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FOIA PRIVACY EXEMPTION

VIA E-MAIL AND FEDEX

The Honorable [REDACTED]
United States Attorney for the
Southern District of New York

c/o [REDACTED]
[REDACTED]
Chief, Civil Division
U.S. Attorney's Office, SDNY
86 Chambers Street, 3rd Floor
New York, NY 10007
[REDACTED]
[REDACTED]
[REDACTED]

**Re: Request for Tangible and Documentary Evidence (Touhy Request)
Lola Doe v. Darren K. Indyke, et al., SDNY Case No. 1:21-cv-03876**

Dear Mr. [REDACTED]:

Please accept this as our formal written request for documentary and tangible evidence currently in the in the possession, custody, and control of the Department of Justice by way of the Southern District of New York relating to the sexual abuse of one of Jeffrey Epstein's many victims, Lola Doe.¹ See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). We make this written request pursuant to the *Touhy* regulations codified as 28 C.F.R. § 16.21 et seq.

¹ Our client's true name is [REDACTED]. She has elected to proceed using a pseudonym when filing her federal complaint. (DE 11) Because she is the victim of sexual assault, her identity is exempt from a FOIA disclosure. 5 U.S.C 552 (a) (8) (b) (7) (C). She will be referred to as Lola Doe in this letter.

Please contact us should you find any deficiencies in this request, and we will do what is necessary to correct any such shortcomings.

Lola Doe was sexually assaulted by prolific pedophile and rapist, Jeffrey Epstein in 2002, when she was a child. Epstein purchased a number of commercial flights, provided housing, and purchased a number of items of value for Lola Doe, record of which we believe is currently in the Government's possession as a result of the investigation that was conducted into Epstein's criminal activity relating to the sexual abuse of minor children. Given the highly relevant nature of this tangible evidence to Lola Doe's intended litigation, we request production of documentary evidence relating to Lola Doe to enable her to prove her claims from both a liability and damages standpoint.

28 C.F.R. § 16.24 (c) states that it is the Department of Justice's policy to authorize the production of materials "whenever possible." Pursuant to the *Touhy* regulations set forth by the Department, the Deputy or Associate Attorney General assesses the following considerations in determining whether disclosure is warranted:

- (a)(1) Whether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose;
- (a)(2) Whether disclosure is appropriate under the relevant substantive law of privilege.

See 28 C.F.R. 16.26 (a) This request satisfies both considerations. The requested materials should be disclosed because disclosure is appropriate under Federal Rule of Civil Procedure 26 and the relevant substantive law of privilege. The requested documentary evidence is not privileged and directly concerns the allegations Ms. Doe intends to raise in her civil case.

In addition, the requested documents are not excluded from disclosure by 28 C.F.R. § 16.26 (b). Disclosure will not violate any statute, rule of procedure or regulation, will not reveal any classified information, confidential source, or informant, and will not interfere with law enforcement proceedings or disclose investigative techniques and procedures. In *In re The City of New York*, 607 F.3d 923, 945 (2nd Cir. 2010), the court recognized that the law enforcement privilege is qualified. See also *Miller v. Mehitretter*, 478 F. Supp. 415, 424 (W.D. N.Y. 2007) ("When the information sought is both relevant and essential to the presentation of the case on the merits and the need for disclosure outweighs need for secrecy, privilege is overcome.") While Lola Doe can overcome this privilege if asserted, she specifically does not request any investigatory records compiled for law enforcement purposes that would interfere with any ongoing law enforcement proceedings.

Lola Doe has recently declined an offer from the Epstein Victims' Compensation Fund and is proceeding to trial in the Southern District of New York. She is simply requesting information in the Government's possession that will assist in the prosecution of her claims and ultimately, aid in her ability to finally obtain the justice that she deserves. Disclosure of the documents she requests is not prohibited by either section 28 C.F.R 16.26 (a) or (b) and is warranted pursuant to 28 C.F.R § 16.26 (c). Subsection 16.26 (c) permits this disclosure, which is necessary for a civil proceeding, because (1) the criminal violations committed against Ms. Doe are serious, (2) Epstein's criminal behavior was outrageous and notorious; he victimized over a hundred young girls and women, inclusive of Ms. Doe, over the course of more than a decade, and (3) the relief sought in federal court is critically important to Ms. Doe and her ability to prove the degree of abuse she suffered at the hands of Jeffrey Epstein and his friends or associates. Ms. Doe strongly believes that pursuing her claims in federal court will give her and other victims a sense that justice was served. While the Victims' Compensation Program offered monetary compensation, it did not provide victims, in particular Ms. Doe, the opportunity to expose Epstein in a court of law for the monster he was. Instead of accepting a monetary settlement, Ms. Doe opted for her "day in court." The relief sought by Lola Doe will ultimately prove that our judicial system works; however, to have the opportunity to achieve the justice she deserves, it is essential that she obtain from the Government those documents and information requested herein.

To that end, we specifically seek copies of the following documents that we believe are currently in the possession of the Government:

- 1) Photographs of Lola Doe.
- 2) Videos of Lola Doe.
- 3) Any and all correspondence between Jeffrey Epstein, his agents, employees, medical providers, or attorneys and Lola Doe.
- 4) Any and all correspondence between Jeffrey Epstein, his agents, employees, medical providers, or attorneys about Lola Doe or which reference Lola Doe.
- 5) Any and all records of purchases of gifts or anything of value purchased for or sent to Lola Doe.
- 6) Any and all records showing that a letter or package was sent via U.S. Mail, UPS, FedEx, or by any other means of shipping from Jeffrey Epstein, his agents, or his employees to Lola Doe.
- 7) Any and all records of payments made to medical providers on behalf of Lola Doe.
- 8) Any and all records of payments made to attorneys on behalf of Lola Doe.
- 9) Any and all records of payments made to accountants on behalf of Lola Doe.
- 10) Any and all records of payments made to Lola Doe.
- 11) Any and all documents referencing Lola Doe residing at [REDACTED].

- 12) Any and all documents obtained from property belonging to Jeffrey Epstein that contains Lola Doe's true name.
- 13) Any and all lists containing or including Lola Doe's true name or any part thereof; and
- 14) Any and all other documentary materials relating in any way to Lola Doe.

28 C.F.R. 16.24 (d) (1) addresses the resolution of disclosure demands. We are willing to engage in discussions and negotiate a resolution to the request pursuant to section 16.24 (d)(1)(ii). Please contact us at your earliest convenience to discuss Lola Doe's case in more detail, at which time we are fully prepared to answer any questions that you may have and resolve this matter.

Very truly yours,
EDWARDS POTTINGER LLC



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