

**From:** [Colin Kalmbacher](#)  
**To:** [AGO - Info](#)  
**Subject:** Freedom of Information Act/State Open Records Law Request  
**Date:** Friday, October 4, 2019 11:49:25 AM

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Law&Crime  
1261 Broadway  
New York, NY 10001

4 October 2019  
Vermont Attorney General's Office  
109 State Street  
Montpelier, VT 05609

### **Expedited FOIA Request**

This letter constitutes a formal and expedited request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and all associated state law(s), and is submitted on behalf of Law&Crime, located in New York, New York. We hereby request copies of all records generated between January 1, 1980 and July 9, 2019 related to Jeffery E. Epstein, who died recently while in Federal custody.

As proof of death, and subject identification, please see:

<https://www.justice.gov/opa/pr/statement-attorney-general-william-p-barr-death-jeffrey-epstein>

<https://www.google.com/search?q=Jeffrey+Epstein+death&prmd=niv&source=lnms&tbn=nws>

This request includes both state and Federal records, including any such records that may be in each others' possession.

#### **I. Expedited processing**

We request that part A of this request receive maximally expedited processing, as it concerns journalistic interest in multiple breaking news stories of international significance. For the same reason, we note that the journalistic waiver request below is particularly strong.

Please pay particular attention to the request below for rolling updates. Please prioritize your response in the order of records that can be produced the most quickly (including consideration of e.g. time to review), and keep us apprised of progress, ETAs, and records in pipeline (e.g. pending search or processing).

For the purposes of expedited interim rolling updates only, please ignore the format provisions of this request if (and only if) providing the records in another format would be faster, and only to that extent, i.e. provide the records in the fastest possible manner (and otherwise as requested). If you use this clause, then please say so clearly, and provide such records in the proper requested format pursuant to non-expedited processing.

## **II. Exemptions moot due to death**

Because dead people have no Privacy Act ("PA") rights, this FOIA request includes all records that would otherwise be covered by the Privacy Act. No PA or similar waiver will be provided on anyone's behalf.

Please note that all criminal investigations into or prosecutions of Jeffrey Epstein have automatically terminated by his death, and therefore you may not invoke 5 USC 552(b)(7) (A, B, C, or F), or (c)(1), as to Epstein. See e.g. *Davis v. DOJ*, 460 F.3d 92, 97-98 (D.C. Cir. 2007); *Schrecker v. DOJ*, 349 F.3d 657, 661 (D.C. Cir. 2003); and *Vest v. Dep't of the Air Force*, 793 F. Supp. 2d 103, 122 (D.D.C. 2011) (re (b)(7) of dead individuals).

You may not claim 552(b)(5) as to records more than 25 years old.

Furthermore, if you wish to claim 552(b)(6) exemption as to Epstein's personal privacy, you would need to overcome an exceedingly high burden of proof, especially given what has already been disclosed about Epstein. In other words: it is nearly impossible for him to be defamed. Defamation requires that new information harm one's reputation. As a dead pedophile, Jeffrey Epstein has no reputation left to be harmed. See e.g. *Grandison v. DOJ*, 600 F. Supp. 2d 103, 114 (D.D.C. 2009); *Schoenman v. FBI*, 763 F. Supp. 2d 173, 176 (D.D.C. 2011); and *Summers v. DOJ*, 517 F. Supp. 2d 231, 241 (D.D.C. 2007) (re (b)(6) of dead people). See also *Rosenfeld v. DOJ*, No. 07-3240, 2012 WL 710186, at \*4 (N.D. Cal. Mar. 5, 2012) and *Citizens for Responsibility & Ethics in Wash. v. DOJ*, 846 F. Supp. 2d 63, 71 (D.D.C. 2012) (re public figure).

## **III. Exemptions related to any judicial seal**

We understand several responsive records may currently be under seal in one or more courts.

For such records, we stipulate that you may invoke 552(b)(3) (or state law equivalents), and will not contest (b)(3) exemption claims while the seal is in place, provided that you furnish, for each such record:

a) a complete citation to both the sealed record (case name, case number, court, filing date, ECF #) and all order(s) sealing the record (same);

b) a statement detailing any exemptions you claim on that record, other than the mere fact of the order of seal; or

c) a statement of whether you would object to a press-intervenor motion to unseal the record, given Epstein's death

#### **IV. Component delegation**

This request covers every Department of Justice - FOIA/PA Mail Referral Unit component, including component agencies, departments, offices, OIGs, etc.

This request includes any records held jointly by your agency in conjunction with any other agency and/or department, in interagency and/or interdepartmental systems of records, or by other agencies or third parties (including contractors) acting pursuant to any agreement with your agency.

Please note that this request imposes an affirmative obligation to take immediate steps to preserve responsive records against spoliation, including both any automated or routine record deletion and any act by an employee to delete such records.

This is an explicit evidence preservation demand, and the documents sought relate to ongoing and/or currently contemplated litigation.

At your discretion, you may either apply only a single tracking number for the whole request tree (acting for all subcomponents), or each subcomponents may apply its own tracking numbers.

In either case, you are expected to strictly comply with 5 USC 552(a)(6) and (a)(7), and analogous state law. In particular, you are expected to provide notice (by email) of all referrals made, and any other tracking numbers of which you are aware.

Additionally, please forward this request to the FOIA office of every agency component and subcomponent that may have responsive records for independent processing, with a copy provided to us.

#### **V. Fee Waivers**

No fees agreed to; non-commercial status; journalistic & public interest waiver

We are not currently willing to pay for servicing this request. We may be willing to pay if it is necessary; please send a detailed explanation of the costs and their statutory justification, and service the maximum extent of the request that can be done for free in the meantime.

This request is a qualified request for journalistic, public interest purposes. As such, we request fully waived fees, including both public interest fee waiver and journalistic fee

waiver.

Sincerely yours,

Colin Kalmbacher/Editor/Law&Crime

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Yours,

Colin K.

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