



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 4, 2004

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed are responses to questions posed to the Director of the Federal Bureau of Investigation, Mr. Robert S. Mueller, III, following Director Mueller's appearance before the Committee on July 23, 2003. The hearing concerned efforts to combat terrorism.

We regret the delay in responding but hope that this information is helpful to you. If we may be of additional assistance in connection with this or any other matter, we trust that you will not hesitate to call upon us.

Sincerely,

William E. Moschella
Assistant Attorney General

Enclosure

cc: The Honorable Patrick J. Leahy
Ranking Minority Member

Responses of Robert S. Mueller, III
Director
Federal Bureau of Investigation
Based Upon July 23, 2003 Testimony
Before the Senate Committee on the Judiciary

Questions Posed by Senator Hatch

As you know, I have been - and remain - concerned about the issues surrounding the death of Kenneth Michael Trentadue, an inmate who died in the Federal Transfer Center (FTC), in Oklahoma City, Oklahoma, on August 21, 1995. At approximately 3 a.m. on August 21, 1995, FTC correctional officers found Mr. Trentadue hanging by a bed sheet around his neck from a grate in his cell.

FTC officials notified the Oklahoma City FBI about Trentadue's death. I understand that a number of entities, including the FBI, the Justice Department's Civil Rights Division, the Justice Department's Inspector General's Office, the Oklahoma Medical Examiner's Office and the Oklahoma County District Attorney's Office have investigated this matter and reached a determination that Mr. Trentadue was not murdered but committed suicide. Notwithstanding the results of these investigations, I continue to have concerns as to the circumstances of Mr. Trentadue's death. To this end, I want to ask several follow up questions relating to the death of Kenneth Michael Trentadue:

1. Please describe the FBI's involvement in the investigation of Mr. Trentadue's death, and the steps taken by the FBI during its investigation. In describing the FBI's involvement, please address all aspects of the FBI's investigation, including witness interviews, collection and processing of evidence, and all forensic examinations.

Response:

The FBI's Oklahoma City Division was notified of Mr. Trentadue's death on August 21, 1995. The Oklahoma City Division took photographs, collected evidence, and opened an investigation into Mr. Trentadue's death. During the first few months of the investigation, the Oklahoma City Division interviewed Bureau of Prisons personnel at the Federal Transfer Facility, sent investigative leads to other field offices requesting that they locate and interview Trentadue family members and inmates who had been at the Federal Transfer Facility at the time of Mr. Trentadue's death, and sent evidence to the FBI Laboratory for forensic examination. In December 1995, the Oklahoma City Division assigned an additional Agent to the investigation in order to increase the investigative effort, and after that time additional forensic tests and numerous interviews were conducted.

An October 9, 1997, Department of Justice (DOJ) press release states that Federal prosecutors worked with the FBI and with a grand jury in Oklahoma, conducting a careful review of the evidence. That review included consulting experts and interviewing scores of witnesses, including prisoners, correctional officers, prison officials, law enforcement investigators, forensic experts, and medical personnel. As the DOJ press release indicates, the investigation into all allegations and potential leads failed to establish evidence that was inconsistent with a conclusion that Mr. Trentadue committed suicide.

Because appeals in the civil lawsuit brought by Trentadue against the United States are still pending, the FBI believes that further comment is inappropriate under DOJ regulations (28 C.F.R. section 50.2(c)).

2. **As you know, the Department of Justice's Inspector General criticized the FBI's investigation of Mr. Trentadue's death, citing deficiencies in the initial investigation, the handling of evidence, and the failure to conduct forensic testing of certain items of evidence. While the IG noted these deficiencies, the IG concluded that there was no evidence that the FBI engaged in any cover up relating to the death of Mr. Trentadue. Please address the IG's report and the specific issues relating to the FBI's handling of this investigation.**

Response:

While the full IG report is still subject to an 11/9/99 Protective Order issued by the U.S. District Court for the Western District of Oklahoma in the civil lawsuit brought by Trentadue against the United States, a published summary of the report includes six recommendations. Those recommendations address evidence control, the need for thorough documentation of investigative work and orderly file maintenance, and the importance of coordination with medical examiners and appropriate DOJ components when the FBI investigates deaths that may involve civil rights violations.

Documentation and file maintenance are fundamental aspects of effective investigations, and have been emphasized through additional training. Similarly, evidence control is crucial to the FBI's law enforcement mission, and has been the subject of additional training and policy clarifications. The FBI has addressed the concerns regarding inadequate coordination through a 1998 Memorandum of Understanding (MOU) with Oklahoma's Chief Medical Examiner and Bureau of Prisons officials.

3. **A grand jury investigation into the death of Mr. Trentadue was conducted in early 1996. Did the FBI assist in this investigation? How? What was the result of the grand jury investigation?**

Response:

It is our understanding that Federal Rule of Criminal Procedure 6(e) prohibits the disclosure of matters occurring before a grand jury in this context. The October 9, 1997, DOJ press release indicates that, following the grand jury, career prosecutors from DOJ's Civil Rights Division declined prosecution.

4. **What conclusion did the FBI reach with regard to the circumstances of Mr. Trentadue's death? Please explain the reasons for the FBI's conclusion.**

Response:

Although the FBI is constrained by 28 C.F.R. 50.2(c) in discussing an issue which is the subject of pending litigation, such as the cause of Mr. Trentadue's death, it is evident from the trial testimony of the FBI case agent, which is a matter of public record, that he determined that the cause of death was suicide. This determination was based on extensive investigations by the FBI and others (including the Medical Examiner for the State of Oklahoma and the Oklahoma County District Attorney's Office), which included numerous forensic examinations and numerous witness interviews. The injuries to Mr. Trentadue's body, the evidence in his cell, the apparent suicide note on the wall of his cell, and the testimony of the witnesses who found him hanging, as well as other evidence collected and analyzed by the FBI and other agencies, was consistent with suicide, and there was no credible evidence inconsistent with suicide (such as evidence of other persons being in his cell at the time of death or motive to harm him). This information was presented to Federal prosecutors, who considered it, along with information obtained through grand jury and other means, in determining whether prosecution was warranted. As indicated in DOJ's October 9, 1997, press release, the investigation "failed to establish credible evidence that any Bureau of Prison personnel violated federal civil rights laws. Nor did it establish evidence that was inconsistent with a conclusion that Trentadue committed suicide."

5. **Are you aware of any evidence that is inconsistent with, or would alter, the conclusions reached by the Department of Justice Civil Rights' Division, the FBI, the Oklahoma State Medical Examiner's Office, the Department of Justice's Office of Inspector General, and the Oklahoma County District Attorney's Office that Mr. Trentadue was not murdered but that he committed suicide?**

Response:

The FBI is not aware of any credible evidence that is inconsistent with, or would alter, the unanimous conclusion reached by these authorities.