

IN THE COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

B.B.,

CASE NO. 502008CA037319XXXMB AB

Plaintiff,

v.

JEFFREY EPSTEIN,
and [REDACTED] KELLEN,

Defendants.

**DEFENDANT EPSTEIN'S MOTION TO COMPEL TOWN OF PALM BEACH
RECORDS CUSTODIAN'S AND POLICE OFFICERS' TO PRODUCE RECORDS
SOUGHT PURSUANT TO DEFENDANT'S SUBPOENAS DUCES TECUM**

Defendant, JEFFREY EPSTEIN (hereinafter "EPSTEIN") by and through his undersigned attorneys, moves to compel the non-parties, TOWN OF PALM BEACH RECORDS CUSTODIAN and TOWN OF PALM BEACH POLICE OFFICERS, to better respond to and produce certain of the records sought pursuant to the cross-notice and notices of depositions with subpoenas duces tecum served upon them. In support of his motion to compel, Defendant states:

1. Defendant JEFFERY EPSTEIN served multiple Cross-Notices for Deposition with Subpoenas Duces Tecum, dated October 26, 2009, and Subpoenas Duces Tecum for Deposition, dated October 26, 2009, and one dated November 3, 2009, directed to the Town Of Palm Beach Records Custodian ("RC"), and certain Police Officers and the Police Captain of Town of Palm Beach ("Police"). The items requested and the Police's and RC's responses and objections thereto are set forth in *Non-Party Police Officers' Response And Objection To Subpoena Duces Tecum*, dated January 15, 2010, attached hereto as **Exhibit A**; and in *Non-Party Town of Palm Beach Records*

Custodian's Response And Objection to Subpoena Duces Tecum, dated January 15, 2010, and attached hereto as **Exhibit B**.

2. The Police and RC have produced very little of the documents and items sought generally and improperly claiming that the records were exempt from production under Florida's Public Records Act. As discussed more fully below herein, certain of the records sought are not completely exempt from being produced for inspection and copying. In addition, the Police and RC have not properly asserted a Public Records Act exemption as required by the statute. As set forth in §119.07, Fla. Stat., the Police and RC are still required to produce the requested records by redacting any information that is statutorily exempted or confidential.

3. In response to the Subpoenas Duces Tecum, the Police Officers' filed a Motion to Quash Subpoenas And/Or Motion For Protective Order, dated November 20, 2009. In short, the Police asserted generally that almost all the public records sought were subject to exemptions and, thus, they were not required to produce the records sought, pursuant to §119.071(2)(j); §119.071(2)(h)1.b.; and §119.071(4)(d)1.a, Fla. Stat. §119.071, Fla. Stat., is part of what is commonly referred to as Florida's Public Records Act. See endnote 1 below herein for referenced statutory text.¹

4. As noted above, on January 15, 2010, the Police and RC each served a *Response And Objection To Subpoena Duces Tecum*, attached hereto as **Exhibit A** and **Exhibit B**, respectively. Once again, the Police and RC generally cite to §119.07, and Chapter 119, Fla. Stat., and produced a small amount of documents that unilaterally redacted matters that "include, but are not limited to, the home addresses

and telephone numbers of law enforcement personnel and identifying information regarding the victims." The Police and RC also claim that "such redaction is necessary because of the broad range of criminal intelligence and investigative information regarding minor victims of sexual offenses under Florida Statutes Chapter 794 and/or 800 sought by the subpoenas." The redactions made by the Police "may also include exempted personal information including their home addresses, telephone numbers and social security numbers." See **Exhibits A and B** hereto.

5. The claims of exemptions based on Chapter 119 and §119.07 have been improperly made. The scope of "public records" required to be made available for inspection and copying is rather broad. "Public records" is defined rather broadly to include –

all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, **made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.**

§119.011(12), Fla. Stat. (eff. Oct. 1, 2008), and §119.011(11), Fla. Stat. (2006). (Bold emphasis added). Defendant is not seeking **truly personal** phone records, e-mails, calendars, diaries, etc., or truly personal information of or about the Police.

6. Defendant is not seeking **truly personal** phone records, e-mails, calendars, diaries, etc., or truly personal information of or about the Police. As set forth in the subpoenas, Defendant is seeking and is entitled to those records "**made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.**" The investigation of EPSTEIN by the Police took place in

2005 and 2006. It was a widespread investigation involving numerous Palm Beach Police Officers and Detectives; EPSTEIN was watched and placed under surveillance; his garbage was searched; numerous statements of potential witnesses and alleged victims were taken. In May, 2006, the Palm Beach Police claim its investigation ceased upon issuance of a Probable Cause Affidavit and the referral of the matter to state and federal law enforcement. Considering the scope of the investigation of EPSTEIN, the reality is that more documents and records exist than were produced by the Police and RC.

7. The Police and RC have failed to comply with the procedures set forth in §119.07, Fla. Stat., which requires that the RC respond to records requests "promptly" and in "good faith." Pursuant to the statute, §119.07(1)(c), - "A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether such a record exists and, if so, the location at which the record can be accessed."

8. In addition, when asserting an exemption, §119.07 further requires that –

(d) A person who has custody of a public record who asserts that an exemption applies to a part of such record shall redact that portion of the record to which an exemption has been asserted and validly applies, and such person shall produce the remainder of such record for inspection and copying.

(e) If the person who has custody of a public record contends that all or part of the record is exempt from inspection and copying, he or she shall state the basis of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute.

(f) If requested by the person seeking to inspect or copy the record, the custodian of public records shall state in writing and with particularity the reasons for the conclusion that the record is exempt or confidential.

9. The Police's and RC's Response and Objections fall woefully short of the statutory requirements in asserting that an exemption applies. The assertion of exemptions under Chapter 119 and 119.07 is so generalized that it is almost impossible to make any determination of what records the Police and RC have in their possession.

Subpoenas Duces Tecum to Police – Nos. 1, 2, 12, 15, and 16.

Subpoena Duces Tecum to RC – Nos. 1, 2, 4, and 20

10. Specific to this motion, Defendant seeks to overrule certain of the objections and compel responses to **Nos. 1, 2, 12, 15, and 16** of the duces tecum directed to the Police, and Nos. 1, 2, 4, and 20 directed to the RC. See **Exhibits A and B**.

11. Contrary to the Police's and RC's response and objections to **Nos. 1 and 2** of the Subpoenas Duces Tecum, Defendant is entitled to all electronic communications, including e-mails, related to the EPSTEIN matter, which were **"made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."** The definition of "public records" encompasses electronic communications, including e-mails. The definition broadly includes "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission." **Counsel for the Police and RC recently represented to Defendant's counsel that electronic communications, specifically e-mails, would be provided.** If the electronic communications are provided, the motion to compel

directed to those items will be withdrawn; however, until such items are provided, Defendant will pursue this motion to compel.

12. The Police and RC generally claim without making any showing whatsoever that the request "is unduly burdensome and seeks information that is privileged under Florida's Public Records Law." The burden of showing that they are entitled to a protective order falls on the Police and RC. There is absolutely no showing whatsoever in the record, by means of affidavit or otherwise, that responding to the request is unduly burdensome. Accordingly, the objection is required to be overruled and the Police and RC should be required to immediately produce the electronic communications and e-mails, and immediately produce a privilege log to any documents to which they are claiming a privilege applies. The Police and RC's actions have not been in good faith and have been meant to unduly delay discovery in this and other pending cases involving EPSTEIN.

13. The burden of demonstrating good cause for the issuance of a protective order concerning a deposition duces tecum of a non-party witness, pursuant to Rule 1.280(B)(1)(c), Fla. R. Civ. P., providing that, where good cause is demonstrated, trial court may make any order to protect a party or person from annoyance, embarrassment, oppression or undue burden, or expense, that justice requires, falls upon the party seeking that relief. Towers v. City of Longwood, 960 So.2d 845 (Fla. 5th DCA 2007). "An objection claiming an undue burden in responding to discovery requests must be supported by record evidence, such as an affidavit detailing the basis for claiming that the onus of supplying the information or documents is inordinate." 19A

Fla.Jur.2d *Discovery and Depositions* §52, and cases cited therein. It is clear that the Police and RC have intentionally delayed discovery by generally asserting that the requests are burdensome in an effort to toll the otherwise mandatory requirement that a privilege log be compiled and produced "in a manner that, without revealing itself privileged or protected information, will enable other parties to assess the applicability of the privilege or protection." Rule 1.280(b)(5), Fla.R.Civ.P.; and see Gosman v. Luzinski, 937 So.2d 293 (Fla. 4th DCA 2006), the case cited by RC and the Police in an effort to avoid preparing a privilege log and produce relevant documents.

14. RC and the Police also generally raise a burdensome objection in response to **No. 20 directed to RC** and **No. 15 directed to the Police**. See **Exhibits A and B**. Again, absolutely no showing of undue burden is made in the record, and any such objection is required to be overruled. See law cited above in ¶13. In response to **No. 20 to the RC**, the RC claims it cannot respond because it has no information regarding the identity of Jane Doe #4. However, RC is well aware that such information, if needed, is readily available from Defendant's counsel. As discussed above, the definition of public records is broad and encompasses the items sought by Defendant. It is the RC's burden to show that any claim exemption applies. The RC has not done this.

15. Contrary to the **Police's response to Nos. 15 and 16**, the phone records and calendars, diaries, etc. pertaining to and related to the Town of Palm Beach's investigation of EPSTEIN are clearly relevant. See **Exhibit A**. Relevant evidence is evidence tending to prove or disprove a material fact. Id. Pursuant to Rule 1.280(b)(1),

Fla.R.Civ.P., "Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending matter, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, . . . It is not grounds for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Id. Such information is likely to include the specific periods of times during which EPSTEIN was under surveillance; what a particular officer's schedule was as it related to the investigation of EPSTEIN. Such information logically leads to discovery questions as to when and what was observed during the course of the investigation. Again, the identity of the alleged victims and the truly personal information of the Police does not have to be compromised. (See Public Records Act).

16. **No. 4 directed to the RC** again seeks information regarding the investigation of EPSTEIN that ultimately led to the Palm Beach Police referring the matter to the state and federal law enforcement authorities for review. See **Exhibit B**. The RC claims that other than correspondence dated May 1, 2006, and July 24, 2006, no other responsive documents exist. Again, the investigation of EPSTEIN went on for almost 2 years by Palm Beach. Based on the delays and not well taken objections of Palm Beach, Defendant wants a good faith review of the records to confirm that no other such records exist concerning the decision to send the matter to state and federal law enforcement.

WHEREFORE, Defendant requests that this Court overrule the objections of the Police and RC, and grant the motion to compel such that the Police and RC produce the

records sought either in whole or in a redacted form in conformance with Florida's Public Record's Act, and such that a privilege log be produced within 3 (three) days from the date of hearing on this matter so as to avoid delaying this matter any further.

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was sent by fax and U.S. Mail to the following addressees on this 3rd day of February, 2010:

Theodore J. Leopold, Esq.
Spencer T. Kuvin, Esq.
Leopold-Kuvin, P.A.
2925 PGA Blvd., Suite 200
Palm Beach Gardens, FL 33410
Fax: [REDACTED]
Counsel for Plaintiff

Jack Alan Goldberger, Esq.
Atterbury Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401-5012
Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

Courtesy Copy to:

Joanne O'Connor, Esquire
Jones Foster Johnston & Stubbs, P.A.
505 South Flagler Drive, Suite 1100
West Palm Beach, FL 33401
Fax: [REDACTED]
Counsel for the Town of Palm Beach

BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
515 N. Flagler Drive, Suite 400
West Palm Beach, FL 33401

[REDACTED] Fax
By: _____
Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296
(Counsel for Defendant Jeffrey Epstein)

¹ §119.071. General exemptions from inspection and copying of public records

– (2) Agency investigations.--

• §119.071(2)(j) –

1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

2. a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145 may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

- §119.071(2)(h)1.b.

1. The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Any information, including the photograph, name, address, or other fact, which reveals the identity of the victim of the crime of child abuse as defined by chapter 827.

b. Any information which may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847.

- §119.071(4)(d)1.a.

(4) Agency personnel information.--

...

(d) 1. a. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1).

NOTE: The above quoted provisions are from the current version of the statute.

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2008 CA 037319 XXXX MB AB

B.B.,

Plaintiff,

vs

JEFFREY EPSTEIN,

Defendant.

_____ /

NON-PARTY TOWN OF PALM BEACH POLICE OFFICERS'
RESPONSE AND OBJECTION TO SUBPOENA DUCES TECUM

Non-parties, former Town of Palm Beach Chief of Police Michael Reiter, Captain George Frick, Detective Joseph Recarey, Detective Michael Dawson and Detective Michelle Pagan (collectively "Town of Palm Beach Police Officers"), hereby file this, their response and objection to the subpoenas duces tecum served on each of them as follows:

GENERAL OBJECTIONS

As noted below, the Town of Palm Beach Police Officers have previously produced documents responsive to this subpoena. In accordance with its obligations under Section 119.07 of the Florida Public Records Law, the Town of Palm Beach Police Officers have redacted a number of those documents in order to protect those matters excepted from disclosure under Chapter 119, Fla. Stat. These areas of redaction include, but are not limited to, the home addresses and telephone numbers of the law enforcement personnel and any identifying information regarding the victims.

EXHIBIT A

REVIEWED
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Such redaction is necessary because of the broad range of criminal intelligence and investigative information regarding minor victims of sexual offenses under Florida Statutes Chapter 794 and/or 800 sought by the subpoenas. The redactions made by the Town of Palm Beach Police Officers may also include exempted personal information including their home addresses, telephone numbers and social security numbers.

RESPONSES AND OBJECTIONS TO DUCES TECUM

1. Any and all written reports, notes, memoranda or other papers authored by you or any other member of the Palm Beach Police Department, whether in hard-copy or electronic form, that relate to any law enforcement investigation of Jeffrey Epstein including but not limited to the investigation that resulted in the filing of State criminal charges against Mr. Epstein. This request includes any written communications between you and any members of the Palm Beach Police Department, any member of any Federal Law Enforcement Agency, any member of the United States Attorney's Office, any member of the Office of the State Attorney, any representatives of the media, any civil parties, any civilian witnesses and/or any lawyers or representatives of any parents of any civilian witnesses.

RESPONSE: For all of the reasons set forth in response to Request No. 2 *infra* and incorporated herein, the Town Police Department objects to the request to the extent that it seeks electronic communications. Aside from personal e-mail of its employees, which the Town Police Department objects to producing for all of the reasons set forth in Response to Request No. 2, *infra*, all documents responsive to this request were produced on December 9, 2009.

2. Any and all electronic communications (EMAIL) between you any of the following relating to any law enforcement investigation of Jeffrey Epstein including but not limited to the investigation that resulted in the filing of State criminal charges against him: (A) any member of the Palm Beach Police Department, (B) any member of any Federal Law Enforcement Agency, (C) any member of the United States Attorney's Office, (D) any member of the Office of the State Attorney (E) any member of any print, television, or radio media outlet, (F) any attorney representing any civilian witness or civil party who has filed or may potentially file a civil complaint against Mr. Epstein.

RESPONSE: The Town of Palm Beach Police Officers object to this request on the grounds that it is unduly burdensome and seeks information that is protected from disclosure under Florida's Public Records Law. The Town reserves the right to submit a privilege log at the appropriate time should the

Court overrule its objections. See Gosman v. Luzinski, 937 So. 2d 293 (Fla. 4th DCA 2006).

3. Any and all notes, memoranda or reports reflecting any communications between you and counsel on behalf of Mr. Epstein, including but not limited to any request for exculpatory evidence.

RESPONSE: None.

4. Any and all notes, memoranda or reports reflecting any attempts by you to initiate or encourage a federal review of any facet/aspect of the Epstein investigation or State prosecution of Epstein.

RESPONSE: Aside from the previously produced correspondence from Michael S. Reiter to Barry E. Krischer dated May 1, 2006 and correspondences from Michael S. Reiter to parents of victims dated July 24, 2006, no responsive documents exist.

5. Any and all notes, memoranda or reports reflecting any complaints made to the Palm Beach Police Department from any person, parent, or lawyer for any person or parent claiming to have been a victim of any conduct of Mr. Epstein or from any other private citizen of Palm Beach County relating to any conduct of Epstein from January 1, 2000-October 22, 2009.

RESPONSE: All responsive documents in the possession, custody or control of the Town of Palm Beach Police Officers were produced on December 9, 2009.

6. Any and all notes, memoranda, or reports reflecting any communication between you or and any other member of the Palm Beach Police Department with "A.H." in relation to her being subpoenaed to testify before or her requested attendance before a State Grand Jury, including but not limited to any discussions regarding what she would testify to and/or any preparation that any law enforcement officer provided her with prior to any testimony.

RESPONSE: All responsive documents in the possession, custody or control of the Town of Palm Beach Police Officers were produced on December 9, 2009.

7. Any and all notes, memoranda, or reports reflecting any communication between you or any other member of the Palm Beach Police Department with "A.H." or referencing "A.H." in relation to her being subpoenaed to testify before or her requested attendance before a State Grand Jury where you or any Palm Beach police officer or official sought to discourage her or influence her not to testify or to testify in a certain manner at any Grand Jury proceeding involving Mr. Epstein.

RESPONSE: None.

8. Any and all agreements, memoranda, and/or notes of any kind, electronic or otherwise, between you and any member of the Palm Beach Police Department, any member of the Office of the State Attorney, and/or any member of the United States Attorney's Office relating to any criminal charges, formal or otherwise, regarding "A.H." at any time.

RESPONSE: None.

9. Any and all notes, memoranda, or reports of meetings or communications between you and "S.G.", her parents, or any lawyers who represent "S.G."

RESPONSE: All responsive documents in the possession, custody or control of the Town of Palm Beach Police Officers were produced on December 9, 2009.

10. Any and all records of expenditures made or incurred by you, and all requests for expenditures relating to the criminal investigation of Mr. Epstein.

RESPONSE: None.

11. Any and all logs, pictures, videos, digital information, reports, memoranda or notes, and any record of expenditure, which relate to the institution of and/or maintenance of any video surveillance of Mr. Epstein, his residence, or his visitors during the following time periods:

- a. January 1, 2004-December 31, 2004
- b. January 1, 2005-December 31, 2005
- c. January 1, 2006-December 31, 2006
- d. January 1, 2007-December 31, 2007
- e. January 1, 2008-December 31, 2008
- f. January 1, 2009-today's date.

RESPONSE: None.

12. Any and all reports, logs, pictures, videos, notes, records of expenditures or any other memoranda relating to any physical surveillance of Mr. Epstein, his residence, his visitors, or any individual who was believed to be a potential witnesses or co-conspirator other than the information relating to video surveillance that is requested in request number 11.

RESPONSE: Photographs of Mr. Epstein taken by Detective Recarey will be produced. The Town possesses no other responsive documents.

13. Any and all reports (including forensic reports), memoranda, notes, and reports of any examination of any computer seized from Mr. Epstein's residence in October 2005 or on any other occasion.

RESPONSE: None.

14. Any and all reports, memoranda, or notes reflecting a criminal theft or burglary investigation of Mr. Epstein or his residence on any occasion prior to October 2005.

RESPONSE: All responsive documents in the possession, custody or control of the Town of Palm Beach Police Officers were produced on December 9, 2009.

15. All cell phone records, both official cell phone and personal cell phone, used by you between during the following time periods:

- a. January 1, 2004-December 31, 2004
- b. January 1, 2005-December 31, 2005
- c. January 1, 2006-December 31, 2006
- d. January 1, 2007-December 31, 2007
- e. January 1, 2008-December 31, 2008
- f. January 1, 2009-today's date.

RESPONSE: The Town of Palm Beach Police Officers object to this request on the grounds that it seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. The Town of Palm Beach Police Officers further object on the grounds that the request is overly broad and unduly burdensome. Finally, the Town of Palm Beach Police Officers object on the grounds that the request seeks information that is specifically excepted from disclosure under Florida's Public Records Law. See *generally* Non-Party Town of Palm Beach Police Officers' Motion to Quash Subpoenas and/or Motion for Protective Order, incorporated herein. The Town reserves the right to submit a privilege log at the appropriate time should the Court overrule its objections. See Gosman v. Luzinski, 937 So. 2d 293 (Fla. 4th DCA 2006).

16. All calendars or diaries, electronic or hard-copy, kept for the periods between October 1, 2004 up through and including today, reflecting your schedules, activities, meeting, etc.

RESPONSE: The Town of Palm Beach Police Officers object to this request on the grounds that it seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence and as overly broad. The Town of Palm Beach Police Officers further object on the grounds that the request seeks private information that is not subject to disclosure as a public record under Section

119.011(1), Fla. Stat. and seeks statutorily protected information regarding the law enforcement officers who made the calls and the persons to whom calls were made including, but not limited, to family members, crime victims and confidential informants. See generally *Non-Party Town of Palm Beach Police Officers' Motion to Quash Subpoenas and/or Motion for Protective Order*, incorporated herein. The Town reserves the right to submit a privilege log at the appropriate time should the Court overrule its objections. See Gosman v. Luzinski, 937 So. 2d 293 (Fla. 4th DCA 2006).

17. Any and all reports, memoranda, and notes of any communication between you and any member of the Office of the State Attorney relating to the criminal investigation and subsequent prosecution of Mr. Epstein from October 1, 2004 up through and including today.

RESPONSE: Aside from the previously produced correspondence from Michael S. Reiter to Barry E. Krischer dated May 1, 2006, no responsive documents exist.

18. All policies and procedures of the Palm Beach Police Department setting forth the procedures for police officers, including the Chief, any detective and officers when commenting to any media outlets, including but not limiting to the local news, the national media, print outlets, and any web-based media format.

RESPONSE: All responsive documents in the possession, custody or control of the Town of Palm Beach Police Officers were produced on December 9, 2009.

19. All personal notes contained either on your personal computer, work computer, and those that are handwritten containing any witnesses that you, or any other member of the Palm Beach Police Department interviewed or attempted to interview with regard to the Epstein investigation from January 1, 2004, up through and including today.

RESPONSE: None.

20. Any and all audio tapes of any witnesses that you or any member of the Palm Beach Police Department obtained statements or interviews from, either sworn or informal, with regard to the Epstein investigation.

RESPONSE: None.

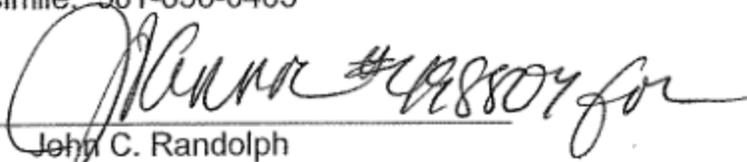
21. Any and all audio tapes, notes (hand-written or typed), memoranda, reports, messages, and/or any communications obtained or generated by you or any member of the Palm Beach Police Department, either sworn or informal, that relate to Jane Doe #4**, who is the Plaintiff in a Federal Civil Case No. 08-80380 filed against Jeffrey Epstein.

RESPONSE: The Town of Palm Beach Police Officers have no information regarding the identity of "Jane Doe #4" and therefore cannot properly respond to this Request. Furthermore, the Town objects to producing any responsive documents of the type objected to in Request Nos. 2, 15 and 16, supra. Subject to and notwithstanding its objections, the Town Police Department responds that it possesses no responsive documents other than what has previously been produced, unless those documents are encompassed within Request No. 2.

I HEREBY CERTIFY that a true copy of the foregoing instrument has been furnished by United States mail to **Theodore J. Leopold, Esquire** and **Spencer T. Kuvin, Esquire**, Leopold-Kuvin, P.A., 2925 PGA Boulevard, Suite 200, Palm Beach Gardens, Florida 33410; **Jack Alan Goldberger, Esquire**, Atterbury Goldberger & Weiss, P.A. 250 Australian Avenue South, Suite 1400, West Palm Beach, Florida 33401-5012; and **Robert D. Critton, Jr., Esquire**, Burman, Critton, Luttier & Coleman, LLP, 515 North Flagler Drive, Suite 400, West Palm Beach, Florida 33401, this 15th day of January, 2010.

JONES, FOSTER, JOHNSTON & STUBBS,
P.A.
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By


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IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2008 CA 037319 XXXX MB AB

B.B.,

Plaintiff,

vs

JEFFREY EPSTEIN,

Defendant.

_____ /

**NON-PARTY TOWN OF PALM BEACH RECORDS CUSTODIAN'S
RESPONSE AND OBJECTION TO SUBPOENA DUCES TECUM**

Non-party, Town of Palm Beach Police Department Records Custodian ("Town Police Department"), hereby file this, her response and objection to the subpoenas duces tecum served on her as follows:

GENERAL OBJECTIONS

As noted below, the Town Police Department has previously produced documents responsive to this subpoena. In accordance with its obligations under Section 119.07 of the Florida Public Records Law, the Town Police Department has redacted a number of those documents in order to protect those matters excepted from disclosure under Chapter 119, Fla. Stat. These areas of redaction include, but are not limited to, the home addresses and telephone numbers of the law enforcement personnel and any identifying information regarding the victims. Such redaction is necessary because of the broad range of criminal intelligence and investigative information regarding minor victims of sexual offenses under Florida Statutes Chapter

EXHIBIT B

cc:JE, JGr

794 and/or 800 sought by the subpoenas. The redactions made by the Town Police Department may also include exempted personal information regarding its law employment officers and personnel including their home addresses, telephone numbers and social security numbers.

RESPONSES AND OBJECTIONS TO DUCES TECUM

1. Any and all written reports, notes, memoranda or other papers authored by any member of the Palm Beach Police Department and/or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department whether in hard-copy or electronic form, that relate to any law enforcement investigation of Jeffrey Epstein including but not limited to the investigation that resulted in the filing of State criminal charges against Mr. Epstein. This request includes any written communications between the Palm Beach Police Department and/or any of its members, agents, or representatives acting on behalf of the Palm Beach Police Department and any members of any Federal Law Enforcement Agency, any member of the United States Attorney's Office, any member of the Office of the State Attorney, any representatives of any media outlet, any civil parties, any civilian witnesses and/or any lawyers or representatives of any parents of any civilian witnesses.

RESPONSE: For all of the reasons set forth in response to Request No. 2 *infra* and incorporated herein, the Town Police Department objects to the request to the extent that it seeks electronic communications. Aside from personal e-mail of its employees, which the Town Police Department objects to producing for all of the reasons set forth in Response to Request No. 2, *infra*, all documents responsive to this request on December 9, 2009.

2. Any and all electronic communications (EMAIL) between the Palm Beach Police Department and/or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department and any of the following that relate to any law enforcement investigation of Jeffrey Epstein including but not limited to the investigation that resulted in the filing of State criminal charges against him: (A) any other member of the Palm Beach Police Department, (B) any member of any Federal Law Enforcement Agency, (C) any member of the United States Attorney's Office, (D) any member of the Office of the State Attorney (E) any member of any print, television, and/or radio media outlets (F) any attorney representing any civilian witness or civil party who has filed or may potentially file a civil complaint against Mr. Epstein.

RESPONSE: The Town of Palm Beach Police Officers object to this request on the grounds that it is unduly burdensome and seeks information that is protected from disclosure under Florida's Public Records Law. The Town reserves the right to submit a privilege log at the appropriate time should the

Court overrule its objections. See Gosman v. Luzinski, 937 So. 2d 293 (Fla. 4th DCA 2006).

3. Any and all notes, memoranda or reports reflecting any communications by the Palm Beach Police Department and/or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department with any counsel on behalf of Epstein, including but not limited to any request for exculpatory evidence.

RESPONSE: None.

4. Any and all notes, memoranda or reports reflecting any attempts by the Palm Beach Police Department and/or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department to initiate or encourage a federal review of any facet/aspect of the Epstein investigation or State prosecution of same.

RESPONSE: Aside from the previously produced correspondence from Michael S. Reiter to Barry E. Krischer dated May 1, 2006 and correspondences from Michael S. Reiter to parents of victims dated July 24, 2006, no responsive documents exist.

5. Any and all notes, memoranda or reports reflecting any complaints made to the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department from any person, parent, or lawyer for any person or parent claiming to have been a victim of any conduct of Mr. Epstein or from any other private citizen of Palm Beach County from 2000-2009.

RESPONSE: All responsive documents in the possession, custody or control of the Town Police Department were produced on December 9, 2009.

6. Any and all notes, memoranda, or reports reflecting any communication between the Palm Beach Police Departments and/or any of its employees, members, agents or representatives acting on behalf of the Palm Beach Police Department with "A.H."* in relation to her being subpoenaed to testify before or her requested attendance before a State Grand Jury, including but not limited to any discussions regarding what she would testify to and/or any preparation that any law enforcement officer provided her with prior to any testimony.

RESPONSE: All responsive documents in the possession, custody or control of the Town Police Department were produced on December 9, 2009.

7. Any State Grand Jury testimony that was sought or discouraged by the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department regarding any contact with "A.H."* relating to any investigation of Mr. Epstein.

RESPONSE: None.

8. Any and all agreements, memoranda, and/or notes of any kind, electronic or otherwise, between the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department and any member of the Office of the State Attorney, and/or any member of the United States Attorney's Office relating to any criminal charges, formal or otherwise, regarding "A.H." at any time.

RESPONSE: None.

9. Any and all notes, memoranda, or reports of meetings or communications between the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department and "S.G.", her parents, or any lawyers who represent "S.G.".

RESPONSE: All responsive documents in the possession, custody or control of the Town Police Department were produced on December 9, 2009.

10. Any and all records and requests of expenditures made or incurred by the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department relating to the criminal investigation of Mr. Epstein.

RESPONSE: None. The Town Police Department does not generally assign expenditures to specific cases.

11. Any and all logs, pictures, videos, digital information, reports, memoranda or notes, and any record of expenditure, which relate to the institution of and maintenance of any video surveillance of Mr. Epstein, his residence, or his visitors.

RESPONSE: None.

12. Any and all reports, logs, pictures, videos, notes, records of expenditures or any other memoranda relating to any physical surveillance of Mr. Epstein, his residence, his visitors, or any individual who was believed to be a potential witness or co-conspirator other than the information relating to video surveillance identified in request number 11.

RESPONSE: None.

13. Any and all reports (including forensic reports), memoranda, notes, and reports of any examination of any computer seized from Mr. Epstein's residence in October 2005 or on any other occasion.

RESPONSE: None.

14. Any and all reports, memoranda, or notes reflecting a criminal theft or burglary investigation of Mr. Epstein or his residence on any occasion prior to October 2005.

RESPONSE: All responsive documents in the possession, custody or control of the Town Police Department were produced on December 9, 2009

15. Any and all reports, memoranda, and notes of any communication by the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department and the Office of the State Attorney relating to the criminal investigation and subsequent prosecution of Mr. Epstein from October 1, 2004 up through and including today.

RESPONSE: All responsive documents in the possession, custody or control of the Town Police Department were produced on December 9, 2009.

16. All policies and procedures regarding commentary to any media outlets, including but not limited to the local news, the national media, print outlets, and any web-based media format.

RESPONSE: All responsive documents in the possession, custody or control of the Town Police Department were produced on December 9, 2009.

17. Any and all notes generated by the Palm Beach Police Department, its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department that concern or relate to any interviews or statements obtained regarding the Epstein investigation from January 1, 2004, up through and including today, including but not limited to notes that are handwritten, contained on any work computer, and/or any personal computer.

RESPONSE: Aside from the Incident Report produced on December 9, 2009, no responsive documents exist.

18. Any and all audio tapes of any witnesses that the Palm Beach Police Department or any of its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department obtained statements or interviews from, either sworn or informal, with regard to the Epstein investigation.

RESPONSE: None.

19. Any and all personnel records of Michael Reiter, Detective Joseph Recarey, Detective Michelle Pagan, and Detective Michael Dawson.

RESPONSE: None.

20. Any and all audio tapes, notes (hand-written or typed), memoranda, reports, messages, and/or any communications, either sworn or informal, obtained or generated by Palm Beach Police Department, its employees, members, agents, or representatives acting on behalf of the Palm Beach Police Department that relate to Jane Doe #4**, who is the Plaintiff in a Federal Civil Case No. 08-80380 filed against Jeffrey Epstein.

RESPONSE: The Town of Palm Beach Police Officers have no information regarding the identity of "Jane Doe #4" and therefore cannot properly respond to this Request. Furthermore, the Town objects to producing any responsive documents of the type objected to in Request Nos. 2, 15 and 16, supra. Subject to and notwithstanding its objections, the Town Police Department responds that it possesses no responsive documents other than what has previously been produced, unless those documents are encompassed within Request No. 2.

I HEREBY CERTIFY that a true copy of the foregoing instrument has been furnished by United States mail to **Theodore J. Leopold, Esquire** and **Spencer T. Kuvin, Esquire**, Leopold-Kuvin, P.A., 2925 PGA Boulevard, Suite 200, Palm Beach Gardens, Florida 33410; **Jack Alan Goldberger, Esquire**, Atterbury Goldberger & Weiss, P.A. 250 Australian Avenue South, Suite 1400, West Palm Beach, Florida 33401-5012; and **Robert D. Critton, Jr., Esquire**, Burman, Critton, Luttier & Coleman, LLP, 515 North Flagler Drive, Suite 400, West Palm Beach, Florida 33401, this 15th day of January, 2010.

JONES, FOSTER, JOHNSTON & STUBBS,
P.A.
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By *John C. Randolph #49880*
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