

From: "[REDACTED]" <[REDACTED]>
To: Christian Everdell <[REDACTED]>, "[REDACTED]" <[REDACTED]>, "[REDACTED] (USANYS)" <[REDACTED]>
Cc: "Mark S. Cohen" <[REDACTED]>, Bobbi Sternheim <[REDACTED]>, Jeff Pagliuca <[REDACTED]>, "Laura Menninger" <[REDACTED]>

Subject: RE: Discovery Requests

Date: Mon, 18 Jan 2021 03:04:48 +0000

Inline-Images: image001.jpg; image002.jpg

Chris,

Below please find our responses.

1. As we have recently discussed, Ms. Maxwell now has access to the 4TB drive containing a full set of the discovery produced to date. It took a significant amount of time to create this copy due to the volume of discovery and delays on the part of our vendor, who assisted in creating the copy.
2. As we have recently discussed, Ms. Maxwell now has a drive containing the contents of the CD produced on November 18, 2020.
3. As I conveyed to you over the phone and in a recent email, the materials produced from the Subject Devices all contain metadata indicating the "NYC" CART Evidence Number of the device from which each document was extracted. In our November 18, 2020 discovery letter, we provided you with a chart setting forth which "NYC" CART Evidence Number corresponds with which Subject Device in our warrants. If you still need a detailed index of all 1.2 million documents with the specific Subject Device indicated, please let me know, and I will ask one of our paralegals to compile one.
4. We produced the FBI report bearing Bates number SDNY_GM_02050812-14 in the form in which it was recovered from one of Epstein's devices. In other words, we did not apply any redactions to that document; rather, the redactions existed on the document at the time the document was found during the FBI's search of Epstein's devices. We are not aware of any legal basis for your request for a log of redactions. If you have any legal authority on that point, we would be happy to consider it. As a courtesy, I will note that our office did not apply redactions to any material that was identified responsive during the searches of Epstein's devices.
5. We are aware of our discovery obligations, have complied with them, and will continue to comply with them. We are not aware of any legal basis for your request that we inform you of what, if any, documents have been withheld or the basis for their withholding. If you have any legal authority on that point, we would be happy to consider it. As a courtesy, I will note that we have provided you with all records we received from AT&T and all records we received from David Rodgers. As to your inquiry about the Bates ranges on the Rodgers documents beginning with Bates number "28", I note that the folder containing the Rodgers subpoena returns in our August 5, 2020 production included two documents. The first (SDNY_GM_00005532-5649) is the document you referenced in your email inquiry. The second (SDNY_GM_00005650-5676) is 27 pages long, accounting for the first 27 pages of the production from Rodgers. We produced those two documents in the form in which we received them.
6. Our paralegals are working on the issues you identified with Bates ranges and metadata load files. I will reach back out to you once I have an update on the status of those issues.
7. We do not have a more detailed index of the November 9 and November 18 productions beyond what we have provided to you.

8. We are not aware of any legal basis for your request for copies of grand jury subpoenas. Nor are we aware of any legal basis for your request that we identify the date range of documents we requested in each subpoena. If you have any legal authority for those requests, we would be happy to consider it.
9. The court filings that appear to be referenced in the Daily Beast article you sent are an application for a search warrant and a search warrant filed in the District of New Hampshire. We produced both documents to you in discovery on August 5, 2020. The DNH judge issued a sealing order in connection with the warrant and application. As you can see at Bates No. SDNY_GM_00000621, the sealing order automatically expired on December 30, 2020. Our understanding is that the District of New Hampshire unsealed the filing of its own accord in conformity with the clear language of that sealing order. Our office took no affirmative steps to unseal or otherwise release these filings.

Best,

Assistant United States Attorney
Southern District of New York

From: Christian Everdell <[REDACTED]>

Sent: Thursday, January 7, 2021 4:13 PM

To: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED]
(USANYS) <[REDACTED]>

Cc: Mark S. Cohen <[REDACTED]>; Bobbi Sternheim <[REDACTED]>; Jeff Pagliuca
<[REDACTED]>; 'Laura Menninger' <[REDACTED]>

Subject: Discovery Requests

[REDACTED] –

We write to raise a number of discovery issues. Please let us know your position on these issues at your earliest convenience.

1. In our email correspondence on 11/18/2020, you agreed to create a new hard drive containing the entire discovery production. We provided you with a 4TB hard drive for that purpose on 11/20/2020. It is very important for Ms. Maxwell to have this drive as soon as possible to prepare her defense. Do you have an update on when the drive will be ready?
2. We also informed you that the CD produced on November 18, 2020 did not work on the prison computer at the MDC (as you know, the laptop provided to Ms. Maxwell does not have a CD drive). Accordingly, we asked you to include the material on the CD in the new 4TB hard drive. We followed-up with you about this issue on December 30, 2020. **Given that the new hard drive is still not ready, we ask that you download the material on the CD onto a separate thumb drive or hard drive and provide it as quickly as possible to Ms. Maxwell at the MDC so that she can review the materials this weekend. Alternatively, you can provide an external CD drive to Ms. Maxwell at the MDC so that she can read the files on the MDC computer. We will provide whatever media device you require to facilitate this production.**

3. Unlike the November 9, 2020 discovery cover letter, the November 18, 2020 discovery cover letter (attached) does not correlate the Bates numbers to the particular "Subject Device" from which the documents were recovered. Instead, the cover letter indicates that the documents came from "SDNY_PROD015" or "SDNY_PROD016." We do not know what those terms refer to. We request that the government produce a list that correlates the Bates numbers for all of the documents in SDNY_PROD015 and SDNY_PROD016 to the particular devices from which the documents were recovered.
4. We request that the government provide an unredacted version of the FBI report, dated December 6, 2006, bearing Bates number SDNY_GM_02050812-14 (attached). We also request that the government produce a log identifying all of the redacted documents in the discovery and the bases for each of the redactions.
5. There are a few documents that seem to be missing from the discovery. For example, the AT&T documents (SDNY_GM_00001015-3637) do not seem to include subscriber information for the various phone numbers. Also, the flight logs produced by David Rodgers begin at Bates number "Rodgers000028," suggesting that Rodgers000001-000027 were not produced to us. Please produce these documents to us or provide an explanation why you are not producing them to us. Please confirm whether there are other documents that were removed from the grand jury subpoena productions that we have not yet identified and the basis for their removal.
6. There are a few Bates number/metadata issues with some of the documents:
 - a. There is an overlap between the fourth and fifth document productions. The fourth production ends at SDNY_GM_00328863, the fifth production begins at SDNY_GM_00328070. We propose renumbering the range from the fifth production (i.e., renumber SDNY_GM_00328070-328863).
 - b. The metadata load files (*.DAT) for PROD011 had a number of gaps which are detailed in the attached Excel file. We propose that you send us a new DAT file covering only the missing documents.
 - c. The metadata load files (*.DAT) for PROD015 had a gap from SDNY_GM_00723971 to SDNY_GM_00723981. We propose that you send us a new DAT file covering only the missing documents.
7. To the extent that the government has created an index of the documents produced on November 9 and November 18 that is more detailed than the production cover letters, we request that you provide a copy to the defense.
8. We request that the government provide copies of the grand jury subpoenas for documents issued by the government in this case. Also, please identify the date range of documents you requested in each subpoena.

There is one other issue we'd like to raise. An article in the Daily Beast on Monday referenced the search warrant affidavit for the cell-site simulator used to track Ms. Maxwell's cellphone before her arrest (<https://www.thedailybeast.com/how-the-fbi-tracked-down-ghislaine-maxwell-alleged-madam-of-jeffrey-epstein>). The article stated that the affidavit appeared in a "newly unsealed court filing." I don't recall this affidavit being unsealed or referenced in anything that was filed on the court docket. Please confirm whether or not the government unsealed this affidavit or any other materials from the criminal discovery, and whether any discovery materials were released pursuant to FOIA requests.

Regards,

Chris

Christian R Everdell

COHEN & GRESSER LLP

EFTA00023028

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