



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 29, 2021

BY ELECTRONIC MAIL

Christian Everdell, Esq.
Mark Cohen, Esq.
Cohen & Gresser LLP
800 Third Avenue
New York, NY 10022

Laura Menninger, Esq.
Jeffrey Pagliuca, Esq.
Haddon, Morgan and Foreman, P.C.
150 East Tenth Avenue
Denver, CO 80203

Bobbi Sternheim, Esq.
Law Offices of Bobbi C. Sternheim
33 West 19th Street-4th Fl.
New York, NY 10007

Re: *United States v. Ghislaine Maxwell, 20 Cr. 330 (AJN)*

Dear Counsel:

We write in response to your March 8, 2021 letter, which requests the disclosure of: (1) documents produced to *Radar Online* in the matter of *Radar Online v. FBI*, 17 Civ. 3956 (PGG); (2) “any other FOIA requests that have produced documents pertaining to any investigation of Jeffrey Epstein or Ghislaine Maxwell”; and (3) “any materials that reflect the involvement of the FBI-New York Office in the USAO-SDFL investigation.” We address each request in turn below.

First, you have requested that we produce to you all materials that were produced to *Radar Online* pursuant to the Freedom of Information Act (“FOIA”) in connection with the civil lawsuit *Radar Online v. FBI*, 17 Civ. 3956 (PGG). As an initial matter, your letter fails to articulate any legal basis for that request under Rule 16, or any other law governing criminal discovery. Moreover, to the extent that you assert that you need to know when information received by *Radar Online* through FOIA may have been published by the media, any information about the date of publication would presumably be publicly available and, in any event, not information within the Government’s possession, custody or control.

Notwithstanding the above, we have been informed by an attorney in the General Counsel's Office of the Federal Bureau of Investigation that all materials produced pursuant to the FOIA request made in connection with *Radar Online v. FBI*, 17 Civ. 3956 (PGG) are publicly available on the FBI's website: <https://vault.fbi.gov>. Furthermore, and without conceding any obligation to do so, as a courtesy, we will provide you with the cover letters that accompanied the productions to Radar Online. The Government is providing materials stamped with control numbers SDNY_GM_02743189 through SDNY_GM_02743292 under separate cover.

Second, you have requested that we search the files of the prosecution team¹ for "any other FOIA requests that have produced documents pertaining to any investigation of Jeffrey Epstein or Ghislaine Maxwell and produce to us the documents made public through the FOIA requests, the dates the documents were produced and the identity of the recipient of the documents." Your letter offers no legal basis for this request, and in the absence of further explanation for your request, we see none. FOIA concerns public disclosure of agency records; it has no bearing on whether information is subject to discovery in criminal or civil cases. *See, e.g., NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 143 n. 10 (1975) ("The Act is fundamentally designed to inform the public about agency action and not to benefit private litigants."). In particular, to the extent this request seeks the identity of any individual or entity who made a FOIA request, along with corresponding information about how the Government acted on such a request, we are unaware of any basis in law for such a request, and we invite you to point us to such authority. To the extent this request seeks materials produced in response to *any* FOIA request pertaining to *any* investigation of Epstein, we are similarly unaware of any basis in law for such a broad request. Our discovery obligations are not governed by FOIA but instead by Rule 16 and rules applicable to criminal discovery, all of which we have complied with and intend to continue complying with fully. Accordingly, we are not producing materials in response to your request at this juncture.

Third, you have requested that the Government "produce any materials that reflect the involvement of the FBI-New York Office in the USAO-SDFL investigation." In response, the Government is providing materials stamped with control numbers SDNY_GM_02743143 through SDNY_GM_02743188 in response to this request as a courtesy. This production should not be taken to indicate that the Government believes it has any obligation, under Rule 16 or otherwise, to do so; rather, we make this production as a courtesy in response to your request.

¹ Your letter erroneously asserts that the FBI's Florida office is part of the prosecution team in this case. We would direct you to our October 7, 2020 letter to the Court, in which we detailed the entities that are part of this prosecution team.

Finally, we have considered the concern you have raised regarding the language in our October 7, 2020 letter and have filed a letter with the Court addressing the matter.

Very truly yours,

AUDREY STRAUSS
United States Attorney

by: _____/s

 Assistant United States Attorneys