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By Electronic Mail

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

Dear Counsel:

We write in response to your letter of December 28, 2020, in which you request a bill of particulars in the above-captioned matter. As set forth herein, the Government does not intend to provide further particulars because under the well-established law of this Circuit it has no obligation to do so. To the contrary, and as you are aware, the Government outlined its charges against your client in a detailed speaking superseding indictment (the "Indictment") and has since provided considerable additional information through the production of to date of over 2.7 million items of discovery, all in electronic form and accompanied by an index. Accordingly, the Government has more than provided the defendant with adequate notice of the charges against her, and no further particulars are required.

"A bill of particulars is required only where the charges of the indictment are so general that they do not advise the defendant of the specific acts of which he is accused." *United States v. Walsh*, 194 F.3d 37, 47 (2d Cir. 1999) (quotations marks and citation omitted); *see also, e.g., United States v. Mahabub*, No. 13 Cr. 908 (AJN), 2014 WL 4243657, at *2 (S.D.N.Y. Aug. 26, 2014) (same); *United States v. Mandell*, 710 F. Supp. 2d 368, 384 (S.D.N.Y. 2010) (same). "Acquisition of evidentiary details is not the function of the bill of particulars." *United States v. Torres*, 901 F.2d 205, 234 (2d Cir. 1990), *abrogated on other grounds by United States v. Marcus*, 628 F.3d 36, 41 (2d Cir. 2010) (quotations marks and citation omitted).

Nor may a bill of particulars be used as a general investigative tool. “It is not enough that the information would be useful to the defendant; if the defendant has been given adequate notice of the charges against him, the government is not required to disclose additional details about its case.” *United States v. Payden*, 613 F. Supp. 800, 816 (S.D.N.Y. 1985); *see also, e.g., United States v. Sindone*, No. 01 Cr. 517 (MBM), 2002 WL 48604, at *1 (S.D.N.Y. Jan. 14, 2002) (a defendant may not “use a bill of particulars to preview the government’s evidence or trial strategy, or to require the government to specify the minutiae of how it will prove the charges. The stakes in a criminal case are high, and temptations of perjury, subornation and intimidation are ever present. Accordingly, the government is not required to turn over information that will permit a defendant to preview the government’s case and tempt him to tailor proof to explain it away, or see to it that the government’s proof is not presented.” (citations omitted)); *United States v. Guerrerio*, 670 F. Supp. 1215, 1225 (S.D.N.Y. 1987) (A bill of particulars “is not a discovery tool and is not intended to allow defendants a preview of the evidence or the theory of the government’s case.”).

A bill of particulars is unwarranted in this case because the Government has more than satisfied its obligations to provide the defense with sufficient information to “prepare for trial, to prevent surprise, and to interpose a plea of double jeopardy should [the defendant] be prosecuted a second time for the same offense.” *United States v. Bortnovsky*, 820 F.2d 572, 574 (2d Cir. 1987). The Indictment contains a written statement of the essential facts constituting the offenses charged, and it describes the conduct of the defendant that the Government expects to prove at trial with respect to three particular victims. The Indictment itself contains a detailed description of the accounts these victims have provided law enforcement. In addition to the Indictment, which provides more than sufficient information about the charges against your client, you are also in possession of, among other things, numerous search warrant affidavits that outline evidence revealed during the Government’s investigation over time (*see, e.g., SDNY_GM_00000423-SDNY_GM_00000524*); documentary evidence, including travel records and contemporaneous journal entries that corroborate the victims’ accounts; and the Government’s letters concerning bail and detention. In sum, the Indictment and the materials produced during discovery provide you with more than ample information concerning the allegations that the Government intends to prove at trial and the supporting evidence. *See, e.g., United States v. Reinhold*, 994 F. Supp. 194, 201 (S.D.N.Y. 1998) (denying request for bill of particulars where the “indictment is detailed in its allegations” and the “defendants have had extensive discovery”).

To the extent that your requests seek information regarding potential witnesses and/or co-conspirators or aiders and abettors (Requests 1-20, 22-26), the Government is not required to provide such information at this time. *See, e.g., United States v. D’Amico*, 734 F. Supp. 2d 321, 335 (S.D.N.Y. 2010) (“A bill of particulars is not a general investigative tool, a discovery device or a means to compel the government to disclose evidence or witnesses to be offered prior to trial.” (quoting *United States v. Gibson*, 175 F. Supp. 2d 532, 537 (S.D.N.Y. 2001))); *United States v. Barrera*, 950 F. Supp. 2d 461, 478-79 (E.D.N.Y. 2013) (denying motion for bill of particulars as to identities of unnamed victims of alleged murder conspiracy); *United States v. Castro*, No. 08 Cr. 268 (NRB), 2008 WL 5062724, at *2 (S.D.N.Y. Nov. 25, 2008) (“An indictment need not identify all alleged co-conspirators, nor specify the nature, time and place of every overt act the defendant or others allegedly took in furtherance of a conspiracy, nor must it set forth all the evidence the government intends to introduce.”); *United States v. Sindone*, 2002 WL 48604, at *1

(denying request for bill of particulars that would identify alleged co-conspirators and victims); *United States v. Trippe*, 171 F. Supp. 2d 230, 240 (S.D.N.Y. 2001) (“[D]emands for particular information with respect to where, when, and with whom the Government will charge the defendant with conspiring are routinely denied.”); *United States v. Mitlof*, 165 F. Supp. 2d 558, 569 (S.D.N.Y. 2001) (“What defendant seeks is in the nature of the ‘wheres, whens and with whoms’ that [c]ourts have held to be beyond the scope of a bill of particulars.” (collecting cases)); *United States v. Fruchter*, 104 F. Supp. 2d 289, 313 (S.D.N.Y. 2000) (denying “Defendants’ request for names of all aiders, abettors, unindicted co-conspirators, and confidential informants” as “nothing more than a request for a witness list”); see also Fed. R. Crim. P. 16. As previously stated, and as noted in the Government’s letter dated October 28, 2020, with regard to your many requests for information that fall within the scope of the Government’s *Giglio* and Jencks Act obligations, we intend to produce all such material in advance of trial and remain available to confer generally regarding a mutual schedule for pretrial and trial-related disclosures, including witness statements or *Giglio* material.

You seek numerous, specific details which amount to requests for a detailed preview of the Government’s case and its legal theories (Requests 7, 14, 19, 25, and 29). The Government is not required to disclose at this juncture the way in which it expects to prove the charges or the precise manner in which the defendant committed the charged crimes, nor must the Government provide a preview of the evidence or legal theories it intends to present at trial. See, e.g., *United States v. Dupigny*, 18 Cr. 528 (JMF), 2019 WL 2327697, at *2 (S.D.N.Y. May 30, 2019) (denying motion for bill of particulars and explaining that the defendant “need not be informed of the specific means of coercion he is alleged to have employed against the still-unidentified victims in the Superseding Indictment. And between the indictment, applications for search warrants, court filings, and proffers during bail hearings, the Government has advised Dupigny of the nature and timeframe of the conspiracy; the number of victims involved in the substantive trafficking offenses, the ages of several of the victims, and the residence from which he recruited them; and the types of physical force and coercion he has employed against at least some of them”); *United States v. Pierre-Louis*, 16 Cr. 541 (CM), 2018 WL 4043140, at *7 (S.D.N.Y. Aug. 9, 2018) (“Defendant’s demand that the Government provide him with the specifics of how it will prove the ‘interstate transportation’ element of its case is an improper attempt to limit the Government’s proof at trial and is the type of ‘when, where, and how’ bill of particular requests that are ‘almost uniformly . . . denied.’” (citation omitted)); *United States v. Monzon-Luna*, No. 11 Cr. 722 (RRM), 2014 WL 223100, at *4 (E.D.N.Y. Jan. 21, 2014) (denying request for bill of particulars where defendant was charged with, among other things, sex trafficking of minors and a Mann Act violation, and stating that the indictment “explains the essential facts constituting each of the crimes charge[d], the time frame in which the crime is alleged to have occurred, and the victim involved. This information is sufficient to apprise defendant of the charges against him.”). For example, with respect to Requests 7, 14, 19, and 25, the Government directs your attention to the Indictment, at paragraphs 11(b), 13, 17(b), and 19, which refer to sex acts in violation of New York Penal Law, Section 130.55. With respect to Request 28, the Government refers you to the Indictment, at paragraph 7, which describes the conduct of the defendant that the Government expects to prove at trial with respect to three particular victims. Based on the foregoing, you are not entitled to the particulars sought through your requests, and in any event, much of what you seek is described in the Indictment and discovery. If you have authority for your requests, we would be happy to consider it.

Please let us know if you have any questions or would like to discuss the foregoing.

Very truly yours,

AUDREY STRAUSS
Acting United States Attorney for the
Southern District of New York

By:

s/


Assistant United States Attorneys