

From: "[REDACTED]" <[REDACTED]>
To: "Goldberg (Legal), Jeffrey" <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>, "[REDACTED]" <[REDACTED]>
Subject: Re: Subpoena CRIM1031692
Date: Thu, 22 Aug 2019 17:05:06 +0000

Jeff,

I should add: if you think it would be productive to review those issues before we talk, let us know if you'd like to reschedule the call.

Thanks,

[REDACTED]

Sent from my iPhone

On Aug 22, 2019, at 2:56 AM, [REDACTED] <[REDACTED]> wrote:

[REDACTED]

I look forward to speaking with you tomorrow (Thursday). Unless you'd prefer another number, I'll plan to call you at [REDACTED]

Also, as [REDACTED] indicated I promised to provide some more information on how Amazon approaches the issues we've been discussing. I'm hopeful that this information will help provide a common baseline for further consideration of your request for expressive materials. I've attached several cases that discuss the need for a heightened showing of relevance and need before a bookstore, video provider, or library can be compelled to reveal expressive choices of its patrons. In our experience, prosecutors and government agencies typically are not permitted access to records of bookstores and libraries unless (1) a compelling need exists for the requested information, (2) a substantial nexus is demonstrated between the information sought and the subject of the criminal investigation, and (3) the government has exhausted other avenues to obtain the information in ways that do not burden First Amendment rights. *See, e.g., Amazon.com LLC v. Lay*, 758 F. Supp. 2d 1154 (W.D. Wash. 2010); *In re Grand Jury Investigation of Possible Violation of 18 U.S.C. § 1461*, 706 F. Supp. 2d 11 (D.D.C. 2009); *In re Grand Jury Subpoena to Amazon.com*, 246 F.R.D. 570 (W.D. Wis. 2007); *In re Grand Jury Subpoena to Kramerbooks & Afterwords Inc.*, 26 Media L. Rep. (BNA) 1599 (D.D.C. 1998); *Tattered Cover, Inc. v. City of Thornton*, 44 P.3d 1044 (Colo. 2002) (en banc).

I'm obviously not privy to the details of your investigation. And, to be clear, we don't rule out the possibility either that the subjects here do not have a protectable privacy interest or that sufficient grounds exist to compel production of the expressive materials you seek. I also want to assure you that we do not seek to interfere with your investigation in any way in expressing these concerns. Amazon routinely cooperates with law enforcement on a number of levels, and we will secure and not destroy any information we determine is responsive to your request.

As I discussed with [REDACTED], if your office ultimately decides to continue to pursue the expressive materials at issue, we might seek to enlist the assistance of the court with a motion to quash, preferably based upon a stipulated briefing schedule, to determine whether the requisite legal standards have been satisfied in this instance. But again, we don't not ruling out the possibility that sufficient grounds exist in this instance to compel production.

Thanks,

Jeff

From: [REDACTED] ([mailto:\[REDACTED\]](mailto:[REDACTED]))
Sent: Tuesday, August 20, 2019 2:51 PM
To: Goldberg (Legal), Jeffrey <[REDACTED]>
Cc: [REDACTED]
Subject: RE: Subpoena CRIM1031692

Jeff,

Thanks, Thursday at 1:30 our time sounds good. We'll plan to speak with you then.

Thanks,

[REDACTED]

From: Goldberg (Legal), Jeffrey <[REDACTED]>
Sent: Tuesday, August 20, 2019 4:49 PM
To: [REDACTED]>
Cc: [REDACTED]>
Subject: RE: Subpoena CRIM1031692

Hi, [REDACTED] I have conflicts early and late tomorrow, but perhaps we could speak Thursday morning? Would 10:30am PT (1:30pm ET) on Thursday work for you?

Thanks,
Jeff

From: [REDACTED] ([mail:\[REDACTED\]](mailto:[REDACTED]))
Sent: Tuesday, August 20, 2019 7:10 AM
To: Goldberg (Legal), Jeffrey <[REDACTED]>
Cc: [REDACTED]>
Subject: RE: Subpoena CRIM1031692

Jeff,

Is there is a good time for a call tomorrow to discuss? I'm tied up between 2 and 5 EST, but otherwise available.

Thanks,

[REDACTED]

From: [REDACTED]>
Sent: Thursday, August 15, 2019 2:43 PM
To: Goldberg (Legal), Jeffrey <[REDACTED]>
Cc: [REDACTED]>
Subject: RE: Subpoena CRIM1031692

Jeff, with apologies for shuttling you back and forth, due to my upcoming trial my colleague [REDACTED] copied, will be in a better position to follow up with you. I updated her on our conversation, in particular that you expected to send us some authority for Amazon's prior position, and also that you were in the process of evaluating whether any First

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Amendment considerations were still active given the death of Mr. Epstein. I've also conveyed to her the issue you raised of the overbreadth of any request for all information for all accounts having ever shipped to, or billed in connection with, the listed addresses, and our interest in at the very least getting account information for any accounts that include those addresses—and, more generally, the records of items shipped to those addresses, to the extent all such records were not included in the first production. Again, sorry to be switching given our lengthy conversation, but [REDACTED] will better be able to be in touch with you in the coming days.

thanks,

[REDACTED]

From: Goldberg (Legal), Jeffrey <[REDACTED]>
Sent: Wednesday, August 14, 2019 02:09
To: [REDACTED] <[REDACTED]>
Subject: Subpoena CRIM1031692

[REDACTED]

It was good speaking to you yesterday. Are you available tomorrow (Wednesday) or Thursday for a follow-up call? My schedule is quite tight tomorrow so happy to do it Thursday, if you'd prefer.

Thanks,
Jeff

Jeffrey A. Goldberg
Associate General Counsel, Litigation & Regulatory

[Amazon.com, Inc.](#)

[REDACTED]
[REDACTED]

<[Amazon.com](#) LLC v. Lay, 758 F. Supp. 2d 1154 (W.D. Wash. 2010).pdf>

<In re Grand Jury Investigation of Possible Violation of 18 USC § 1461 et seq. (D.D.C. 2009).pdf>

<In re Grand Jury Subpoena to [Amazon.com](#) Dated August 7, 2006, 246 F.R.D. 570 (W.D. Wis. 2007).pdf>

<In re Grand Jury Subpoena to Kramerbooks & Afterwords Inc., No. 98-135 (NHJ) & 98-138 (NHJ) (D.D.C. Apr. 6, 1998).pdf>

<Tattered Cover, Inc. v. City of Thornton, 44 P.3d 1044 (2002).pdf>