



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

January 6, 2020

By Electronic Mail and U.S. Mail

Roberta A. Kaplan
Kaplan Hecker & Fink LLP

[REDACTED]
New York, NY 10118

Re: Request for Information Relating to Jeffrey Epstein

Dear Ms. Kaplan:

I am the Assistant U.S. Attorney ("AUSA") who will be handling the request you discussed with AUSA [REDACTED] for certain information relating to Jeffrey Epstein. Because your request seeks information from Department of Justice (the "Department") employees acquired as part of their performance of their official duties, your request is governed by certain Department regulations—commonly referred to as *Touhy* regulations—which, *inter alia*, prohibit any Department employee from disclosing such information "without prior approval of the proper Department official in accordance with §§ 16.24 and 16.25 of this part." 28 C.F.R. § 16.22(a); *see also United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951); 28 C.F.R. § 16.21 *et seq.* The "proper official" in this case is Geoffrey S. Berman, the United States Attorney for the Southern District of New York. The *Touhy* regulations provide a set of procedures for the United States Attorney to follow when considering such requests. *See* 28 C.F.R. §§ 16.22(b), 16.24.

A party seeking to obtain records or employee testimony from the Department must first submit a written demand. *See* 28 C.F.R. § 16.22. To assist the United States Attorney in evaluating your request, we ask that this demand provide a detailed statement of the information sought; the litigation for which you seek this information; the pertinence of the information sought to your litigation; and the availability (or absence) of means in that litigation, including discovery, to obtain the information in question. *See id.* § 16.22(d).

The U.S. Attorney will reach a determination regarding your request in light of the considerations codified at 28 C.F.R. §§ 16.24, 16.25, and 16.26. Such considerations include, *inter alia*, "[w]hether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose," 28 C.F.R. § 16.26(a)(1), and "[w]hether disclosure is appropriate under the relevant substantive law concerning privilege," including law enforcement privilege. 28 C.F.R. § 16.26(a)(2). Disclosure will not be made when, *inter alia*, "[d]isclosure would violate a statute . . . or a rule of procedure, such as the grand jury secrecy rule," 28 U.S.C. § 16.26(b)(1), "[d]isclosure would reveal a confidential source or informant," 28 U.S.C. § 16.26(b)(4), or "[d]isclosure would reveal investigative records compiled for law enforcement purposes, and would interfere with enforcement proceedings or disclose investigative techniques," 28 U.S.C. § 16.26(b)(5). Applying these considerations, the Department will make appropriate disclosures when warranted. *See* 28 C.F.R. § 16.26(c).

My understanding is that you may intend to make a formal written request pursuant to the above-described regulations. If you choose to submit a written request, please send it directly to me. We will act upon an application made pursuant to the Department's regulations.

Please contact me once you have had a chance to review this letter if you would like to discuss the issues herein further.

Sincerely,

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

By: [REDACTED]

[REDACTED]

Assistant United States Attorney

Telephone: [REDACTED]

Facsimile: [REDACTED]

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