefe in other circuits.

I plan to drill down in the 10th Cir. on this relative to the Morehead report.

DC Court of Appeals (*Longus v. US*)

The government contends that we need not address appellant's due process claim at all, **arguing that the government's obligation under *Napue* applies only when statements are elicited by the prosecutor from a government witness.** Thus, the government argues, appellant's claim must fail since it was defense counsel who called Detective Brown and elicited the testimony appellant claims was false.¹⁶ ***846** We think this is too narrow a reading of the cases in light of the constitutional basis and purpose of the obligation. ***Giglio* itself involved a false statement elicited by defense counsel's cross examination of a government witness.** 405 U.S. at 151–52, 92 S.Ct. 763. Our cases applying *Napue* have arisen in similar circumstances, where the false statement is elicited during defense cross-examination. See, e.g., *Woodall v. United States*, 842 A.2d 690, 694–96 (D.C.2004); *McNeil v. United States*, 465 A.2d 807, 810 (D.C.1983). And even though (not surprisingly) reported cases involve government witnesses, it is illogical

and contrary to principles of due process to conclude that the government is freed from any obligation simply because the false testimony is presented in response to defense questioning of a witness it called. The Supreme Court has made clear that “a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment,” *Napue*, 360 U.S. at 269, 79 S.Ct. 1173, and “the same result obtains when the State, *although not soliciting false evidence*, allows it to go uncorrected when it appears.” *Id.* (emphasis added). **Therefore, we have said, “[a] prosecutor may not knowingly present false evidence or permit evidence known to be false, to go uncorrected.”** *Hawthorne*, 504 A.2d at 589 (emphasis added).

4 Moreover, the government's obligation is not limited to the correction of false evidence presented in its case-in-chief, but extends to evidence that pertains to impeachment:

The principle ... does not cease to apply merely because the false testimony goes only to the credibility of the witness. The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend. *Napue*, 360 U.S. at 269, 79 S.Ct. 1173. **Thus, “when the ‘reliability of a given witness may be determinative of guilt or innocence,’ nondisclosure of evidence affecting credibility falls within this general rule.”** *Giglio*, 405 U.S. at 154, 92 S.Ct. 763 (internal quotation and citation omitted).¹⁷

Our conclusion that a ***Napue*** claim does not depend on whether the government calls and questions the witness is supported by the Supreme Court's grounding ***847** of ***Napue*** and *Giglio* on the Due Process Clause, for which “the touchstone ... is the fairness of the trial.” *Smith v. Phillips*, 455 U.S. 209, 219, 102 S.Ct. 940, 71 L.Ed.2d 78 (1982). In *Giglio*, after citing *Brady*'s indifference to the “good faith or bad faith of the prosecution,” [405 U.S. at 153, 92 S.Ct. 763](#), the Court noted that “whether the nondisclosure was a result of negligence or design, it is the responsibility of the prosecutor,” [id. at 154, 92 S.Ct. 763](#) and “the jury was entitled to know of it.” [Id. at 155, 92 S.Ct. 763](#). Thus, as we noted in [Woodall](#), [842 A.2d at 697](#), the “underlying purpose of ***Napue*** and *Giglio* is not to punish the prosecutor for the misdeeds of a witness, but to ensure [the] jury is not misled by falsehoods.” (internal quotation and citations omitted). To achieve that purpose, the guarantee of the Due Process Clause must extend beyond proscribing only affirmative prosecutorial misconduct in the form of sponsoring false testimony, and requires, in the interest of a fair trial, that the prosecutor take steps to correct false testimony that the jury could use in deciding to convict. Where only the government knows that the witness's statement is false, only the prosecutor can take steps to ensure the jury is not misled, either by correcting the

falsehood before the jury or by disclosing the falsehood to the court and defense counsel and not objecting to defense counsel's efforts to correct the record. See [Woodall, 842 A.2d at 697](#) (noting that prosecutor “fell short” by objecting to defense counsel's attempts to correct witness's false statement). A different conclusion would create perverse incentives and permit the government to benefit from false testimony, especially when the source of the false testimony is a police officer who is likely to be perceived by the jury as naturally aligned with the government's case, even if he is called by the defense.¹⁸ Here, for example, although the prosecutor did not call Detective Brown, or elicit a false statement, the prosecutor made use of Detective Brown's testimony in closing argument, as corroboration of Cooley–Hinton's trial testimony that she had always said appellant drove the truck used in the drive-by shooting.¹⁹

It is well established that the government's obligation extends to the ***848** correction of not only perjurious testimony,²⁰ but also to testimony that is “false,” [Hawthorne, 504 A.2d at 589](#), or “misleading,” [Felder v. United States, 595 A.2d 974, 977 n. 8 \(D.C.1991\)](#). Thus, it does not matter whether the witness thought he was telling the truth, so long as the government knew it was not so. See [Thompson v. United States, 45 A.3d 688, 691 n. 4 \(D.C.2012\)](#) (“It is well recognized that the government's obligation to correct ‘false’ testimony also applies to mistaken testimony.” (citing [United States v. McClintic, 570 F.2d 685, 692 n. 13 \(8th Cir.1978\)](#) (noting that “when the witness's answer, although made in good faith, is untrue, the Government's obligation to correct that statement is as compelling as it is in a situation where the Government knows that the witness is intentionally committing perjury”))). And, as with *Brady*, the government's obligation under **Napue** turns not on the personal knowledge of an individual prosecutor, but on what the “government,” under a collective knowledge theory, knew or should have known.²¹ See [Giglio, 405 U.S. at 153–54, 92 S.Ct. 763](#) (holding that government had obligation to correct the record even though trial prosecutor believed that witness was telling the truth when he denied having been made any promises, when promise of immunity in fact had been made by another prosecutor at an earlier stage of proceeding); [6 WAYNE R. LAFAYE ET AL., CRIMINAL PROCEDURE § 24.3\(d\) \(3d ed.2007\)](#).

Here is some language from a 7th Cir. opinion, that discussed, but did not resolve the question: (Long v. Pfister)

One passage in Napue, 360 U.S. at 269, 79 S.Ct. 1173, could be read to imply that a prosecutor must correct testimony no matter who solicited it. The Court wrote: “The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected”. This language must be understood in light of the citation the Court gave: Alcorta v. Texas, 355 U.S. 28, 78 S.Ct. 103, 2 L.Ed.2d 9 (1957). In Alcorta the prosecutor had told the witness not to be forthcoming and deliberately elicited a misleading statement; the defense and the jury never learned the truth, something Alcorta stressed. Read in context, the passage in Napue implies that a prosecutor must furnish the truth whether a falsehood had been elicited deliberately (in bad faith) or inadvertently. This is how Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), understood it, remarking that when the prosecution withholds exculpatory evidence there is a constitutional problem “irrespective of the good faith or bad faith of the prosecution.” It is accordingly not proper to read this passage of Napue as establishing that it is irrelevant who elicits the false testimony, whether the defense knows the truth, and whether the truth is presented to the jury. Those issues were not before the Court or expressly decided.

Similar language in 3rd. Cir (US v. Harris)

We do not believe, however, that the prosecution's duty to disclose false testimony by one of its witnesses is to be narrowly and technically limited to those situations where the prosecutor knows that the witness is guilty of the crime of perjury. Regardless of the lack of intent to lie on the part of the witness, Giglio and Napue require that the prosecutor apprise the court when he knows that his witness is giving testimony that is substantially misleading. This is not to say that the prosecutor must play the role of defense counsel, and ferret out ambiguities in his witness' responses on **cross**-examination. However, when it should be obvious to the Government that the witness' answer, although made in good faith, is untrue, the Government's obligation to correct that statement is as compelling as it is in a situation where the Government knows that the witness is intentionally committing perjury.

Similar 11th Cir: (US v. Magouirk)

We have carefully examined the record in this case and we agree with the

district court that Carroll did not testify falsely about her plea agreement with the government. While some of **Carroll's answers on cross-examination concerning her plea agreement were a bit confusing**, she stated explicitly that her plea agreement called for a guilty plea and a recommended fifteen-year sentence.¹ Furthermore, at one point during the **cross**-examination Carroll's lawyer, Mr. Ines, informed the court and the jury of the sentence and stated that the sentence had not yet been imposed.² Consequently, Magouirk's argument that he was convicted on the basis of false testimony by Carroll must fail. It is thus unnecessary to determine whether Magouirk waived his right to raise this objection when he waived his right to appeal his conviction directly.

234 We also agree with the district court that the Assistant United States Attorney inexplicably failed to correct false testimony by Johnson. Although the prosecuting ***110** attorney "has the responsibility and duty to correct what he knows to be false and elicit the truth," **Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959)** (citation omitted), the prosecutor's misconduct does not always render a subsequent conviction illegal. We will overturn a conviction resting in part upon the knowing use of false testimony "if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." **United States v. Agurs, 427 U.S. 97, 103-04, 96 S.Ct. 2392, 2397-98, 49 L.Ed.2d 342 (1976)**. The false testimony must be material before a conviction will be overturned, and materiality must be evaluated in light of all the evidence adduced at trial. When false testimony is elicited that goes to a witness' credibility, it will be considered sufficiently material to warrant a new trial "only when the 'estimate of the truthfulness and reliability of (the) given witness may well be determinative of guilt or innocence.' " **United States v. Anderson, 574 F.2d 1347, 1356 (5th Cir. 1978)** (quoting **Giglio v. United States, 405 U.S. 150, 153-54, 92 S.Ct. 763, 765-66, 31 L.Ed.2d 104 (1972)**).

1st Cir (US v. Vega)

2 Vega first argues that the Government violated ***391** **Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959)**, and her right to due process by allowing two of its witnesses to provide false testimony to the jury. **Napue** prohibits prosecutors from knowingly presenting false evidence, including false testimony, to the jury. **Id. at 269-70, 79 S.Ct. 1173**; see also **United States v. Flores-Rivera, 787 F.3d 1, 31 (1st Cir.2015)**. **This prohibition applies even if the government does not solicit the false**

testimony and merely fails to correct it. Napue, 360 U.S. at 269, 79 S.Ct. 1173.

DC Cir COA (US v Iverson)

Moreover, both before and after Brady, in decisions now generally considered under the Brady rubric, the Court has held that a conviction obtained by the knowing use of perjured testimony violates the defendant's right to a fair trial mandated by the due process clauses of the Fifth and Fourteenth Amendments. United States v. Agurs, 427 U.S. 97, 103, 96 S.Ct. 2392, 2397, 49 L.Ed.2d 342 (1976); Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959); Alcorta v. Texas, 355 U.S. 28, 78 S.Ct. 103, 2 L.Ed.2d 9 (1957); Pyle v. Kansas, 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed. 214 (1942); Mooney v. Holohan, 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed. 791 (1935). This rule applies both when the testimony relates directly to an essential element of the government's proof and when it affects the credibility of a crucial witness. "The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend." Napue v. Illinois, *supra*, 360 U.S. at 269, 79 S.Ct. at 1177.²

³In elaboration of these general rules, it is established that the prosecutor has an affirmative obligation to correct the record when a principal prosecution witness falsely claims that no promises of leniency were made, and that, should he fail to discharge that obligation, the defendant may be³ entitled to a new trial on due process grounds. See, e.g., Napue v. Illinois, *supra*, 360 U.S. at 264, 79 S.Ct. at 1173; Giglio v. United States, 405 U.S. 105, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972); United States v. Barham, 595 F.2d 231 (5th Cir. 1979); Boone v. Paderick, 541 F.2d 447 (4th Cir. 1976); United States v. Pope, 529 F.2d 112 (9th Cir. 1976).

Compliance with these principles in this case demanded that the prosecutor set the record straight when the principal prosecution witness falsely adduced facts which led the jury to believe that she could not possibly derive gain from her testimony against appellant.

FN2

The Court in Napue further noted that "(t)he same result obtains when the state, although not soliciting false evidence, allows it to go uncorrected when it appears." 360 U.S. at 269, 79 S.Ct. at 1177.

10 Cir (US v. Garcia) Laying out it's Napue standard, but the testimony they are examining came up in cross

Under **Napue** materiality is easier to establish: the failure to disclose is material unless it was harmless beyond a reasonable doubt.

[91011](#) There is a reason that the materiality standard for **Napue** violations is more easily satisfied. A defendant may have a *Brady* claim if the witness *unintentionally* gave false testimony or the prosecution did not correct testimony that it *should have known* was false. See [Smith, 50 F.3d at 831](#). But this court has repeatedly spoken of **Napue** claims as requiring perjury by the witness, see, e.g., [United States v. Crockett, 435 F.3d 1305, 1316–17 \(10th Cir.2006\)](#); [Tapia v. Tansy, 926 F.2d 1554, 1563 \(10th Cir.1991\)](#); [McBride v. United States, 446 F.2d 229, 230 \(10th Cir.1971\)](#), and the prosecutor's knowledge of the falsity, see [Crockett, 435 F.3d at 1317](#); [Caballero, 277 F.3d at 1243](#); [Smith, 50 F.3d at 831](#) (failure of detective ***1208** to convey information to prosecutor precluded **Napue** claim, but *Brady* claim survives). A prosecutor's knowing use of perjured testimony is misconduct that goes beyond the denial of a fair trial, which is the focus of *Brady*. It is misconduct that undermines fundamental expectations for a “just” criminal-justice system. As the Supreme Court expressed the point, “[T]he knowing use of perjured testimony ... involves a corruption of the truth-seeking function of the trial process.” [Bagley, 473 U.S. at 680, 105 S.Ct. 3375](#) (internal quotation marks omitted); accord [Smith, 50 F.3d at 826 n. 38](#) (explaining difference between materiality standards under **Napue** and *Brady*).

[12](#) Defendants, however, have failed to establish the elements of a **Napue** claim. We first address Gravatt's testimony (about which only Ramirez complains). The alleged false testimony involved his denial of any recorded meetings:

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



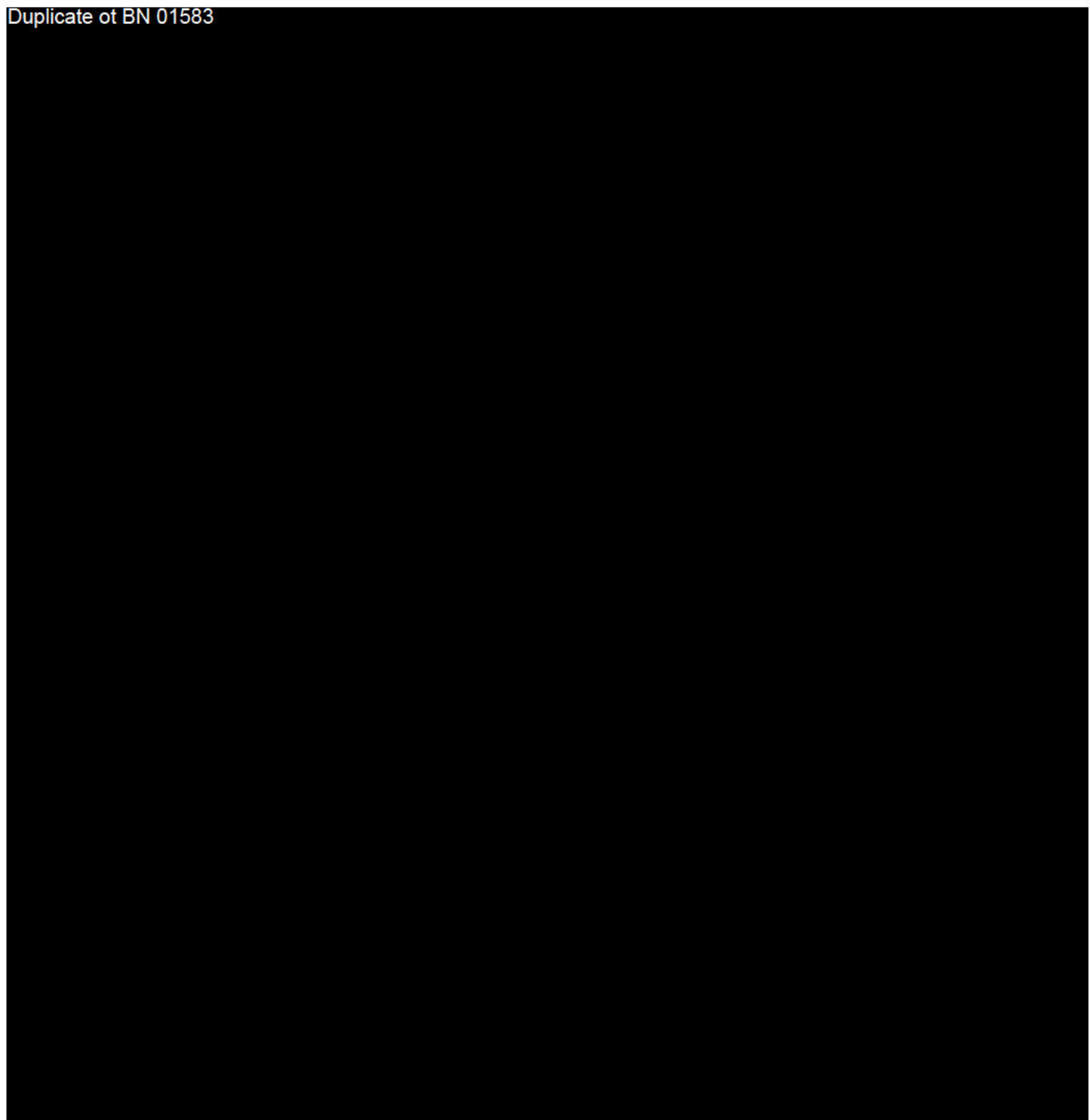
From: Drouet, Suzanne (OPR) (b) (6)

Sent: Wednesday, January 18, 2023 5:41 PM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: RE: Napue issue

Duplicate of BN 01583



From: [Gonzalez, Gregory \(OPR\)](#)
To: [Cummings, John M](#)
Subject: RE: Question
Date: Friday, December 9, 2022 9:29:00 AM

Is he both Morehead's attorney and (b) (6), (b) (7)(C) attorney???

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530
(b) (6)
202-514-5050 fax

-----Original Message-----

From: Cummings, John M (b) (6)
Sent: Friday, December 9, 2022 9:26 AM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: Re: Question

He is Morehead's attorney.

Sent from my iPhone

> On Dec 9, 2022, at 9:20 AM, Gonzalez, Gregory (OPR) (b) (6) wrote:

>

> What is the conflict issue?

> I don't recall it.

>

> Greg Gonzalez

> Assistant Counsel

> U.S. Department of Justice

> Office of Professional Responsibility

> 950 Pennsylvania Ave. NW,

> Washington, D.C. 20530

(b) (6)

> 202-514-5050 fax

>

>

>

> -----Original Message-----

> From: Cummings, John M (b) (6)

> Sent: Friday, December 9, 2022 9:19 AM

> To: Gonzalez, Gregory (OPR) (b) (6)

> Subject: Question

>

> Do you know if (b) (6) has resolved the potential conflicts issue with Morehead?

>

> Sent from my iPhone

From: [Cummings, John M. \(OPR\)](#)
To: (b) (6), (b) (7)(C)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Re: Request for Interview Regarding (b) (6), (b) (7)(C)
Date: Thursday, January 20, 2022 11:08:00 AM
Attachments: [Resentencing Tr 2 of 2.pdf](#)
[Resentencing Tr 1 of 2.pdf](#)
[Sentencing Hearing Transcript \(b\) \(6\), \(b\) \(7\)\(C\) Doc. 101.pdf](#)
[\(b\) \(6\), \(b\) \(7\)\(C\) Hearing, Doc. 210.pdf](#)
[January 29 2017 email from \(b\) \(6\), \(b\) \(7\)\(C\) regarding \(b\) \(6\), \(b\) \(7\)\(C\).pdf](#)
[\(b\) \(6\), \(b\) \(7\)\(C\) Affidavit.pdf](#)
[March 8 2017 Emails Regarding \(b\) \(6\), \(b\) \(7\)\(C\).pdf](#)

Mr. (b) (6), (b) (7)(C),

We look forward to speaking with you next week. I will send you an invitation to join us for a videoconference on Microsoft Teams. While you may already have many of these documents, for your convenience, I am attaching some materials that are relevant to our inquiry including:

- Your affidavit that was filed by Ms. (b) (6), (b) (7)(C)
- An email chain from March 8, 2017, regarding potential discipline of inmate (b) (6), (b) (7)(C)
- An email from you to AUSAs (b) (6), (b) (7)(C) and Morehouse dated January 29, 2017;
- Hearing transcript from (b) (6), (b) (7)(C);
- The initial sentencing transcript from (b) (6), (b) (7)(C);
- The resentencing transcript from (b) (6), (b) (7)(C).

As always, please let me know if you have any questions.

Sincerely,

John Cummings

From: (b) (6), (b) (7)(C)
Sent: Wednesday, January 12, 2022 4:22 PM
To: Cummings, John M. (OPR) (b) (6)
Cc: Gonzalez, Gregory (OPR) (b) (6)
Subject: Re: [EXTERNAL] Re: Request for Interview Regarding (b) (6), (b) (7)(C)

Yes, I've got it in my calendar. Thanks for following up.

On Wed, Jan 12, 2022 at 2:14 PM Cummings, John M. (OPR) (b) (6) > wrote:

Mr. (b) (6), (b) (7)(C)

I just wanted to confirm the date and time for our interview, please let me know if you have any questions.

Thank you,

John Cummings

From: Cummings, John M. (OPR)
Sent: Thursday, January 6, 2022 8:46 AM
To: (b) (6), (b) (7)(C)
Cc: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: [EXTERNAL] Re: Request for Interview Regarding (b) (6), (b) (7)(C)

Mr. (b) (6), (b) (7)(C)

Thank you for getting back to us. Let's aim for Tuesday, January 25, 2022, at 11:00 EST, 10:00 CST. Please let us know if you have a preference between Microsoft Teams, Webex, or a phone call.

Regards,

John

From: (b) (6), (b) (7)(C)
Sent: Wednesday, January 5, 2022 5:12 PM
To: Cummings, John M. (OPR) (b) (6)
Cc: Gonzalez, Gregory (OPR) (b) (6)
Subject: [EXTERNAL] Re: Request for Interview Regarding (b) (6), (b) (7)(C)

Mr. Cummings,

Thank you for your email. I am willing to participate in an interview. If the week of 1/24 works for you, I am available any time 1/24-1/26 or the morning of 1/28.

Best regards,

(b) (6), (b) (7)(C)

On Wed, Jan 5, 2022 at 11:41 AM Cummings, John M. (OPR) (b) (6) wrote:

Mr. (b) (6), (b) (7)(C)

Gregory Gonzalez and I are Assistant Counsels with the United States Department of Justice's

Office of Professional Responsibility (OPR). We would like to speak with you as a witness regarding your interactions with Assistant United States Attorney Terra Morehead in connection with the proceedings in (b) (6), (b) (7)(C)

We would like to interview you remotely (using Microsoft Teams, WebEx, or by phone) about the (b) (6), (b) (7)(C) case sometime in January. We expect the interview will take no more than one hour. You will not be placed under oath, but OPR uses a digital recorder to record its interviews.

Please let us know if you are willing to participate in an interview, and if so, what your available dates are in January. Of course, we also would be happy to respond to any questions you might have.

We would ask that you keep this interview (and what we will discuss at the interview) confidential in order to maintain the integrity of the investigation.

Thank you in advance for your cooperation.

Sincerely,

John M. Cummings
Assistant Counsel
United States Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave., N.W.
Washington, DC 20530

(b) (6)

From: [Gonzalez, Gregory \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#); [Cummings, John M](#)
Subject: RE: Conflicts issue
Date: Tuesday, December 13, 2022 9:05:00 AM
Attachments: [image001.png](#)

Will do.

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Tuesday, December 13, 2022 9:05 AM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: Conflicts issue

The latter. Less is more.

From: Gonzalez, Gregory (OPR) <(b) (6)>
Sent: Tuesday, December 13, 2022 9:02 AM
To: Drouet, Suzanne (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: Conflicts issue

Any suggestion on language for the cancelation email?

(b) (5)

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,

Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Tuesday, December 13, 2022 8:57 AM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: Conflicts issue

Okay. Then while under different circumstances, it wouldn't hurt to interview (b) (6), (b) (7)(C) I don't see any strong reason why we need to under these circumstances. So, you should go ahead and cancel the interview.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Tuesday, December 13, 2022 8:49 AM
To: Drouet, Suzanne (OPR) (b) (6) Cummings, John M
(b) (6)
Subject: RE: Conflicts issue

(b) (5)

(b) (5), (b) (6), (b) (7)(C)

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Tuesday, December 13, 2022 8:25 AM
To: Gonzalez, Gregory (OPR) (b) (6) Cummings, John M
(b) (6)
Subject: RE: Conflicts issue

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Monday, December 12, 2022 5:16 PM
To: Drouet, Suzanne (OPR) (b) (6) Cummings, John M
(b) (6)
Subject: RE: Conflicts issue

We interviewed (b) (5), (b) (7)(C) on a few issues including his representations in the attached email concerning (b) (5), (b) (7)(C) jumping incident.

In the email he indicates that the concern arose from his discussions with Morehead and (b) (5), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (7)(C) told us the reference was a concern that (b) (5), (b) (7)(C) might be impeached if he lied about the (b) (5), (b) (7)(C) attempt.

We had to revisit this point a couple of times for clarification. The attached 5 min interview follow up will give you an idea.

During that interview, (b) (5), (b) (7)(C) disagreed with Morehead's statement, from her written response

below, that the three never discussed the potential impeachment of (b) (6), (b) (7)(C) regarding lying about the (b) (6), (b) (7)(C) attempt.

In Mr. (b) (6), (b) (7)(C) email, he referenced that he had concerns an 11c1C plea agreement “would be used against him at trial in addition to the rail jumping incident at (b) (6), (b) (7)(C)” I did not take this to be any sort of “assessment” of the event by Mr. (b) (6), (b) (7)(C). I believed and took this to mean that the event could be used against (b) (6), (b) (7)(C) because it involved a head injury. I do not recall having any specific conversation with Mr. (b) (6), (b) (7)(C) about this email exchange, nor do I recall Mr. (b) (6), (b) (7)(C) ever expressing that he believed (b) (6), (b) (7)(C) could specifically be impeached because he had denied that he had attempted (b) (6), (b) (7)(C). I did not see nor infer from (b) (6), (b) (7)(C) reference that it was anything other than what I have previously referenced – that this incident would be relevant to impeach (b) (6), (b) (7)(C) because it involved a significant head injury. I do not recall Mr. (b) (6), (b) (7)(C) ever expressing that he thought (b) (6), (b) (7)(C) had credibility issues because he had been untruthful about the (b) (6), (b) (7)(C) incident. If Mr. (b) (6), (b) (7)(C) had this belief, I would have expected that he would not have wanted (b) (6), (b) (7)(C) cooperation against his codefendants, that Mr. (b) (6), (b) (7)(C) would not have recommended a 50% reduction of (b) (6), (b) (7)(C) sentence, and that Mr. (b) (6), (b) (7)(C) would have disclosed this same information to the codefendants. I was not involved in any conversations related to resolving (b) (6), (b) (7)(C) case;

Greg Gonzalez
Assistant Counsel
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Washington, D.C. 20530

(b) (6)

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From: Drouet, Suzanne (OPR) (b) (6)
Sent: Monday, December 12, 2022 4:44 PM
To: Cummings, John M (b) (6); Gonzalez, Gregory (OPR)
(b) (6)
Subject: RE: Conflicts issue

(b) (5)

(b) (5), (b) (6), (b) (7)(C)

Greg, can you send me the email at issue that we want to ask her about. Thanks.

SKD

From: Cummings, John M (b) (6)
Sent: Monday, December 12, 2022 2:30 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Cc: Drouet, Suzanne (OPR) (b) (6)
Subject: Re: Conflicts issue

(b) (5)

Sent from my iPhone

On Dec 12, 2022, at 2:08 PM, Gonzalez, Gregory (OPR) (b) (6) wrote:

Well, here we are on this.
Should I reply that we are not going forward on the interview at this time?

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: (b) (6)
Sent: Monday, December 12, 2022 1:32 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Cc: (b) (6)

From: [Lyles, Shamelle \(OPR\)](#)
To: [Cummings, John M. \(OPR\)](#)
Cc: [Robertson, Jacqueline T \(OPR\)](#); [Boykin, Evonne \(OPR\)](#); [Drouet, Suzanne \(OPR\)](#)
Subject: RE: Conversion of Inquiry 202100630
Date: Thursday, December 9, 2021 4:36:00 PM

Hi John,

As requested, this matter has been converted to an investigation in LM and DM. Thanks.

Shamelle

Shamelle N. Lyles

Program Analyst

Office of Professional Responsibility

U.S. Department of Justice

(b) (6)

From: Cummings, John M. (OPR) (b) (6)

Sent: Thursday, December 9, 2021 4:02 PM

To: Lyles, Shamelle (OPR) (b) (6); Boykin, Evonne (OPR)

(b) (6)

Subject: Conversion of Inquiry

Shamelle and Evonne,

Can you please convert the (b) (6), (b) (7)(C) inquiry, 202100630, to an investigation per Jeff and Suzanne. Thank you and let me know if you need any additional information.

John M. Cummings

Assistant Counsel

United States Department of Justice

Office of Professional Responsibility

950 Pennsylvania Ave., N.W.

Washington, DC 20530

(b) (6)

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Cummings, John M](#)
Subject: Morehead
Date: Friday, December 30, 2022 11:55:49 AM
Attachments: [OPR-481970.DOCX.DRF](#)

Okay, I've gone through this a couple of times now and reviewed quite a bit of the underlying material (albeit not all). (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5), (b) (6), (b) (7)(C)

[REDACTED]

Hope you both have a nice NY's celebration.

SKD

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Cummings, John M](#)
Subject: Morehead
Date: Wednesday, December 28, 2022 11:56:03 AM

I listened to your interview of (b) (6), (b) (7)(C) attorney (b) (6), (b) (7)(C). He noted several times that he was going to look in his file and see if there was any additional relevant information. Did he get back to us?

From: [Gonzalez, Gregory \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#)
Subject: RE: (b) (6), (b) (7)(C) letter to the court
Date: Friday, December 30, 2022 8:57:00 AM
Attachments: [Attachment 60 \(b\) \(6\), \(b\) \(7\)\(C\) - Order, Doc. 82, dated 1-25-17.pdf](#)
[image001.png](#)

If you are still editing the report, can you please change the date we have for when the court received the letter?

We have it as 1/25/17 in the report, but it should be 1/13/17 according to this order.

Thanks!

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Drouet, Suzanne (OPR) (b) (6)
Sent: Friday, December 30, 2022 8:48 AM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: RE: (b) (6), (b) (7)(C) letter to the court

Great. Many thanks.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, December 30, 2022 8:41 AM
To: Drouet, Suzanne (OPR) (b) (6); Cummings, John M
(b) (6)
Subject: (b) (6), (b) (7)(C) letter to the court

Here it is!

Greg Gonzalez
Senior Counsel

U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Cummings, John M. \(OPR\)](#)
To: [Slinkard, Duston \(USAKS\)](#)
Subject: OPR-#468119-v2-RWR_to_USAO_KS.pdf
Date: Friday, September 3, 2021 8:42:00 AM
Attachments: [OPR-#468119-v2-RWR_to_USAO_KS.pdf](#)
[OPR-#468073-v6-RWR_Morehead.pdf](#)
[OPR Policies and Procedures.pdf](#)

Duston,

Attached please find the Request for Written Response that we sent to AUSA Morehead's counsel this morning. Thank you for your ongoing cooperation, and let me know if you have any questions.

Sincerely,

John M. Cummings
Assistant Counsel
United States Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave., N.W.
Washington, DC 20530

(b) (6)

From: [Cummings, John M](#)
To: [Lyles, Shamelle \(OPR\)](#)
Cc: [Drouet, Suzanne \(OPR\)](#); [Ragsdale, Jeffrey \(OPR\)](#)
Subject: OPR-#483904-v1-AUSA_Terra_Morehead.docx
Date: Tuesday, October 11, 2022 10:24:26 PM
Attachments: [OPR-#483904-v1-AUSA_Terra_Morehead.docx](#)

Revision attached for AUSA Morehead case. Greg is currently writing the draft report, so it may make sense to list him as lead counsel for now.

On the (b) (6), (b) (7) (C) case there are no changes.

From: [Gonzalez, Gregory \(OPR\)](#)
To: (b) (6)
Subject: RE: Email to PMRU from your client Terra Morehead
Date: Friday, September 15, 2023 3:00:00 PM
Attachments: [OPR-#494166-v1-OPR Morehead Report REDACTED.PDF](#)

(b) (6)

Pursuant to the terms of the confidentiality agreement you just executed, we are providing you with the redacted report we previously provided to Ms. Morehead and her counsel.
Please note, we redacted information referencing the content of sealed court pleadings.

Thank you,

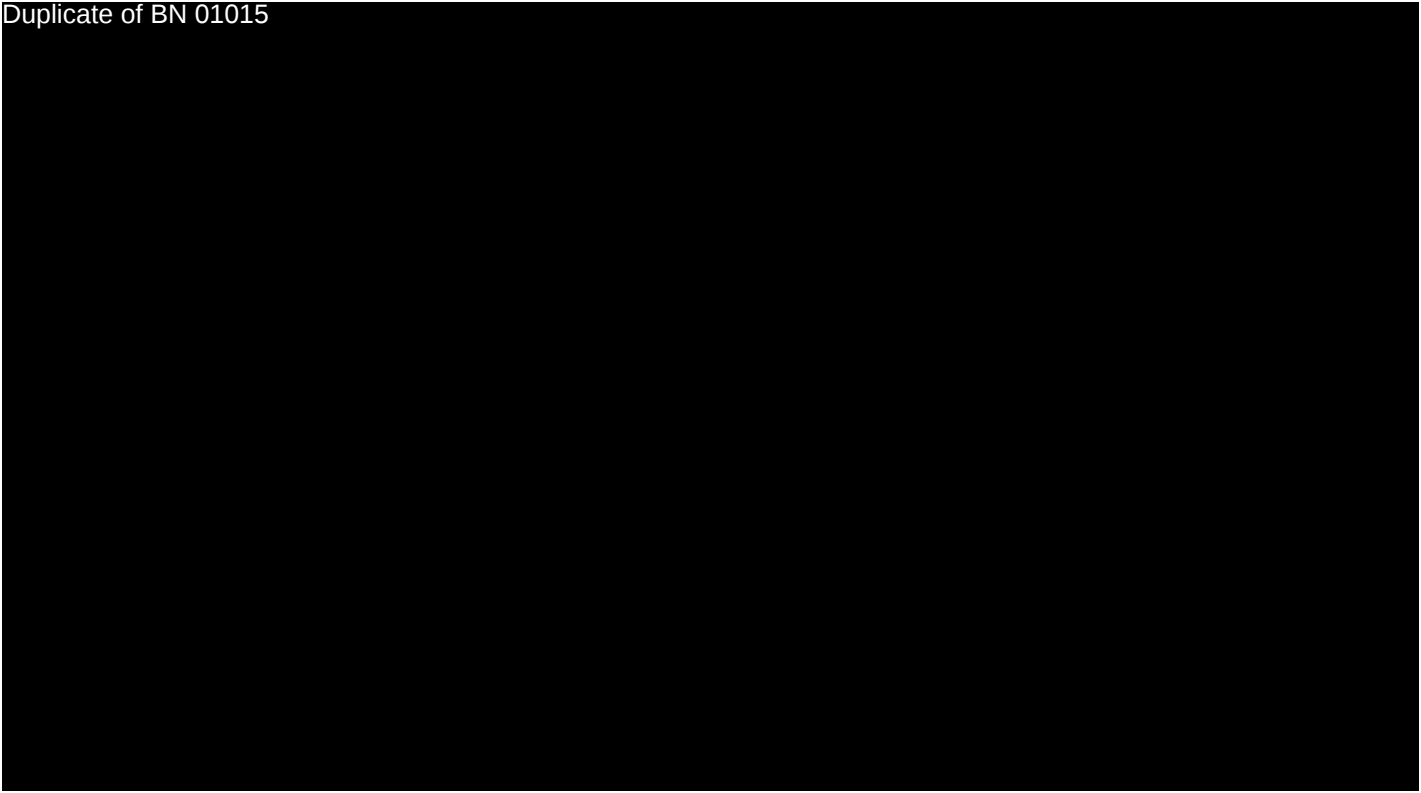
Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)
x

-----Original Message-----

From: (b) (6)
Sent: Friday, September 15, 2023 2:55 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: [EXTERNAL] RE: Email to PMRU from your client Terra Morehead

Duplicate of BN 01015



From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Email to PMRU from your client Terra Morehead
Date: Friday, September 15, 2023 1:39:36 PM
Attachments: [OPR-497414.docx.DRE](#)

I made a few very minor changes, but otherwise okay.

-----Original Message-----

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, September 15, 2023 12:37 PM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: RE: Email to PMRU from your client Terra Morehead

How about this?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)
202-514-5050 fax

-----Original Message-----

From: Drouet, Suzanne (OPR) (b) (6)
Sent: Friday, September 15, 2023 12:10 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: RE: Email to PMRU from your client Terra Morehead

(b) (5)

So have him fill out our confidentiality form and then we can get the report out to him. You will likely have to tinker with the form because I'm not sure it covers the bar process. He is going to be able to need to discuss the findings with the bar.

-----Original Message-----

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, September 15, 2023 11:58 AM
To: Drouet, Suzanne (OPR) (b) (6)
Subject: FW: Email to PMRU from your client Terra Morehead

We received this request from Morehead's new attorney.
Do we need to hold off until the bar reporting before we can give him the report?
I will write up the appropriate confidentiality form.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility

950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

-----Original Message-----

From: (b) (6)

Sent: Friday, September 15, 2023 11:47 AM

To: Gonzalez, Gregory (OPR) (b) (6)

Subject: [EXTERNAL] RE: Email to PMRU from your client Terra Morehead

Duplicate of BN 01015



From: [Cummings, John M. \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#); [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Request for Additional Morehead Emails
Date: Wednesday, June 1, 2022 4:30:05 PM
Attachments: [image001.png](#)

Greg,

My apologies for just getting back to you, I was on the water dealing with a boat issue and bringing any phone, particularly your work phone, is inviting disaster.

The emails you viewed involving (b) (6), (b) (7)(C) were printed copies that were retained in hard copy in the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) files. The same is true for several of the old email exchanges between defense counsel and Morehead. That being said, there is no point in withdrawing your request, if nothing else it serves as a helpful experiment to see if we are routinely missing available materials.

From: Drouet, Suzanne (OPR) (b) (6)
Sent: Wednesday, June 1, 2022 9:33 AM
To: Gonzalez, Gregory (OPR) (b) (6); Cummings, John M. (OPR) (b) (6)
Subject: RE: Request for Additional Morehead Emails

Yes. And, once you work through this issue, let's figure out whether we need to change our standard request language and if so, what we need to add.

The three-year limitation has long been a problem, particularly given that some of our cases don't even get to us until well after the three-year mark.

Thanks.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Wednesday, June 1, 2022 9:29 AM
To: Cummings, John M. (OPR) (b) (6); Drouet, Suzanne (OPR) (b) (6)
Subject: Request for Additional Morehead Emails

I have been reviewing the Morehead docs we have in preparation for her interview and I have a question about our email pull.

If you have already addressed this, please feel free to cut me off before going down the rabbit hole of this email.

We have PSTs from her inbox and sent emails for 2015, 2017, and 2019.

For 2015 and 2017, those PSTs don't have a ton of emails in them.

Most importantly, I can't find any (b) (6), (b) (7)(C)-related emails in them.

This is odd because, attached to her written response, Morehead provided a few such emails from 2015 and 2017.

I asked Michelle Mullinix about this, and she said that when we request historic email info, they pull the info off the server.

The data on the server is only maintained for 3 years back from the present date unless there is a litigation hold.

So, the Morehead emails we have from 2015 and 2017 are likely ones where the US Attorney or someone important is a CC or recipient (because those emails are maintained in a hold).

In Morehead's case, there are a bunch of office wide emails in the production (w/ the US Atty as CC).

So, I think it is likely that Morehead created an Outlook folder to store all the case related emails. This Outlook folder would be stored either on the local shared drive on her computer harddrive.

Michelle said that her office does not look for such things unless we specifically direct them to find it.

She said that if we request for her to contact the office IT person in attempt to locate these emails, that she would look for them.

Would it be OK for me to make that request?

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Cummings, John M. \(OPR\)](#)
To: (b) (6)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Non-Disclosure Agreement
Date: Thursday, June 23, 2022 1:34:00 PM
Attachments: [Morehead Unsigned NDA.pdf](#)

(b) (6) and (b) (6)

Attached please find a standard OPR NDA for you and AUSA Morehead to execute. Please return a copy containing all of the required signatures to OPR at your earliest convenience. As always, if you have any questions, please let me know.

Take care,

John

John M. Cummings
Assistant Counsel
United States Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave., N.W.
Washington, DC 20530

(b) (6)

From: [Gonzalez, Gregory \(OPR\)](#)
To: [Cummings, John M. \(OPR\)](#)
Subject: Look at these emails!
Date: Friday, June 10, 2022 10:28:00 AM
Attachments: [FW: Question .msg](#)
[Fwd \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[Fwd \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[\(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[\(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[Re \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[RE \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[RE \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[RE \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[Re video and discipline file for \(b\) \(6\), \(b\) \(7\)\(C\) .case.msg](#)
[image001.png](#)

I did a very quick look at the new emails we received.

There are communications with (b) (6), (b) (7)(C) about getting the video and (b) (6), (b) (7)(C) reports. One is an email from Morehead saying that (b) (6), (b) (7)(C) gave her the wrong (b) (6), (b) (7)(C) report, because she only wanted those relating to discipline of (b) (6), (b) (7)(C). There are also emails between Morehead and (b) (6), (b) (7)(C) attorney where she arranged for him, and (b) (6), (b) (7)(C) psychiatrist, to view the (b) (6), (b) (7)(C) video and review A LETTER (b) (6), (b) (7)(C) wrote. There is an email from (b) (6), (b) (7)(C) to Morehead indicating that she put the video and the letter in a folder for Morehead.

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Gonzalez, Gregory \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#)
Subject: MOREHEAD RESPONSE OUTLINE ETC
Date: Friday, May 19, 2023 10:57:00 AM
Attachments: [OPR-492765.DOCX.DRF](#)
[image001.png](#)
[OPR-491967.DOCX.DRF](#)
[OPR-491969.DOCX.DRF](#)
[OPR-491968.dotx.DRF](#)

Suzanne,

Here are my suggested additions and edits to the report in response to Morehead's comments. I erred on the side of overinclusion and tried to address everything of any substance that I could pick out of her letter. I understand that some of these issues and responses may not even merit comment in the final report.

Note that my page and footnote references correspond to the attached "final report" document. I have also added a paragraph to P.2 of the final report document explaining that we received comments from Morehead and the USAO but did not change our recommendations.

I also attached a draft transmittal letter and memo.

Carlita ordered the (b) (6), (b) (7)(C) interview to be transcribed and that should be completed in 20 days.

Let me know if you need anything else on this.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)
202-514-5050 fax



From: [Gonzalez, Gregory \(OPR\)](#)
To: [Drouet, Suzanne \(OPR\)](#); [Ragsdale, Jeffrey \(OPR\)](#); [Ingersoll, Laura \(OPR\)](#)
Subject: Morehead to be disbarred
Date: Wednesday, April 17, 2024 8:38:24 AM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.png](#)

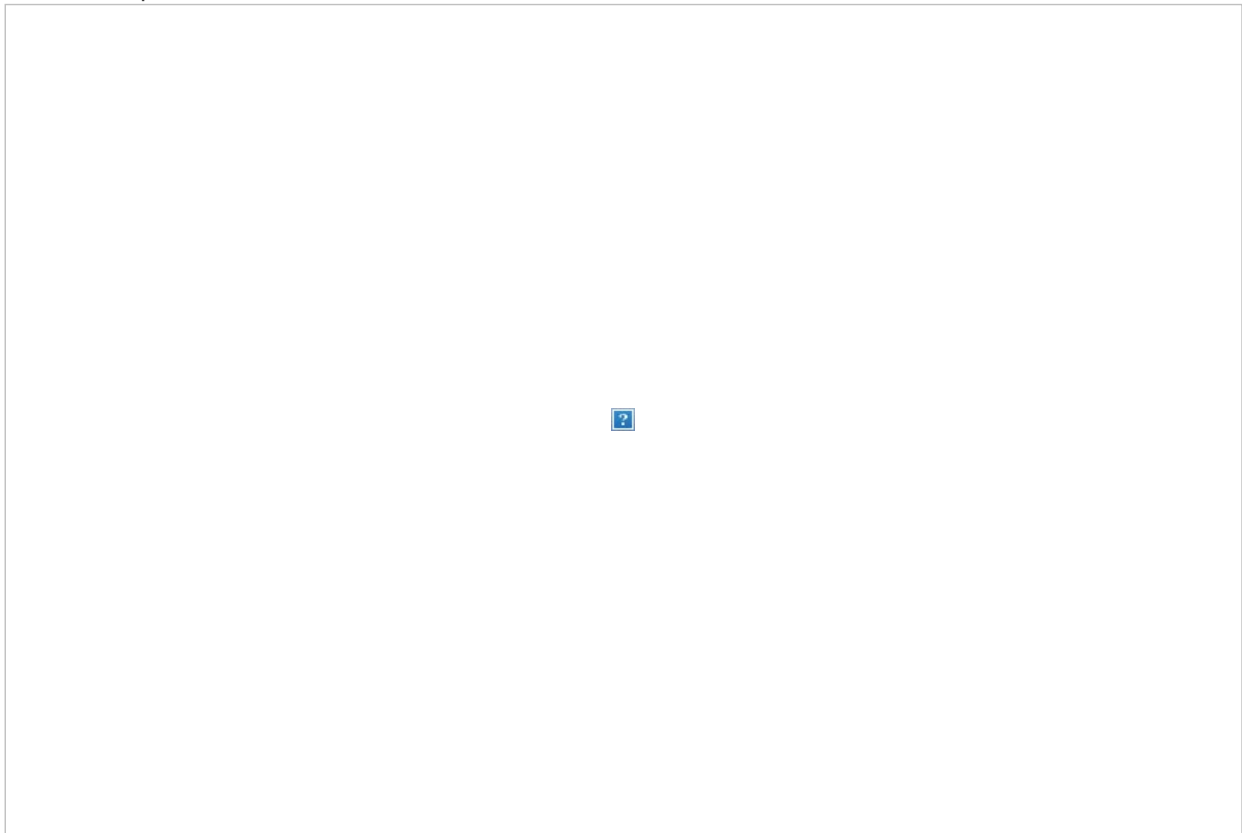
<https://kansaspublishradio.org/2024-04-16/notorious-kansas-prosecutor-surrenders-law->

[license-will-soon-be-disbarred](#)

Kansas prosecutor who framed innocent man surrenders law license, will soon be disbarred

KCUR | By [Peggy Lowe](#)

Published April 16, 2024 at 2:41 PM CDT



Gabe Rosenberg

/

KCUR 89.3

Terra Morehead, in an undated photo, is a long-time Kansas prosecutor who has surrendered her law license after several high-profile ethical issues.

Terra Morehead, who retired as a federal prosecutor last August, has agreed to turn over her law license as part of an agreement with a Kansas disciplinary board. As a Wyandotte County prosecutor in the 1990s, Morehead helped KCKPD Detective Roger Golubski frame an innocent man who spent 23 years in prison.

Terra Morehead, a longtime county and federal prosecutor who helped police frame at least one innocent

man, has agreed to surrender her law license and faces disbarment.

Morehead, who became notorious for skirting legal protections for defendants, agreed to surrender her license as part of an agreement with the Kansas Board for Discipline of Attorneys. She is awaiting disbarment from the Kansas Supreme Court, according to court filings.

The documents also show that Morehead, who retired from the U.S. Attorney's Office in Kansas last August, was the subject of a federal investigation by the U.S. Department of Justice. The result of that probe is unknown.

Morehead's conduct came under scrutiny during the [exoneration of Lamonte McIntyre](#), who was convicted in 1994 of a double homicide when he was 17.

McIntyre was freed in 2017 after Wyandotte County District Attorney Mark Dupree said his conviction was a "manifest injustice" and a judge dropped the case. McIntyre sued and was [awarded \\$12.5 million](#) in 2022 by the Unified Government of Kansas City, Kansas, and Wyandotte County for the wrongful conviction.



News

[An innocent Kansas man spent 23 years in prison. His release exposed decades of police corruption](#)

Acting on a case built by disgraced former Kansas City, Kansas Police detective Roger Golubski, Morehead presented no physical evidence tying McIntyre to the murders. She relied upon the testimony of a witness, Niko Quinn, who later recanted.

Quinn said Morehead threatened to throw her in jail and take her children if she didn't lie about what she saw the day of the double homicide. Morehead also failed to disclose that she had a past romantic relationship with the judge on the case.

Quinn, reached Tuesday, said she is glad authorities are finally starting to clean up problems in the criminal justice system. Quinn and four other Black women have [filed a federal civil rights lawsuit](#) against the Unified Government alleging that officials permitted an "open and notorious police protection racket" to victimize the Black community.

Morehead's actions may be added to the federal lawsuit, Quinn said. She said Morehead's career had profited from her suffering.

"This is the beginning of my dreams," Quinn said, "because I want her dreams."

Morehead's attorney didn't return an email seeking comment on Tuesday.

Golubski [faces a federal trial this fall](#) on charges that he violated the civil rights of several Black women and, in a separate case, protected a KCK drug dealer who was running a sex trafficking operation of underage girls. He is currently on home arrest and was recently [chided by a federal magistrate](#) for violating his arrest conditions by going to a fast-food place.

After her tenure in the Wyandotte County DA's office, Morehead moved to the U.S. Attorney's Office in Kansas, where she became embroiled in other alleged ethical breaches and was [removed from criminal cases in 2021](#).

Morehead was criticized in a U.S. Department of Justice investigation after a federal judge in 2017 tossed a defendant's conviction on drug charges.

In a rare public admonishment, U.S. District Judge Julie Robinson ruled that Morehead had interfered with a defendant's Sixth Amendment right to a fair trial and [found that Morehead](#) had "substantially interfered with a

defense witness's decision to testify" in the case.

A March 20 filing with the Kansas Supreme Court, signed by Alice Walker, deputy disciplinary administrator for the Kansas Board for Discipline of Attorneys, asks the court to forego an April pre-hearing and a May formal hearing because Morehead had agreed to surrender her license to practice law. The disciplinary board recommended that the high court accept it.

The court approved the request and is now expected to issue a formal disbarment, which is standard practice under Kansas Supreme Court rules when an attorney surrenders their law license.

The state board also told the high court that Morehead had been the subject of an investigation by the Office of Professional Responsibility for the U.S. Department of Justice, but doesn't say what that found.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: [Cummings, John M. \(OPR\)](#)
To: (b) (6)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Documents for AUSA Morehead Interview
Date: Wednesday, June 8, 2022 10:38:00 AM
Attachments: [Email Ex btw Morehead and \(b\) \(6\), \(b\) \(7\)\(C\) re Video.pdf](#)
[Email Ex with \(b\) \(6\), \(b\) \(7\)\(C\) Re \(b\) \(6\), \(b\) \(7\)\(C\) injury.pdf](#)
[Gmail - \(b\) \(6\), \(b\) \(7\)\(C\) - 2019.pdf](#)
[Notes 3-15-2017.pdf](#)
[\(b\) \(6\), \(b\) \(7\)\(C\) Email 3-8-2017.pdf](#)

(b) (6) and (b) (6)

In preparation for next Tuesday's interview, we would ask that you and AUSA Morehead have access to all of the attachments listed in Ms. Morehead's response to OPR. To help you prepare, we expect to focus on the exhibits listed below. In addition, attached to this email are five additional documents that we expect to ask AUSA Morehead about during the interview. The first two email exchanges were described in AUSA Morehead's response to OPR. The other documents include (b) (6), (b) (7)(C) notes from his 3/15/2017 meeting with AUSA Morehead, a single page from an email exchange with (b) (6), (b) (7)(C) that AUSA Morehead provided to (b) (6), (b) (7)(C) on 3/15/2017, and an email exchange between (b) (6), (b) (7)(C) and AUSA Morehead in July of 2019.

9 5/7/15 email with (b) (6), (b) (7)(C)
10 5/7/15 email with criminal histories
11 NCIC Report
12 5/12-13/15 email exchange with (b) (6), (b) (7)(C)
22 (b) (6), (b) (7)(C) presentence report
23 "conviction sheet"
26 404(b) notice
27 404(b) motion
28 (b) (6), (b) (7)(C) debriefing notes
29 (b) (6), (b) (7)(C) debriefing summary
30 (b) (6), (b) (7)(C) presentence report
33 MTC due to (b) (6), (b) (7)(C) injury
36 email 7/30/15 re (b) (6), (b) (7)(C) condition
45 email exchange with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) counsel
46 Notes of debrief
Trial testimony and cross of (b) (6), (b) (7)(C)
61 (b) (6), (b) (7)(C) email re (b) (6), (b) (7)(C)
62 Status Hearing Tr.
63 email with USMS re video
64 email with USMS re tier restrictions
65 (b) (6), (b) (7)(C) Records (11 pages)
66 email with (b) (6), (b) (7)(C) re: video
67 (b) (6), (b) (7)(C) declaration
68 1st Sentencing transcript
72 Motion to Dismiss

74 6/18 email from (b) (6), (b) (7)
75 6/18 email to (b) (6), (b) (7) attaching sentencing transcript
76 Gov. resp. to MTD
78 6/24/19 email from (b) (6), (b) (7)
79 Gov. Supp. Resp to MTD
80 Order denying MTD
84 Order denying motion for a new trial
85 Order re motions
89 email to (b) (6), (b) (7)
95 2nd sentencing transcript
96 2nd sentencing transcript PT. II

As always, if you have any questions please do not hesitate to contact us.

Regards,

John M. Cummings
Assistant Counsel
United States Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave., N.W.
Washington, DC 20530

(b) (6)

From: [Cummings, John M. \(OPR\)](#)
To: (b) (6)
Cc: [Gonzalez, Gregory \(OPR\)](#)
Subject: Additional Emails
Date: Friday, June 10, 2022 11:58:00 AM
Attachments: [RE \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[RE \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)
[RE \(b\) \(6\), \(b\) \(7\)\(C\) .msg](#)

(b) (6), (b) (7)(C) and (b) (6), (b) (7)(C),

Attached please find three additional emails that are relevant to the upcoming interview with AUSA Morehead. We just received these today which is why we did not forward them earlier. As always, please let us know if you have any questions or concerns.

Take care,

John

John M. Cummings
Assistant Counsel
United States Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave., N.W.
Washington, DC 20530

(b) (6)

From: [Cummings, John M. \(OPR\)](#)
To: [Cummings, John M. \(OPR\)](#)
Subject: (b) (6), (b) Interview
Date: Tuesday, June 14, 2022 3:50:19 PM
Attachments: [220329_001.msv](#)

From: [Ragsdale, Jeffrey \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: Morehead
Date: Friday, June 23, 2023 10:03:28 AM
Attachments: [image001.png](#)

Suzanne was going to say something. She may cover this in her response to PMRU.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, June 23, 2023 9:36 AM
To: Ragsdale, Jeffrey (OPR) (b) (6)
Subject: RE: Morehead

Should we give Masling a heads up on this?

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Ragsdale, Jeffrey (OPR) (b) (6)
Sent: Friday, June 23, 2023 9:34 AM
To: Gonzalez, Gregory (OPR) (b) (6)
Subject: Morehead

I received a call from Dustin Slinkard yesterday and he said that Morehead is retiring in August, and I believe she is going to tender her license to the bar. I advised Suzanne of this.

Jeff

From: (b) (6)
To: [Cummings, John M](#)
Cc: (b) (6) [Gonzalez, Gregory \(OPR\)](#)
Subject: RE: [EXTERNAL] RE: Interview Transcript
Date: Tuesday, July 19, 2022 5:44:57 PM
Attachments: [Morehead 061422 Interview Errata Form.docx.TXT](#)

John,

Good evening. Please find attached the errata form for the June 14, 2022 OIG interview of Terra D. Morehead.

Please let me know if you have any questions.

Thanks again for the extension.

Best,

(b) (6)

(b) (6)

Attorney

Brownell Landrigan, PC

1818 N Street NW, Suite 520

Washington, DC 20036

202-822-1701

202-822-1914 (fax)

www.brolanlaw.com

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From: Cummings, John M (b) (6)
Sent: Thursday, July 14, 2022 10:54 AM
To: (b) (6)
Cc: (b) (6) [Gonzalez, Gregory \(OPR\)](#)
(b) (6)
Subject: Re: [EXTERNAL] RE: Interview Transcript

Of course.

Sent from my iPhone

On Jul 14, 2022, at 9:39 AM, (b) (6) wrote:

John,

Good morning.

Can we have until Wednesday July 20 (instead of July 19) to return the errata form?

Regards,

(b) (6)

(b) (6)

Attorney

Brownell Landrigan, PC

1818 N Street NW, Suite 520

Washington, DC 20036

202-822-1701

202-822-1914 (fax)

www.brolanlaw.com

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From: Cummings, John M (b) (6)

Sent: Thursday, July 14, 2022 9:19 AM

To: (b) (6)

Cc: (b) (6) Gonzalez, Gregory (OPR)

(b) (6)

Subject: Re: [EXTERNAL] RE: Interview Transcript

Feel free to use whatever form you are most comfortable with.

Regards,

John

Sent from my iPhone

On Jul 13, 2022, at 1:13 PM, (b) (6)

(b) (6) wrote:

John,

I hope you are well.

Do you have an errata sheet you would like us to use? Or are we free to use one of our own?

Best,

(b) (6)

(b) (6)

Attorney

Brownell Landrigan, PC

1818 N Street NW, Suite 520

Washington, DC 20036

202-822-1701

202-822-1914 (fax)

www.brolanlaw.com

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From: Cummings, John M. (OPR) (b) (6)

Sent: Wednesday, June 29, 2022 5:14 PM

To: (b) (6)

(b) (6)

Cc: Gonzalez, Gregory (OPR) (b) (6)

Subject: Interview Transcript

(b) (6) and (b) (6)

Thank you for returning the executed OPR confidentiality agreement on behalf of AUSA Morehead. Attached is the interview transcript from AUSA Morehead's June 14, 2022 interview with OPR.

After reviewing the transcript, please feel free to submit an errata sheet noting and correcting any misspellings or substantive errors. In addition, after reviewing the transcript you may, but are not required to, provide a written supplement to OPR if you believe that any of AUSA Morehead's responses were unclear or incomplete.

We would ask that you provide OPR with an errata sheet and any supplementary information by July 19, 2022.

Feel free to contact Greg or me if you have any questions or concerns.

Thank you, and I hope everyone has a safe holiday weekend,

John

From: (b) (6)
To: [Cummings, John M. \(OPR\)](#)
Cc: [Washington-Watson, Sheila \(OPR\)](#); (b) (6); [Morehead, Terra \(USAKS\)](#)
Subject: RE: [EXTERNAL] Terra Morehead has invited you to collaborate on Box
Date: Monday, November 15, 2021 4:50:45 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[Morehead Written Response.PDF](#)

Mr. Cummings,

Please find attached Ms. Morehead's Written Response to the OPR Request. The Response references 103 attachments which we will provide shortly in a separate email. If you have any issues opening and/or viewing the Response or attachments, please let us know.

Thank you in advance for your consideration.

Sincerely,

(b) (6)

(b) (6)

Associate Attorney
Brownell Landrigan, PC
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From: Cummings, John M. (OPR) (b) (6)
Sent: Monday, November 15, 2021 3:47 PM
To: Morehead, Terra (USAKS) (b) (6)
Cc: Washington-Watson, Sheila (OPR) (b) (6)
(b) (6)
Subject: FW: [EXTERNAL] Terra Morehead has invited you to collaborate on Box

Duplicate of BN 01052

From: [Drouet, Suzanne \(OPR\)](#)
To: [Gonzalez, Gregory \(OPR\)](#); [Ragsdale, Jeffrey \(OPR\)](#)
Subject: RE: 2nd request for extension from Morehead's atty
Date: Tuesday, April 25, 2023 7:15:52 AM
Attachments: [image001.png](#)
[image002.png](#)

Errrggghhh (expression of frustration). You can give him the extension but inform him that we will not be able to authorize any further extensions.

Yes, you can inform him that it concerns sealed materials and therefore an NDA won't solve the problem.

From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Monday, April 24, 2023 5:29 PM
To: Drouet, Suzanne (OPR) (b) (6); Ragsdale, Jeffrey (OPR)
(b) (6)
Subject: 2nd request for extension from Morehead's atty

FYI,

Morehead's attorney requested an extension until 5/12 and for some kind of NDA so he can see the redacted portions of the report.

I assume we will give him the extension with some kind of language indicating that this is the last one.

As to the redactions, we redacted only material quoting sealed pleadings or quoting documents we obtained that were attached to a sealed pleading.

So, we can't give him authority to view that material. He would have to get the court's approval to view it.

At least, that is what I think we should tell him.

Let me know how to proceed here.

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

seal

From: (b) (6)
Sent: Monday, April 24, 2023 4:45 PM
To: Gonzalez, Gregory (OPR) (b) (6)
Cc: (b) (6)
Subject: [EXTERNAL] Re: U.S. Department of Justice - Office of Professional Responsibility
Confidential Correspondence

Greg,

We respectfully request another - and final - extension of time to respond to May 12. Ms. Morehead is having surgery on Thursday (will be out Thursday and Friday), and (b) (6) is out of the office this week as well. I'm saying this not to suggest that this is anything but poor planning on my end but rather to explain that I am not as far along as I would have liked to be on this matter and cannot easily make up the ground this week.

One further question regarding the draft report. Would it be possible to view the redacted sections via some sort of NDA and/or obtain some clarity on the reason for the redactions? I imagine it has to do with restrictions in the underlying case itself but wanted to ensure I checked with you.

I appreciate your consideration.

(b) (6)

(b) (6)

Brownell Landrigan, PLLC
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From: Gonzalez, Gregory (OPR) (b) (6)
Sent: Friday, March 10, 2023 12:21 PM
To: (b) (6)
Subject: RE: U.S. Department of Justice - Office of Professional Responsibility Confidential Correspondence

(b) (6)

OPR management if fine with your extension request.

I attached a zip file that should have all the docs you requested with the exception of the letter from (b) (6), (b) (6), (b) (7)(F) to his wife, which is an attachment to a sealed pleading.

Also, it is OPR's policy not to provide subjects with its witness interviews. So, none of those docs are included.

FYI, some of the time stamps on the emails may vary slightly from the entries in the draft report either due to typos or issue with the clock on my Outlook.

Please let me know if you have any issues viewing the documents.

Thank you,

Greg Gonzalez
Senior Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: (b) (6)
Sent: Thursday, March 9, 2023 4:41 PM

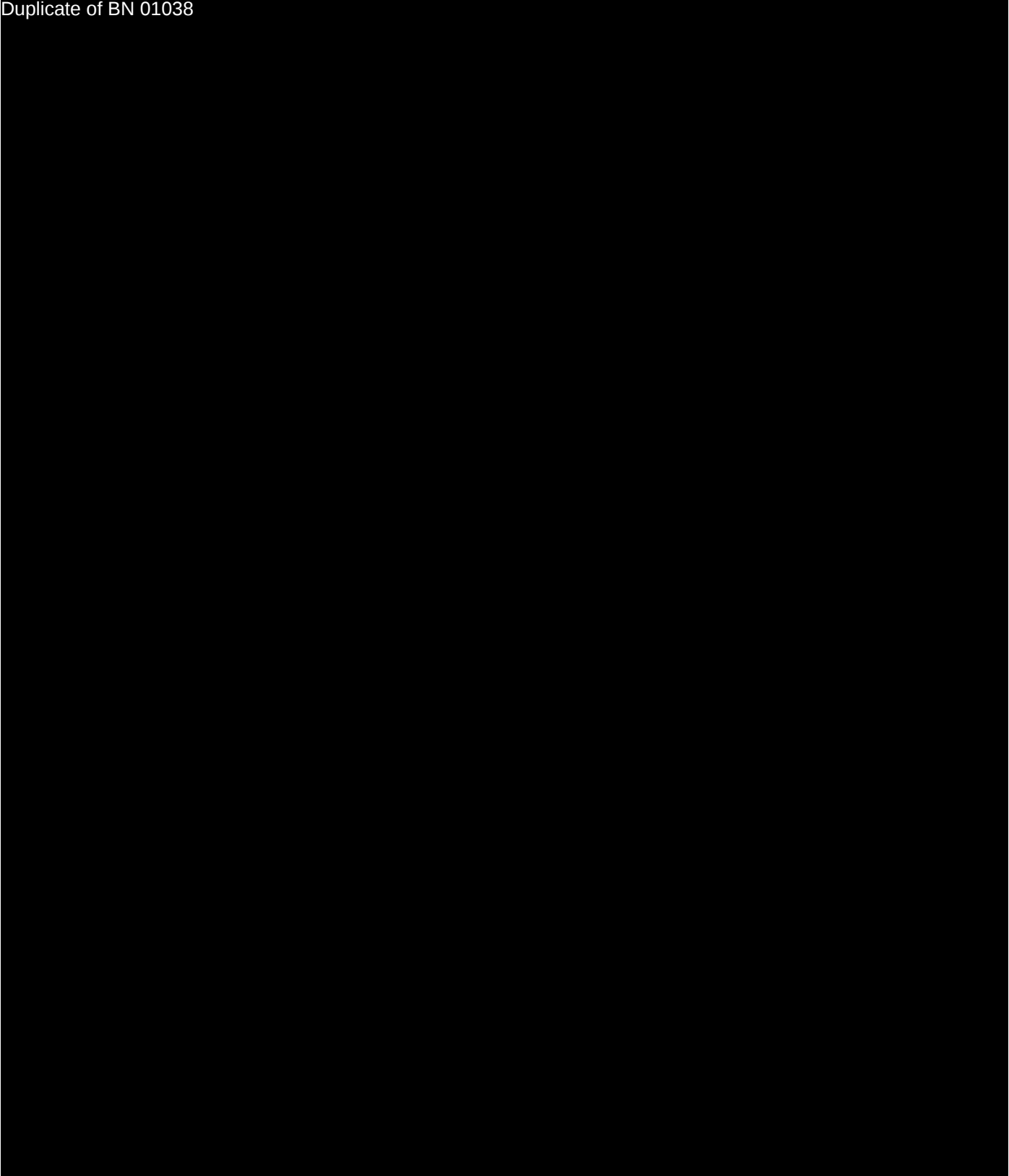
To: Gonzalez, Gregory (OPR) (b) (6)

Cc: Cochran, Carlita (OPR) (b) (6)

(b) (6)

Subject: [EXTERNAL] Re: U.S. Department of Justice - Office of Professional Responsibility
Confidential Correspondence

Duplicate of BN 01038



From: [Gonzalez, Gregory \(OPR\)](#)
To: [Dickinson, Lisa \(USMS\)](#); [Cummings, John M](#)
Subject: RE: Additional Request
Date: Friday, August 26, 2022 1:34:00 PM
Attachments: [RE \(b\) \(6\), \(b\) \(7\)\(C\).msg](#)
[image001.png](#)

Lisa,

John and I are still working away on this matter and have one more question for you.

In the attached email, (b) (6), (b) (7)(C) arranges for (b) (6), (b) (7)(C) defense counsel and a doctor to review the video of the incident as well as a letter.

Do you have any documentation in the file concerning who requested that the letter be made available and how the letter was retrieved, etc?

Please call me at the number below, when you have a minute, for more detail on exactly what we are looking to locate.

Thank you,

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Dickinson, Lisa (USMS) (b) (6)
Sent: Monday, March 21, 2022 6:06 PM
To: Cummings, John M. (OPR) (b) (6)
Cc: Gonzalez, Gregory (OPR) (b) (6)
Subject: FW: Additional Request

Duplicate of BN 01182



From: [Gonzalez, Gregory \(OPR\)](#)
To: (b) (6), (b) (7)(C)
Cc: [Cummins, John M](#)
Subject: RE: Assistance in DOJ OPR Matter
Date: Tuesday, August 16, 2022 11:50:00 AM
Attachments: [RE \(b\) \(6\), \(b\) \(7\)\(C\).msg](#)
[Fwd \(b\) \(6\), \(b\) \(7\)\(C\).msg](#)
[Fwd \(b\) \(6\), \(b\) \(7\)\(C\).msg](#)
[FW Question .msg](#)
[image001.png](#)

(b) (6), (b) (7)(C)

Just writing to confirm that we will interview you on Friday at 1pm.
I have attached a few emails that we would like to discuss.
Please let me know if you have any difficulty opening the attachments.
Thank you,

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax



From: Gonzalez, Gregory (OPR)
Sent: Friday, August 12, 2022 3:12 PM
To: (b) (6), (b) (7)(C)
Cc: Cummins, John M (b) (6)
Subject: Assistance in DOJ OPR Matter

(b) (6), (b) (7)(C)

I obtained your contact information from Lisa Dickinson, the General Counsel for the U.S. Marshals Service.

I am conducting an investigation into allegations of professional misconduct concerning the conduct of Assistant United States Attorney Terra Morehead in connection with the proceedings in (b) (6), (b) (7)(C)

I would like to speak with you as a witness regarding your interactions with Ms. Morehead in connection with the proceedings in (b) (6), (b) (7)(C) relative to injuries sustained by inmate (b) (6), (b) (7)(C)

Could you please contact me at the number below when you are free to discuss this matter?

Thank you,

Greg Gonzalez
Assistant Counsel
U.S. Department of Justice
Office of Professional Responsibility
950 Pennsylvania Ave. NW,
Washington, D.C. 20530

(b) (6)

202-514-5050 fax

