

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of the United States for a Disclosure Order in connection with Grand Jury Investigation USAO Ref No. 2018R01618 in the United States District Court for the Southern District of New York

**Ex Parte Sealed Application for
Grand Jury Disclosure Order**

19 Misc. 0586

The United States of America (the "Government"), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, [REDACTED], Associate United States Attorney, of counsel, respectfully moves this Court pursuant to Federal Rule of Criminal Procedure 6(e)(3)(E)(i) & 6(e)(3)(F) for an order authorizing disclosure of certain grand jury matters in aid of a continuing investigation into conduct by associates of Jeffrey Epstein relating to alleged sex trafficking of minors by Jeffrey Epstein, and other offenses, and possible forfeitures or injunctive relief. This application relates specifically to a series of wills and trusts created by Jeffrey Epstein over the period of approximately 2001 to 2018 that were intended to receive most (if not all) of Jeffrey Epstein's assets, including potentially forfeitable assets, and pursuant to which substantial payments would be made over time to individual beneficiaries, including individuals who may be of interest in the ongoing investigation. By this application we request authorization to disclose certain trust agreements and related documents to a trusts and estates expert we have retained to advise us in this area of law, and to attorneys in our Civil Division who would represent the Government in any litigation that may appear advisable to assert Government interests concerning these matters. As discussed more fully below, on December 20, 2019, the Honorable Denise Cote entered a disclosure order, similar in form to the order requested herein, relating to an earlier set of trust and estate documents which we had received in this

investigation; this application relates to an additional set of trusts and estate documents that we have subsequently received.

1. **The Criminal Investigation.** In November 2018, this Office, in conjunction with the Federal Bureau of Investigation and the New York City Police Department, commenced an investigation into conduct by Jeffrey Epstein and possible co-conspirators involving, among other things, alleged sex trafficking of minors during the period from (at least) the mid-1990s through the summer of 2019. On July 2, 2019, a federal grand jury in this district returned an indictment charging Jeffrey Epstein with sex trafficking of minors and conspiracy to commit sex trafficking of minors in *United States v. Epstein*, 19 Cr. 490 (RMB). On August 10, 2019, Jeffrey Epstein died by suicide while incarcerated at the Manhattan Correctional Center awaiting trial on those charges. But despite Epstein's death this Office has continued its criminal investigation into the conduct of other individuals, including possible co-conspirators, as well as possible obstructive conduct by co-conspirators or associates of Epstein.

2. As alleged in the indictment against Epstein and in filings in that case, Epstein and others engaged in a years-long scheme to sexually abuse underage girls. In particular, Epstein enticed and recruited dozens of minor girls to engage in sex acts with him, for which he typically paid the victims hundreds of dollars in cash. He undertook this activity in several locations, including his mansion in Manhattan, New York; his estate in Palm Beach, Florida; and his private island located in the U.S. Virgin Islands. The defendant typically paid his victims hundreds of dollars in cash for each separate encounter. Epstein worked with others, including employees and associates, to facilitate this exploitation by, among other things, contacting victims and scheduling their sexual encounters with the defendant in New York and in Florida.

3. Additionally, in connection with a prior investigation of Epstein's conduct in Florida, there were credible allegations that Epstein engaged in witness tampering, harassment, or other obstructive behaviors. Extensive allegations of obstruction and tampering by Epstein were also made in connection with civil lawsuits brought against Epstein. *See Doe v. United States*, 08 Civ. 80736 (S.D. Fla.), Dkt. 291-15 at 21-23, 31. More recent instances of potential obstruction surfaced following the publication, commencing November 28, 2018, of a series of articles in the *Miami Herald* regarding Epstein and the circumstances of his prior conviction for solicitation of a minor. Records obtained by the Government show that two days later, on or about November 30, 2018, Epstein wired \$100,000 from a trust account he controlled to an individual previously identified as a possible co-conspirator, and that just three days after that, on or about December 3, 2018, Epstein wired \$250,000 from the same trust account to another individual previously identified as a possible co-conspirator and who was identified as one of Epstein's employees in the Indictment. This course of action, and in particular its timing, suggests the defendant was attempting to further influence co-conspirators who might provide information against him in light of the more recently re-emerging allegations.

4. **Epstein's Will and the 1953 Trust Agreement.** As part of the Government's continuing investigation, the Government obtained, via grand jury subpoena, the Will that Epstein executed on April 8, 2019, shortly before his death; and the Trust Agreement of The 1953¹ Trust, also executed on April 8, 2019. The Government also obtained, via grand jury subpoena, two prior trust agreements referenced in The 1953 Trust Agreement. The Will has been publicly filed in probate proceedings that are taking place in the U.S. Virgin Islands, but the various trust documents

¹ "1953" may be a reference to the year of Epstein's birth.

are not public. (We have been advised that in normal circumstances, trust agreements set up in connection with estate planning are not generally made public.)

5. Epstein's Will directs that, after certain payments of fees and distributions, all property be provided to the Trustees of The 1953 Trust. Property whose disposition is covered by the Trust includes Epstein's New York City residence, which was identified as subject to criminal forfeiture in the Epstein indictment and which may continue to be subject to civil or criminal forfeiture. Other potentially forfeitable property, including Epstein's other residences, is also purportedly covered by the Trust.

6. The Additional Epstein Wills and Trust Agreements. As part of the Government's continuing investigation, the Government has further obtained, via grand jury subpoena, eight prior wills and related codicils executed by Epstein between approximately 2001-2018, as well as numerous prior trust agreements and related amendments and revocations, most of which are expressly referenced in those prior wills (collectively the Additional Trust and Estate Documents).² The Additional Trust and Estate Documents reflect Epstein's intended beneficiaries over the roughly 18-year period preceding his suicide—*i.e.*, a time period which includes both the criminal

² Specifically, the Additional Trust and Estate Documents consist of: (i) a December 11, 2001 Will of Jeffrey Epstein and any related codicils, the Jeffrey Epstein 2001 Trust One and any related amendments and revocations, and the Jeffrey E. Epstein 2001 Trust Two and any related amendments and revocations; (ii) a January 27, 2012 Will and any related codicils; (iii) an October 24, 2012 Will of Jeffrey Epstein and any related codicils, and The Jeffrey E. Epstein 2012 Trust and any related amendments and revocations; (iv) a September 16, 2013 Will of Jeffrey Epstein and any related codicils, and The Jeffrey E. Epstein 2013 Trust and any related amendments; (v) a November 18, 2014 Will of Jeffrey Epstein and any related codicils, and The Jeffrey E. Epstein 2014 Trust and any related amendments and revocations; (vi) a June 29, 2017 Will of Jeffrey Epstein and any related codicils, and The Jeffrey E. Epstein 2017 Trust and any related amendments; (vii) a May 8, 2018 Will of Jeffrey Epstein and any related codicils, and the Jeffrey E. Epstein 2018 Trust and any related amendments, and (viii) a January 18, 2019 Will of Jeffrey Epstein and any related codicils, and The Jeffrey E. Epstein 2019 Trust and any related amendments and revocations.

conduct charged in the indictment described in paragraph 1 above, and much of the obstructive conduct described in paragraph 3 above.

7. **Potential Proceedings Concerning Epstein's Will and The 1953 Trust.** To assist the Government in evaluating its need or ability to become involved in Epstein-related trust and estate proceedings, our Office has retained Yale Law School Professor [REDACTED], a noted expert in the field of trusts and estates, to advise us concerning, among other things, any interests the Government may have in the Epstein probate proceedings in the U.S. Virgin Islands, and any actions the Government might take, including potential injunctive relief the Government might seek to, for example, preserve its interests in potentially forfeitable property, or to void appropriate provisions of The 1953 Trust Agreement as contrary to public policy. If it appears necessary and appropriate to initiate proceedings in probate or another court to vindicate the Government's interests in this area, we anticipate that the litigation would be handled by attorneys in our Civil Division.

8. By prior application, the Government requested authorization to disclose the Epstein Will, The 1953 Trust Agreement, and related trust documents, to Professor [REDACTED] and to the Civil Division attorneys assigned to this matter³ so that they may provide informed advice and consideration regarding judicial proceedings that may be appropriate for the Government to initiate relating to the dispositions Jeffrey Epstein made relating to his property. That application was approved by the Hon. Denise L. Cote on December 20, 2019. That Order and the application upon which it was granted are attached hereto as Exhibit A. *See In re Application of the United States*

³ The Civil Division attorneys assigned to this matter are [REDACTED], under the general supervision of [REDACTED].

for a Disclosure Order in connection with Grand Jury Investigation USAO Ref No. 2018R01618 in the United States District Court for the Southern District of New York, Docket No. 19 Misc. 0586.

9. By this application, the Government requests authorization to disclose the Additional Trust and Estate Documents to Professor [REDACTED] and to the Civil Division attorneys assigned to this matter so that they may continue to provide informed advice and consideration regarding judicial proceedings that may be appropriate for the Government to initiate relating to the dispositions Jeffrey Epstein made relating to his property.

10. **Standard for Disclosure.** The Supreme Court has interpreted Rule 6(3)(e)(E)(i) “to require a strong showing of particularized need for grand jury materials before any disclosure will be permitted.” *United States v. Sells Engineering, Inc.*, 463 U.S. 418, 443 (1983). Although this standard applies to requests for disclosure to government attorneys, the Supreme Court has “made it clear that the concerns that underlie the policy of grand jury secrecy are implicated to a much lesser extent when the disclosure merely involves Government attorneys.” *United States v. John Doe, Inc. I*, 481 U.S. 102, 112 (1987). Thus,

a district court might reasonably consider that disclosure to Justice Department attorneys poses less risk of further leakage or improper use than would disclosure to private parties or the general public. Similarly, we are informed that it is the usual policy of the Justice Department not to seek civil use of grand jury materials until the criminal aspect of the matter is closed. And “under the particularized need standard, the district court may weigh the public interest, if any, served by disclosure to a governmental body” On the other hand, for example, in weighing the need for disclosure, the court could take into account any alternative discovery tools available by statute or regulation to the agency seeking disclosure.

United States v. Sells Engineering, Inc., 463 U.S. at 445 (citations omitted) (quoting *United States v. Abbott*, 460 U.S. 557, 567 n.15 (1983)). Here, the requested disclosure is for a narrow scope of materials, to limited individuals, for the narrow purpose of identifying proceedings the Government may need to initiate in order to avoid interference with its ongoing criminal

investigation, potential forfeiture interests, and related matters. Indeed, one of the major purposes of this disclosure is to identify and address any issues that might affect the continuing criminal grand jury investigation into Epstein-related conduct.

11. **Authorization Requested.** The Government accordingly requests that the Court enter an Order, in the form attached, authorizing the Government to disclose to Professor [REDACTED] and to the Civil Division attorneys (and their successors, if any) the Additional Trust and Estate Documents for the purpose of obtaining advice and consideration of proceedings that may be appropriate for the Government to initiate to protect its interests in the ongoing criminal investigation; potential forfeiture matters; and asserting public policy considerations that may be implicated by dispositions Jeffrey Epstein made for distribution of his property.

12. **Sealing.** Because this relates to grand jury matters and concerns documents that are not otherwise already public, the Government respectfully requests that the Court order this Application be filed under seal pursuant to Fed. R. Crim. P. 6(e)(6); and that the Court's Order also be filed under seal, except that the Government may disclose the Order to persons to whom the information at issue herein is disclosed.

13. **Prior Requests.** Except as otherwise noted above, no prior request for the relief sought herein has been made.

WHEREFORE, I respectfully request that the Court issue a Disclosure Order in the form submitted herewith.

Dated: New York, New York
January 31, 2020

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

By:

A large black rectangular redaction box covering the signature of the attorney.

Associate United States Attorney
Southern District of New York

A small black rectangular redaction box covering a line of text, likely a name or title.

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of the United States for a Disclosure Order in connection with Grand Jury Investigation USAO Ref No. 2018R01618 in the United States District Court for the Southern District of New York

**Grand Jury Disclosure Order
Under Seal**

19 Misc. 0586

Upon the Application of the United States of America, by Geoffrey S. Berman, United States Attorney for the Southern District of New York, [REDACTED], Associate United States Attorney, of counsel, it is hereby ORDERED that:

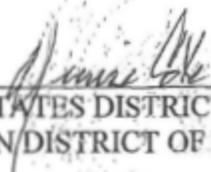
1. Jeffrey Epstein's Will, dated August 8, 2019; The 1953 Trust Agreement, dated August 8, 2019; and earlier Jeffrey Epstein trust agreements referenced in The 1953 Trust Agreement, may be disclosed to Professor [REDACTED] of Yale Law School and to the Assistant U.S. Attorneys for the Southern District of New York designated below for the purpose of advising and considering potential judicial proceedings that may be appropriate for the Government to initiate to protect its interests in its ongoing investigation of persons involved in alleged misconduct of Jeffrey Epstein; the Government's interests in potentially forfeitable property; and to vindicate any public policy interests that may be implicated by dispositions Jeffrey Epstein made in the foregoing documents for distribution of his property. The Assistant U.S. Attorneys who may receive this information are [REDACTED]
[REDACTED]
[REDACTED] and such other Assistant U.S. Attorneys who may in the future be assigned responsibility for this matter.

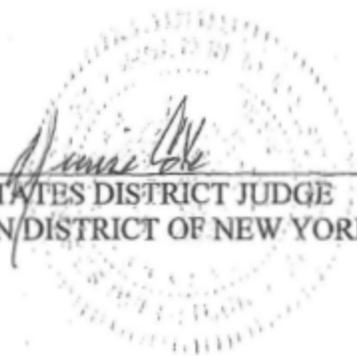
2. It is further Ordered that the foregoing persons shall make no further disclosure of the documents that are the subject of this Order absent further order of the Court.

Exhibit A

3. It is further Ordered that this Order, and the Application upon which it was made, be filed under seal, except that a copy of this Order shall be provided to the persons identified above who are authorized to receive the documents that are the subject of this Order.

Dated: New York, New York
December 20, 2019


UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of the United States for a Disclosure Order in connection with Grand Jury Investigation USAO Ref No. 2018R01618 in the United States District Court for the Southern District of New York

**Ex Parte Sealed Application for
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19 Misc. _____

The United States of America (the "Government"), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, [REDACTED], Associate United States Attorney, of counsel, respectfully moves this Court pursuant to Federal Rule of Criminal Procedure 6(e)(3)(E)(i) & 6(e)(3)(F) for an order authorizing disclosure of certain grand jury matters in aid of a continuing investigation into conduct by associates of Jeffrey Epstein relating to alleged sex trafficking of minors by Jeffrey Epstein, and other offenses, and possible forfeitures or injunctive relief. This application relates specifically to a trust created by Jeffrey Epstein that would receive most (if not all) of Jeffrey Epstein's assets, including potentially forfeitable assets, and pursuant to which substantial payments would be made over time to individual beneficiaries, including individuals who may be of interest in the ongoing investigation. By this application we request authorization to disclose the trust agreement and related documents to a trusts and estates expert we have retained to advise us in this area of law, and to attorneys in our Civil Division who would represent the Government in any litigation that may appear advisable to assert Government interests concerning these matters.

1. **The Criminal Investigation.** In November 2018, this Office, in conjunction with the Federal Bureau of Investigation and the New York City Police Department, commenced an investigation into conduct by Jeffrey Epstein and possible co-conspirators involving, among other things, alleged sex trafficking of minors during the period from (at least) the mid-1990s through

the summer of 2019. On July 2, 2019, a federal grand jury in this district returned an indictment charging Jeffrey Epstein with sex trafficking of minors and conspiracy to commit sex trafficking of minors in *United States v. Epstein*, 19 Cr. 490 (RMB). On August 10, 2019, Jeffrey Epstein died by suicide while incarcerated at the Manhattan Correctional Center awaiting trial on those charges. But despite Epstein's death this Office has continued its criminal investigation into the conduct of other individuals, including possible co-conspirators, as well as possible obstructive conduct by co-conspirators or associates of Epstein.

2. As alleged in the indictment against Epstein and in filings in that case, Epstein and others engaged in a years-long scheme to sexually abuse underage girls. In particular, Epstein enticed and recruited dozens of minor girls to engage in sex acts with him, for which he typically paid the victims hundreds of dollars in cash. He undertook this activity in several locations, including his mansion in Manhattan, New York; his estate in Palm Beach, Florida; and his private island located in the U.S. Virgin Islands. The defendant typically paid his victims hundreds of dollars in cash for each separate encounter. Epstein worked with others, including employees and associates, to facilitate this exploitation by, among other things, contacting victims and scheduling their sexual encounters with the defendant in New York and in Florida.

3. Additionally, in connection with a prior investigation of Epstein's conduct in Florida, there were credible allegations that Epstein engaged in witness tampering, harassment, or other obstructive behaviors. Extensive allegations of obstruction and tampering by Epstein were also made in connection with civil lawsuits brought against Epstein. *See Doe v. United States*, 08 Civ. 80736 (S.D. Fla.), Dkt. 291-15 at 21-23, 31. More recent instances of potential obstruction surfaced following the publication, commencing November 28, 2018, of a series of articles in the *Miami Herald* regarding Epstein and the circumstances of his prior conviction for solicitation of a minor.

Records obtained by the Government show that two days later, on or about November 30, 2018, Epstein wired \$100,000 from a trust account he controlled to an individual previously identified as a possible co-conspirator, and that just three days after that, on or about December 3, 2018, Epstein wired \$250,000 from the same trust account to another individual previously identified as a possible co-conspirator and who was identified as one of Epstein's employees in the Indictment. This course of action, and in particular its timing, suggests the defendant was attempting to further influence co-conspirators who might provide information against him in light of the more recently re-emerging allegations.

4. **Epstein's Will and Trust Agreements.** As part of the Government's continuing investigation, the Government obtained, via grand jury subpoena, the Will that Epstein executed on April 8, 2019, shortly before his death; and the Trust Agreement of The 1953¹ Trust, also executed on April 8, 2019. The Government also obtained, via grand jury subpoena, two prior trust agreements referenced in The 1953 Trust Agreement. The Will has been publicly filed in probate proceedings that are taking place in the U.S. Virgin Islands, but the various trust documents are not public. (We have been advised that in normal circumstances, trust agreements set up in connection with estate planning are not generally made public.)

5. Epstein's Will directs that, after certain payments of fees and distributions, all property be provided to the Trustees of The 1953 Trust. Property whose disposition is covered by the Trust includes Epstein's New York City residence which was identified as subject to criminal forfeiture in the Epstein indictment and which may continue to be subject to civil or criminal forfeiture.

¹ "1953" may be a reference to the year of Epstein's birth.

Other potentially forfeitable property, including Epstein's other residences, is also purportedly covered by the Trust.

6. **Potential Proceedings Concerning Epstein's Will and The 1953 Trust.** To assist the Government in evaluating its need or ability to become involved in trust and estate proceedings, our Office has retained Yale Law School Professor [REDACTED], a noted expert in the field of trusts and estates, to advise us concerning, among other things, any interests the Government may have in the Epstein probate proceedings in the U.S. Virgin Islands, and any actions it might take, including potential injunctive relief the Government might seek to, for example, preserve its interests in potentially forfeitable property, or to void appropriate provisions of The 1953 Trust Agreement as contrary to public policy. If it appears necessary and appropriate to initiate proceedings in probate or another court to vindicate the Government's interests in this area, we anticipate that the litigation would be handled by the attorneys in our Civil Division.

7. By this application, the Government requests authorization to disclose the Epstein Will, The 1953 Trust Agreement, and related trust documents, to Professor [REDACTED] and to the Civil Division attorneys assigned to this matter² so that they may provide informed advice and consideration regarding judicial proceedings that may be appropriate for the Government to initiate relating to the dispositions Jeffrey Epstein made relating to his property.

8. **Standard for Disclosure.** The Supreme Court has interpreted Rule 6(3)(e)(E)(i) "to require a strong showing of particularized need for grand jury materials before any disclosure will be permitted." *United States v. Sells Engineering, Inc.*, 463 U.S. 418, 443 (1983). Although this

² The Civil Division attorneys assigned to this matter are [REDACTED]

standard applies to requests for disclosure to government attorneys, the Supreme Court has “made it clear that the concerns that underlie the policy of grand jury secrecy are implicated to a much lesser extent when the disclosure merely involves Government attorneys.” *United States v. John Doe, Inc. I*, 481 U.S. 102, 112 (1987). Thus,

a district court might reasonably consider that disclosure to Justice Department attorneys poses less risk of further leakage or improper use than would disclosure to private parties or the general public. Similarly, we are informed that it is the usual policy of the Justice Department not to seek civil use of grand jury materials until the criminal aspect of the matter is closed. And “under the particularized need standard, the district court may weigh the public interest, if any, served by disclosure to a governmental body” On the other hand, for example, in weighing the need for disclosure, the court could take into account any alternative discovery tools available by statute or regulation to the agency seeking disclosure.

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9. **Authorization Requested.** The Government accordingly requests that the Court enter an Order, in the form attached, authorizing the Government to disclose to Professor [REDACTED] and to the Civil Division attorneys (and their successors, if any) the Epstein Will; The 1953 Trust Agreement; and earlier related trust agreements, for the purpose of obtaining advice and consideration of proceedings that may be appropriate for the Government to initiate to protect its interests in the ongoing criminal investigation; potential forfeiture matters; and asserting public policy considerations that may be raised by The 1953 Trust Agreement.

10. **Sealing.** Because this relates to grand jury matters and concerns documents that are not otherwise already public, the Government respectfully requests that the Court order this Application be filed under seal pursuant to Fed. R. Crim. P. 6(e)(6); and that the Court's Order also be filed under seal, except that the Government may disclose the Order to persons to whom the information at issue herein is disclosed.

11. **Prior Requests.** No prior request for the relief sought herein has been made.

WHEREFORE, I respectfully request that the Court issue a Disclosure Order in the form submitted herewith.

Dated: New York, New York
December 19, 2019

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

By:



Associate United States Attorney
Southern District of New York
