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

CA FLORIDA HOLDINGS, LLC, Publisher of *THE PALM BEACH POST*,

Plaintiff,

v.

DAVE ARONBERG, as State Attorney of Palm Beach County, Florida; SHARON R. BOCK, as Clerk and Comptroller of Palm Beach County, Florida,

Defendants.

CASE NO.: 50-2019-CA-014681-XXXX-MB

DIVISION: AG

APPENDIX TO MOTION OF PLAINTIFF CA FLORIDA HOLDINGS, LLC FOR SUMMARY JUDGMENT AND INCORPORATED MEMORANDUM OF LAW

1. Excerpts from the March 19, 2010 deposition of Detective Joseph Recarey (Volume I and II)
2. Excerpts from the April 27, 2010 deposition of Detective Joseph Recarey (Volume III and IV)
3. November 2020 Department of Justice Office of Professional Responsibility Report
4. Excerpts from the November 23, 2009 video-taped deposition of Michael Reiter (Volume I and II)
5. May 1, 2006 Michael S. Reiter, Chief of Police, letter to Barry E. Krischer, State Attorney
6. Indictment
7. Non-Prosecution Agreement and Addendum to the Non-Prosecution Agreement
8. Plea Deal
9. July 8, 2019 Geoffrey S. Berman, United States Attorney, letter to The Honorable Henry Pitman re: United States v. Jeffrey Epstein; Case No. 19 CR 490 (RMB)

10. July 8, 2019 Department of Justice U.S. Attorney's Office for the Southern District of New York Press Release "Jeffrey Epstein Charged in Manhattan Federal Court With Sex Trafficking Of Minors"

11. August 27, 2019 Hearing Transcript from United States District Court of the Southern District of New York, United Sates of America v. Jeffrey Epstein; Case No. 19 CR 490 (RMB)

12. Palm Beach Post articles

13. June 3, 2020 Hearing Transcript on the Motion to Dismiss in Circuit Court of Palm Beach County, CA Florida Holdings LLC Publisher of the Palm Beach Post v. Dave Aronberg, Sharon R. Bock; Case No. 50-2019-A-014681

Dated: April 22, 2021

Respectfully submitted,

GREENBERG TRAURIG, P.A.
Attorneys for CA Florida Holdings, LLC, Publisher of The Palm Beach Post

Stephen A. Mendelsohn, Esq.
401 East Las Olas Blvd., Ste. 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 768–8225
Facsimile: (561) 338–7099

By: */s/ Stephen A. Mendelsohn*
STEPHEN A. MENDELSOHN
Florida Bar No. 849324
mendelsohns@gtlaw.com
smithl@gtlaw.com
FLService@gtlaw.com

By: */s/ Michael J Grygiel*
MICHAEL J. GRYGIEL
(Admitted *Pro Hac Vice*)
54 State St., 6th Floor
Albany, New York 12207
Telephone: (518) 689–1400
Facsimile: (518) 689–1499
grygielm@gtlaw.com

By: /s/ *Nina D. Boyajian*
NINA D. BOYAJIAN
(Admitted *Pro Hac Vice*)
1840 Century Park East, Ste. 1900
Los Angeles, California 90067
Telephone: (310) 586–7700
Facsimile: (310) 586–7800
boyajiann@gtlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of April, 2021, a true and correct copy of the foregoing has been filed with the Clerk of the Court using the State of Florida e-filing system, which will send a notice of electronic service for all parties of record herein

/s/ Stephen A. Mendelsohn
STEPHEN A. MENDELSOHN

Appendix 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CIV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

-vs- VOLUME I OF II

JEFFREY EPSTEIN,

Defendant.
_____/

Related cases:

08-80232, 08-08380, 08-80381, 08-80994
08-80993, 08-80811, 08-80893, 09-80469
09-80591, 09-80656, 09-80802, 09-81092

_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Friday, March 19, 2010

9:37 - 5:12 p.m.

250 Australian Avenue South
Suite 1500
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1509

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No.502008CA037319XXXXMB AB

B.B.

Plaintiff,

-vs- VOLUME I OF II

JEFFREY EPSTEIN
AND SARAH KELLEN,

Defendants.
_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Friday, March 19, 2010

9:37 - 5:12 p.m.

250 Australian Avenue South
Suite 1500
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1509

Q. I understand. Now, it's obviously not public at that point. You're keeping the investigation private?

A. Correct.

Q. But nonetheless all those documents that you would have reviewed from Ms. Pagan would have been business records of the police department at the time?

A. Correct.

Q. I understand. Now, when you reviewed this information from Detective Pagan, could you walk us through exactly what [redacted] had explained occurred to her?

MR. PIKE: Form.

THE WITNESS: She was taken to Mr. Epstein's house for the purpose of making money, providing a massage.

MR. KUVIN: Okay.

THE WITNESS: Once she got there, she was taken upstairs to the bedroom area. At that time what my understanding was is they were taken to the bedroom area through the stairwell where Mr. Epstein was awaiting to do a massage.

MR. KUVIN: Okay.

THE WITNESS: The massage began. At some

point during the massage Mr. Epstein -- this is all off recollection by the way.

MR. KUVIN: If you want to use the incident report, what we're referring to would be on Pages 11 through roughly 15 of the incident report --

MR. PIKE: Just --

MR. KUVIN: -- if you need it to help refresh your recollection.

MR. PIKE: Just so the record is clear, we're still on the one question. There is a form objection on the same answer.

THE WITNESS: It was -- I haven't found exactly where she goes into the story, however I know --

MR. KUVIN: I think it's at Page 14.

THE WITNESS: -- where there was some touching involved, and Mr. Epstein then, I believe, introduced a massager.

BY MR. KUVIN:

Q. A vibrator?

A. Correct.

Q. Okay. Was she asked to take her clothes off according to what she told the police department?

MR. PIKE: Form.

THE WITNESS: Yes.

BY MR. KUVIN:

Q. And how old was she at the time?

MR. PIKE: Form.

THE WITNESS: Fourteen.

BY MR. KUVIN:

Q. Was there an investigation as to how [redacted] actually was taken to the home? In other words did you determine who took her there?

A. Correct.

Q. Who was that?

A. Haley Robson.

MR. PIKE: Form.

BY MR. KUVIN:

Q. Did Ms. Pagan interview Ms. Robson?

A. No, she did not.

Q. Not at this point?

A. No.

Q. Did you ultimately interview Ms. Robson?

A. Yes, I did.

Q. With respect to what [redacted] explained, I would like to walk through this if I could for a minute.

MR. PIKE: What page are you on?

MR. KUVIN: Fourteen.

BY MR. KUVIN:

Q. Was there another woman that she described in the home at Epstein's house?

MR. PIKE: Form.

THE WITNESS: Yes. She described a tall blonde female which I believe was Nadia Marcinkova.

BY MR. KUVIN:

Q. Okay. And what did Marcinkova do --

MR. PIKE: Form.

BY MR. KUVIN:

Q. -- as far as what she described to you?

MR. PIKE: Same objection.

THE WITNESS: If I can just -- I am going to --

MR. KUVIN: Yeah, take a look.

THE WITNESS: Nadia was the one who took her upstairs, I believe.

MR. PIKE: Form.

BY MR. KUVIN:

Q. Upstairs in Mr. Epstein's house?

MR. PIKE: Same objection.

THE WITNESS: Yes.

BY MR. KUVIN:

Q. The same home that we described before on El Brillo Way?

MR. PIKE: Form.

THE WITNESS: Yes.

BY MR. KUVIN:

Q. All right. Let's walk through some of this. When she gets upstairs, the woman leaves the room?

MR. PIKE: Form.

THE WITNESS: Correct.

BY MR. KUVIN:

Q. Okay. At that point does she tell you that Mr. Epstein comes in?

MR. PIKE: Form.

THE WITNESS: This is what she's informing Officer Pagan.

BY MR. KUVIN:

Q. Pagan, yes?

A. Yes.

MR. PIKE: Same objection.

BY MR. KUVIN:

Q. All right. And what does Mr. Epstein do at that point according to what [redacted] explained?

MR. PIKE: Form.

THE WITNESS: He told her to remove, take off her clothes.

BY MR. KUVIN:

Q. Okay. And she's 14 at this point?

MR. PIKE: Form.

THE WITNESS: Correct.

BY MR. KUVIN:

Q. What did [redacted] explain was his demeanor, Mr. Epstein's demeanor with respect to asking her to take off her clothes?

MR. PIKE: Form.

THE WITNESS: I believe he was stern when he instructed her to remove her clothing.

BY MR. KUVIN:

Q. What was he dressed in?

MR. PIKE: Form.

THE WITNESS: In a towel.

BY MR. KUVIN:

Q. Could you explain to us exactly what Mr. Epstein supposedly instructed her to do --

MR. PIKE: Form.

BY MR. KUVIN:

Q. -- and then what he did?

MR. PIKE: Same objection.

THE WITNESS: He instructed her to provide

a massage pointing to the specific lotion for her to use. He laid on the table face down. As she was providing the massage, he asked her to get onto his back. She straddled herself along his back and advised that her exposed buttocks was touching his bare buttocks.

MR. PIKE: Form, move to strike.

BY MR. KUVIN:

Q. What happened next?

MR. PIKE: Form.

THE WITNESS: He turned over onto his back and was masturbating.

BY MR. KUVIN:

Q. Okay. Did he masturbate to conclusion according to her?

MR. PIKE: Form.

THE WITNESS: It doesn't state in the report.

BY MR. KUVIN:

Q. Okay. Did [redacted] describe what her reaction was to what was occurring at this point?

MR. KUVIN: Form.

THE WITNESS: She was disgusted by his actions but didn't say anything.

BY MR. KUVIN:

Q. Okay. And what does she describe occurs between her, Ms. Marcinkova, Mr. Epstein, if anything?

MR. PIKE: Form.

THE WITNESS: It was oral sex performed on her. There was strap-on penises utilized. There was other sexual toys being used, a vibrator.

BY MR. KUVIN:

Q. Does she describe whether or not Mr. Epstein actually puts his fingers inside of her vagina or not?

A. Yes.

MR. PIKE: Form.

BY MR. KUVIN:

Q. What does she state about that?

MR. PIKE: Form.

THE WITNESS: That Mr. Epstein inserted his fingers in her vagina in an attempt to make her climax as she was masturbating him.

BY MR. KUVIN:

Q. All of this while she was how old?

A. Sixteen.

Q. All right. At some point you have to stop

BY MR. KUVIN:

Q. -- any lawful reason why you could think of why a 16-year-old girl could describe Mr. Epstein's penis?

MR. PIKE: Form.

THE WITNESS: No.

BY MR. KUVIN:

Q. Did Ms. Jane Doe No. 103 describe whether or not she had an ongoing sexual relationship with Mr. Epstein and Ms. Marcinkova at all?

A. Yes, she did. She stated that --

MR. PIKE: Form.

THE WITNESS: She stated that when she would come over, there was, she would have either relations with Nadia or -- and at one point she even stated there were some photographs taken of her in the tub with Nadia.

MR. PIKE: Form.

BY MR. KUVIN:

Q. Did you ever recover those photographs?

A. No.

MR. PIKE: Form, move to strike the previous response.

MS. EZELL: Mr. Kuvin, excuse me. I was trying to object to the form of the previous

second paragraph from the bottom.

A. I know, but do you want to me to use her name or use the redacted portions of it?

Q. Yes. We're discussing Ms. Jane Doe No. 103 at this point.

A. "Jane Doe No. 103 advised one day, Jane Doe No. 103 was unable to state the exact date this incident occurred."

Q. I'm sorry. Read it to yourself and I will just ask you questions.

A. Okay.

Q. Sorry about that. Okay. Did Ms. Jane Doe No. 103 describe to you an incident that occurred in the massage room at Mr. Epstein's home?

A. Yes.

MR. PIKE: Form.

BY MR. KUVIN:

Q. And what did she describe to you with respect to Epstein and her and any contact that he may have had with her?

MR. PIKE: Form.

THE WITNESS: She stated that she had gone up to the bedroom and that both Marcinkova and Epstein were in the bedroom. They were already naked. She had removed her clothing. There

was an appointed time when her and Nadia began kissing, touching on the massage table. She stated that she had achieved climax. All the while this was occurring Mr. Epstein was masturbating. At one point Mr. Epstein put her onto the massage table and inserted his penis into her vagina.

BY MR. KUVIN:

Q. Did she say whether or not this was consensual or not?

MR. PIKE: Form.

THE WITNESS: This was not consensual.

BY MR. KUVIN:

Q. And what did she say occurred happened at that point?

MR. PIKE: Form.

THE WITNESS: She said this occurred for very quick. He removed himself from her vagina.

BY MR. KUVIN:

Q. Did she say whether or not she told him no?

A. Yes.

MR. PIKE: Form, move to strike.

A. Yes.

Q. All right. And you were present?

A. Yes.

Q. Tell us, if you would, how you found the state of the home when you arrived on that date for the inspection?

MR. PIKE: Form.

MR. KUVIN: Or for the execution of the warrant, excuse me.

THE WITNESS: It was determined, obviously when we were in the house, that the house was somewhat sanitized.

MR. PIKE: Form.

MR. KUVIN: Describe what you mean.

I think we just got disconnected.

Ms. Ezell.

(A brief recess was held.)

MR. KUVIN: We lost you, Kathy.

MS. EZELL: Sorry. Lost you for a minute.

BY MR. KUVIN:

Q. All right. You mentioned before we took a quick break there that you felt that the house was, or you determined that the house was somewhat sanitized. Can you describe what you mean by that?

MR. PIKE: Form.

THE WITNESS: The CPU's were removed. The CPU's being the computers. The towers were removed. The wires were just left. The cabinet in which they claimed all the oils were being kept were, was empty except for one bottle that was way in the back. The drawer in the bedroom where they claimed all the toys were was empty. That's what I meant by --

MR. KUVIN: Sanitized?

THE WITNESS: (Witness nods head.)

BY MR. KUVIN:

Q. Okay. During the inspection that you did or the warrant, execution of the warrant, did you determine whether or not there were any internal security cameras in the home?

A. Yes, there were.

MR. PIKE: Form.

BY MR. KUVIN:

Q. And do you recall whether there were any located based on your inspection in the upstairs area of the home?

MR. PIKE: Form.

THE WITNESS: Not in the upstairs area. There was a covert clock in the downstairs office area and there was another covert clock

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CIV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

-vs- VOLUME II OF II

JEFFREY EPSTEIN,

Defendant.
_____/

Related cases:

08-80232, 08-08380, 08-80381, 08-80994
08-80993, 08-80811, 08-80893, 09-80469
09-80591, 09-80656, 09-80802, 09-81092

_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Friday, March 19, 2010

9:37 - 5:12 p.m.

250 Australian Avenue South
Suite 1500
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1509

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No.502008CA037319XXXXMB AB

B.B.

Plaintiff,

-vs-

VOLUME II OF II

JEFFREY EPSTEIN
AND SARAH KELLEN,

Defendants.
_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Friday, March 19, 2010

9:37 - 5:12 p.m.

250 Australian Avenue South
Suite 1500
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1509

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-80309

JANE DOE NO. 103,

Plaintiff,

-vs-

VOLUME II OF II

JEFFREY EPSTEIN,

Defendant.
_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Friday, March 19, 2010

9:37 - 5:12 p.m.

250 Australian Avenue South
Suite 1500
West Palm Beach, Florida 33401

Reported By:
Cynthia Hopkins, RPR, FPR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1509

MR. PIKE: Form.

THE WITNESS: I was told it was Roy Black's office that had them.

BY MR. KUVIN:

Q. Gotcha. All right. Let's keep going here. Item 58 was another massage table that was taken as evidence?

A. Correct.

MR. PIKE: Form.

BY MR. KUVIN:

Q. You saw that massage table?

A. Yes, sir.

Q. Okay. Let's look at the next page, six of six. It says a green photograph with a naked girl. Do you recall where that was taken from?

A. That was taken out of the, I believe, master bedroom.

MR. PIKE: Form.

BY MR. KUVIN:

Q. Could you tell by looking at the photograph whether it was an underage girl?

MR. PIKE: Form.

BY MR. KUVIN:

Q. I mean, was it a young girl, a mature girl, old?

A. No, it was a young girl.

MR. PIKE: Same objection.

THE WITNESS: Very young girl.

BY MR. KUVIN:

Q. Could you tell the age from the photo?

MR. PIKE: Form.

THE WITNESS: Younger than ten.

BY MR. KUVIN:

Q. Could you find any photographs of girls that were victims during the investigation? Did you find any photographs of girls that were victims during the investigation?

MR. PIKE: Form.

THE WITNESS: There were photographs taken during the search warrant, topless females that were taken. But, no, I did not locate one of the victims in the photos.

MR. KUVIN: Okay. If we look at what we'll mark as Exhibit 5, appears to be a supplement of the chain of custody log, two pages. Make sure I have got it. It's three pages actually.

(Plaintiff's Exhibit No. 5 was marked for identification.)

THE WITNESS: No.

BY MR. KUVIN:

Q. Narrative 18, it looks like you made telephone contact with another white, looks like WF, I assume it means white female, on November 8. Do you recall which girl that may have been?

MR. PIKE: Form.

BY MR. KUVIN:

Q. Let me ask it this way: Was this a recounting of the incident with Ms. Jane Doe No. 103?

A. No.

Q. This is a different girl?

A. This is a different girl.

MR. PIKE: Form to both questions.

THE WITNESS: This was a different girl and I am trying to remember who it was.

BY MR. KUVIN:

Q. Do you recall the name [redacted]?

A. Yes.

Q. Is that who this was?

MR. PIKE: Form.

THE WITNESS: Yes, it was.

BY MR. KUVIN:

Q. Okay. And apparently she had reported

sexual intercourse with Mr. Epstein?

A. That is correct.

MR. PIKE: Form, leading.

BY MR. KUVIN:

Q. Did she report any sexual contact with Mr. Epstein?

A. Yes, she did.

Q. What type?

MR. PIKE: Form.

THE WITNESS: She was paid to have vaginal intercourse.

MR. PIKE: Form, move to strike.

BY MR. KUVIN:

Q. Did you determine how old she was when she reported having this vaginal intercourse with Mr. Epstein?

MR. PIKE: Form.

THE WITNESS: Sixteen years of age.

MR. PIKE: Spencer, can you hold on?

MR. KUVIN: Yes, sir.

MR. PIKE: Let's go off the record for a second.

(A discussion was held off the record.)

MS. EZELL: If I could interject, I was fumbling on mute and I wanted to move to strike

prepared dinner for them. At the conclusion of dinner, they went upstairs to do the massage.

(Mr. Epstein left the deposition room.)

THE WITNESS: And that was the time that I believe [redacted] learned of this massage.

BY MR. KUVIN:

Q. And how did [redacted] initially react to that?

MR. PIKE: Form.

THE WITNESS: She had asked [redacted] why they were going to do the massage instead of the modeling.

BY MR. KUVIN:

Q. All right. Did [redacted] have to get or did she get undressed according to her?

A. Yes, she did.

MR. PIKE: Form.

BY MR. KUVIN:

Q. And did she tell you whether or not she gave Mr. Epstein a massage while he was naked?

MR. PIKE: Form.

THE WITNESS: Yes.

BY MR. KUVIN:

Q. Did she explain to you whether Mr. Epstein touched her?

MR. PIKE: Form.

THE WITNESS: Yes, he did.

BY MR. KUVIN:

Q. Where?

A. I believe he stroked her vagina.

Q. Do you recall whether she discussed if he touched her breasts as well?

MR. PIKE: Form.

THE WITNESS: He may have. I'm trying to recall. I believe so.

BY MR. KUVIN:

Q. Okay. What did she tell you Mr. Epstein was doing during this massage?

MR. PIKE: Form.

THE WITNESS: Masturbated.

BY MR. KUVIN:

Q. Did he, did she tell you whether he ejaculated eventually?

MR. PIKE: Form.

THE WITNESS: I believe he did.

MR. PIKE: And leading.

BY MR. KUVIN:

Q. Did [redacted] discuss anything with you about threats made by Mr. Epstein to her?

MR. PIKE: Form. That would be double hearsay.

ctronically signed by cynthia hopkins (601-051-976-2934)

THE WITNESS: She stated that if she spoke of this to anyone, bad things could happen.

BY MR. KUVIN:

Q. Did Ms. [redacted] tell you that she was afraid?

MR. PIKE: Form.

THE WITNESS: Yes.

BY MR. KUVIN:

Q. Did she explain why she was afraid?

MR. PIKE: Form.

THE WITNESS: Yes, she did. She explained that because he was very wealthy, you know, that he could pay someone to hurt her or her family.

BY MR. KUVIN:

Q. Did Ms. [redacted] explain whether or not she received any additional contact from Mr. Epstein or one of his agents?

MR. PIKE: Form.

THE WITNESS: I believe she went another time to the house.

BY MR. KUVIN:

Q. All right. If you would take a look at Page 20 of 22. It says here: [redacted] stated that several days later she received a telephone call from Sarah Kellen who coordinated for [redacted] to return

BY MR. KUVIN:

Q. And what occurred during this second time she was at the home --

MR. PIKE: Form.

BY MR. KUVIN:

Q. -- according to her?

A. She returned to the home with [redacted] and another massage was conducted.

Q. All right. And did this massage involve Mr. Epstein again getting naked?

A. Correct.

MR. PIKE: Form.

BY MR. KUVIN:

Q. Did this massage, according to her, involve any touching by Mr. Epstein of her?

MR. PIKE: Form.

THE WITNESS: Yes.

BY MR. KUVIN:

Q. Where did she tell you that Mr. Epstein touched her?

MR. PIKE: Form.

THE WITNESS: She informed me that her vagina was touched digitally while he was masturbating.

BY MR. KUVIN:

Q. Okay. Did she describe during the second time whether or not Mr. Epstein climaxed?

MR. PIKE: Form.

THE WITNESS: Yes, she did.

BY MR. KUVIN:

Q. And did she recount for you whether or not Mr. Epstein made another threat to her at the conclusion of this massage?

MR. PIKE: Form. Who are we talking about?

MR. KUVIN: [redacted]

THE WITNESS: Yes.

BY MR. KUVIN:

Q. What did she tell you?

MR. PIKE: Form.

THE WITNESS: She said that she was not to speak of this to anyone; bad things could happen.

BY MR. KUVIN:

Q. When you talked to her, was she afraid, bless you, was she afraid that Mr. Epstein would do something to her or her family?

A. Yes. She was afraid that someone would hurt either her or her family.

stuck around just to assist the victims.

BY MR. EDWARDS:

Q. And when you talk about the statement that you provided, did you present testimony related to all of the minor females that you discovered to have come in contact with Jeffrey Epstein or only the four or five names that ultimately were at the end of your probable cause affidavit?

MR. PIKE: Form and compound.

THE WITNESS: As far as my testimony at the grand jury, I only answered the questions that were asked of me by the state. At that point it was Lanna Belohlavek.

I'm sorry about the last name. I don't know how to spell her last name.

BY MR. EDWARDS:

Q. And in talking with the State Attorney's Office during the investigation, did you indicate to them the number of underage females that you were aware had come in contact sexually with Mr. Epstein?

MR. PIKE: Form and assumes facts not in evidence.

THE WITNESS: Yes, they were aware of the probable cause affidavit which indicated all the facts.

between the Palm Beach Police Department and the State Attorney's Office?

A. Yes, there was.

Q. And --

A. This case was originally brought to their attention very early on in the investigation to which they were, you know, very gung-ho, very let's go, let's do this, up until, up until, up until the meeting with Alan Dershowitz and the State Attorney. And then it, it all took a turn.

Q. Were you at that meeting?

A. I attended one meeting where I believe it Dershowitz, Krischer, and Belohlavek.

MR. PIKE: Object to form.

BY MR. EDWARDS:

Q. What was said during that meeting?

MR. PIKE: All right. With regard to this line of questioning, I just want to be clear that I have form objections to this line of questioning. And the fact that under various Federal Rules, I believe it's 408, 410 as well as various rules under Florida Evidence Code, some of these discussions are protected as potential plea negotiations. So, having said that...

BY MR. EDWARDS:

Q. What was said during these, this meeting that you attended?

A. Several of the girls' MySpaces were discussed. MySpace being the social network. They all had MySpaces. And the girls, the girls were actually who had the MySpaces had inputted, you know, various different things regarding alcohol use or marijuana use or that kind of thing.

Q. And what was brought up at that meeting as to the relevance of whether or not these females that had been to Jeffrey Epstein's house while underage used alcohol or drugs? What was the point of that?

MR. PIKE: Form.

THE WITNESS: To show that the character of the girls were not, was not to be believed.

BY MR. EDWARDS:

Q. Okay. It was specifically to attack their credibility?

MR. PIKE: Form, move to strike.

THE WITNESS: Correct.

BY MR. EDWARDS:

Q. So, at that point in time who was making those arguments on behalf of Jeffrey Epstein?

Appendix 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CIV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

-vs-

JEFFREY EPSTEIN,

Defendant.
_____/

VOLUME III OF IV

Related cases:

08-80232, 08-08380, 08-80381, 08-80994
08-80993, 08-80811, 08-80893, 09-80469
09-80591, 09-80656, 09-80802, 09-81092

_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Tuesday, April 219, 2010

10:03 - 5:12 p.m.

505 South Flagler Drive
Suite 1100
West Palm Beach, Florida 33401

Reported By:
Jeana Ricciuti, RPR, FPR, CLR
Notary Public, State of Florida
Prose Court Reporting
Job No.: 1509

Certified Copy

or --

BY MR. WEINBERG:

Q. Well, let's start with that time, when Mr. Epstein was the customer. Were any of the women going to his house engaging in prostitution, in your opinion?

MS. ARBOUR: Form.

THE WITNESS: In my opinion?

BY MR. WEINBERG:

Q. Yes.

A. No.

Q. And that included those who were going to his house who were above 18 as well as below 18, correct?

MS. ARBOUR: Form.

THE WITNESS: Like I was told, people that I interviewed that were above 18, what happened between them were between two consenting adults.

BY MR. WEINBERG:

Q. And so to your mind, it's not the giving of money, it's the negotiated agreement that constitutes the essential element that distinguishes prostitution from simply a consensual act as long as the people who engaged in it were both over 18?

MS. ARBOUR: Form.

BY MR. WEINBERG:

Q. Correct?

MS. ARBOUR: Same objection.

THE WITNESS: The negotiation part, X for Y.

BY MR. WEINBERG:

Q. So absent the negotiation, there is no prostitution?

MS. ARBOUR: Form.

THE WITNESS: No.

BY MR. WEINBERG:

Q. And therefore, in your opinion, the women going to see Mr. Epstein were not going there pursuant to a prostitution agreement, correct?

A. Correct.

Q. They were going there as consenting adults or even consenting minors to do something other than prostitution?

MS. ARBOUR: Form.

THE WITNESS: They were going there to provide the massage but, you're right, it wasn't prostitution.

BY MR. WEINBERG:

Q. And in fact, had some of these girls that went there who were under 18, had they been over 18, then this entire case would have been a consenting massage

December of 2005, correct?

A. Uh-huh.

Q. So it began in March and it continued through December of 2005, correct?

A. Yes.

Q. The first time you formalized a probable cause affidavit was May 1, 2006, correct?

A. Uh-huh.

Q. And that probable cause affidavit resulted several months later when the State Attorney was presenting a case to the grand jury?

A. That was -- that whole fiasco with the State Attorney's office where originally we were going to go to the grand jury, then we postponed it, and then we were going to go back to the grand jury, then we postponed it, and then they said no, we want a probable cause affidavit. So I submitted it as a probable cause affidavit, and they came back and said no, we want to go back to the grand jury --

Q. To cut through it, there was some, to put it mildly, miscommunication between the State Attorney's office and the Palm Beach Police Department?

MR. GARCIA: Object to the form.

MS. ARBOUR: Form.

MR. GARCIA: Mischaracterizes his testimony.

BY MR. WEINBERG:

Q. Let me go back and start again. In April, they told you they were going to conduct a grand jury and subpoenas went out to certain people, okay?

A. It was prior to April, I believe. I think we were in March.

Q. So in March, the grand jury subpoenas were served for an April appearance. Does that chronology make sense?

A. I think that's when the discussions were back and forth about grand jury.

Q. And Ms. Jane Doe 103 was served with a grand jury subpoena?

A. I drove up and I served her with a grand jury subpoena.

Q. And that grand jury was postponed or canceled, correct?

A. Yes.

Q. And a second grand jury was thereafter convened during the summer of 2006, correct, months after the first one?

A. Yes.

Q. And taking that timeline, between the grand jury for which you subpoenaed Ms. Jane Doe 103 the first time and the grand jury that ultimately returned -- was

written by Chief Reiter and sent to whom?

A. They were sent to some of the parents of the victims.

Q. If I represent to you that at least some of those letters were dated in May of 2006, would that jog your memory as to when this meeting with Special Agent Ortiz occurred?

A. I believe it would have been after those letters.

Q. But before the return of the State grand jury indictment?

A. I don't believe it was before the grand jury. I believe it was after the grand jury.

Q. So your best memory, therefore, would be that it would be after both the letters and the grand jury?

A. Correct.

Q. You had different conversations with the State Attorney during this period, with one or more of the State attorneys?

A. Yeah, Assistant State attorneys.

Q. Which Assistant State attorney do you recall talking to?

A. Lanna Belohlavek.

Q. Do you recall any conversation with Ms. Belohlavek wherein you discussed whether or not your

witnesses were or were not victims?

MS. ARBOUR: Form.

THE WITNESS: I recall her picking and choosing who she wanted to refer to as a victim. Most of my conversations with her I know were documented in the report.

BY MR. WEINBERG:

Q. Do you recall words to the effect that you were frustrated with her because one of her opinions were that there was no victims in this case?

MS. ARBOUR: Form.

THE WITNESS: I did recall that conversation, yes.

BY MR. WEINBERG:

Q. And what do you recall of that conversation?

A. I recall her, after viewing some of the materials that were supplied to her by Dershowitz, she started to claim that the victims were not victims based on the materials that were supplied by the MySpaces.

Q. The victims were not victims?

A. That's what she was claiming.

Q. And this is the State Attorney's statements to you based on her investigation which included her review of materials provided to her by Defense Counsel Professor Alan Dershowitz?

MS. ARBOUR: Form.

THE WITNESS: I wouldn't consider what she did her investigation. I think she just looked at these girls' MySpace accounts. I wouldn't consider that an investigation.

BY MR. WEINBERG:

Q. But she had in her possession at this time your incident report?

MS. ARBOUR: Form.

THE WITNESS: Yes.

BY MR. WEINBERG:

Q. Your probable cause affidavit?

MS. ARBOUR: Form.

THE WITNESS: I don't know if it was drafted yet.

BY MR. WEINBERG:

Q. But she had the raw materials of your many interviews over many months, correct?

MS. ARBOUR: Form.

THE WITNESS: Yes.

BY MR. WEINBERG:

Q. She had the results of the search, did she not?

A. Yes.

Q. She had the message pads available to her, did

A. Yes.
Q. Was amongst them Ms. [redacted]?
A. Yes.
Q. Who else?
A. I believe this was it. I think that was the initial -- they were going to do it in sections, and they were going to pick those girls to go first.
Q. And the criminal offense that she was investigating at the time was felony solicitation?
MS. ARBOUR: Form.
THE WITNESS: I don't know what she was looking into. I know what I was seeking.
BY MR. WEINBERG:
Q. You and her had disagreements about witnesses and charges, correct?
A. Yes.
Q. And you had disagreements about whether or not the witnesses that you denominated victims and she said weren't victims, you had disagreements over their credibility, did you not?
A. Not over their credibility. It was over, like, the MySpace pages. I had the feeling that she was trying to --
Q. I don't mean to interrupt, but I want to stick to conversations and evidence and not feelings, so --

MR. GARCIA: Go ahead and finish your answer, sir. Don't let him interrupt you. You can finish your answer.

THE WITNESS: I had the feeling that she was trying to brush this case under the carpet. That was my --

BY MR. WEINBERG:

Q. You believed that she was minimizing the case, correct?

A. (Non-verbal response).

Q. And you believed that one of the reasons she was minimizing the case was her review of the MySpace pages of some of your witnesses, correct?

A. I know that the attitude of the State Attorney's office was very pro-assisting us from the very beginning. Once Mr. Dershowitz became involved in the investigative stage, everything changed.

Q. So let's talk about these MySpace pages for a minute. MySpace pages are an Internet site where the witnesses herself would put information out there that was available to whoever accessed the site, correct?

MS. ARBOUR: Form.

THE WITNESS: MySpace is a social network that you can basically create anything that you want to create on a MySpace page.

that the case wasn't -- it wasn't -- in my eyes, it wasn't any justice served.

BY MR. WEINBERG:

Q. Your disagreements with the State Attorney's charge decision led you to go outside the State law enforcement community and transmit information about Mr. Epstein to Federal authorities?

MS. ARBOUR: Form, asked and answered.

THE WITNESS: And also to see if there was any Federal nexus pertaining to the case.

BY MR. WEINBERG:

Q. But you sought to determine if there was a Federal nexus relating to this case as a result of your disagreements with the charge decisions that were being made by your State Attorney, correct?

MS. ARBOUR: Form.

THE WITNESS: I believe so.

MR. WEINBERG: Why don't we take a break and have lunch.

MR. WEINBERG:

(A luncheon recess was taken.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CIV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

-vs-

JEFFREY EPSTEIN,

Defendant.
_____/

VOLUME IV OF IV

Related cases:

08-80232, 08-08380, 08-80381, 08-80994
08-80993, 08-80811, 08-80893, 09-80469
09-80591, 09-80656, 09-80802, 09-81092

_____/

DEPOSITION OF
DETECTIVE JOSEPH RECAREY

Tuesday, April 27, 2010

10:03 - 5:23 p.m.

505 South Flagler Drive
Suite 1100
West Palm Beach, Florida 33401

Reported By:
Jeana Ricciuti, RPR, FPR, CLR
Notary Public, State of Florida
Prose Court Reporting

A. I'm trying to recall what we discussed. I served her with a subpoena and instructed her to call the phone number that was on there to make arrangements.

Q. How long were you with her in Tallahassee on this occasion?

A. I'd say about 40 minutes, 50 minutes.

Q. And did you decide that you were to be the person to serve the subpoena as contrasted to any of the different people working under or with you?

A. Yes, I am the one who served the other search warrant -- subpoenas.

Q. So you served all of the subpoenas?

A. Uh-huh.

Q. And was that the only reason to go to Tallahassee that day?

A. I spoke to her also regarding some phone calls that she had received which she felt was threatening in nature.

Q. And what were the results of those conversations?

A. She had received a phone call from [redacted], indicating to her that those that are with Mr. Epstein will be compensated and those that go against him basically would be dealt with.

Q. We're talking about March or April of 2006,

time, did she have a conversation with you regarding the second subpoena's conflicting with her finals schedule?

A. Correct.

Q. And she made a phone call to you to complain about the service?

A. Correct.

Q. And what was the conversation between Jane Doe 103 and you on that occasion?

A. It was finals week and she could not leave and not take her final to come down for the grand jury. I recommended that she contact the State Attorney's office and make recommendations through the State Attorney's office.

Q. And did you have any followup with her to see if she had been formally excused from the grand jury by the State Attorney?

A. No, I did not.

Q. Did you learn that she didn't show up at the grand jury?

A. Yes.

Q. Did you learn that she had not been excused by the State Attorney?

A. I don't think she officially came out and told me that she was not excused.

Q. But you do know that she failed to appear?

A. (Non-verbal response).
Q. The time he was on work release, no request?
A. None.
Q. The time he was on probation, community control?
A. No.
Q. So you've never received an FBI request to, in any way, investigate Mr. Epstein?
A. No.
Q. Surveille Mr. Epstein?
A. No.
Q. Report to them any of your knowledge of Mr. Epstein's ongoing conduct?
A. No.
Q. Same question for the US Attorney's office: Have they ever initiated a call to you at any time after Mr. Epstein went to jail asking you to do anything in connection to their ongoing investigation of Mr. Epstein?
A. Absolutely not.
Q. And what about Probation? Has Probation ever asked you to initiate any surveillance or investigation of Mr. Epstein?
A. No. Aside from that one day that I saw him walking on the -- along South Ocean Boulevard, that was

it. That was the only -- and I didn't even contact Probation. I believe Captain Frick (phonetic) is the one who contacted Probation and something Sloan (phonetic).

Q. Are you aware of any -- putting yourself aside and putting this one incident aside, are you aware of the Palm Beach Police Department having any ongoing role in the investigation of Jeffrey Epstein?

A. As far as today?

Q. Yes, as of today.

A. No.

Q. How about at any time over the past year, starting with the time he was out on work release and thereafter on community control --

A. There did no --

Q. -- house arrest?

A. -- investigation, not that I'm aware of.

Q. Is the one occasion the only time that you or anyone working with you spoke to Probation about Mr. Epstein's ongoing activities?

A. That was the only time I think --

Q. That you were involved?

A. Yes.

Q. And is it the only time that you are aware that anyone else has had communications to and from the

A. Yes, there was.
Q. How about Jane Doe 7?
A. Yes.
Q. How about a girl that we haven't discussed named Jane Doe 5?
A. No.
Q. How about a girl named Jane Doe 6?
A. No.
Q. How about Jane Doe 8?
A. No.
Q. At any time during your investigation, did you speak to Jane Doe 5?
A. No.
Q. Did you speak to a girl named Jane Doe 6?
A. No.
Q. Did you ever speak to a girl named Jane Doe 8?
A. No.
Q. You were asked some questions earlier about a private investigator following you and pulling your trash I believe you said.
A. Yes.
Q. Can you tell me more about that?
MR. PIKE: Form.
THE WITNESS: Sometime during the investigation, it was discovered that we had

private investigators following myself and former Chief Reiter. When I would leave work and I'd go visit my children, I would notice a car two lengths behind me doing the exact same moves I did. If I sped up, he sped up; if I slowed down, he slowed down.

I purposely -- I purposely drove way under the speed limit just to see if he would go around. No cars around us and he stayed right behind me. I made several U-turns, he did the same exact thing. So it was clearly evident I was being followed.

I did manage to obtain a driver's license plate number and it came back to a private investigator.

I was actually called by one of the PIs, which the phone number came back to the Law Office of Roy Black in Miami.

As far as my trash being pulled, it became clearly evident the day after Thanksgiving where there is no trash pickup in my neighborhood, at my house, the day after Thanksgiving, it's a holiday, everybody's cans were full and mine is empty.

MR. PIKE: Form. Move to strike.

BY MS. ARBOUR:

Q. Did you ever do any research to determine the

identity of the private investigators that you believed were following you?

A. Yes. I did obtain -- based on their license plate, I was able to obtain who they were and which PI firm they represent.

Q. Did you ever speak to any --

MR. PIKE: Same objection.

BY MS. ARBOUR:

Q. Did you ever speak to any representatives of that PI firm?

A. No.

Q. Do you have any information about who, if anyone, hired them to follow you?

A. Aside from that one phone call that came back to Roy Black's office.

Q. And that was the investigator's calling you or you were calling the investigators?

A. No. They actually called me by mistake.

Q. Okay. So you didn't actually speak to anyone?

A. No. They asked me who I was, and I said who are you, and they hung up. I had the number on my caller ID. I cross referenced the phone number and it came back to it.

Q. And to the best of your recollection, all of this occurred sometime in that September to May 2006 --

Appendix 3

DEPARTMENT OF JUSTICE

OFFICE OF PROFESSIONAL RESPONSIBILITY

REPORT

Investigation into the
U.S. Attorney's Office for the Southern District of Florida's
Resolution of Its 2006–2008 Federal Criminal Investigation of
Jeffrey Epstein and Its Interactions with Victims during the Investigation

November 2020

NOTE: THIS REPORT CONTAINS SENSITIVE, PRIVILEGED, AND PRIVACY ACT PROTECTED INFORMATION. DO NOT DISTRIBUTE THE REPORT OR ITS CONTENTS WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF PROFESSIONAL RESPONSIBILITY.

EXECUTIVE SUMMARY

The Department of Justice (Department) Office of Professional Responsibility (OPR) investigated allegations that in 2007-2008, prosecutors in the U.S. Attorney's Office for the Southern District of Florida (USAO) improperly resolved a federal investigation into the criminal conduct of Jeffrey Epstein by negotiating and executing a federal non-prosecution agreement (NPA). The NPA was intended to end a federal investigation into allegations that Epstein engaged in illegal sexual activity with girls.[1] OPR also investigated whether USAO prosecutors committed professional misconduct by failing to consult with victims of Epstein's crimes before the NPA was signed or by misleading victims regarding the status of the federal investigation after the signing.

I. OVERVIEW OF FACTUAL BACKGROUND

The Palm Beach (Florida) Police Department (PBPD) began investigating Jeffrey Epstein in 2005, after the parents of a 14-year-old girl complained that Epstein had paid her for a massage. Epstein was a multi-millionaire financier with residences in Palm Beach, New York City, and other United States and foreign locations. The investigation led to the discovery that Epstein used personal assistants to recruit girls to provide massages to him, and in many instances, those massages led to sexual activity. After the PBPD brought the case to the State Attorney's Office, a Palm Beach County grand jury indicted Epstein, on July 19, 2006, for felony solicitation of prostitution in violation of Florida Statute § 796.07. However, because the PBPD Chief and the lead Detective were dissatisfied with the State Attorney's handling of the case and believed that the state grand jury's charge did not address the totality of Epstein's conduct, they referred the matter to the Federal Bureau of Investigation (FBI) in West Palm Beach for a possible federal investigation.

The FBI brought the matter to an Assistant U.S. Attorney (AUSA), who opened a file with her supervisor's approval and with the knowledge of then U.S. Attorney R. Alexander Acosta. She worked with two FBI case agents to develop a federal case against Epstein and, in the course of the investigation, they discovered additional victims. In May 2007, the AUSA submitted to her supervisors a draft 60-count indictment outlining charges against Epstein. She also provided a lengthy memorandum summarizing the evidence she had assembled in support of the charges and addressing the legal issues related to the proposed charges.

For several weeks following submission of the prosecution memorandum and proposed indictment, the AUSA's supervisors reviewed the case to determine how to proceed. At a July 31, 2007 meeting with Epstein's attorneys, the USAO offered to end its investigation if Epstein pled guilty to state charges, agreed to serve a minimum of two years' incarceration, registered as a sexual offender, and agreed to a mechanism through which victims could obtain monetary damages. The USAO subsequently engaged in additional meetings and communications with Epstein's team of attorneys, ultimately negotiating the terms of a state-based resolution of the federal investigation, which culminated in the signing of the NPA on September 24, 2007. The

[1] As used in this Report, including in quoted documents and statements, the word "girls" refers to females who were under the age of 18 at the time of the alleged conduct. Under Florida law, a minor is a person under the age of 18.

NPA required Epstein to plead guilty in state court to the then-pending state indictment against him and to an additional criminal information charging him with a state offense that would require him to register as a sexual offender—specifically, procurement of minors to engage in prostitution, in violation of Florida Statute § 796.03. The NPA required Epstein to make a binding recommendation that the state court sentence him to serve 18 months in the county jail followed by 12 months of community control (home detention or "house arrest"). The NPA also included provisions designed to facilitate the victims' recovery of monetary damages from Epstein. In exchange, the USAO agreed to end its investigation of Epstein and to forgo federal prosecution in the Southern District of Florida of him, four named co-conspirators, and "any potential co-conspirators." Victims were not informed of, or consulted about, a potential state resolution or the NPA prior to its signing.

The signing of the NPA did not immediately lead to Epstein's guilty plea and incarceration, however. For the next nine months, Epstein deployed his extensive team of prominent attorneys to try to change the terms that his team had negotiated and he had approved, while simultaneously seeking to invalidate the entire NPA by persuading senior Department officials that there was no federal interest at issue and the matter should be left to the discretion of state law enforcement officials. Through repeated communications with the USAO and senior Department officials, defense counsel fought the government's interpretation of the NPA's terms. They also sought and obtained review by the Department's Criminal Division and then the Office of the Deputy Attorney General, primarily on the issue of federal jurisdiction over what the defense insisted was "a quintessentially state matter." After reviewing submissions by the defense and the USAO, on June 23, 2008, the Office of the Deputy Attorney General informed defense counsel that the Deputy Attorney General would not intervene in the matter. Only then did Epstein agree to fulfill his obligation under the NPA, and on June 30, 2008, he appeared in state court and pled guilty to the pending state indictment charging felony solicitation of prostitution and, pursuant to the NPA, to a criminal information charging him with procurement of minors to engage in prostitution. Upon the joint request of the defendant and the state prosecutor, and consistent with the NPA, the court immediately sentenced Epstein to consecutive terms of 12 months' incarceration on the solicitation charge and 6 months' incarceration on the procurement charge, followed by 12 months of community control. Epstein began serving the sentence that day, in a minimum-security Palm Beach County facility. A copy of the NPA was filed under seal with the state court.

On July 7, 2008, a victim, identified as "Jane Doe," filed in federal court in the Southern District of Florida an emergency petition alleging that the government violated the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771, when it resolved the federal investigation of Epstein without consulting with victims, and seeking enforcement of her CVRA rights.[2] In responding to the petition, the government, represented by the USAO, revealed the existence of the NPA, but did not produce it to the petitioners until the court directed it to be turned over subject to a protective order; the NPA itself remained under seal in the federal district court. After the initial filings and hearings, the CVRA case was dormant for almost two years while the petitioners pursued civil cases against Epstein.

---

[2] Emergency Victim's Petition for Enforcement of Crime Victim's [*sic*] Rights Act, 18 U.S.C. Section 3771, *Doe v. United States,* Case No. 9:08-cv-80736-KAM (S.D. Fla. July 7, 2008). Another victim subsequently joined the litigation as "Jane Doe 2."

Soon after he was incarcerated, Epstein applied for the Palm Beach County Sheriff's work release program, and the Sheriff approved his application. In October 2008, Epstein began spending 12 hours a day purportedly working at the "Florida Science Foundation," an entity Epstein had recently incorporated that was co-located at the West Palm Beach office of one of Epstein's attorneys. Although the NPA specified a term of incarceration of 18 months, Epstein received "gain time," that is, time off for good behavior, and he actually served less than 13 months of incarceration. On July 22, 2009, Epstein was released from custody to a one-year term of home detention as a condition of community control, and he registered as a sexual offender with the Florida Department of Law Enforcement. After victims and news media filed suit in Florida courts for release of the copy of the NPA that had been filed under seal in the state court file, a state judge in September 2009 ordered it to be made public.

By mid-2010, Epstein reportedly settled multiple civil lawsuits brought against him by victims seeking monetary damages, including the two petitioners in the CVRA litigation. During the CVRA litigation, the petitioners sought discovery from the USAO, which made substantial document productions, filed lengthy privilege logs in support of its withholding of documents, and submitted declarations from the AUSA and the FBI case agents who conducted the federal investigation. The USAO opposed efforts to unseal various records, as did Epstein, who was permitted to intervene in the litigation with respect to certain issues. Nevertheless, the court ultimately ordered that substantial records relating to the USAO's resolution of the Epstein case be made public. During the course of the litigation, the court made numerous rulings interpreting the CVRA. After failed efforts to settle the case, the parties' cross motions for summary judgment remained pending for more than a year.

In 2017, President Donald Trump nominated Acosta to be Secretary of Labor. At his March 2017 confirmation hearing, Acosta was questioned only briefly about the Epstein case. On April 17, 2017, the Senate confirmed Acosta's appointment as Labor Secretary.

In the decade following his release from incarceration, Epstein reportedly continued to settle multiple civil suits brought by many, but not all, of his victims. Epstein was otherwise able to resume his lavish lifestyle, largely avoiding the interest of the press. On November 28, 2018, however, the *Miami Herald* published an extensive investigative report about state and federal criminal investigations initiated more than 12 years earlier into allegations that Epstein had coerced girls into engaging in sexual activity with him at his Palm Beach estate.[3] The *Miami Herald* reported that in 2007, Acosta entered into an "extraordinary" deal with Epstein in the form of the NPA, which permitted Epstein to avoid federal prosecution and a potentially lengthy prison sentence by pleading guilty in state court to "two prostitution charges." According to the *Miami Herald*, the government also immunized from prosecution Epstein's co-conspirators and concealed from Epstein's victims the terms of the NPA. Through its reporting, which included interviews of eight victims and information from publicly available documents, the newspaper painted a portrait of federal and state prosecutors who had ignored serious criminal conduct by a wealthy man with powerful and politically connected friends by granting him a "deal of a lifetime" that allowed him both to escape significant punishment for his past conduct and to continue his

[3] Julie K. Brown, "Perversion of Justice," *Miami Herald*, Nov. 28, 2018. https://www.miamiherald.com/news/local/article220097825 html.

abuse of minors. The *Miami Herald* report led to public outrage and media scrutiny of the government's actions.[4]

On February 21, 2019, the district court granted the CVRA case petitioners' Motion for Partial Summary Judgment, ruling that the government violated the CVRA in failing to advise the victims about its intention to enter into the NPA.[5] The court also found that letters the government sent to victims after the NPA was signed, describing the investigation as ongoing, "mislead [*sic*] the victims to believe that federal prosecution was still a possibility." The court also highlighted the inequity of the USAO's failure to communicate with the victims while at the same time engaging in "lengthy negotiations" with Epstein's counsel and assuring the defense that the NPA would not be "made public or filed with the court." The court ordered the parties to submit additional briefs regarding the appropriate remedies. After the court's order, the Department recused the USAO from the CVRA litigation and assigned the U.S. Attorney's Office for the Northern District of Georgia to handle the case for the government. Among the remedies sought by the petitioners, and opposed by the government, was rescission of the NPA and federal prosecution of Epstein.

On July 2, 2019, the U.S. Attorney's Office for the Southern District of New York obtained a federal grand jury indictment charging Epstein with one count of sex trafficking of minors and one count of conspiracy to commit sex trafficking of minors. The indictment alleged that from 2002 until 2005, Epstein created a vast network of underage victims in both New York and Florida whom he sexually abused and exploited. Epstein was arrested on the charges on July 6, 2019. In arguing for Epstein's pretrial detention, prosecutors asserted that agents searching Epstein's Manhattan residence found thousands of photos of nude and half-nude females, including at least one believed to be a minor. The court ordered Epstein detained pending trial, and he was remanded to the custody of the Bureau of Prisons and held at the Metropolitan Correctional Center in Manhattan.

Meanwhile, after publication of the November 2018 *Miami Herald* report, the media and Congress increasingly focused attention on Acosta as the government official responsible for the NPA. On July 10, 2019, Acosta held a televised press conference to defend his and the USAO's actions. Acosta stated that the Palm Beach State Attorney's Office "was ready to allow Epstein to walk free with no jail time, nothing." According to Acosta, because USAO prosecutors considered this outcome unacceptable, his office pursued a difficult and challenging case and obtained a resolution that put Epstein in jail, forced him to register as a sexual offender, and provided victims with the means to obtain monetary damages. Acosta's press conference did not end the controversy, however, and on July 12, 2019, Acosta submitted to the President his resignation as

---

[4] *See, e.g.*, Ashley Collman, "Stunning new report details Trump's labor secretary's role in plea deal for billionaire sex abuser," *The Business Insider*, Nov. 29, 2018; Cynthia McFadden, "New Focus on Trump Labor Secretary's role in unusual plea deal for billionaire accused of sexual abuse," *NBC Nightly News*, Nov. 29, 2018; Anita Kumar, "Trump labor secretary out of running for attorney general after Miami Herald report," *McClatchy Washington Bureau*, Nov. 29, 2018; Emily Peck, "How Trump's Labor Secretary Covered For A Millionaire Sex Abuser," *Huffington Post*, Nov. 29, 2018; Julie K. Brown, et al., "Lawmakers issue call for investigation of serial sex abuser Jeffrey Epstein's plea deal," *Miami Herald*, Dec. 6, 2018.

[5] *Doe v. United States,* 359 F. Supp. 3d 1201 (S.D. Fla., Feb. 21, 2019) (Opinion and Order, 9:08-80736-CIV-Marra).

Secretary of Labor. In a brief oral statement, Acosta explained that continued media attention on his handling of the Epstein investigation rather than on the economy was unfair to the Labor Department.

On August 10, 2019, Epstein was found hanging in his cell and was later pronounced dead. The New York City Chief Medical Examiner concluded that Epstein had committed suicide.

As a result of Epstein's death, the U.S. Attorney's Office for the Southern District of New York filed a *nolle prosequi* to dismiss the pending indictment against Epstein. On August 27, 2019, the district court held a hearing at which more than a dozen of Epstein's victims—including victims of the conduct in Florida that was addressed through the NPA—spoke about the impact of Epstein's crimes. The court dismissed the Epstein indictment on August 29, 2019.

After Epstein's death, the federal district court in Florida overseeing the CVRA litigation denied the petitioners their requested remedies and closed the case as moot. Among its findings, the court concluded that although the government had violated the CVRA, the government had asserted "legitimate and legally supportable positions throughout this litigation," and therefore had not litigated in bad faith. The court also noted it expected the government to "honor its representation that it will provide training to its employees about the CVRA and the proper treatment of crime victims," as well as honoring its promise to meet with the victims.

On September 30, 2019, CVRA petitioner "Jane Doe 1" filed in her true name a petition for a writ of mandamus in the United States Court of Appeals for the Eleventh Circuit, seeking review of the district court's order denying all of her requested remedies. In its responsive brief, the government argued that "as a matter of law, the legal obligations under the CVRA do not attach prior to the government charging a case" and thus, "the CVRA was not triggered in [the Southern District of Florida] because no criminal charges were brought." Nevertheless, during oral argument, the government conceded that the USAO had not been "fully transparent" with the petitioner and had "made a mistake in causing her to believe that the case was ongoing when in fact the NPA had been signed." On April 14, 2020, a divided panel of the Court of Appeals denied the petition, ruling that CVRA rights do not attach until a defendant has been criminally charged. On August 7, 2020, the court granted the petition for rehearing *en banc* and vacated the panel's opinion; as of the date of this Report, a briefing schedule has been issued, and oral argument is set for December 3, 2020.

II. THE INITIATION AND SCOPE OF OPR'S INVESTIGATION

After the *Miami Herald* published its investigative report on November 28, 2018, U.S. Senator Ben Sasse, Chairman of the Senate Judiciary Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, sent a December 3, 2018 letter to OPR, citing the *Miami Herald*'s report and requesting that OPR "open an investigation into the instances identified in this reporting of possible misconduct by Department of Justice attorneys." On February 6, 2019, the Department of Justice Office of Legislative Affairs advised Senator Sasse that OPR had opened

an investigation into the matter and would review the USAO's decision to resolve the federal investigation of Epstein through the NPA.[6]

After the district court issued its ruling in the CVRA litigation, on February 21, 2019, OPR included within the scope of its investigation an examination of the government's conduct that formed the basis for the court's findings that the USAO violated the CVRA in failing to afford victims a reasonable right to confer with the government about the NPA before the agreement was signed and that the government affirmatively misled victims about the status of the federal investigation.

During the course of its investigation, OPR obtained and reviewed hundreds of thousands of records from the USAO, the FBI, and other Department components, including the Office of the Deputy Attorney General, the Criminal Division, and the Executive Office for U.S. Attorneys. The records included emails, letters, memoranda, and investigative materials. OPR also collected and reviewed materials relating to the state investigation and prosecution of Epstein. OPR also examined extensive publicly available information, including depositions, pleadings, orders, and other court records, and reviewed media reports and interviews, articles, podcasts, and books relating to the Epstein case.

In addition to this extensive documentary review, OPR conducted more than 60 interviews of witnesses, including the FBI case agents, their supervisors, and FBI administrative personnel; current and former USAO staff and attorneys; current and former Department attorneys and senior managers, including a former Deputy Attorney General and a former Assistant Attorney General for the Criminal Division; and the former State Attorney and former Assistant State Attorney in charge of the state investigation of Epstein. OPR also interviewed several victims and attorneys representing victims, and reviewed written submissions from victims, concerning victim contacts with the USAO and the FBI.

OPR identified former U.S. Attorney Acosta, three former USAO supervisors, and the AUSA as subjects of its investigation based on preliminary information indicating that each of them was involved in the decision to resolve the case through the NPA or in the negotiations leading to the agreement. OPR deems a current or former Department attorney to be a subject of its investigation when the individual's conduct is within the scope of OPR's review and may result in a finding of professional misconduct. OPR reviewed prior public statements made by Acosta and another subject. All five subjects cooperated fully with OPR's investigation. OPR requested that all of the subjects provide written responses detailing their involvement in the federal investigation of Epstein, the drafting and execution of the NPA, and decisions relating to victim notification and consultation. OPR received and reviewed written responses from all of the subjects, and subsequently conducted extensive interviews of each subject under oath and before a court reporter. Each subject was represented by counsel and had access to relevant contemporaneous documents before the subject's OPR interview. The subjects reviewed and provided comments on their respective interview transcripts and on OPR's draft report. OPR

[6] The federal government was closed from December 22, 2018, to January 25, 2019. After initiating its investigation, OPR also subsequently received other letters from U.S. Senators and Representatives inquiring into the status of the OPR investigation.

carefully considered the comments and made changes, or noted comments, as OPR deemed appropriate; OPR did not, however, alter its findings and conclusions.

Finally, OPR reviewed relevant case law, statutes, regulations, Department policy, and attorney professional responsibility rules as necessary to resolve the issues presented in this case and to determine whether the subjects committed professional misconduct.

As part of its investigation, OPR examined the interactions between state officials and the federal investigators and prosecutors, but because OPR does not have jurisdiction over state officials, OPR did not investigate, or reach conclusions about, their conduct regarding the state investigation.[7] Because OPR's mission is to ensure that Department attorneys adhere to the standards of professional conduct, OPR's investigation focused on the actions of the subject attorneys rather than on determining the full scope of Epstein's and his assistants' criminal behavior. Accordingly, OPR considered the evidence and information regarding Epstein's and his assistants' conduct as it was known to the subjects at the time they performed their duties as Department attorneys. Additional evidence and information that came to light after June 30, 2008, when Epstein entered his guilty plea under the NPA, did not affect the subjects' actions prior to that date, and OPR did not evaluate the subjects' conduct on the basis of that subsequent information.

OPR's investigation occurred approximately 12 years after most of the significant events relating to the USAO's investigation of Epstein, the NPA, and Epstein's guilty plea. As a result, many of the subjects and witnesses were unable to recall the details of events or their own or others' actions occurring in 2006-2008, such as conversations, meetings, or documents they reviewed at the time.[8] However, OPR's evaluation of the subjects' conduct was aided significantly by extensive, contemporaneous emails among the prosecutors and communications between the government and defense counsel. These records often referred to the interactions among the participants and described important decisions and, in some instances, the bases for them.

III. OVERVIEW OF OPR'S ANALYTICAL FRAMEWORK

OPR's primary mission is to ensure that Department attorneys perform their duties in accordance with the highest professional standards, as would be expected of the nation's principal law enforcement agency. Accordingly, OPR investigates allegations of professional misconduct against current or former Department attorneys related to the exercise of their authority to

[7] In August 2019, Florida Governor Ron DeSantis announced that he had directed the Florida Department of Law Enforcement to open an investigation into the conduct of state authorities relating to Epstein. As reported, the investigation focuses on Epstein's state plea agreement and the Palm Beach County work release program.

[8] OPR was cognizant that Acosta and the three managers all left the USAO during, or not long after resolution of, the Epstein case, while the AUSA remained with the USAO until mid-2019. Moreover, as the line prosecutor in the Epstein investigation and also as co-counsel in the CVRA litigation until the USAO was recused from that litigation in early 2019, the AUSA had continuous access to the USAO documentary record and numerous occasions to review these materials in the course of her official duties. Additionally, in responding to OPR's request for a written response, and in preparing to be interviewed by OPR, the AUSA was able to refresh her recollection with these materials to an extent not possible for the other subjects, who were provided with relevant documents by OPR in preparation for their interviews.

investigate, litigate, or provide legal advice.[9] OPR also has jurisdiction to investigate allegations of misconduct against Department law enforcement agents when they relate to a Department attorney's alleged professional misconduct.

In its investigations, OPR determines whether a clear and unambiguous standard governs the challenged conduct and whether a subject attorney violated that standard. Department attorneys are subject to various legal obligations and professional standards in the performance of their duties, including the Constitution, statutes, standards of conduct imposed by attorney licensing authorities, and Department regulations and policies. OPR finds misconduct when it concludes by a preponderance of the evidence that a subject attorney violated such a standard intentionally or recklessly. Pursuant to OPR's analytical framework, when OPR concludes that (1) no clear and unambiguous standard governs the conduct in question or (2) the subject did not intentionally or recklessly violate the standard that governs the conduct, then it concludes that the subject's conduct does not constitute professional misconduct. In some cases, OPR may conclude that a subject attorney's conduct does not satisfy the elements necessary for a professional misconduct finding, but that the circumstances warrant another finding. In such cases, OPR may conclude that a subject attorney exercised poor judgment, made a mistake, or otherwise acted inappropriately under the circumstances. OPR may also determine that the subject attorney's conduct was appropriate under the circumstances.[10]

IV. ISSUES CONSIDERED

In this investigation, OPR considered two distinct sets of allegations. The first relates to the negotiation, execution, and implementation of the NPA. The second relates to the USAO's interactions with Epstein's victims and adherence to the requirements of the CVRA. The two sets of issues are described below and are analyzed separately in this Report.

A. The Negotiation, Execution, and Implementation of the NPA

In evaluating whether any of the subjects committed professional misconduct, OPR considered whether any of the NPA's provisions violated a clear or unambiguous statute, professional responsibility rule or standard, or Department regulation or policy. In particular, OPR considered whether the NPA violated standards relating to (1) charging decisions, (2) declination of criminal charges, (3) deferred or non-prosecution agreements, (4) plea agreements, (5) grants

[9] 28 C.F.R. § 0.39a(a)(1). OPR has authority to investigate the professional conduct of attorneys occurring during their employment by the Department, regardless of whether the attorney left the Department before or during OPR's investigation. Over its 45-year history, OPR has routinely investigated the conduct of former Department attorneys. Although former Department attorneys cannot be disciplined by the Department, OPR's determination that a former Department attorney violated state rules of professional conduct for attorneys could result in a referral to an appropriate state attorney disciplinary authority. Furthermore, findings resulting from investigations of the conduct of Department attorneys, even former employees, may assist Department managers in supervising future cases.

[10] In some instances, OPR declines to open an investigation based upon a review of the initial complaint or after a preliminary inquiry into the matter. In December 2010, one of the attorneys representing victims in the CVRA litigation raised allegations that Epstein may have exerted improper influence over the federal criminal investigation and that the USAO had deceived the victims of Epstein's crimes about the existence of the NPA. Pursuant to its standard policy, OPR declined to open an investigation into those allegations at that time in deference to the then-pending CVRA litigation.

of immunity, or (6) the deportation of criminal aliens. The potentially applicable standards that OPR considered as to each of these issues are identified and discussed later in this Report. OPR also examined whether the evidence establishes that any of the subjects were influenced to enter into the NPA, or to include in the NPA terms favorable to Epstein, because of an improper motive, such as a bribe, political consideration, personal interest, or favoritism. OPR also examined and discusses in this Report significant events that occurred after the NPA was negotiated and signed that shed additional light on the USAO's handling of the Epstein investigation.

B. The District Court's Conclusion That the USAO Violated the CVRA

To address the district court's adverse judicial findings, OPR assessed the manner, content, and timing of the government's interactions with victims both before and after the NPA was signed, including victim notification letters issued by the USAO and the FBI and interviews conducted by the USAO. OPR considered whether any of the subject attorneys violated any clear and unambiguous standard governing victim consultation or notification. OPR examined the government's lack of consultation with the victims before the NPA was signed, as well as the circumstances relating to the district court's finding that the USAO affirmatively misled Epstein's victims about the status of the federal investigation after the NPA was signed.

V. OPR'S FINDINGS AND CONCLUSIONS

OPR evaluated the conduct of each subject and considered his or her individual role in various decisions and events. Acosta, however, made the pivotal decision to resolve the federal investigation of Epstein through a state-based plea and either developed or approved the terms of the initial offer to the defense that set the beginning point for the subsequent negotiations that led to the NPA. Although Acosta did not sign the NPA, he participated in its drafting and approved it, with knowledge of its terms. During his OPR interview, Acosta acknowledged that he approved the NPA and accepted responsibility for it. Therefore, OPR considers Acosta to be responsible for the NPA and for the actions of the other subjects who implemented his decisions. Acosta's overall responsibility for the government's interactions or lack of communication with the victims is less clear, but Acosta affirmatively made certain decisions regarding victim notification, and OPR evaluates his conduct with respect to those decisions.

A. Findings and Conclusions Relating to the NPA

With respect to all five subjects of OPR's investigation, OPR concludes that the subjects did not commit professional misconduct with respect to the development, negotiation, and approval of the NPA. Under OPR's framework, professional misconduct requires a finding that a subject attorney intentionally or recklessly violated a clear and unambiguous standard governing the conduct at issue. OPR found no clear and unambiguous standard that required Acosta to indict Epstein on federal charges or that prohibited his decision to defer prosecution to the state. Furthermore, none of the individual terms of the NPA violated Department or other applicable standards.

As the U.S. Attorney, Acosta had the "plenary authority" under established federal law and Department policy to resolve the case as he deemed necessary and appropriate, as long as his decision was not motivated or influenced by improper factors. Acosta's decision to decline to

initiate a federal prosecution of Epstein was within the scope of his authority, and OPR did not find evidence that his decision was based on corruption or other impermissible considerations, such as Epstein's wealth, status, or associations. Evidence shows that Acosta resisted defense efforts to have the matter returned to the state for whatever result state authorities deemed appropriate, and he refused to eliminate the incarceration and sexual offender registration requirements. OPR did not find evidence establishing that Acosta's "breakfast meeting" with one of Epstein's defense counsel in October 2007 led to the NPA, which had been signed weeks earlier, or to any other significant decision that benefited Epstein. The contemporaneous records show that USAO managers' concerns about legal issues, witness credibility, and the impact of a trial on the victims led them to prefer a pre-charge resolution and that Acosta's concerns about the proper role of the federal government in prosecuting solicitation crimes resulted in his preference for a state-based resolution. Accordingly, OPR does not find that Acosta engaged in professional misconduct by resolving the federal investigation of Epstein in the way he did or that the other subjects committed professional misconduct through their implementation of Acosta's decisions.

Nevertheless, OPR concludes that Acosta's decision to resolve the federal investigation through the NPA constitutes poor judgment. Although this decision was within the scope of Acosta's broad discretion and OPR does not find that it resulted from improper factors, the NPA was a flawed mechanism for satisfying the federal interest that caused the government to open its investigation of Epstein. In Acosta's view, the federal government's role in prosecuting Epstein was limited by principles of federalism, under which the independent authority of the state should be recognized, and the federal responsibility in this situation was to serve as a "backstop" to state authorities by encouraging them to do more. However, Acosta failed to consider the difficulties inherent in a resolution that relied heavily on action by numerous state officials over whom he had no authority; he resolved the federal investigation before significant investigative steps were completed; and he agreed to several unusual and problematic terms in the NPA without the consideration required under the circumstances. In sum, Acosta's application of federalism principles was too expansive, his view of the federal interest in prosecuting Epstein was too narrow, and his understanding of the state system was too imperfect to justify the decision to use the NPA. Furthermore, because Acosta assumed a significant role in reviewing and drafting the NPA and the other three subjects who were supervisors left the USAO, were transitioning to other jobs, or were absent at critical junctures, Acosta should have ensured more effective coordination and communication during the negotiations and before approving the final NPA. The NPA was a unique resolution, and one that required greater oversight and supervision than Acosta provided.

B. Findings and Conclusions Relating to the Government's Interactions with Victims

OPR further concludes that none of the subject attorneys committed professional misconduct with respect to the government's interactions with victims. The subjects did not have a clear and unambiguous duty under the CVRA to consult with victims before entering into the NPA because the USAO resolved the Epstein investigation without a federal criminal charge. Significantly, at the time the NPA was signed, the Department did not interpret CVRA rights to attach unless and until federal charges had been filed, and the federal courts had not established a clear and unambiguous standard applying the CVRA before criminal charges were brought. In addition, OPR did not find evidence that the lack of consultation was for the purpose of silencing victims. Nonetheless, the lack of consultation was part of a series of government

interactions with victims that ultimately led to public and court condemnation of the government's treatment of the victims, reflected poorly on the Department as a whole, and is contradictory to the Department's mission to minimize the frustration and confusion that victims of a crime endure.

OPR determined that none of the subjects was responsible for communications sent to certain victims after the NPA was signed that described the case as "under investigation" and that failed to inform them of the NPA. The letters were sent by an FBI administrative employee who was not directly involved in the investigation, incorporated standard form language used by the FBI when communicating with victims, and were not drafted or reviewed by the subjects. Moreover, the statement that the matter was "under investigation" was not false because the government in fact continued to investigate the case in anticipation that Epstein would not fulfill the terms of the NPA. However, the letters risked misleading the victims and contributed to victim frustration and confusion by failing to provide important information about the status of the investigation. The letters also demonstrated a lack of coordination between the federal agencies responsible for communicating with Epstein's victims and showed a lack of attention to and oversight regarding communication with victims.

After the NPA was signed, Acosta elected to defer to the State Attorney the decision whether to notify victims about the state's plea hearing pursuant to the state's own victim's rights requirements. Although Acosta's decision was within his authority and did not constitute professional misconduct, OPR concludes that Acosta exercised poor judgment when he failed to make certain that the state intended to and would notify victims identified through the federal investigation about the state plea hearing. His decision left victims uninformed about an important proceeding that resolved the federal investigation, an investigation about which the USAO had communicated with victims for months. It also ultimately created the misimpression that the Department intentionally sought to silence the victims. Acosta failed to ensure that victims were made aware of a court proceeding that was related to their own cases, and thus he failed to ensure that victims were treated with forthrightness and dignity.

OPR concludes that the decision to postpone notifying victims about the terms of the NPA after it was signed and the omission of information about the NPA during victim interviews and conversations with victims' attorneys in 2008 do not constitute professional misconduct. Contemporaneous records show that these actions were based on strategic concerns about creating impeachment evidence that Epstein's victims had financial motives to make claims against him, evidence that could be used against victims at a trial, and were not for the purpose of silencing victims. Nonetheless, the failure to reevaluate the strategy prior to interviews of victims and discussions with victims' attorneys occurring in 2008 led to interactions that contributed to victims' feelings that the government was intentionally concealing information from them.

After examining the full scope and context of the government's interactions with victims, OPR concludes that the government's lack of transparency and its inconsistent messages led to victims feeling confused and ill-treated by the government; gave victims and the public the misimpression that the government had colluded with Epstein's counsel to keep the NPA secret from the victims; and undercut public confidence in the legitimacy of the resulting agreement. The overall result of the subjects' anomalous handling of this case understandably left many victims feeling ignored and frustrated and resulted in extensive public criticism. In sum, OPR concludes

that the victims were not treated with the forthrightness and sensitivity expected by the Department.

VI. ORGANIZATION OF THE REPORT

The Report is divided into three chapters. In Chapter One, OPR describes the relevant federal, state, and local law enforcement entities involved in investigating Epstein's criminal conduct, as well as the backgrounds of the five subjects and their roles in the events in question. OPR provides a brief profile of Epstein and identifies the defense attorneys who interacted with the subjects.

In Chapter Two, OPR sets forth an extensive account of events relating to the federal investigation of Epstein. The account begins with the initial complaint in March 2005 by a young victim and her parents to the local police—a complaint that launched an investigation by local law enforcement authorities—and continues through the mid-2006 opening of the federal investigation; the September 2007 negotiation and signing of the NPA; Epstein's subsequent efforts to invalidate the NPA through appeals to senior Department officials; Epstein's June 2008 guilty plea in state court; and, finally, efforts by the AUSA to ensure Epstein's compliance with the terms of the NPA during his incarceration and until his term of home detention ended in July 2010. After describing the relevant events, OPR analyzes the professional misconduct allegations relating to the decisions made regarding the development and execution of the NPA. OPR describes the relevant standards and sets forth its findings and conclusions regarding the subjects' conduct.

Chapter Three concerns the government's interactions with victims and the district court's findings regarding the CVRA. OPR describes the relevant events and analyzes the subjects' conduct in light of the pertinent standards.

OPR sets forth the extensive factual detail provided in Chapters Two and Three, including internal USAO and Department communications, because doing so is necessary for a full understanding of the subjects' actions and of the bases for OPR's conclusions.

TABLE OF CONTENTS

[Page Intentionally Left Blank]

CHAPTER ONE

SIGNIFICANT ENTITIES AND INDIVIDUALS

I. THE FEDERAL AND LOCAL LAW ENFORCEMENT AGENCIES

A. The Department of Justice, the U.S. Attorney's Office for the Southern District of Florida, and the Federal Bureau of Investigation

The Department of Justice (Department) is a cabinet-level executive branch department headed by the United States Attorney General. The stated mission of the Department is to enforce federal law and defend the interests of the United States; ensure public safety; provide federal leadership in preventing and controlling crime; seek just punishment for those guilty of unlawful behavior; and ensure the fair and impartial administration of justice. The Department enforces federal criminal law through investigations and prosecutions of violations of federal criminal statutes. It also engages in civil litigation. During the period relevant to this Report, the Department had approximately 110,000 employees in 40 components. The Department's headquarters are in Washington, D.C., and it conducts most of its work through field locations around the nation and overseas.

The prosecution of federal criminal laws is handled primarily through 94 U.S. Attorney's Offices, each headed by a presidentially appointed (with advice and consent of the U.S. Senate) U.S. Attorney who has independent authority over his or her office but is overseen by the Attorney General through the Deputy Attorney General.[1] The Department's Criminal Division, headed by an Assistant Attorney General, includes components with specialized areas of expertise that also prosecute cases, assist in the prosecutions handled by U.S. Attorney's Offices, and provide legal expertise and policy guidance. Among the Criminal Division components mentioned in this Report are the Appellate Section, the Office of Enforcement Operations, the Computer Crime and Intellectual Property Section, and, most prominently, the Child Exploitation and Obscenity Section (CEOS).

CEOS, based in Washington, D.C., comprises attorneys and investigators who specialize in investigating and prosecuting child exploitation crimes, especially those involving technology, and they assist U.S. Attorney's Offices in investigations, trials, and appeals related to these offenses. CEOS provides advice and training to federal prosecutors, law enforcement personnel, and government officials. CEOS also works to develop and refine proposals for prosecution policies, legislation, government practices, and agency regulations.

The U.S. Attorneys' Manual (USAM) (revised in 2018 and renamed the Justice Manual) is a compilation of Department rules, policies, and guidance governing the conduct of Department employees. It includes requirements for approval by, or consultation with, the Criminal Division

[1] Two U.S. Attorney's Offices, in the judicial districts of Guam and of the Northern Mariana Islands, are headed by a single U.S. Attorney. The Attorney General and the U.S. District Court have authority to appoint acting and interim U.S. Attorneys.

or other divisions having responsibility for specific criminal enforcement, such as the Civil Rights Division. In this Report, OPR applies the USAM provisions in effect at the relevant time.

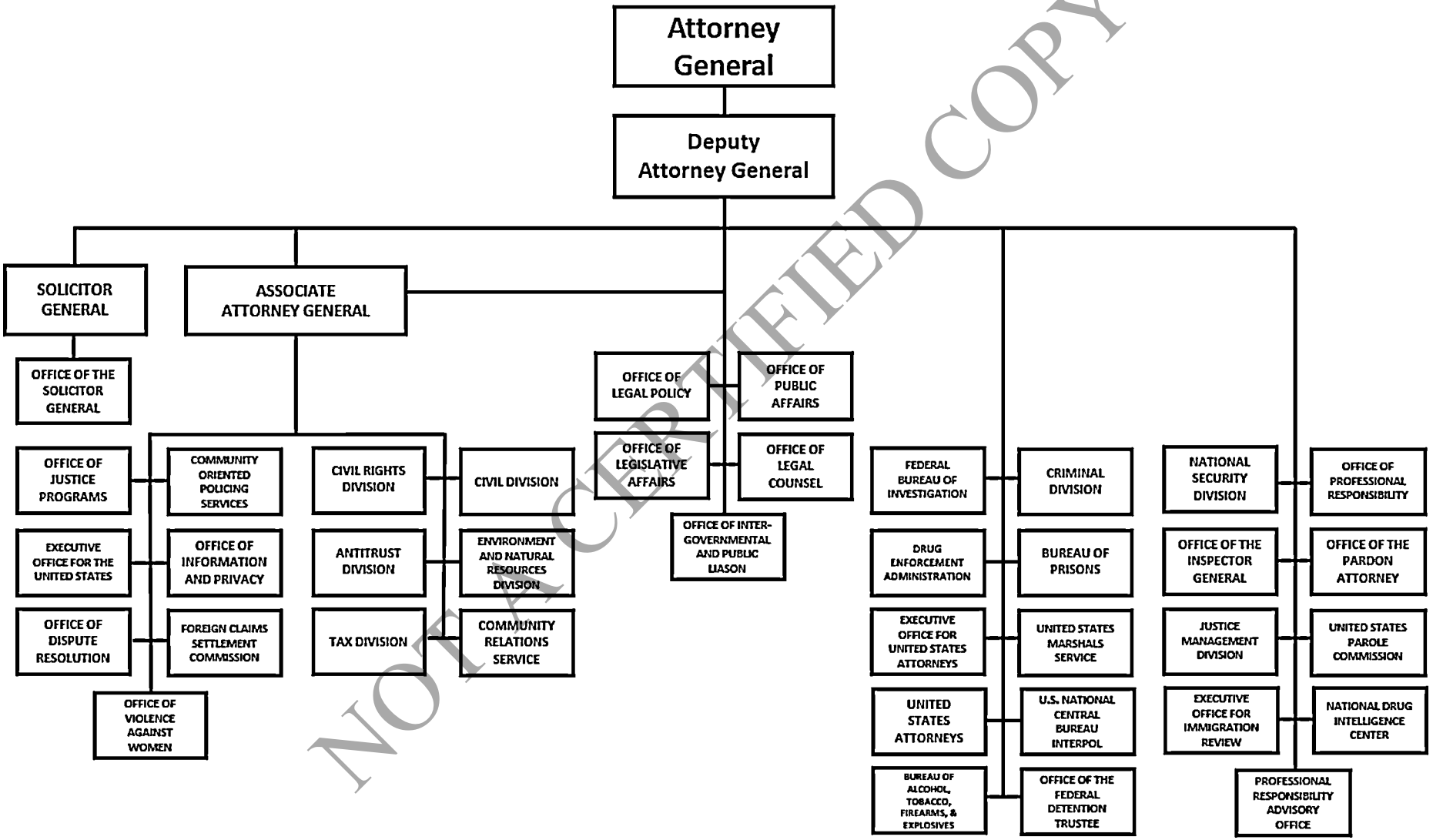
During the period most relevant to this Report, the Attorney General was Michael Mukasey, the Deputy Attorney General was Mark Filip, and the Assistant Attorney General for the Criminal Division was Alice Fisher. The Chief of CEOS was Andrew Oosterbaan.

The U.S. Attorney's Office for the Southern District of Florida (USAO) handles federal matters in the Southern District of Florida judicial district, which covers the counties of Miami-Dade, Broward, Monroe, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, and Highlands, an area of over 15,000 square miles. During the period relevant to this Report, the USAO had a staff of approximately 200 Assistant U.S. Attorneys (AUSAs) and 200 support personnel. The main office is in Miami; staffed branch offices are located in Fort Lauderdale, West Palm Beach (covering Palm Beach County), and Fort Pierce; and an unstaffed branch office is located in Key West. The West Palm Beach USAO office is approximately 70 miles from the Miami office. The USAO is headed by the U.S. Attorney; the second-in-command is the First Assistant U.S. Attorney (FAUSA), who serves as principal advisor to the U.S. Attorney and supervises all components of the USAO, including the Criminal, Civil, and Appellate Divisions, each of which is headed by a Chief. During the period relevant to this Report, the West Palm Beach office consisted of two criminal sections and was headed by a Managing AUSA.

The Federal Bureau of Investigation (FBI) is the principal federal law enforcement agency and is part of the Department. It maintains field offices that work with U.S. Attorney's Offices. The FBI field office in Miami, headed by a Special Agent in Charge, has satellite offices, known as Resident Agencies, one of which is located in West Palm Beach and covers Palm Beach County. The Epstein investigation was handled by Special Agents assigned to a particular West Palm Beach Resident Agency squad, headed by a Supervisory Special Agent. FBI responsibility for advising crime victims of their rights and of victim services available to them is handled by non-agent Victim Specialists.

The following chart shows the Department's organizational structure during the period relevant to this Report:

U.S. Department of Justice
2006 - 2008



B. The State and Local Law Enforcement Agencies

Florida state criminal prosecutions are primarily managed by an Office of State Attorney in each of the state's 20 judicial circuits, headed by a State Attorney who is elected to a four-year term. Palm Beach County constitutes the 15th Judicial Circuit. Barry Krischer was the elected State Attorney for that circuit from 1992 until January 2009. During the period relevant to this Report, the Palm Beach County State Attorney's Office, based in the City of West Palm Beach, had more than 100 attorneys and several investigators, and a Crimes Against Children Unit headed by Assistant State Attorney Lanna Belohlavek.

The incorporated Town of Palm Beach occupies the coastal barrier island off the city of West Palm Beach. Its law enforcement agency is the Palm Beach Police Department (PBPD). Michael Reiter, who joined the PBPD in 1981, served as PBPD Chief from 2001 to February 2009.

The Palm Beach County Sheriff's Office (PBSO), based in the City of West Palm Beach, is the largest law enforcement agency in the county. Through its Department of Corrections, the PBSO operates the Main Detention Center and, during the period relevant to this Report, housed minimum-security detainees, including those on work release, at its Stockade facility. The current Sheriff has served continuously since January 2005.

II. THE SUBJECT ATTORNEYS AND THEIR ROLES IN THE EPSTEIN CASE

R. Alexander Acosta was appointed Interim U.S. Attorney for the Southern District of Florida in June 2005, at age 36. In June 2006, President George W. Bush formally nominated Acosta, and after Senate confirmation, Acosta was sworn in as the U.S. Attorney in October 2006.

After graduating from law school, Acosta served a federal appellate clerkship; an 18-month term as an associate at the firm of Kirkland & Ellis in Washington, D.C.; approximately four years as a policy fellow and law school lecturer; and nearly two years as a Deputy Assistant Attorney General in the Department's Civil Rights Division. He was presidentially appointed in 2002 as a member of the National Labor Relations Board, and in 2003 as Assistant Attorney General in charge of the Department's Civil Rights Division, where he served from August 2003 until his appointment as Interim U.S. Attorney, and where he oversaw, among other things, the prosecution of human trafficking and child sex-trafficking cases. As U.S. Attorney, Acosta's office was in the USAO's Miami headquarters, although he traveled to the USAO's branch offices.

During Acosta's tenure as U.S. Attorney, the USAO initiated the federal investigation of Epstein, engaged in plea discussions with Epstein's counsel, and negotiated the federal non-prosecution agreement (NPA) that is the subject of this Report. Acosta made the decision to resolve the federal investigation into Epstein's conduct by allowing Epstein to enter a state plea. Acosta was personally involved in the negotiations that led to the NPA, reviewed various iterations of the agreement, and approved the final agreement signed by the USAO. Acosta continued to provide supervisory oversight and to have meetings and other communications with Epstein's attorneys during the nine-month period between the signing of the NPA on September 24, 2007, and Epstein's entry of guilty pleas in state court pursuant to the terms of the agreement, on June 30, 2008. On December 8, 2008, after the presidential election and while Epstein was serving his state prison sentence, Acosta was formally recused from all matters involving the law firm of

Kirkland & Ellis, which was representing Epstein, because Acosta had begun discussions with the firm about possible employment.

After leaving the USAO in June 2009, Acosta became the Dean of the Florida International University College of Law. In April 2017, Acosta became the U.S. Secretary of Labor, but he resigned from that post effective July 19, 2019, following public criticism of the USAO's handling of the Epstein case.

Jeffrey H. Sloman joined the USAO in 1990 as a line AUSA. In 2001, he became Deputy Chief of the USAO's Fort Lauderdale branch office Narcotics and Violent Crimes Section, and in 2003, became the Managing AUSA for that branch office. In early 2004, Sloman was appointed Chief of the USAO's Criminal Division. In October 2006, Sloman became the FAUSA, and Sloman's office was located with Acosta's in the Miami office's executive suite.

As FAUSA, Sloman was responsible for supervising the Civil, Criminal, and Appellate Divisions, and he was part of the supervisory team that oversaw the Epstein investigation. Although Sloman had relatively little involvement in the decisions and negotiations that led to the NPA and did not review it before it was signed, he personally negotiated an addendum to the NPA, which he signed on behalf of the USAO in October 2007. After subordinates Matthew Menchel and Andrew Lourie left the USAO, Sloman directly engaged with the line AUSA, Marie Villafaña, on Epstein matters, and participated in meetings and other communications with defense counsel. After Acosta was formally recused from the Epstein matter in December 2008, Sloman became the senior USAO official supervising the matter. When Acosta left the USAO, Sloman became the Acting U.S. Attorney for the Southern District of Florida, and in January 2010, the Attorney General appointed Sloman to be the Interim U.S. Attorney for the district. Sloman left the USAO to enter private practice in June 2010.

Matthew I. Menchel joined the USAO in 1998 after having served as a New York County (Manhattan) Assistant District Attorney for 11 years. After several years as a line AUSA, Menchel became Chief of the USAO's Major Crimes Section. In October 2006, Menchel became the Chief of the USAO's Criminal Division, based in Miami. As Criminal Division Chief, Menchel was part of the supervisory team that oversaw the Epstein investigation, and he participated in meetings and other communications with defense counsel. Menchel participated in the decision to extend a two-year state-based plea proposal to Epstein and communicated it to the defense. Shortly after that plea offer was extended to Epstein in early August 2007, and before the precise terms of the NPA were negotiated with defense counsel, Menchel left the USAO to enter private practice.

Andrew C. Lourie joined the USAO as a line AUSA in 1994, after having served for three years as an AUSA in New Jersey. During his 13-year tenure at the USAO, Lourie served two terms on detail as the Acting Chief of the Department's Criminal Division's Public Integrity Section, first from September 2001 until September 2002, and then from February 2006 until July 2006. Between those two details, and again after his return to the USAO in July 2006, Lourie was a Deputy Chief of the USAO's Criminal Division, serving as the Managing AUSA for the West Palm Beach branch office. Lourie was part of the supervisory team that oversaw the Epstein investigation and negotiated the NPA, participating in meetings and other communications with defense counsel. During September 2007, while the NPA was being negotiated, Lourie transitioned out of the USAO to serve on detail as the Principal Deputy Assistant Attorney General

for the Department's Criminal Division, a position in which he served as Chief of Staff to Assistant Attorney General Alice Fisher. Lourie left the Department in February 2008 to enter private practice.

Ann Marie C. Villafaña joined the USAO in September 2001 as a line AUSA. She served in the Major Crimes Section in Miami until January 2004, when she transferred to the West Palm Beach branch office. Villafaña handled the majority of the child exploitation cases in West Palm Beach, along with other criminal matters. In 2006, she was designated as the USAO's first coordinator for Project Safe Childhood, a new Department initiative focusing on child sexual exploitation and abuse.[2]

In 2006, Villafaña assumed responsibility for the Epstein investigation. As the line AUSA, Villafaña handled all aspects of the investigation. Villafaña determined the lines of inquiry to pursue, identified the witnesses to be interviewed, conducted legal research to support possible charges, and sought guidance from others at the USAO and in the Department. Villafaña, along with the FBI case agents and the FBI Victim Specialist, had direct contact with Epstein's victims. She handled court proceedings related to the investigation. She drafted a prosecution memorandum, indictment, and related documents, and revised those documents in response to comments from those in her supervisory chain of command. Villafaña participated in meetings between members of the USAO and counsel for Epstein, and prepared briefing materials for management in preparation for those meetings and in response to issues raised during those meetings. Although Acosta made the decision to utilize a non-prosecution agreement to resolve the federal investigation and approved the terms of the NPA, Villafaña was the primary USAO representative negotiating with defense counsel and drafting the language of the NPA, under her supervisors' direction and guidance, and she signed the NPA on behalf of the USAO. Thereafter, Villafaña monitored Epstein's compliance with the NPA and addressed issues relating to his conduct. After two victims pursued a federal civil lawsuit seeking enforcement of their rights under the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771 ("the CVRA litigation" or "the CVRA case"), in July 2008, Villafaña served as co-counsel to the lead attorney representing the USAO until February 2019, when the USAO was recused from handling the litigation.[3] Villafaña left the USAO in August 2019 to join another federal government agency.

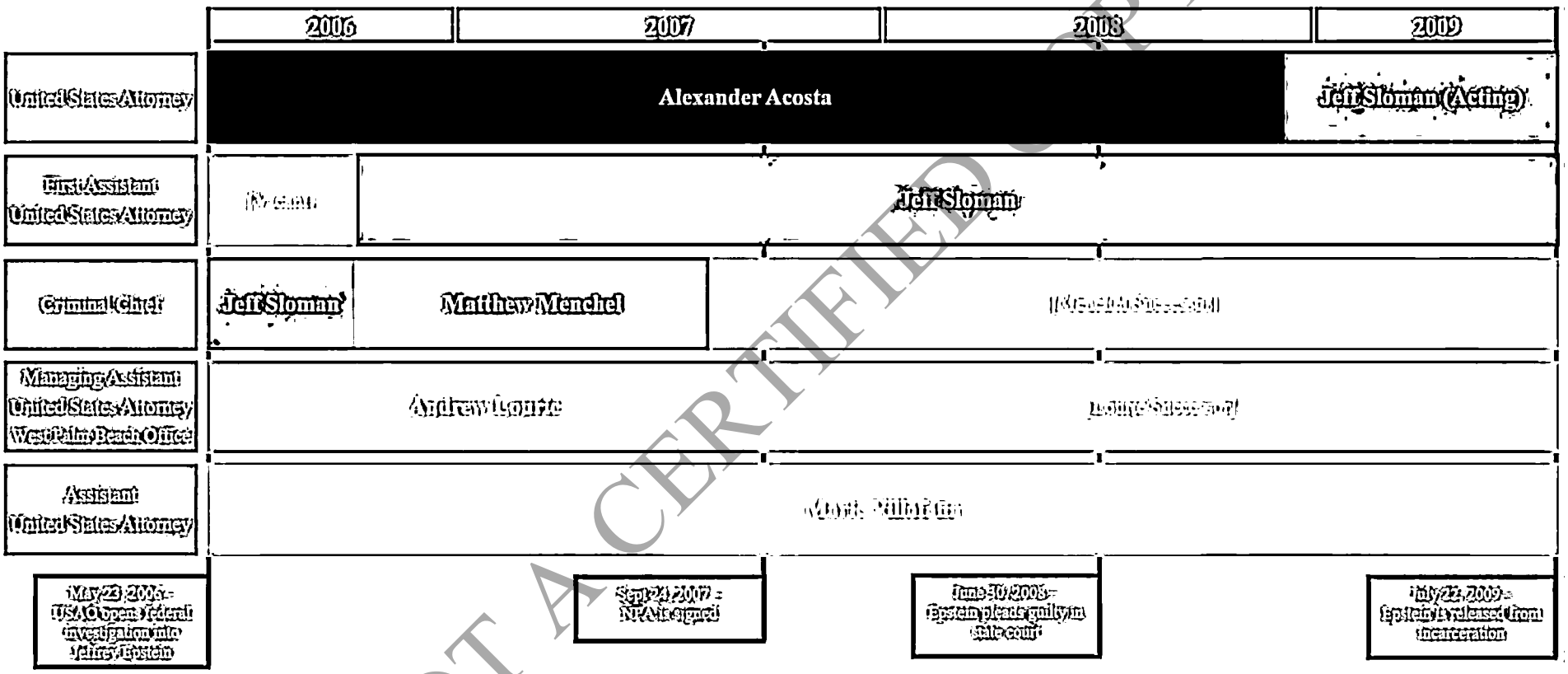
The following chart shows the USAO positions filled by the subjects, or other USAO personnel, during the period of the Epstein investigation.

---

[2] Project Safe Childhood is a nationwide initiative launched by the Department in May 2006 to combat the growing epidemic of technology-facilitated child sexual exploitation and abuse. Led by the U.S. Attorneys' Offices and CEOS, Project Safe Childhood marshals federal, state, and local resources to locate, apprehend, and prosecute individuals who exploit children via the internet, as well as to identify and rescue victims.

[3] After the district court issued its February 21, 2019 opinion finding misconduct on the part of the government, the Department re-assigned the CVRA case to the U.S. Attorney's Office for the Northern District of Georgia.

USAO Roles and Responsibilities in Epstein Investigation
Mid-2006 through Mid-2009



III. JEFFREY EPSTEIN AND HIS DEFENSE ATTORNEYS

A. Jeffrey Epstein

Jeffrey Epstein was born in Brooklyn, New York, in 1953.[4] Although he did not graduate from college, he taught physics and mathematics to teens at an elite private school in Manhattan from 1974 until 1976. Through connections made at the school, he was hired at the Wall Street firm of Bear Stearns, where he rose from junior assistant to a floor trader to become a limited partner before leaving in 1981. An enigmatic individual whose source of wealth was never clear, Epstein reportedly provided wealth management and advisory services to a business entrepreneur through whom Epstein acquired a mansion in midtown Manhattan, where he resided. In the early 1990s, Epstein acquired a large residence in Palm Beach, Florida. He also owned a private island in the U.S. Virgin Islands, a ranch in New Mexico, and a residence in Paris, France. He traveled among his residences in a private Boeing 727 jet.

Epstein reportedly was an investor, founder, or principal in myriad businesses and other entities, in numerous locations. Although frequently referred to as a billionaire, the sources and extent of his wealth were never publicly established during his lifetime.[5] He associated with prominent and wealthy individuals from business, political, academic, and social circles, and engaged in substantial philanthropy. Epstein maintained a large corps of employees, including housekeeping staff and pilots, as well as numerous female personal assistants, several of whom traveled with him.

B. Epstein's Defense Attorneys

Jeffrey Epstein employed numerous criminal defense attorneys in responding to the allegations that he had coerced girls into engaging in sexual activity with him at his Palm Beach, Florida estate. As different law enforcement entities became involved in investigating the allegations, he added attorneys having particular relevant knowledge of, or connections with, those entities. At the outset of the state investigation, Epstein retained nationally prominent Miami criminal trial attorney **Roy Black**. He was also represented by a local criminal defense attorney who was a former Palm Beach County Assistant State Attorney, and by nationally prominent Harvard Law School professor and criminal defense attorney **Alan Dershowitz**, who was a self-described close friend of Epstein. After initial plea negotiations with the State Attorney's Office, Epstein replaced the local attorney with **Jack Goldberger**, a prominent West Palm Beach criminal defense attorney whose law partner was married to the Assistant State Attorney handling the Epstein case; once Epstein hired Goldberger, the Assistant State Attorney was removed from the Epstein case on the basis of that conflict of interest. Another prominent attorney who began representing Epstein during the state investigation was New York City attorney **Gerald Lefcourt**,

---

[4] Epstein's background has been extensively researched and reported in the media. *See, e.g.,* Landon Thomas Jr., "Jeffrey Epstein: International Moneyman of Mystery," *New York*, Oct. 28, 2002; Vicky Ward, "The Talented Mr. Epstein," *Vanity Fair*, Mar. 2003; James Barron, "Who Is Jeffrey Epstein? An Opulent Life, Celebrity Friends and Lurid Accusations," *New York Times*, July 9, 2019; Lisette Voytko, "Jeffrey Epstein's Dark Façade Finally Cracks," *Forbes*, July 12, 2019.

[5] After Epstein's death, his net worth was estimated to be approximately $577 million, based on his will and trust documents. https://time.com/5656776/jeffrey-epstein-will-estate/.

whose law firm website cites his "national reputation for the aggressive defense" of "high-profile defendants in criminal matters."

In late 2006, after the USAO opened its investigation, Epstein hired Miami criminal defense attorneys who were former AUSAs. One, **Guy Lewis**, had also served as the U.S. Attorney for the Southern District of Florida and as Director of the Department's Executive Office for United States Attorneys, the component charged with providing close liaison between the Department and the U.S. Attorneys. Another, **Lilly Ann Sanchez**, had served in the USAO and as a Deputy Chief in the Major Crimes Section before leaving in 2005. In August 2007, immediately after the USAO offered the terms that ultimately led to the NPA, two attorneys from the firm of Kirkland & Ellis, one of the largest law firms in the country, contacted the USAO on Epstein's behalf: **Kenneth Starr**, former federal judge and Solicitor General, who was serving as Dean of Pepperdine University School of Law while of counsel to the firm; and **Jay Lefkowitz**, a litigation partner who had served in high-level positions in the administrations of Presidents George H.W. Bush and George W. Bush. They were joined by nationally prominent Boston criminal defense attorney **Martin Weinberg**. After the NPA was signed, former U.S. Attorney **Joe D. Whitley** joined the defense team, as did the former Principal Deputy Chief of CEOS and another former U.S. Attorney, who was also a retired federal judge.

[Page Intentionally Left Blank]

CHAPTER TWO

THE NON-PROSECUTION AGREEMENT

PART ONE: FACTUAL BACKGROUND

I. OVERVIEW

In the following sections in this chapter, the Office of Professional Responsibility (OPR) details the significant events leading to, and during, the federal investigation of Epstein; the negotiation and signing of the NPA; and the defense's subsequent nine-month effort to stop the NPA from taking effect. OPR also describes more briefly the events occurring after Epstein pled guilty in state court, as the USAO sought to hold him to the terms of the agreement. In describing events, OPR relies heavily on contemporaneous documents, particularly emails. In many instances, the emails not only describe meetings and identify the participants, but also set forth the issues under discussion, the alternatives considered, and the basis for certain decisions. When helpful to explain the actions taken by the subjects, OPR also includes the subjects' explanations as provided in their written responses to, or interviews with, OPR, or explanations provided by witnesses.

A timeline of key events is set forth on the following page.

II. MARCH 2005 – MAY 2006: EPSTEIN IS INVESTIGATED BY THE PALM BEACH POLICE DEPARTMENT AND THE PALM BEACH COUNTY STATE ATTORNEY'S OFFICE

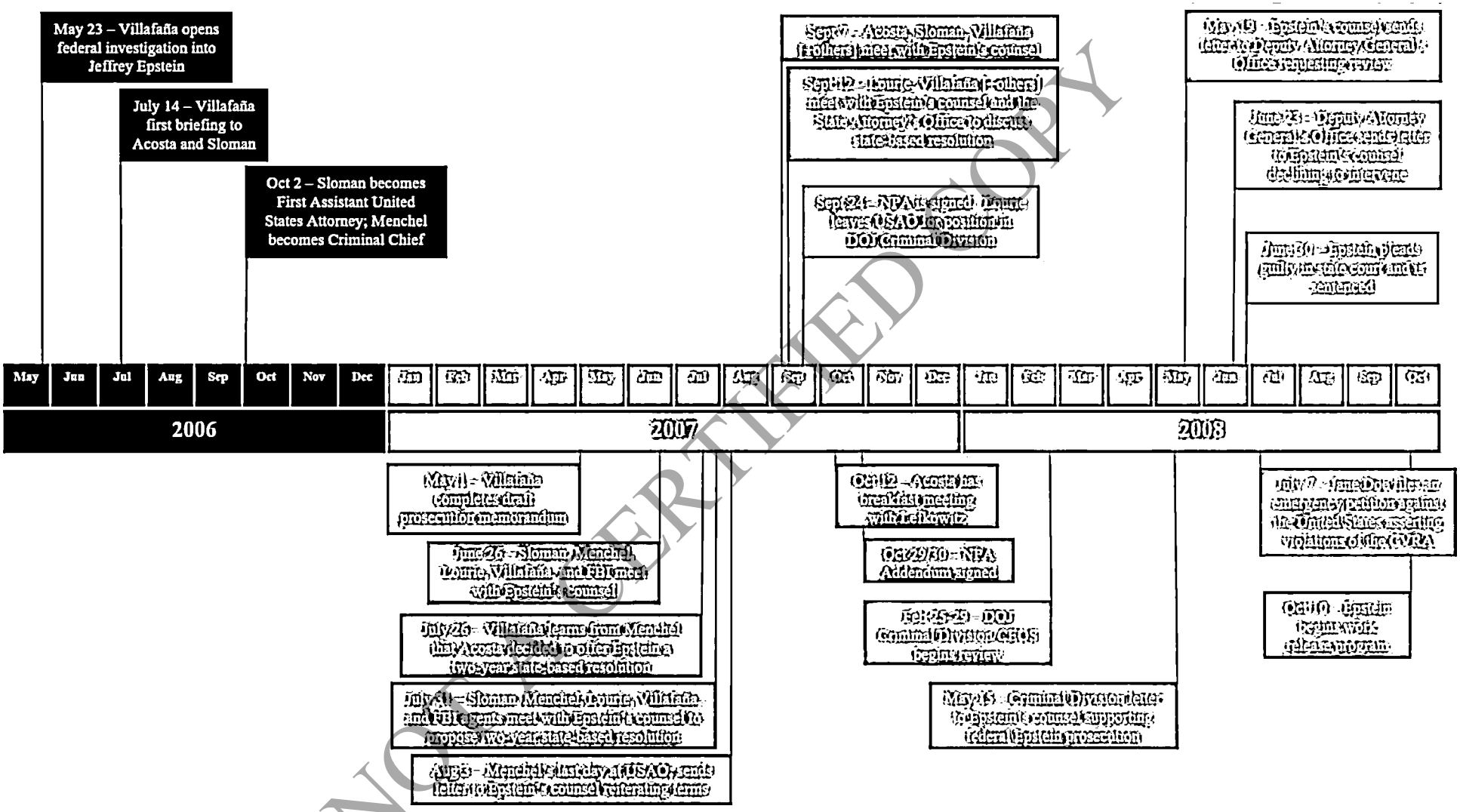
A. The Initial Allegations and the PBPD Investigation

In March 2005, the parents of a 14-year-old girl reported to the PBPD that a man had paid their daughter $300 to give him a massage in his Palm Beach home.[6] The PBPD began investigating Epstein, identified as the recipient of the massage, and two of his personal assistants, who were also implicated by the complainant. The investigation soon expanded beyond the initial claim, to encompass allegations that during 2004 and 2005, Epstein, through his female assistants

[6] As previously noted, "girls" refers to females under the age of 18. Epstein's contacts with girls and young women previously had come to the attention of the PBPD. In March 2004, a PBPD officer documented a telephone complaint that a 17-year-old girl had been giving Epstein topless massages at his residence for several months for $200 per massage. The girl claimed that there were nude photos of other girls throughout Epstein's home and offered to cooperate with a police investigation. The PBPD report relating to this complaint described the information as "unverified," and it was not pursued.

On November 28, 2004, the police received and recorded information that young women had been observed coming and going from Epstein's residence. The police suspected Epstein was procuring prostitutes, but because the PBPD did not have evidence that the women seen entering Epstein's home were minors, and typically did not investigate prostitution occurring in private residences, it did not open an investigation into the matter.

Timeline of Key Events for Federal Epstein Investigation – May 2006 through October 2008



and some of the victims as well, regularly recruited local high-school-age girls to give him massages in his home that, in some cases, led to sexual activity.

Through their interviews with victims, the police learned more about Epstein's conduct. Some girls had only one encounter with Epstein, while others had many encounters with him. The nature of the massages varied. According to victims, some girls remained fully clothed while they massaged Epstein, some wore only their underwear, and some were fully nude. Victims stated that during these massages, Epstein masturbated himself. Some victims alleged that he touched them during the massage, usually fondling their breasts or touching their vaginas directly or through their clothing. Some victims reported that Epstein used a vibrator to masturbate them, and some stated that he digitally penetrated them. Some victims who stated that they saw him more often alleged that Epstein engaged in oral and vaginal sex with them. According to one victim, an Epstein female assistant participated, on at least one occasion, in sexual activity with the victim at Epstein's direction.[7]

Although the allegations varied in the specific details, for the most part they were consistent in describing a general pattern of conduct by Epstein and several of his assistants. According to the information provided to, and evidence gathered by, the PBPD, Epstein's assistants scheduled up to three massage appointments each day, often contacting the girls to make an appointment while Epstein was en route to Palm Beach from one of his other residences. Typically, when a girl arrived at Epstein's home for a massage, she was taken upstairs to the master bedroom and bathroom area by one of Epstein's assistants, who set up a massage table and massage oils. When the assistant left the room, Epstein entered, wearing only a robe or a towel. After removing his clothing, Epstein lay face down and nude on the massage table, instructed the girl to remove her clothing, and then explained to her how he wished her to perform the massage. During the massage, Epstein masturbated himself, often while fondling the girl performing the massage. When Epstein climaxed, the massage was over. Usually, Epstein paid the girl $200 for the massage, and if she had not been to his home before, Epstein asked for her phone number to contact her in the future. Epstein encouraged the girls who performed these massages to find other girls interested in performing massages for him, and promised that if a girl brought a friend along to perform a massage, each girl would receive $200. Several of the victims acknowledged to the PBPD that they had recruited other girls on Epstein's behalf.

The evidence regarding Epstein's knowledge of the girls' ages was mixed. Some girls who recruited other girls reportedly instructed the new recruits to tell Epstein, if asked, that they were over 18 years old. However, some girls informed the PBPD that they told Epstein their real ages. Police were able to corroborate one girl's report that Epstein sent flowers to her at her high school after she performed in a school play. In addition, an employee of Epstein told the PBPD that some of the females who came to Epstein's residence appeared to be underage.

Epstein was aware of the PBPD investigation almost from the beginning. He retained local criminal defense counsel, who in turn hired private investigators. In October 2005, the PBPD, with the assistance of the State Attorney's Office, obtained a search warrant for Epstein's residence. When police arrived at Epstein's home on October 20, 2005, to execute the warrant,

[7] According to the PBPD records, investigators obtained no allegations or evidence that any person other than this female assistant participated in the sexual activity with the girls.

they found computer monitors and keyboards in the home, as well as disconnected surveillance cameras, but the computer equipment itself—including video recordings and other electronic storage media—were gone. Nonetheless, the PBPD retrieved some evidence from Epstein's home, including notepads on which Epstein's assistants documented messages from many girls over a two-year span returning phone calls to confirm appointments. The police also found numerous photographs of naked young females of indeterminate age. Police photographs taken of the interior of Epstein's home corroborated the victims' descriptions to police of the layout of the home and master bedroom and bathroom area. The police also found massage tables and oils, one victim's high school transcript, and items the police believed to be sex toys.

B. The State Attorney's Office Decides to Present the Case to a State Grand Jury

State Attorney Barry Krischer explained to OPR that the Epstein case was unusual in that police brought the case to his office without having made an arrest. Krischer was unfamiliar with Epstein, and the case was assigned to the Crimes Against Children Unit. PBPD Chief Michael Reiter stated in a 2009 civil deposition that when the PBPD initially brought the case to the State Attorney's Office in 2005, Krischer was supportive of the investigation and told Reiter, "Let's go for it," because, given the nature of the allegations, Epstein was "somebody we have to stop." Krischer told OPR, however, that both the detectives and the prosecutors came to recognize that "there were witness problems."

Assistant State Attorney and Crimes Against Children Unit Chief Lanna Belohlavek told OPR that she and an experienced Assistant State Attorney who initially worked with her on the case "were at a disagreement" with the PBPD "over what the state . . . could ethically charge." According to Belohlavek, she did not believe the evidence the police presented would satisfy the elements of proof required to charge Epstein with the two felony crimes the police wanted filed, unlawful sexual activity with a minor (Florida Statute § 794.05(1)) and lewd and lascivious molestation of a minor (Florida Statute § 800.04(5)), and the police "were not happy with that."[8] In addition, victims had given contradictory statements to police, and the original complainant, who could have supported a charge requiring sexual offender registration, recanted her allegation of sexual contact. Belohlavek offered Epstein a resolution that would result in a five-year term of probation, which he rejected.[9]

Records publicly released by the State Attorney's Office show that, beginning in early 2006, attorneys for Epstein sought to persuade the state prosecutors to allow Epstein to plead "no contest" rather than guilty. To that end, the defense team aggressively investigated victims and presented the State Attorney's Office with voluminous material in an effort to undermine some of the victims' credibility, including criminal records, victims' social media postings (such as MySpace pages) about their own sexual activity and drug use, and victim statements that appeared to undercut allegations of criminal activity and Epstein's knowledge of victims' ages. Krischer

---

[8] Belohlavek stated that she did not consider charging procurement of a minor for prostitution—the charge Epstein ultimately pled to pursuant to the NPA—because the police had not presented it.

[9] In April 2006, the State Attorney's Office offered Epstein an opportunity to plead guilty to the third degree felony of aggravated assault with the intent to commit a felony, with adjudication withheld and five years of probation with no unsupervised contact with minors.

told OPR that Epstein's local counsel brought attorney Alan Dershowitz to see Krischer and the Assistant State Attorney, but Dershowitz was "overly aggressive" and threatened, "We're going to destroy your witnesses; don't go to court because we're going to destroy those girls." According to Krischer, Dershowitz so "tainted the waters" that Epstein also hired local attorney Jack Goldberger, with whom Krischer had "a working relationship." Because the husband of the Assistant State Attorney was Goldberger's law partner, Belohlavek recused the Assistant State Attorney to remove "even the appearance of any kind of conflict" of interest, and Belohlavek took over the case. Goldberger, together with Gerald Lefcourt, a nationally known New York criminal defense attorney also representing Epstein, then directed their efforts at Belohlavek and Krischer to dissuade the office from prosecuting Epstein, largely by attacking the credibility of the victim witnesses.

Meanwhile, the State Attorney's Office took the unusual step of preparing to present the case to a grand jury. Krischer told OPR that under state law as it existed until changed in 2016, his office prosecuted minors as young as 14 for prostitution.[10] The possibility that Epstein's victims themselves could have been prosecuted caused "great consternation within the office," and according to Krischer, resulted in the decision to put the case before the grand jury.[11] Belohlavek told OPR that her office took the allegations against Epstein "seriously, because . . . it was an organized scheme to involve young girls by offering them money. And I wouldn't say that we . . . thought they were prostitutes . . . [but] I think there was solicitation." However, she said, although Epstein's "behavior was reprehensible, . . . I'm limited by . . . the state statutes as to what I can charge." Krischer told OPR, "There were so many issues involving the victim-witnesses that to my mind, in consultation with my [prosecutors], the only way to achieve, to my mind, real justice was to present the case to the grand jury and not to direct-file" criminal charges against Epstein.

C. Florida State Procedure for Bringing Criminal Charges

Federal criminal procedure requires that a felony charge—that is, any charge punishable by imprisonment for one year or more—be brought by a grand jury unless waived by a defendant.[12] Under Florida law, however, a grand jury is required to bring criminal charges only in a death penalty case.[13] For all other cases, a State Attorney has concurrent authority to file criminal charges by means of a document called an "information" or to seek a grand jury indictment. Although Florida criminal cases are routinely charged by information, state grand juries are often utilized in sensitive or high-profile cases, such as those involving allegations of wrongdoing by public officials.[14] Florida grand jury proceedings are subject to strict secrecy rules that, among

---

[10] Belohlavek told OPR that prostitution was a misdemeanor charge, and she did not handle misdemeanors.

[11] Because the Florida Department of Law Enforcement investigation into the State Attorney's Office's handling of the Epstein case was pending at the time OPR interviewed Krischer, he declined to further explain to OPR his office's prosecutive decisions.

[12] U.S. Const. amend. V; Fed. R. Crim. P. 7(a), (b). The sole exception under the rule is felony criminal contempt, which need not be charged by indictment. Fed. R. Crim. P. 7(a)(1).

[13] Fla. Const. Art. I, § 15(a).

[14] The Florida Bar, The Grand Jury, Reporters Handbook – The Grand Jury, available at https://www floridabar. org/news/resources/rpt-hbk/rpt-hbk-13/.

other things, prohibit anyone from being present while grand jurors deliberate and vote, and proscribe the release of the notes, records, and transcripts of a grand jury.[15]

D. PBPD Chief Reiter Becomes Concerned with the State Attorney's Office's Handling of the State Investigation and Seeks a Federal Investigation

In 2006, PBPD Chief Reiter perceived that Krischer's attitude had changed and, according to Reiter's statements in his 2009 deposition, Krischer said that he did not believe the victims were credible. Reiter was disturbed when Krischer suggested that the PBPD issue a notice for Epstein to appear in court on misdemeanor charges, leading Reiter to begin questioning Krischer's objectivity and the State Attorney's Office's approach to the case. As Reiter explained in his deposition:

> This was a case that I felt absolutely needed the attention of the State Attorney's Office, that needed to be prosecuted in state court. It's not generally something that's prosecuted in a federal court. And I knew that it didn't really matter what the facts were in this case, it was pretty clear to me that Mr. Krischer did not want to prosecute this case.

On May 1, 2006, Reiter submitted to Krischer probable cause affidavits and a case filing package relating to Epstein, one of his personal assistants, and a young local woman whom Epstein first victimized and then used to recruit other girls. In his transmittal letter, which was later made public, Reiter criticized Krischer, noting that he found the State Attorney's Office's "treatment of these cases [to be] highly unusual."[16] Reiter urged Krischer "to examine the unusual course that your office's handling of this matter has taken" and to consider disqualifying himself from prosecuting Epstein.[17]

III. THE FBI AND THE USAO INVESTIGATE EPSTEIN, AND THE DEFENSE TEAM ENGAGES WITH THE USAO

A. May 2006 – February 2007: The Federal Investigation Is Initiated, and the USAO Opens a Case File

In early 2006, a West Palm Beach FBI Special Agent who worked closely with AUSA Ann Marie Villafaña on child exploitation cases—and who is referred to in this Report as "the case agent"—mentioned to Villafaña in "casual conversations" having learned that the PBPD was investigating a wealthy Palm Beach man who recruited minors for sexual activity. The case agent told Villafaña that the PBPD had reached out to the FBI because the State Attorney's Office was considering either not charging the case or allowing the defendant to plead to a misdemeanor

---

15 Fla. Stat. § 905.27 (2007).

16 *See* Larry Keller, "Palm Beach chief focus of fire in Epstein case," *Palm Beach Post*, Aug. 14, 2006.

17 As noted, Krischer generally declined in his OPR interview to explain his office's prosecutive decisions; however, regarding allegations of favoritism to Epstein's defense counsel, Krischer told OPR, "I just don't play that way."

charge. Villafaña suggested meeting with the PBPD, but the case agent explained that before formally presenting the case to the FBI, the PBPD wanted to see how the State Attorney's Office decided to charge Epstein.

1. The PBPD Presents the Matter to the FBI and the USAO

In May 2006, the lead Detective handling the state's investigation met with Villafaña and the FBI case agent to summarize for them the information learned during the state's investigation.[18] At the time, neither Villafaña nor the case agent had heard of Epstein or had any knowledge of his background.

According to Villafaña, during this meeting, the Detective expressed concern that "pressure had been brought to bear on . . . Krischer by Epstein's attorneys," and he and Chief Reiter were concerned the state would charge Epstein with only a misdemeanor or not at all.[19] The Detective explained that the defense had hired private investigators to trail Reiter and the Detective, had raised claims of various improprieties by the police, and, in the view of the PBPD, had orchestrated the removal of the Assistant State Attorney initially assigned to handle the matter, who was viewed as an aggressive prosecutor, by hiring a defense attorney whose relationship with the Assistant State Attorney created a conflict of interest for the prosecutor. Further, given the missing computer equipment and surveillance camera videotapes, the Detective believed Epstein may have been "tipped off" in advance about the search warrant.

During the meeting, Villafaña reviewed the U.S. Code to see what federal charges could be brought against Epstein. She focused on 18 U.S.C. §§ 2422 (enticement of minors into prostitution or other illegal sexual activity and use of a facility of interstate or foreign commerce to persuade or induce a minor to engage in prostitution or other illegal sexual activity) and 2423 (travel for purposes of engaging in illegal sexual conduct). As they discussed these charges, the Detective told Villafaña that Epstein and his assistants had traveled out of the Palm Beach International Airport on Epstein's private airplane, and flight logs sometimes referred to passengers as "female" without a name or age, which the Detective suspected might be references to underage girls. However, the Detective acknowledged that he was unable to confirm that suspicion and did not have firm evidence indicating that Epstein had transported any girls interstate or internationally. Nevertheless, Villafaña believed Epstein could be prosecuted federally, in part because of his own interstate and international travel to the Southern District of Florida to abuse girls. Villafaña discussed with the Detective and the case agent the additional investigation needed to prove violations of the federal statutes she had identified. She told them that if the evidence supported it, the case could be prosecuted federally, but she assured them that opening a federal investigation would not preclude the State Attorney's Office from charging Epstein should it choose to do so.

---

[18] The Detective died in May 2018.

[19] In his 2009 deposition, Reiter testified that after he referred the Epstein matter to the FBI, a Town of Palm Beach official approached Reiter and criticized his referral of the investigation to the FBI, telling Reiter that the victims were not believable and "Palm Beach solves its own problems."

2. May 2006: The USAO Accepts the Case and Opens a Case File

On May 23, 2006, Villafaña prepared the paperwork to open a USAO case file. Villafaña told OPR that several aspects of the case implicated federal interests and potentially merited a federal prosecution: (1) the victimization of minors through the use of facilities of interstate commerce (the telephone and airports); (2) the number of victims involved; (3) the possibility that Epstein had been producing or possessing child pornography (suggested by the removal of the computer equipment from his residence); and (4) the possibility that improper political pressure had affected the State Attorney Office's handling of the case. The investigation was named "Operation Leap Year" because the state investigation had identified approximately 29 girls as victims of Epstein's conduct.[20]

Villafaña told OPR that from the outset of the federal investigation, she understood that the case would require a great deal of time and effort given the number of potential victims and Epstein's financial resources. Nonetheless, Villafaña was willing to put in the effort and believed that the FBI was similarly committed to the case. Villafaña discussed the case with her immediate supervisor, who also "thought it would be a good case" and approved it to be opened within the USAO's file management system, and on May 23, 2006, it was formally initiated.

3. July 14, 2006: Villafaña Informs Acosta and Sloman about the Case

Because Villafaña was not familiar with Epstein, she researched his background and learned that he "took a scorched earth approach" to litigation. Villafaña was aware that Epstein had hired multiple lawyers to interact with the State Attorney's Office in an effort to derail the state case, and she believed he would likely do the same in connection with any federal investigation.

Therefore, Villafaña arranged to meet with U.S. Attorney Alexander Acosta and Jeffrey Sloman, who at the time was the Criminal Division Chief.[21] Villafaña told OPR that she had never before asked to meet with "executive management" about initiating a case, but the allegations that Epstein had improperly influenced the State Attorney's Office greatly troubled her. Villafaña explained to OPR that she wanted to ensure that her senior supervisors were "on board" with the Epstein investigation. In addition, she viewed Sloman as a friend, in whom she had particular confidence. At this point, although Villafaña's immediate supervisor was aware of the case, Villafaña did not inform Andrew Lourie, who was then in charge of the West Palm Beach office and her second-line supervisor, about the matter or that she was briefing Acosta and Sloman.

Villafaña met with Acosta and Sloman in Miami on July 14, 2006. She told OPR that at the meeting, she informed them that the PBPD had identified a group of girls who had provided to

---

[20] Villafaña opened "Operation Leap Year" during the same month in which the Department launched its "Project Safe Childhood" initiative, and Acosta designated Villafaña to serve as the USAO's Project Safe Childhood coordinator.

[21] Although Acosta had been formally nominated to the U.S. Attorney position on June 9, he was not confirmed by the Senate until August 3, 2006, and was not sworn in until October 2006. In September 2006, Acosta announced the appointments of Sloman as FAUSA and Matthew Menchel as Chief of the USAO's Criminal Division, and they assumed their respective new offices in October 2006.

Epstein massages that were sexual in nature, and that Epstein had used "various types of pressure" to avoid prosecution by the state, including hiring attorneys who had personal connections to the State Attorney. Villafaña said that part of her goal in speaking to Acosta and Sloman at the outset of the federal investigation was to sensitize them to the tactics Epstein's legal team would likely employ. Villafaña explained, "When you have a case that you know people are going to be getting calls about . . . you just want to make sure that they know about it so they don't get . . . a call from out of the blue." According to Villafaña, she told Acosta and Sloman that the FBI was willing to put the necessary resources into the case, and she was willing to put in the time, but she "didn't want to get to the end and have [the] same situation occur" with a federal prosecution as had occurred with the state. She told OPR, "I remember specifically saying to them that I expected the case would be time and resource-intensive and I did not want to invest the time and the FBI's resources if the Office would just back down to pressure at the end." According to Villafaña, Acosta and Sloman promised that "if the evidence is there, we will prosecute the case." In a later email to Lourie and her immediate supervisor, Villafaña recounted that she spoke with Acosta and Sloman because she "knew that what has happened to the state prosecution can happen to a federal prosecution if the U.S. Attorney isn't on board," but Acosta and Sloman had given her "the green light" to go forward with the Epstein investigation.

Both Acosta and Sloman told OPR that they did not recall the July 2006 meeting with Villafaña. Each told OPR that at the time the federal investigation was initiated, he had not previously heard of Epstein.[22]

Acosta told OPR that he understood from the outset that the case involved a wealthy man who was "doing sordid things" with girls, and that it "seemed a reasonable matter to pursue" federally. Epstein's wealth and status did not raise any concern for him, because, as Acosta told OPR, the USAO had prosecuted "lots of influential folks." When asked by OPR to articulate the federal interest he perceived at the time to be implicated by the case, Acosta responded, "the exploitation of girls or minor females." Regarding Villafaña's view that she had been given a "green light" to proceed with the investigation, Acosta told OPR that he would not likely have explicitly told Villafaña to "go spend your time" on the case; rather, his practice would have been simply to acknowledge the information she shared about the case and confirm that a federal investigation "sound[ed] reasonable."

Sloman told OPR that he could not recall what he initially knew about the Epstein investigation, other than that he had a basic understanding that the State Attorney's Office had "abdicated their responsibility" to investigate and prosecute Epstein. In his OPR interview, Sloman did not recall with specificity Villafaña's concern about Epstein's team pressuring the State Attorney's Office, but he said he was never concerned that political pressure would affect the USAO, noting that as of July 2006, the USAO had recently prosecuted wealthy and politically connected lobbyist Jack Abramoff.

---

[22] Lourie told OPR that when he first heard about the Leap Year investigation, he likewise was unaware of Epstein. On July 24, 2006, Villafaña emailed to Sloman a link to a *Palm Beach Post* article that described Epstein as a "Manhattan money manager" and "part-time Palm Beacher who has socialized with Donald Trump, Bill Clinton and Kevin Spacey." Sloman forwarded the article to Acosta.

4. Late July 2006: The State Indicts Epstein, and the USAO Moves Forward with a Federal Investigation

Several days after Villafaña spoke with Acosta and Sloman, on July 19, 2006, Assistant State Attorney Belohlavek presented the case to the state grand jury.[23] Krischer told OPR that "the whole thing" was put before the grand jury. According to a statement made at the time by the State Attorney's Office spokesman, the grand jury was presented with a list of charges from highest to lowest, without a recommendation by the prosecutor, and deliberated with the prosecutor out of the room.[24] The state grand jury returned an indictment charging Epstein with one count of felony solicitation of prostitution, in violation of Florida Statute § 796.07, a felony under state law because it alleged three or more instances of solicitation.[25] The indictment did not identify the person or persons solicited and made no mention of the fact that Epstein had solicited minors.[26] On July 23, 2006, Epstein self-surrendered to be arrested on the indictment, but was not detained, and the charges were made public.

Villafaña told OPR that she decided to move forward with the federal investigation at that point because she believed the State Attorney's Office would permit Epstein to enter a plea to a reduced misdemeanor charge and that once he entered a guilty plea, the Department's Petite policy might preclude a federal prosecution.[27] Villafaña told OPR that at the time, she "definitely believed that we were going to proceed to [a federal] indictment, assuming that . . . we had sufficient evidence."

---

[23] Villafaña and the FBI obtained and examined records of the state grand jury proceeding, and Lourie reviewed them. Because the grand jury records have not been ordered released publicly, OPR does not discuss their substance in this Report.

[24] Larry Keller, "Police say lawyer tried to discredit teenage girls," *Palm Beach Post*, July 29, 2006, citing statement by State Attorney's Office spokesman Michael Edmondson.

[25] Indictment in *State v. Epstein*, 2006CF9454AXX (July 19, 2006), attached as Exhibit 1 to this Report.

[26] In pertinent part, the state indictment read, "[B]etween the 1st day of August [2004] and October 31, 2005, [Epstein] did solicit, induce, entice, or procure another to commit prostitution lewdness, or assignation, . . . on three or more occasions." The 15-month time frame and lack of detail regarding the place or manner of the offense made it impossible to identify from the charging document which victim or victims served as the basis for the charge in the state indictment. Belohlavek explained to OPR that the charge did not list specific victims so that she could go forward at trial with whichever victim or victims might be available and willing to testify at that time.

[27] The Petite policy is a set of guidelines used by federal prosecutors when considering whether to pursue federal charges for defendants previously prosecuted for state or local offenses. The Constitution does not prohibit the federal government from prosecuting defendants who have been charged, acquitted, or convicted on state charges based on the same criminal conduct. The Supreme Court has repeatedly upheld the long-standing principle that the prohibition against double jeopardy does not apply to prosecutions brought by different sovereigns. *See, e.g., Gamble v. United States*, 587 U.S. ___, 139 S. Ct. 1960, 1966-67 (2019) (and cases cited therein); *Abbate v. United States*, 359 U.S. 187, 195 (1959) (and cases cited therein); and *United States v. Lanza,* 260 U.S. 377, 382 (1922). Nonetheless, to better promote the efficient use of criminal justice resources, the Department developed policies in 1959 and 1960 to guide federal prosecutors in the use of their charging discretion. *See* Chapter Two, Part Two, Section II.A.2, for a more detailed discussion of the Petite policy.

On July 24, 2006, Villafaña alerted Sloman, who informed Acosta, that the State Attorney's Office had charged and arrested Epstein.[28] On that same day, the FBI in West Palm Beach formally opened the case, assigning the case agent and, later, a co-case agent, to investigate it. Villafaña told Sloman that the FBI agents "are getting copies of all of the evidence and we are going to review everything at [the] FBI on Wednesday," and she noted that her target date for filing federal charges against Epstein was August 25, 2006. Acosta emailed Sloman, asking whether it was "appropriate to approach [State Attorney Krischer] and give him a heads up re where we might go?" Sloman replied, "No for fear that it will be leaked straight to Epstein."[29]

Although Lourie learned of the case at this point from Sloman, and eventually took a more active role in supervising the investigation, Villafaña continued to update Acosta and Sloman directly on the progress of the case.[30] Villafaña's immediate supervisor in West Palm Beach had little involvement in supervising the Epstein investigation, and at times, Villafaña directed her emails to Sloman, Menchel, and Lourie without copying her immediate supervisor. In the immediate supervisor's view, however, "Miami" purposefully assumed all the "authority" for the case, which the immediate supervisor regarded as "highly unusual."[31]

By late August 2006, Villafaña and the FBI had identified several additional victims and obtained "some flight manifests, telephone messages, and cell phone records that show the communication and travel in interstate commerce" by Epstein and his associates. Villafaña reported to her supervisors that the State Attorney's Office would not provide transcripts from the state grand jury voluntarily, and that she would be meeting with Chief Reiter "to convince him to relinquish the evidence to the FBI." Villafaña also told her supervisors that she expected "a number of fights" over her document demands, and that some parties were refusing to comply "after having contact with Epstein or his attorneys."

Villafaña's reference to anticipated "fights" and lack of compliance led Sloman to ask whether she was referring to the victims. Villafaña responded that the problems did not involve victims, but rather a former employee of Epstein and some business entities that had objected to document demands as overly burdensome. Villafaña explained to Sloman and Lourie that some victims were "scared and/or embarrassed," and some had been intimidated by the defense, but "everyone [with] whom the agents have spoken so far has been willing to tell her story." Villafaña

---

[28] On the same day, Sloman emailed Lourie, whom Villafaña had not yet briefed about the case, noting that Operation Leap Year was "a highly sensitive case involving some Palm Beach rich guy."

[29] During his OPR interview, Sloman did not recall what he meant by this remark, but speculated that it was likely that "we didn't trust the Palm Beach State Attorney's Office," and that he believed there may have been "some type of relationship between somebody in the [State Attorney's Office] and the defense team."

[30] After Villafaña sent a lengthy substantive email about the case to her immediate supervisor, Lourie, Sloman, and Acosta on August 23, 2006, Lourie emailed Sloman: "Do you and Alex [Acosta] want her updating you on the case?" Sloman responded, "At this point, I don't really care. If Alex says something then I'll tell her to just run it through you guys."

[31] OPR understood "Miami" to be a reference to the senior managers who were located in the Miami office, that is, Acosta, Sloman, and Menchel. Records show, and Villafaña told OPR, that she believed Epstein's attorneys "made a conscious decision to skip" her immediate supervisor and directed their communications to the supervisory chain above the immediate supervisor—Lourie, Menchel, Sloman, and Acosta.

also informed Sloman and Lourie that the FBI was re-interviewing victims who had given taped statements to the PBPD, to ensure their stories "have not changed," and that "[a]ny discrepancies will be noted and considered." She conceded that "[g]etting them to tell their stories in front of a jury at trial may be much harder," but expressed confidence that the two key victims "will stay the course." She acknowledged that the case "needs to be rock solid."

The case agent told OPR that in this initial stage of the investigation, the FBI "partnered up very well" with the USAO. She recalled that there was little higher-level management oversight either from the FBI or the USAO, and "we were allowed to do what we needed to do to get our job done." This included continuing to identify, locate, and interview victims and Epstein employees, and obtaining records relating to Epstein's travel, communications, and financial transactions. The case agent viewed the case as "strong."

5. October 2006 – February 2007: Epstein's Defense Counsel Initiate Contact with Villafaña, Lourie, and Sloman, and Press for a Meeting

Just as Epstein had learned of the PBPD investigation at its early stage, he quickly became aware of the federal investigation, both because the FBI was interviewing his employees and because the government was seeking records from his businesses. One of Epstein's New York attorneys, Gerald Lefcourt, made initial contact with Villafaña in August 2006. As the investigation progressed, Epstein took steps to persuade the USAO to decline federal prosecution.[32] As with the state investigation, Epstein employed attorneys who had experience with the Department and relationships with individual USAO personnel.[33] One of Epstein's Miami lawyers, Guy Lewis, a former career AUSA and U.S. Attorney for the Southern District of Florida, made an overture on Epstein's behalf in early November 2006.[34] Lewis telephoned Villafaña, a call that Sloman joined at Villafaña's request. Lewis offered to provide Villafaña

---

32 Villafaña told OPR that Epstein's lawyers wanted to stop the investigation "prematurely."

33 Chapter One, Section III.B of this Report identifies several of the attorneys known to have represented Epstein in connection with the federal investigation, along with a brief summary of their connections to the Department, the USAO, or individuals involved in the investigation. At least one former AUSA also represented during civil depositions individuals associated with Epstein. Menchel told OPR that he and his colleagues recognized Epstein was selecting attorneys based on their perceived influence within the USAO, and they viewed this tactic as "ham-fisted" and "clumsy." Menchel told OPR, "[O]ur perspective was this is not going to . . . change anything."

34 Lewis served in the USAO for over 10 years, and was U.S. Attorney from 2000 to 2002. He then served for two years as Director of the Executive Office for U.S. Attorneys, the Department's administrative office serving the U.S. Attorneys.

Early in the investigation, Lourie voluntarily notified the USAO's Professional Responsibility Officer that Lourie was friends with Lewis and also had a close friendship with Lewis's law partner, who also was a former AUSA and also represented Epstein. Lourie requested guidance as to whether his relationships with Lewis and Lewis's law partner created either a conflict of interest or an appearance of impropriety mandating recusal. The Professional Responsibility Officer responded that Lourie's relationships with the two men were not "covered" relationships under the conflict of interest guidelines but deferred to Sloman or Menchel "to make the call." Thereafter, Sloman authorized Lourie to continue supervising the case. During his OPR interview, Lourie asserted that his personal connection to Lewis did not influence his handling of the case.

"'anything' she wanted" without the necessity of legal process. Lewis asked to meet with Villafaña and Sloman to discuss the Epstein investigation, but Villafaña declined.

Shortly thereafter, Lilly Ann Sanchez, a former AUSA, contacted Sloman and advised him that she also represented Epstein. Sanchez was employed by the USAO from 2000 to September 2005 and had been a Deputy Chief of the USAO's Major Crimes section at the time Menchel was the Chief. According to Sloman's contemporaneous email recounting the conversation, when Sanchez indicated to him that his participation in Lewis's call with Villafaña led the defense team to believe that the matter had been "elevated" within the USAO, Sloman tried to "disabuse" her of that notion. Sanchez said that Epstein "wanted to be as transparent and cooperative as possible" in working with the USAO. Despite the fact that Lewis had already made contact with the USAO on Epstein's behalf, Sanchez sent a letter to Villafaña on November 15, 2006, in which she asserted that she and Gerald Lefcourt were representing Epstein and asked that the USAO direct all contact or communications about Epstein to them. In response, Villafaña requested that the defense provide documents and information pertinent to the federal investigation, including the documents and information that Epstein had previously provided to the State Attorney's Office, and "computers, hard drives, CPUs [computer processing units], and any other computer media" removed from Epstein's home before the PBPD executed its search warrant in October 2005. In January 2007, Sanchez contacted Villafaña to schedule a meeting, but Villafaña responded that she wanted to receive and review the documents before scheduling a meeting with Sanchez.

Immediately after receiving Villafaña's response, Sanchez bypassed Villafaña and phoned Lourie, with whom she had worked when she was an AUSA, to press for a meeting. Lourie agreed to meet with Sanchez and Lefcourt. Lourie explained to Villafaña that Sanchez was concerned that federal charges were "imminent," wanted to meet with the USAO and "make a pitch," and promised that once given the opportunity to do so, if the USAO "wanted to interview Epstein, that would be a possibility." Villafaña told Lourie that Sanchez had not yet provided the documents she had promised, and Villafaña wanted "the documents not the pitch." Lourie explained to OPR, however, that it was his practice to grant meetings to defense counsel; he considered it "good for us" to learn the defense theories of a case and believed that "information is power." Lourie further explained that learning what information the defense viewed as important could help the USAO form its strategy and determine which counts relating to which victims should be charged. Lourie also believed that as a general matter, prosecutors should grant defense requests to make a presentation, because "[p]art of [the] process is for them to believe they are heard." In addition to agreeing to a meeting, Lourie sent Sanchez a narrowed document request, which responded to Sanchez's complaint that the USAO's earlier request was overbroad but which retained the demand for the computer-related items removed from Epstein's home. The meeting was scheduled for February 1, 2007, and Lourie asked Sanchez to provide the documents and materials to the USAO by January 25, 2007.

Villafaña did not agree with Lourie's decision to meet with Sanchez and Lefcourt. Indeed, two days after Lourie agreed to the meeting, Villafaña alerted him that she had spoken again with Sanchez and learned that Epstein was not going to provide the requested documents. As Villafaña told Lourie, "I just get to listen to the pitch and hear about how the girls are liars and drug users." She told OPR that in her view, "it was way too early to have a meeting," she already knew what the defense would say, and she could not see how a meeting would benefit the federal investigation. She explained to Lourie the basis for her objections to the meeting, but Lourie "vehemently"

disagreed with her position. Villafaña and a West Palm Beach AUSA with whom she was consulting about the investigation, and who served for a time as her co-counsel, both recalled meeting with Lourie in his office to express their concerns about meeting with defense counsel. They perceived Lourie to be dismissive of their views.[35] According to Villafaña, Lourie believed that a meeting with the defense attorneys would be the USAO's chance to learn the defense's legal theories and would position the USAO to arrange a debriefing of Epstein, through which the USAO might learn information helpful to a prosecution. Villafaña told OPR, however, that while this strategy might make sense in a white-collar crime case, she did not believe it was appropriate or worthwhile in a child exploitation case, in which the perpetrator would be unlikely to confess to the conduct. Villafaña also told OPR that she did not believe the USAO could extract information about the defense legal theories without telling the defense the precise crimes the USAO intended to charge, which Villafaña did not want to reveal.

6. February 2007: Defense Counsel Meet with Lourie and Villafaña and Present the Defense Objections to a Federal Case

At the February 1, 2007 meeting with Lourie and Villafaña, Sanchez and Lefcourt set out arguments that would be repeated throughout the months-long defense campaign to stop the federal investigation. In support of their arguments, the defense attorneys provided a 25-page letter, along with documents the defense had obtained from the state's investigative file and potential impeachment material the defense had developed relating to the victims.

In the letter and at the meeting, defense counsel argued that (1) the allegations did not provide a basis for the exercise of federal jurisdiction; (2) the evidence did not establish that Epstein knew girls who provided him with massages were minors; (3) no evidence existed proving that any girl traveled interstate to engage in sex with Epstein; (4) the USAO would violate the Petite policy by initiating federal prosecution of a matter that had already been addressed by the state; and (5) there were "forensic barriers" to prosecution, referring to witness credibility issues. The letter suggested that "misleading and inaccurate reports" from the PBPD "may well have affected" the USAO's view of the case. The letter also claimed that the State Attorney's Office had taken into account the "damaging histories of lies, illegal drug use, and crime" of the state's two principal victims (identified by name in the letter), and argued that "with witnesses of their ilk," the state might have been unable "to make any case against Epstein at all." Lourie told OPR that he did not recall the meeting, but Villafaña told OPR that neither she nor Lourie was persuaded by the defense presentation at this "listening session."

B. February – May 2007: Villafaña and the FBI Continue to Investigate; Villafaña Drafts a Prosecution Memorandum and Proposed Indictment for USAO Managers to Review

Correspondence between Villafaña and defense counsel show that Villafaña carefully considered the defense arguments concerning the victims' credibility, and she reviewed audiotapes

[35] Villafaña told OPR that in a "heated conversation" on the subject, Lourie told them they were not being "strategic thinkers." Her fellow AUSA remembered Lourie's "strategic thinker" comment as well, but recalled it as having occurred later in connection with another proposed action in the Epstein case. Lourie did not recall making the statement but acknowledged that he could have.

of the state's victim interviews and partial transcripts provided by defense counsel.[36] Villafaña also pursued other investigative steps, which included working with the FBI to locate an expert witness to testify about the effect of sexual abuse on victims. She also continued collecting records relating to Epstein's business entities, in part to help establish the interstate nexus of Epstein's activity. On several occasions, Villafaña sought guidance from CEOS, which had considerable national expertise in child exploitation cases, about legal issues relating to the case, such as whether charges she was considering required proof that the defendant knew a minor victim's age.

USAO procedures generally required that a proposed indictment be accompanied by a prosecution memorandum from the AUSA handling the case. The prosecution memorandum was expected to explain the factual and legal bases for the proposed charges and address any significant procedural, factual, and legal issues of which the AUSA was aware; witness-related issues; expected defenses; and sentencing issues. Routine prosecutions could be approved by lower-level supervisors, but in high-profile or complex cases, proposed indictments might require review and approval by the Criminal Division Chief, the FAUSA, or even the U.S. Attorney.

Accordingly, Villafaña drafted an 82-page prosecution memorandum directed to Acosta, Sloman, Menchel (who had replaced Sloman as the USAO's Criminal Division Chief the previous October, when Sloman became the FAUSA), Lourie, and her immediate supervisor, dated May 1, 2007, supporting a proposed 60-count indictment that charged Epstein with various federal crimes relating to sexual conduct with and trafficking of minors. The prosecution memorandum set forth legal issues and potential defenses relating to each proposed charge; explained why certain other statutes were rejected as proposed charges; described the evidence supporting each count and potential evidentiary issues; and addressed the viability and credibility of each of the victims who were expected to testify at trial.

Villafaña's immediate supervisor told OPR that she read the prosecution memorandum, had only a few small edits to the indictment, and advised Lourie that she approved of it. The immediate supervisor told OPR that she viewed the case as prosecutable, but recognized that the case was complex and that Villafaña would need co-counsel.

In his OPR interview, Lourie recalled thinking that the prosecution memorandum and proposed indictment "were very thorough and contained a lot of hard work," but that he wanted to employ a different strategy for charging the case, focusing initially only on the victims that presented "the toughest cases" for Epstein—meaning those about whom Epstein had not already raised credibility issues to use in cross-examination. Lourie told OPR that although he had some concerns about the case—particularly the government's ability to prevail on certain legal issues and the credibility challenges some of the victims would face—he did not see those concerns as insurmountable and was generally in favor of going forward with the prosecution.

Although indictments coming out of the West Palm Beach office usually did not require approval in Miami, in this case, Lourie understood that "[b]ecause there was front office involvement from the get-go," he would not be the one making the final decision whether to go

[36] Lefcourt and Sanchez provided the recordings during a follow-up meeting with Lourie and Villafaña on February 20, 2007, and thereafter furnished the transcripts.

forward with charges in this case. Lourie forwarded a copy of the prosecution memorandum to Menchel. Lourie's transmittal message read:

> Marie did a 50 [*sic*] page pros memo in the Epstein case. I am going to start reading it tonight. . . . It's a major case because the target is one of the richest men in the country and it has been big news. He has a stable of attorneys, including Dershowitz, [Roy] Black, Lefcourt, Lewis, and Lily [*sic*] Sanchez. Jeff Sloman is familiar with the investigation. The state intentionally torpedoed it in the grand jury so it was brought to us. I am going to forward the pros memo to you so you can start reading it at the same time I do. The FBI is pushing to do it in Mid [*sic*] May, which I think is not critical, but we might as well get a jump on it. I have some ideas about the indictment (needs to be ultra lean with only clean victims), so I am not sending that yet.

Lourie explained to OPR that by "clean" victims, he meant those for whom the defense did not have impeachment evidence to use against them.

A few days later, Lourie emailed Menchel, asking if Menchel had read the prosecution memorandum. Lourie directed Menchel's attention to particular pages of the prosecution memorandum, noting that the "keys" were whether the USAO could prove that Epstein traveled for the purpose of engaging in sexual acts, and the fact that some minor victims told Epstein they were 18.[37] Lourie asked for Menchel's "very general opinion as to whether this is a case you think the office should do," and reminded Menchel that the State Attorney's Office "went out of their way to get a no-bill on this . . . and thus only charged adult solicitation, which they would bargain away to nothing."

During his OPR interview, Menchel said that Lourie's email transmitting the prosecution memorandum was his "official introduction" to the case and at that point in time, he had never heard of Epstein and had no information about his background. He recalled that the USAO had been asked to review the case because the state had not handled it appropriately. Menchel told OPR, however, that he had little memory about the facts of the case or what contemporaneous opinions he formed about it.

Acosta told OPR that he could not recall whether he ever read Villafaña's prosecution memorandum, explaining that he "would typically rely on senior staff," who had more prosecutorial experience, and that instead of reading the memorandum, he may have discussed the case with Sloman, Menchel, and Lourie, who he assumed would have read the document. Acosta

---

[37] In various submissions to the USAO, the defense contended that the federal statute required proof that engaging in a sexual act was the "paramount or dominant purpose" of Epstein's travel, but that Epstein's travel was motivated by his desire to live outside of New York for over half of each year for tax purposes. The defense also asserted that the federal statutes at issue required proof that the defendant knew the victims were under 18, but that Epstein "took affirmative steps to ensure that every woman was at least 18 years of age." In her prosecution memorandum, however, Villafaña set forth her conclusion that the statute only required proof that engaging in a sexual act was one of the motivating factors for the travel. She also concluded that the statutes did not require proof that the defendant knew the victims were minors.

recalled generally having conversations with Sloman and Menchel about the Epstein case, but he could not recall with specificity when those conversations took place or the details of the discussions.

Sloman told OPR that because of his broad responsibilities as FAUSA, he left it to Menchel, as a highly experienced trial attorney and the Criminal Division Chief, to work directly with Acosta, and Sloman recalled that it was Menchel and Lourie who conducted a "granular review" of the charging package. Acosta confirmed to OPR that Sloman and Menchel "were a team" who became involved in issues as needed, and if Sloman perceived that Menchel was taking the lead on the Epstein matter, Sloman may have deferred to Menchel.

C. May – June 2007: Miami Managers Consider the Prosecution Memorandum and Proposed Charges

When she submitted the prosecution memorandum, Villafaña intended to file charges by May 15, 2007, and the FBI planned to arrest Epstein immediately thereafter. Villafaña, however, had not obtained authorization to indict on that schedule. The managers in Miami wanted time to analyze the lengthy prosecution memorandum and consider the potential charges and charging strategy. Just a few days after he received the prosecution memorandum, and after learning that the FBI was planning a press conference for May 15, Sloman advised Villafaña that "[t]his Office has not approved the indictment. Therefore, please do not commit us to anything at this time."[38]

On May 10, 2007, with Menchel's concurrence, Lourie sent a copy of Villafaña's prosecution memorandum to CEOS Chief Andrew Oosterbaan, who in turn sent it to his deputy and another CEOS attorney, asking them to assess the legal issues involved in the case and describing it as a "highly sensitive" case involving "a high profile, very rich defendant."[39] After CEOS reviewed the materials, Oosterbaan responded to Lourie with an email stating that the memorandum was "exhaustive" and "well done" and noting that Villafaña "has correctly focused on the issues as we see them." He summarized CEOS's analysis of the application of key facts to the statutes she proposed charging, concurring in Villafaña's assessments but noting that further research was needed to determine whether certain statutes required proof of a defendant's knowledge of victims' ages. Oosterbaan offered to assign a CEOS attorney to work with Villafaña on the case. Lourie forwarded Oosterbaan's email to Menchel and Villafaña.

Meanwhile, contemporaneous emails show that Lourie, at least, was already considering an early resolution of the case through a pre-indictment plea agreement.[40] After Lourie spoke with

---

[38] Lourie later reported to Menchel that the FBI had "wanted to arrest [Epstein] in [the] Virgin Islands during a beauty pageant . . . where he is a judge." The case agent recalled that she and her co-case agent were disappointed with the decision, and that the Supervisory Special Agent was "extremely upset" about it. After the federal investigation began, and except for his self-surrender to face the state indictment in July 2006, Epstein largely stayed away from West Palm Beach, only returning occasionally.

[39] Before becoming Chief of CEOS, Oosterbaan was an AUSA at the USAO for about ten years and was good friends with Lourie.

[40] In her prosecution memorandum, Villafaña argued against pre-charge plea negotiations, arguing that it "may undermine our arguments for pretrial detention." Menchel, however, told OPR that he did not consider strengthening a bail argument to be a valid ground to decline to meet with defense counsel about a case.

the FBI squad supervisor on May 9, 2007, to explain that charges against Epstein would not be quickly approved, he reported to Menchel that the FBI was "not happy" about the delay, adding, "I did not even tell them I think we should bring [Epstein] in, once we decide to charge him, and offer a pre-indictment deal, figuring a judge might never agree to such a deal post indictment. That would have sent them thru the roof." Lourie explained to OPR that he thought a judge, after seeing an indictment charging the full nature and scope of Epstein's conduct, might not agree to a plea involving substantially less time or to dismiss substantive charges.[41]

Lourie told OPR that despite Oosterbaan's favorable opinion of the case, "[t]his was . . . a bit of uncharted territory," involving facts that were unlike the case law Oosterbaan had cited. Although Lourie had some concerns about the legal issues and about the witnesses, he "probably" did not see any impediment to going forward with the case; in fact, Lourie "was not in favor of walking away, which is what the defense wanted [the USAO] to do." But while Lourie "thought we could have won and we could have prevailed through appeal," he "didn't think the odds were nearly as good as you want in a criminal case, and . . . the things that we had to gain [through a plea agreement] were much more than [in] a normal criminal case," in which the only cost of a loss would be that the defendant did not go to jail. Lourie told OPR that to the best of his recollection, he thought a plea agreement would be a good result, and although the government might have to "give up some jail time," there were other benefits to a plea, such as the ability to require Epstein to register as a sex offender and the availability of monetary damages for the victims. Lourie recalled "thinking that this case should settle and we should set it up so we can settle it" by, for example, charging Epstein by complaint and then negotiating a plea to limited charges in a criminal information. Villafaña told OPR that she agreed with Lourie that a criminal complaint charging an "omnibus conspiracy" containing "all of the information related to what the case was about" would be a good way to "get things moving" toward a pre-indictment plea.

Although Lourie and Villafaña believed a pre-indictment plea agreement was a desired resolution, there was no guarantee that Epstein would agree to plead guilty, and they continued to work together to shape an indictment. On May 10, 2007, Lourie emailed Villafaña:

> [M]arie
> I believe that Epstein's att[orneys] are scared of the victims they don't know. Epstein has no doubt told them that there were many. Thus I believe the f[ir]st indictment should contain only the victims they have nothing on at all. We can add in the other ones that have myspace [*sic*] pages and prior testimony in a [superseding indictment]. I think for the first strike we should make all their nightmare[]s come true. Thoughts?[42]

---

[41] Lourie explained to OPR that the government's dismissal of counts in an indictment required the court's approval, and that, while "it's rare," it was possible that a judge, seeing the nature and extent of Epstein's conduct as set forth in an extensive indictment, might not allow substantive counts to be dismissed.

[42] Lourie's references to MySpace pages and "prior testimony" referred to the impeachment information brought forward by defense counsel.

Lourie followed up his email to Villafaña with one to Menchel, in which Lourie reiterated the potential benefits of a pre-indictment plea, explaining that he and Villafaña believed "the best thing to do is charge Epstein by complaint, assuming we decide to charge him. . . . The [sentencing] guidelines will be in the 20 year range, so we would need to plead him to one or two conspiracies to cap him and there is no telling if a judge would go for that once we indict."[43] Menchel responded that he and Acosta would read the prosecution memorandum and "[w]e can discuss after that."

Later that afternoon, Villafaña sent Lourie an email, which Lourie forwarded to Menchel, explaining that a "conservative calculation" of Epstein's potential sentencing exposure under the U.S. Sentencing Guidelines would be 168 to 210 months, and that in her view, the facts warranted an upward departure from that range. Villafaña told OPR that although Lourie proposed some changes to the draft indictment, at that point no one had told her that the evidence was insufficient to support the proposed charges or that the office did not want to go forward with the case.

In an email to Acosta and Menchel on May 11, 2007, Lourie recommended charging Epstein by complaint and seeking a pre-indictment plea:

> My current thoughts are that we should charge him. Not sure that I agree with the charging strategy as it is now, but at this point I think we only need to get on the same page as to whether the statutes cover the conduct and whether the conduct is the type we should charge. I think the answer to both is yes, although there is some risk on some of the statutes as this is uncharted territory to some degree. We can decide later what the [charging document] should look like precisely and which victims should be charged.
>
> I also think if we choose to go forward, we should start with a complaint, arrest him, detain him . . . and then try to see if he wants a pre-indictment resolution. That would give us more control [over] a plea than if we indict him and need the court's approval to dismiss counts. We will need to cap him with conspiracy counts to make a plea attractive and the court could give us a hard time with that if we try to dismiss indicted counts.

Although her supervisors were communicating among themselves about the case, Villafaña was unaware of those discussions and was frustrated that she was not receiving more feedback. She continued preparing to charge Epstein. Two weeks after submitting the prosecution memorandum, on May 14, 2007, Villafaña informed Lourie and Menchel by email that Epstein was flying to New Jersey from the Virgin Islands, and she asked whether she could file charges the next day. Menchel responded that "[y]ou will not have approval to go forward tomorrow," and explained that Acosta "has your [prosecution] memo," but was at an out-of-town conference, adding, "This is obviously a very significant case and [A]lex wants to take his time making sure

[43] Lourie told OPR that he was referring to one or two counts of conspiracy under 18 U.S.C. § 371, the general "omnibus" federal conspiracy statute that carries a maximum sentence of five years.

he is comfortable before proceeding." Menchel told Villafaña he had "trouble understanding" why she was in a "rush" "given how long this case has been pending."[44]

OPR questioned Lourie, Menchel, Sloman, and Acosta about the timeline for reviewing the prosecution memorandum and the proposed charges. Acosta and Menchel believed Villafaña's timeline was unrealistic from the start. Acosta told OPR that Villafaña was "very hard charging," but her timeline for filing charges in the case was "really, really fast." Menchel described Villafaña as "out over her skis a little bit" and "ahead of" Acosta in terms of his analysis of the case.[45] Menchel said it was clear to him that Acosta "was going to be the one making the call" about whether to go forward with charges, and Acosta needed more time to make a decision. Menchel told OPR, "This [was] not a case [we were] going to review in two weeks and make a decision on." Sloman told OPR that although he did not conduct a "granular review" of the proposed charges, he believed Menchel and Lourie had done so and "obviously" had concluded that "the facts and the law didn't suggest that the right thing to do was to automatically indict." Lourie told OPR that he believed "the case was moving ahead."

Villafaña continued to seek direction from her managers. On May 15, 2007, she emailed Sloman, noting that "[i]t seemed from our discussion yesterday that pestering Alex [Acosta] will not do any good. Am I right about that?" Sloman responded, "Yes." On May 21, 2007, three weeks after submitting the prosecution memorandum, Villafaña emailed Sloman and Menchel asking for "a sense of the direction where we are headed–i.e., approval of an indictment something like the current draft, a complaint to allow for pre-indictment negotiations, an indictment drastically different from the current draft?" Sloman responded only, "Taken care of."[46]

D. Defense Counsel Seek a Meeting with Senior USAO Managers, which Villafaña Opposes

Meanwhile, Epstein's defense counsel continued to seek additional information about the federal investigation and a meeting with senior USAO managers, including Acosta. In a May 10, 2007 email to Menchel, Lourie reported that Epstein's attorneys "want me to tell them the statutes

---

[44] Villafaña explained to OPR that the "rush" related to her concern that Epstein was continuing to abuse girls: "In terms of the issue of why the hurry, because child sex offenders don't stop until they're behind bars. That was our time concern." Menchel, however, told OPR that he did not recall Villafaña offering this explanation to him. OPR notes that in their respective statements to OPR and in their comments on OPR's draft report, Menchel and Villafaña expressed contradictory accounts or interpretations of certain events. When it was necessary for OPR to resolve those conflicts in order to reach its findings and conclusions, OPR considered the extensive documentary record and the testimony of other subjects and witnesses, to the extent available.

[45] Sloman similarly recalled that Menchel thought Villafaña was "ahead of where the office was internally" and that caused "discontent" between Villafaña and Menchel. Villafaña was not the only one, however, who was surprised that the indictment was not approved immediately. The case agent told OPR that it seemed "everything changed" after Villafaña submitted the prosecution memorandum, and the momentum towards an indictment abated. Villafaña's immediate supervisor told OPR that from her perspective, it appeared "Miami didn't want the case prosecuted." However, Menchel rebuked Villafaña in his July 5, 2007 email to her for having "led the agents to believe that [filing charges in] this matter was a foregone conclusion."

[46] Sloman could not recall during his OPR interview what he meant by this remark, but he speculated that he had spoken to Menchel, and Menchel was going to take care of it.

we are contemplating so Dershowitz can tell us why they don't apply."[47] Lourie told Menchel, "I don't see the downside," but added, "Marie is against it." Menchel responded that it was "premature" to provide the information. During his OPR interview, Menchel could not specifically recall why he believed it was "premature" to provide the defense with the requested information, but speculated that it was too soon after the prosecution memorandum had been circulated for Acosta to have made a decision about how he wanted to proceed. This recollection is consistent with the May 2007 emails reflecting that Acosta wanted time to consider the proposed prosecution.

On May 22, 2007, defense counsel Lefcourt emailed Lourie a letter to "confirm" that Epstein's attorneys would be given an opportunity to meet with Lourie before the USAO reached a final decision on charging Epstein. Lourie forwarded the letter to Menchel and Sloman, but noted that Epstein's defense team was "really ready for the next level," rather than another meeting with him. Lourie suggested that Menchel meet with defense counsel, adding, "Whether Alex would be present or grant them another meeting after that is his call." Lourie also emailed Lefcourt, clarifying that Lourie had not promised to call Epstein's counsel before filing charges, and suggesting that Epstein's counsel make their next presentation to Menchel.

Although Lourie's emails show that he had no objection to more senior USAO managers meeting with defense counsel, Villafaña opposed such a meeting. Several emails indicate that Menchel traveled to West Palm Beach to meet with Lourie and Villafaña on the afternoon of May 23, 2007.[48] On that same date, Villafaña drafted an email, which she planned to send to Sloman and Menchel, expressing her disagreement with meeting with defense counsel. Although the email was written for Sloman and Menchel, Villafaña sent it as a draft only to her immediate supervisor, seeking her "guidance and counsel" as to how to proceed.

> Hi Jeff and Matt – I just want to again voice my disagreement with promising to have a meeting or having a meeting with Lefcourt or any other of Epstein's attorneys. As I mentioned, this is not a case where we will be sitting down to negotiate whether a defendant will serve one year versus two years of probation. This is a case where the defendant is facing the possibility of dozens of years of prison time. Just as the defense will defend a case like that differently than they would handle a probation-type case, we need to handle this case differently. Part of our prosecution strategy was already disclosed at the last meeting, and I am concerned that more will be disclosed at a future meeting.
>
> My co-chair . . . who has prosecuted more of these cases than the rest of us combined and who actually worked on the drafting of some of the child exploitation statutes, also opposes a meeting. We have been accused of not being "strategic thinkers" because of our

---

47 Dershowitz had joined Lefcourt and Sanchez in representing Epstein for the federal case.

48 During her OPR interview, Villafaña could not recall the meeting with specificity, but believed the purpose was to discuss whether the USAO should agree to additional meetings with Epstein's counsel. Menchel, similarly, told OPR that he could not remember anything specific about the meeting.

> opposition to these meetings, but we are simply looking at this case as a violent crime prosecution involving stiff penalties rather than as a white collar or public corruption case where the parties can amicably work out a light sentence.[49]
>
> With respect to the "policy reasons" that Lefcourt wants to discuss, those were already raised in his letter (which is part of the indictment package) and during his meeting with Andy and myself. Those reasons are: (1) he wants the Petit [*sic*] policy to trump our ability to prosecute Epstein, (2) this shouldn't be a federal offense, and (3) the victims were willing participants so the crime shouldn't be prosecuted at all. Unless the Office thinks that any of those arguments will be persuasive, a meeting will not be beneficial to the prosecution, it will only benefit the defense. With respect to Lefcourt's promised legal analysis, that also has already been provided. The only way to get additional analysis is to expose to the defense the other charges that we are considering. In my opinion this would seriously undermine the prosecution.
>
> The defense is anxious to have a meeting in order to delay the investigation/prosecution, to find out more about our investigation, and to use political pressure to stop the investigation.
>
> I have no control over the Office's decisions regarding whether to meet with the defense or to whom the facts and analysis of the case will be disclosed. However, if you all do decide to go forward with these meetings in a way that is detrimental to the investigation, then I will have to ask to have the case reassigned to an AUSA who is in agreement with the handling of the case.

After receiving this draft, the immediate supervisor cautioned Villafaña, "Let's talk before this is sent, please."[50] Villafaña told OPR that the supervisor counseled Villafaña not to send the email to Sloman or Menchel because Villafaña could be viewed as insubordinate. She also told Villafaña that if Villafaña did not stay with the case, "the case would go away" and Epstein "would never serve a day in jail."

Villafaña told OPR that at that point in time, she believed the USAO was preparing to file charges against Epstein despite agreeing to accommodate the defense request for meetings. She also told OPR, on the other hand, that she feared the USAO was "going down the same path that the State Attorney's Office had gone down." Villafaña believed the purpose of the defense request

---

[49] In commenting on OPR's draft report, Menchel's counsel noted Menchel's view that the nature of a defendant's crimes and potential penalty does not affect whether prosecutors are willing to meet with defense counsel to discuss the merits of a case.

[50] The immediate supervisor recalled telling Villafaña that she and Villafaña were "not driving the ship," and once "the bosses" made the decision, "there's nothing else you can do."

for meetings was to cause delay, but "the people in my office either couldn't see that or didn't want to see that," perhaps because of "their lack of experience with these types of cases" or a misguided belief "that [Epstein's] attorneys would not engage in this behavior." Villafaña told OPR that she "could not seem to get [her supervisors] to understand the seriousness of Epstein's behavior and the fact that he was probably continuing to commit the behavior, and that there was a need to move with necessary speed." Nonetheless, Villafaña followed the guidance of her immediate supervisor and did not send the email.

Like Lourie, Menchel told OPR that he believed meeting with defense counsel was good practice. Menchel told OPR that he saw "no downside" to hearing the defense point of view. Defense counsel might make a persuasive point "that's actually going to change our mind," or alternatively, present arguments the defense would inevitably raise if the case went forward, and Menchel believed it would be to the USAO's advantage to learn about such arguments in advance. Menchel also told OPR that he did not recall Villafaña ever articulating a concern that Epstein was continuing to offend, and in Menchel's view, Epstein was "already under a microscope, at least in Florida," and it would have been "the height of stupidity" for Epstein to continue to offend in those circumstances.

E. June 2007: Villafaña Supplements the Prosecution Memorandum

While Villafaña's supervisors were considering whether to go forward with the proposed charges, Villafaña took additional steps to support them. On June 14, 2007, she supplemented the prosecution memorandum with an addendum addressing "credibility concerns" relating to one of the victims. In the email transmitting the addendum to Lourie, Menchel, Sloman, and her immediate supervisor, Villafaña reported, "another Jane Doe has been identified and interviewed," and the "different strategies" about how to structure the charges left Villafaña unsure whether "to make . . . changes now or wait until we have received approval of the current charging strategy." The addendum itself related to a particular victim referred to as the minor who "saw Epstein most frequently" and who had allegedly engaged in sexual activity with both Epstein and an Epstein assistant. In the addendum, Villafaña identified documents she had found corroborating four separate statements made by this victim.

Villafaña told OPR that the only victim about whom any supervisor ever articulated specific credibility issues was the victim discussed in the addendum. Lourie told OPR that he had no specific recollection of the addendum, but it was "reasonable" to assume that the addendum addressed one particular victim because no one had identified specific concerns relating to any other victim. Villafaña's immediate supervisor similarly told OPR that to her recollection, the discussions about credibility issues were generic rather than tied to specific victims.

F. The June 26, 2007 Meeting with Defense Counsel

Menchel agreed to meet with defense counsel on June 26, 2007, communicating directly with Sanchez about the arrangements. At Menchel's instruction, on June 18, 2007, Villafaña sent a letter to defense counsel identifying what she described as "the statutes under consideration."[51]

[51] Villafaña sent copies of this letter to both Menchel and Sanchez. Villafaña told OPR that she objected to sending this information to the defense. Although Menchel did not recall directing Villafaña to send the letter to

On that same day, Villafaña emailed Lourie, Menchel, Sloman, and her immediate supervisor complaining that she had received no reply to her query about making changes to the proposed indictment and asking again for feedback. During his OPR interview, Lourie observed that Villafaña's request for feedback reflected her desire to "charge this case sooner than . . . everybody else," but Acosta was still considering what strategy to pursue. Sloman told OPR that he did not know whether Villafaña received any response to her request, but he believed that at that point in time, Menchel and Lourie were evaluating the case to make a decision about how to proceed.

The day before the June 26 meeting, defense counsel Lefcourt transmitted to the USAO a 19-page letter intended to provide "an overview of our position and the materials we plan to present in order to demonstrate that none of the statutes identified by you can rightly be applied to the conduct at issue here." Reiterating their prior arguments and themes, defense counsel strongly contested the appropriateness of federal involvement in the matter. Among other issues, Lefcourt's letter argued:

- Voluntary sexual activity involving "young adults–16 or 17 years of age"–was "strictly a state concern."

- Federal statutes were not meant to apply to circumstances in which the defendant reasonably believed that the person with whom he engaged in sexual activity was 18 years of age.

- One of the chief statutes the USAO had focused upon, 18 U.S.C. § 2422(b), was intended to address use of the internet to prey upon child victims through "internet trolling," but Epstein did not use the internet to lure victims.

- The "travel" statute, 18 U.S.C. § 2423(b), prohibits travel "for the purpose of" engaging in illicit sexual conduct, but Epstein traveled to Florida to visit family, oversee his Florida-based flight operations, and "engage in the routine activities of daily living."

Lefcourt also argued again that "irregularities" had tainted the state's case and would "have a significant impact on any federal prosecution."[52]

Lourie sent to Menchel, with a copy to Villafaña, an email dividing the defense arguments into "weaker" and "stronger" points. Lourie disagreed with the argument that 18 U.S.C. § 2422(b) was limited to "internet trolling," and described this as "our best charge and the most defensible for federal interest." On the other hand, Lourie believed the defense argument that Epstein did not travel to Florida "'with the purpose'" of engaging in illicit sex with a minor was more persuasive.

Lefcourt, he told OPR that he "wouldn't take issue" with Villafaña's claim that he had done so. Menchel also told OPR that he did not recall Villafaña objecting at that point to providing the information to the defense.

[52] Lefcourt claimed there were deficiencies in the PBPD search warrant and "material misstatements and omissions" in the PBPD probable cause affidavit. As an example, he contended that the police had lacked probable cause to search for videotapes, "since all the women who were asked whether they had been videotaped *denied knowledge* of any videotaping." (Emphasis in original).

Lourie opined that the government could argue "that over time [Epstein] set up a network of illegal high school massage recruits that would be difficult to duplicate anywhere else," which supported the conclusion that the massages must have been a motivating purpose of his travel, if not the sole purpose. However, Lourie expressed concern about "getting to the jury" on this issue and noted that he had not found a legal case factually on point. Villafaña told OPR that she disagreed with Lourie's analysis of the purpose of travel issue and had discussed the matter with him.[53] Villafaña also recalled that there were aspects of the defense submissions she and her colleagues considered "particularly weak."

On June 26, 2007, Sloman, Menchel, Lourie, Villafaña, the case agent, and the West Palm Beach squad supervisor met at the Miami USAO with Epstein attorneys Dershowitz, Black, Lefcourt, and Sanchez. Dershowitz led the defense team's presentation. From the USAO perspective, the meeting was merely a "listening session."[54] Echoing the arguments made in Lefcourt's letter, Dershowitz argued that the USAO should permit the state to handle the case because these were "traditionally state offenses." The case agent recalled being uncomfortable that the defense was asking questions in an attempt to gain information about the federal investigation, including the number of victims and the types of sexual contact that had been involved.

Villafaña told OPR that when Epstein's attorneys left the meeting, they appeared to be "under the impression that they had convinced us not to proceed." But Menchel told OPR, "[T]hey obviously did not persuade" the USAO because "we . . . didn't drop the investigation." According to Villafaña, Lourie, and Menchel, during a short post-meeting discussion at which Lourie expressed concern about the purpose of travel issue and Menchel raised issues related to general credibility of the victims, the prevailing sense among the USAO participants was that the defense presentation had not been persuasive. Villafaña told OPR that she "left [the meeting] with the impression that we were continuing towards" filing charges.

IV. ACOSTA DECIDES TO OFFER EPSTEIN A TWO-YEAR STATE PLEA TO RESOLVE THE FEDERAL INVESTIGATION

USAO internal communications show that in July 2007, Acosta developed, or adopted, the broad outline of an agreement that could resolve the federal investigation. The agreement would leave the case in state court by requiring Epstein to plead guilty to state charges, but would accomplish three goals important to the federal prosecutors: Epstein's incarceration; his registration as a sexual offender; and a mechanism to provide for the victims to recover monetary

---

[53] Villafaña also told OPR that Lourie had, at times, expressed concern about the prosecution's ability to prove Epstein's knowledge of the victims' ages, particularly with regard to those who were 16 or 17 at the time they provided massages.

[54] In his written response to OPR, Menchel indicated that he had no independent recollection of the June 26, 2007 meeting. In his OPR interview, Menchel said that although he had little memory of the meeting, to the best of his recollection the USAO simply listened to the defense presentation, and in a contemporaneous email, Menchel opined that he viewed the upcoming June 26 meeting as "more as [the USAO] listening and them presenting their position."

damages.[55] During a two-month period, the subject attorneys were involved to varying degrees in converting the broad outline into specific terms, resulting in the NPA signed by Epstein on September 24, 2007. The subjects, including Acosta, were generally able to explain to OPR both the larger goals and the case-related factors they likely considered during the process of conceptualizing, negotiating, and finalizing this resolution. However, the contemporaneous emails and other records do not reflect all of the conversations among the decision makers, and their deliberative and decision-making process is therefore not entirely clear. In particular, Menchel and Acosta had offices located near each other and likely spoke in person about the case, but neither had a clear memory of their conversations. Therefore, OPR could not determine all of the facts surrounding the development of the two-year state plea resolution or the NPA.

In the following account, OPR discusses the initial key decision to resolve the federal investigation through state, rather than federal, charges, and sets forth many of the numerous communications that reflect the negotiations between the parties that led to the final NPA. OPR questioned each of the subjects about how the decision was reached to pursue a state resolution, and OPR includes below the subjects' explanations. The subjects' memories of particular conversations about this topic were unclear, but from their statements to OPR, a general consensus emerged that there were overlapping concerns about the viability of the legal theories, the willingness of the victims to testify, the impact of a trial on the victims, the overall strength of the case that had been developed at that time, and the uncertainty about the USAO's ability to prevail at trial and through appeal. In addition, Acosta was concerned about usurping the state's authority to prosecute a case involving an offense that was traditionally handled by state prosecutors. Based on this evidence, OPR concludes that Acosta may well have formulated the initial plan to resolve the matter through a state plea. In any event, Acosta acknowledged to OPR that, at a minimum, he approved of the concept of a state-based resolution after being made aware of the allegations and the evidence against Epstein as set forth in Villafaña's prosecution memorandum. Furthermore, Acosta approved of the final terms of the NPA.

A. June – July 2007: The USAO Proposes a State Plea Resolution, which the Defense Rejects

A few days after the June 26, 2007 meeting, Sanchez emailed Villafaña, advising her that Epstein's defense team would submit additional material to the USAO by July 11, 2007, and hoped "to be able to reach a state-based resolution shortly thereafter."[56] In a July 3, 2007 email, Villafaña told Sloman, Menchel, Lourie, and her immediate supervisor that she intended to initiate plea discussions by inviting Sanchez "to discuss a resolution of the federal investigation that could

[55] State laws require that a person convicted of specified sexual offenses register in a database intended to allow law enforcement and the public to know the whereabouts of sexual offenders after release from punitive custody, and, in some cases, to restrict such individuals' movements and activities. The Florida Sexual Offender/Predator Registry is administered by the Florida Department of Law Enforcement. The Adam Walsh Child Protection and Safety Act of 2006 established a comprehensive, national sex offender registration system called the Sex Offender Registration and Notification Act (SORNA), to close potential gaps and loopholes that existed under prior laws and to strengthen the nationwide network of sex offender registrations.

[56] In this email, Sanchez also requested a two-week extension of time for compliance with the USAO's demands for records, which included a demand for the computer equipment that had been taken from Epstein's residence before the October 2005 state search warrant and that Villafaña had been requesting from the defense since late 2006.

include concurrent time." The email primarily concerned other issues, and Villafaña did not explain what the resolution she had in mind would entail.[57] Villafaña requested to be advised, "[i]f anyone has communicated anything to Epstein's attorneys that is contrary to this." Villafaña, who was aware that Menchel and Lourie had been in direct contact with defense counsel about the case, explained to OPR that she made this request because "people were communicating with the defense attorneys," and she suspected that those communications may have included discussions about a possible plea.

In response to Villafaña's email, Menchel notified Villafaña that he had told Sanchez "a state plea [with] jail time and sex offender status may satisfy the [U.S. Attorney]," but Sanchez had responded that it "was a non-starter for them."[58] During his OPR interview, Menchel had no independent recollection of his conversation with Sanchez and did not remember why the defense deemed the proposal a "non-starter." However, Menchel explained that he would not have made the proposal to Sanchez without Acosta's knowledge. He also pointed out that in numerous emails before the June 26, 2007 meeting, he repeatedly noted that Acosta was still deciding what he wanted to do with the Epstein case. Acosta agreed, telling OPR that although he did not remember a specific conversation with Menchel concerning a state-based resolution, Menchel would not have discussed a potential resolution with Sanchez "without having discussed it with me."

1. Acosta's Explanation for His Decision to Pursue a State-based Resolution

Subsequent events showed that the decision to resolve the case through state charges was pivotal, and OPR extensively questioned Acosta about his reasoning. In his OPR interview, Acosta explained the various factors that influenced his decision to pursue a state-based resolution. Acosta said that although he, Sloman, and Menchel "believed the victims" and "believed [Epstein] did what he did," they were concerned "about some of the legal issues . . . and some of the issues in terms of testimony."[59] Acosta also recalled discussions with his "senior team" about how the victims would "do on the stand."

Acosta told OPR that "from the earliest point" in the investigation, he considered whether, because the state had indicted the case, the USAO should pursue it.

---

[57] Villafaña explained to OPR that she intended to recommend a plea to a federal conspiracy charge and a substantive charge, "consistent with the Ashcroft Memo, which would be the most readily provable offense," with "a recommendation that the sentence on the federal charges run concurrent with the state sentence, or that [Epstein] would receive credit for time in state custody towards his federal release date." *See* n.65 for an explanation of the Ashcroft Memo.

[58] Villafaña was then in trial and on July 4, 2007, likely before reading Menchel's email, Villafaña responded to defense counsel regarding the demand for records and also noted, "If you would like to discuss the possibility of a federal resolution . . . that could run concurrently with any state resolution, please leave a message on my voicemail."

[59] In commenting on OPR's draft report, Sloman stated he had no involvement in assessing the Epstein case or deciding how to resolve it, and that OPR should not identify him as among the people upon whom Acosta relied in reaching the two-year-state-plea resolution through the NPA. However, Sloman also told OPR that he had little recollection of the Epstein case, while Acosta specifically recalled having discussed the case with both Sloman and Menchel.

> [The prosecution] was going forward on the part of the state, and so here is the big bad federal government stepping on a sovereign . . . state, saying you're not doing enough, [when] to my mind . . . the whole idea of the [P]etite policy is to recognize that the []state . . . is an independent entity, and that we should presume that what they're doing is correct, even if we don't like the outcome, except in the most unusual of circumstances.

Acosta told OPR that "absent USAO intervention," the state's prosecution of Epstein would have become final, and accordingly, it was "prudent" to employ Petite policy analysis. As Acosta explained in a public statement he issued in 2011, "the federal responsibility" in this unique situation was merely to serve as a "backstop [to] state authorities to ensure that there [was] no miscarriage of justice."[60] Furthermore, Acosta saw a distinction between a case that originated as a federal investigation and one that had already been indicted by the state but was brought to the federal government because of a perception that the state charge was inadequate. In the latter circumstance, Acosta viewed the USAO's role only as preventing a "manifest injustice."[61] Acosta explained that "no jail time" would have been a manifest injustice. But it was his understanding that if Epstein had pled guilty to state charges and received a two-year sentence to a registrable offense, "it would never have come to the office in the first place," and therefore would not be viewed as a manifest injustice.

Acosta also told OPR he was concerned that a federal prosecution in this case would result in unfavorable precedent, because the Epstein case straddled the line between "solicitation" or "prostitution," which Acosta described as a traditional state concern, and "trafficking," which was an emerging matter of federal interest. Acosta contended that in 2006, "it would have been extremely unusual for any United States Attorney's Office to become involved in a state solicitation case, even one involving underage teens," because solicitation was "the province of state prosecutors." Acosta told OPR, "I'm not saying it was the right view -- but there are at least some individuals who would have looked at this and said, this is a solicitation case, not a trafficking case." Acosta was concerned that if the USAO convicted Epstein of a federal charge, an appeal might result in an adverse opinion about the distinction between prostitution and sex trafficking.

Acosta also told OPR that he was concerned that a trial would be difficult for Epstein's victims. In Acosta's estimation, a trial court in 2007 might have permitted "victim shaming," which would have been traumatic for them. In addition, the fact that the state grand jury returned a one-count indictment with a charge that would not require jail time suggested to Acosta that the state grand jury found little merit to the case.[62] Acosta told OPR:

---

[60] Letter from R. Alexander Acosta "To whom it may concern" at 1 (Mar. 20, 2011), published online in *The Daily Beast*.

[61] Acosta was referring to the Petite policy provision allowing the presumption that a prior state prosecution has vindicated the relevant federal interest to be "overcome . . . if the prior [state] sentence was manifestly inadequate in light of the federal interest involved and a substantially enhanced sentence . . . is available through the contemplated federal prosecution." USAM § 9-2.031.D.

[62] Acosta told OPR he was unaware that USAO prosecutors believed the State Attorney's Office had deliberately undermined the case before the state grand jury. Menchel told OPR that he understood that the State

> I do think it's important to look back on this, and try to be in the shoes of the thought process in 2006 and '07 when trafficking prosecutions were fairly new, when . . . more so than today, some jurors may have looked at this as prostitution, and . . . [a] judge's tolerance for victim shaming may have . . . caused more hesitation on the part of victims . . . .[63]

Finally, Acosta told OPR that a state-based resolution offered more flexibility in fashioning a sentence, because he believed prosecutors would have difficulty persuading a federal district court in the Southern District of Florida to approve a federal plea for a stipulated binding sentence that differed from the otherwise applicable federal sentencing guidelines range.[64]

In summarizing his thinking at the time, Acosta told OPR,

> The way the matter came to the office was, the state wasn't doing enough. It didn't provide for prison time. It didn't provide for registration, and then you had the restitution issue. There were legal issues . . . . There were witness issues. And . . . we could go to trial . . . and we may or may not prevail. Alternatively, we could look at a pre-indictment resolution, and at various points, the office went back and forth between a federal pre-indictment resolution, and a state pre-indictment resolution.

Acosta told OPR that, in the end, "there was a preference for deferring to the state" because, in part, the facts of the Epstein case at the time appeared to constitute solicitation or prostitution rather than trafficking, and a federal prosecution would be "uncharted territory." Acosta explained that he did not view it as problematic to defer resolution of the case to the state, although as the Epstein case played out, the federal role became "more intrusive" than he had anticipated, because the defense tried to get the state to "circumvent and undermine" the outcome.

Attorney's Office could have proceeded against Epstein by way of an information, but decided to go into the grand jury because the State Attorney's Office "didn't like the case" and wanted "political cover" for declining the case or proceeding on a lesser charge.

63 Menchel told OPR, however, that the federal judges in West Palm Beach were highly regarded and were generally viewed as "pro-prosecution."

64 Acosta said that "dismissing a number of counts and then doing a [R]ule 11 is not something that [South Florida federal district] judges tend to do." Other subjects also told OPR that the federal judges in the Southern District of Florida were generally considered averse to pleas that bound them on sentencing, commonly referred to as "Rule 11(c) pleas."

Federal Rule of Criminal Procedure 11(c)(1)(C) allows the parties to agree on a specific sentence as part of a plea agreement. The court is required to impose that sentence if the court accepts the plea agreement; if the court does not accept the agreed upon plea and sentence, the agreement is void. Villafaña told OPR that Rule 11(c) pleas were "uncommon" in the Southern District of Florida, as the "judges do not like to be told . . . what sentence to impose." Menchel similarly told OPR that the USAO viewed federal judges in the Southern District of Florida as averse to Rule 11(c) pleas, although Menchel had negotiated such pleas. Villafaña told OPR that she had never offered a Rule 11(c) plea in any of her cases and had no experience with such pleas.

Menchel could not recall who initially suggested a state plea, but noted to OPR that his own "emails . . . make clear that this course of action was ultimately decided by Alex Acosta." He referenced, among others, his May 14, 2007 email to Villafaña informing her that Acosta was deciding how he wanted to handle the case. Menchel surmised that a state resolution accomplished two things that Acosta viewed as important: first, it resolved any Petite policy concerns, and second, it afforded more flexibility in sentencing than a federal plea would have allowed. Menchel told OPR that the state plea proposal did not reflect any minimization of Epstein's conduct and that any state plea would have been to an offense that required sexual offender registration. He told OPR, "I don't think anybody sat around and said, you know, it's not that big a deal. That was not the reaction that I think anybody had from the federal side of this case." Rather, Menchel said, "The concern was if we charge him [as proposed], there's going to be a trial."

2. July 2007: Villafaña and Menchel Disagree about the Proposed State Resolution

Villafaña told OPR that she was angry when she received Menchel's July email explaining that he had proposed to Sanchez resolving the federal investigation through a state plea. In Villafaña's view, the proposed state resolution "didn't make any sense" and "did not correspond" to Department policy requiring that a plea offer reflect "the most serious readily provable offense."[65] In her view, a plea to a state charge "obviously" would not satisfy this policy. Villafaña also told OPR that in her view, the USAM required the USAO to confer with the investigative agency about plea negotiations, and Villafaña did not believe the FBI would be in favor of a state plea. Villafaña also believed the CVRA required attorneys for the government to confer with victims before making a plea offer, but the victims had not been consulted about this proposal. Villafaña told OPR she had met with some of the victims during the course of the investigation who had negative impressions of the State Attorney's Office, and she believed that "sending them back to the State Attorney's Office was not something" those victims would support.

---

[65] This policy was set forth in a September 22, 2003 memorandum from then Attorney General John Ashcroft regarding "Department Policy Concerning Charging Criminal Offenses, Disposition of Charges, and Sentencing" (known as the "Ashcroft Memo"), which provided, in pertinent part:

> [I]n all federal criminal cases, federal prosecutors must charge and pursue the most serious, readily provable offense or offenses that are supported by the facts of the case, except as authorized by an Assistant Attorney General, United States Attorney, or designated supervisory attorney in the limited circumstances described below. The most serious offense or offenses are those that generate the most substantial sentence under the Sentencing Guidelines, unless a mandatory minimum sentence or count requiring a consecutive sentence would generate a longer sentence. A charge is not "readily provable" if the prosecutor has a good faith doubt, for legal or evidentiary reasons, as to the Government's ability readily to prove a charge at trial. Thus, charges should not be filed simply to exert leverage to induce a plea. Once filed, the most serious readily provable charges may not be dismissed except to the extent permitted [elsewhere in this Memorandum].

See also Chapter Two, Part Two, Section II.B.1.

In light of these concerns, Villafaña emailed Menchel, expressing her strong disagreement with the process:

> [I]t is inappropriate for you to enter into plea negotiations without consulting with me or the investigative agencies, and it is more inappropriate to make a plea offer that you know is completely unacceptable to the FBI, ICE [Immigration and Customs Enforcement], the victims, and me. These plea negotiations violate the Ashcroft memo, the U.S. Attorney[s'] Manual, and all of the various iterations of the victims' rights legislation. Strategically, you have started the plea negotiations as though we are in a position of weakness, anxious to make the case go away, by telling the defense that we will demand no federal conviction. We left the meeting on June 26th in a stronger position than when we entered, and your statement that a state resolution would satisfy us takes away that advantage. If you make it seem like the U.S. Attorney doesn't have faith in our investigation, Epstein has no incentive to make a deal.
>
> Second, your discussion makes it appear that my investigation is for "show" only and completely undermines my ability to deal with Epstein's attorneys directly. . . .
>
> . . . .
>
> I would like to make a presentation to the U.S. Attorney, Jeff [Sloman], Andy [Lourie], and you with our side of the investigation and a revised indictment. The presentation will address the points raised by Epstein's counsel and will convince you all of the strength of the case.
>
> In the meantime, please direct all communications from Epstein's counsel to me.

Menchel told OPR he realized Villafaña was "very anxious" to file charges in the case. Villafaña had put a "tremendous" amount of effort into the investigation, and Menchel "was not unsympathetic at all to her desires" to pursue a federal case. However, as Menchel told OPR, Villafaña's supervisors, including Acosta, were "trying to be a little bit more dispassionate," and her urgency was "not respectful" of Acosta's position. Menchel viewed the tone of Villafaña's email as "highly unacceptable," and her understanding of applicable law and policy incorrect. In particular, Menchel pointed out that although the Ashcroft Memo requires prosecutors to charge the "most readily provable offense," there is nevertheless room for "flexibility," and that the U.S. Attorney has discretion—directly or through a designated supervisor such as Menchel—to waive the policy.

Menchel's reply email began with a rebuke:

> Both the tone and substance of your email are totally inappropriate and, in combination with other matters in the past, it seriously calls your judgment into question.
>
> As you well know, the US Attorney has not even decided whether to go forward with a prosecution in this matter, thus you should have respected his position before engaging in plea negotiations.
>
> Along that same line, despite whatever contrary representations you made to the agents in this matter, it was made clear to you by the US Attorney and the First Assistant from the time when you were first authorized to investigate Mr. Epstein that the office had concerns about taking this case because of petit [*sic*] policy and a number of legal issues. Despite being told these things, you prepared a pros memo and indictment that included a definitive date for indictment. It has come to my attention that you led the agents to believe that the indictment of this matter was a foregone conclusion and that our decision to put off that date and listen to the defense attorneys' concerns is indicative of the office having second thoughts about indicting. As you well knew, you were never given authorization by anyone to seek an indictment in this case.[66]

In the email, Menchel went on to explain the circumstances of his conversation with Sanchez and respond to Villafaña's complaints:

> Lilly Sanchez called me before, not after, the June 26th meeting. It was an informal discussion and not in the nature of an official plea offer but rather a feeling out by both sides as to what it might take to resolve the matter. As you are also well aware, the only reason why this office even agreed to look into the Epstein matter in the first instance was because of concerns that the State had not done an adequate job in vindicating the victims' rights. As you and the agents conceded, had Epstein been convicted of a felony that resulted in a jail sentence and sex offender status, neither the FBI nor our office ever would have interceded. You should also know that my discussion with Lilly Sanchez was made with the US Attorney's full knowledge. Had Lilly Sanchez expressed interest in pursuing this avenue further, I certainly would have raised it with all the interested individuals in this case, including you and the agents. In any event, I fail to see how a discussion that went nowhere has hurt our bargaining position. I am also quite confident that no one

[66] Menchel also sent this message to Sloman and copied Lourie.

> on the defense team believes that the federal investigation in this matter has been for show.
>
> Nor are your arguments that I have violated the Ashcroft memo, the USAM or any other policy well taken. As Chief of the Criminal Division, I am the person designated by the US Attorney to exercise appropriate discretion in deciding whether certain pleas are appropriate and consistent with the Ashcroft memo and the USAM – not you.
>
> As for your statement that my concerns about this case hurting Project Safe Childhood are unfounded, I made it clear to you that those concerns were voiced by the US Attorney.[67] Whether or not you are correct, matters of policy are always within his purview and any decisions in that area ultimately rest with him.
>
> Finally, you may not dictate the dates and people you will meet with about this or any other case. If the U.S. Attorney or the First Assistant desire to meet with you, they will let you know. Nor will I direct Epstein's lawyers to communicate only with you. If you want to work major cases in the district you must understand and accept the fact that there is a chain of command – something you disregard with great regularity.

Villafaña acknowledged to OPR that as Criminal Division Chief, Menchel had authority to deviate from the Ashcroft Memo requiring that guilty pleas be to the most serious readily provable offense. She disagreed, however, with his representation about her initial meeting with Acosta and Sloman regarding the Epstein investigation, noting that Menchel had not been at that meeting.[68] Villafaña told OPR that no one had communicated to her the "concerns" Menchel mentioned, and she had not been given an opportunity to respond to those concerns.[69]

A week later, Villafaña replied to Menchel's email, reiterating her concerns about the process and that filing charges against Epstein was not moving forward:

> Hi Matt -- My trial is over, so I now have [ ] time to focus back on this case and our e-mail exchange. There are several points in your

---

[67] Neither Menchel nor Villafaña could recall for OPR to what concerns they were referring. In commenting on OPR's draft report, Acosta's attorney noted that Acosta's concerns were "the possibility that bringing a case with serious evidentiary challenges pressing novel legal issues could result in an outcome that set back the development of trafficking laws and result in an aggregate greater harm to trafficking victims."

[68] Menchel confirmed to OPR that he was not involved in the decision to initiate the federal investigation.

[69] Villafaña characterized Menchel's email as "meant to intimidate" and told OPR that she felt "put in [her] place" by him. She perceived that Menchel was making it clear that she should not "jump the chain of command." Menchel, however, asserted to OPR that Villafaña had a "history of resisting supervisory authority" that warranted his strong response.

e-mail that I would like to address, and I also would like to address where we are in the case.

First, I wanted to address the comment about jumping the chain of command. After that concern was brought to my attention several months ago, I have tried very hard to be cognizant of the chain of command. . . . If there is a particular instance of violating the chain of command that you would like to discuss, I would be happy to discuss it with you.

. . . .

The statement that I have not respected Alex's position regarding the prosecution of the case demonstrates why you hear the frustration in the tone of my e-mail. For two and a half months I have been asking about what that position is. I have asked for direction on whether to revise the indictment, whether there are other issues that Alex wants addressed prior to deciding, whether there is additional investigation that needs to be done, etc. None of that direction has been forthcoming, so I am left with . . . victims, and agents all demanding to know why we aren't presenting an indictment. Perhaps that lack of direction is through no fault of yours, but I have been dealing with a black box, so I do not know to whom I should address my frustration. My recollection of the original meeting with Alex and Jeff is quite different than your summary. In that meeting, I summarized the case and the State Attorney's Office's handling of it. I acknowledged that we needed to do work to collect the evidence establishing a federal nexus, and I noted the time and money that would be required for an investigation. I said that I was willing to invest that time and the FBI was willing to invest the money, but I didn't want to get to the end and then have the Office be intimidated by the high-powered lawyers. I was assured that that would not happen. Now I feel like there is a glass ceiling that prevents me from moving forward while evidence suggests that Epstein is continuing to engage in this criminal behavior. Additionally, the FBI has identified two more victims. If the case is not going to go forward, I think it is unfair to give hope to more girls.

As far as promising the FBI that an indictment was a foregone conclusion, I don't know of any case in the Office where an investigation has been opened with the plan NOT to indict. And I have never presented an indictment package that has resulted in a declination. I didn't treat this case any differently. I worked with the agents to gather the evidence, and I prepared an indictment package that I believe establishes probable cause that a series of crimes have been committed. More importantly, I believe there is

> proof beyond a reasonable doubt of Epstein's criminal culpability. Lastly, I was not trying to "dictate" a meeting with the U.S. Attorney or anyone else. I stated that I "would like" to schedule a meeting, asking to have the same courtesy that was extended to the defense attorneys extended to the FBI and an Assistant in the Office. With respect to your questions regarding my judgment, I will simply say that disagreements about strategy and raising concerns about the forgotten voices of the victims in this case should not be classified as a lapse in judgment. This Office should seek to foster spirited debate about the law and the use of prosecutorial discretion . . . . [M]y first and only concern in this case (and my other child exploitation cases) is the victims. If our personality differences threaten their access to justice, then please put someone on the case whom you trust more, and who will also protect their rights.
>
> In the meantime, I will be meeting with the agents on Monday to begin preparing a revised indictment package containing your suggestions on the indictment and responding to the issues raised by Epstein's attorneys. . . . If there are any specific issues that you or the U.S. Attorney would like to see addressed, please let me know.[70]

Villafaña did not get the meeting with Acosta that she requested. She viewed Menchel's message as a rejection of her request to make a presentation to Acosta, and she told OPR that even though she regarded Sloman as a friend, she did not feel she could reach out even to him to raise her concerns.[71] Menchel, however, told OPR that he did not "order" Villafaña to refrain from raising her concerns with Acosta, Sloman, or Lourie, and he did not believe his email to Villafaña foreclosed her from meeting with Acosta. Rather, "the context of this exchange is, she is running roughshod over the U.S. Attorney, and what I am saying to her is, there is a process. You're not in charge of it. I'm not in charge of it. [Acosta's] in charge of it." Acosta, who was apparently not aware of Villafaña's email exchange with Menchel, told OPR that from his perspective, Villafaña was not "frozen out" of the case and that he would have met with her had she asked him directly for a meeting.

B. Villafaña Attempts to Obtain the Computer Equipment Missing from Epstein's Palm Beach Home, but the Defense Team Opposes Her Efforts

As the USAO managers considered in July 2007 how to resolve the federal investigation, one item of evidence they did not have available to assist in that decision was the computer equipment removed from Epstein's home before the PBPD executed its search warrant. Although Villafaña took steps to obtain the evidence, defense counsel continued to oppose her efforts.

---

70 Menchel forwarded this email to Sloman.

71 Villafaña told OPR that she later spoke to Menchel, asking Menchel to redirect Sanchez to Villafaña, but that Menchel responded it was not Villafaña's "place" to tell him to whom he should direct communications.

Early in the federal investigation, Villafaña recognized the potential significance of obtaining the missing computer equipment. Villafaña told OPR that she and the FBI agents went through every photograph found in Epstein's house, but found none that could be characterized as child pornography. Nevertheless, Villafaña told OPR that investigators had learned that Epstein used hidden cameras in his New York residence to record his sexual encounters, and she believed he could have engaged in similar conduct in his Palm Beach home. In addition, the computer equipment potentially contained surveillance video that might have corroborated victim statements about visiting Epstein's home. More generally, in Villafaña's experience, individuals involved in child exploitation often possessed child pornography.[72] Villafaña's co-counsel, who had substantial experience prosecuting child pornography cases, similarly told OPR, "Epstein was a billionaire. We knew his house was wired with video, it would be unusual [for] someone with his capabilities not to be video recording" his encounters.

As the investigation continued, Villafaña took various steps to acquire the computer equipment removed from Epstein's Palm Beach residence. As noted previously in this Report, in her initial request to Epstein's counsel for documents, she asked defense counsel to provide "[t]he computers, hard drives, CPUs, and any other computer media (including CD-ROMs, DVDs, floppy disks, flash drives, etc.) removed from" the residence. Although Lourie subsequently narrowed the government's request for documents, the request for computer equipment remained. The defense, however, failed to comply with the request.

Villafaña learned that the computer equipment was in the possession of a particular individual. After consulting the Department's Computer Crime and Intellectual Property Section and Office of Enforcement Operations about the appropriate legal steps to obtain the computer equipment, Villafaña described her plan in an email to Menchel. She asked Menchel for any comments or concerns, but OPR did not find an email response from him, and Menchel told OPR that he did not recall Villafaña's efforts to obtain the computer equipment.

In May 2007, following the plan she had outlined to Menchel, Villafaña initiated action requiring production of the computer equipment by a particular date. In her email to Villafaña on June 29, 2007, Sanchez requested a two-week extension, indicating that she hoped a "state-based resolution" to the case would soon be reached.[73] Villafaña advised her supervisors of the request, and responded to Sanchez that she "would like to get the computer equipment as soon as possible." Nonetheless, Villafaña eventually agreed to an extension.

Meanwhile, Epstein attorney Roy Black wrote separately to Villafaña, demanding to know whether Villafaña had complied with applicable Department policies before seeking the computer

---

[72] In addition, Villafaña became aware that in August 2007, FBI agents interviewed a minor victim who stated that she had been photographed in the nude by Epstein's assistant, who told the victim that Epstein took pictures of the girls.

[73] This email led Villafaña to ask her supervisors if any of them had discussed with the defense a possible resolution of the case, which resulted in Villafaña's exchange of emails with Menchel about their respective views of the case. *See* Section IV.A.2 in this Part.

equipment.[74] After further communications on this issue involving Black, Sanchez, Villafaña, and Lourie, Black took legal action that effectively halted production of the computer equipment to the USAO until the issue could be decided by the court—which, as explained below, never happened because the parties entered into the NPA.

C. July 2007: The Defense Continues Its Efforts to Stop the Federal Investigation

In addition to their efforts to stop the government from obtaining the computer equipment, defense counsel also sent letters to the USAO, dated July 6, 2007, and July 25, 2007, reiterating their objections to a federal investigation of Epstein. The July 25, 2007 letter included a lengthy "case analysis chart" purporting to support the defense argument that Epstein had committed no federal offense. The July 25 letter also noted that the defense had been consulting with the former Principal Deputy Chief of CEOS, reporting that she "supports our position without reservation that this is not a matter upon which the federal statu[t]es should be brought to bear."[75]

While the defense was reiterating its objections to the federal investigation, CEOS expressed its endorsement of Villafaña's legal analysis and proposed charges. On July 18, 2007, CEOS Chief Oosterbaan emailed Sloman, Menchel, and Lourie, stating that he had read Villafaña's prosecution memorandum "closely," and noting that "[s]he did a terrific job. As we opined to Andy [Lourie] back in May, [CEOS] agree[s] with her legal analysis. Her charging decisions are legally sound." Oosterbaan observed:

> I have also reviewed the arguments contained in the letters from defense counsel. Their legal analysis is detailed and comprehensive, but I find none of their arguments persuasive. That is not to say that all the arguments are completely devoid of merit. I expect the judge to consider some of the arguments closely. Nevertheless, while the law applicable here is not always crystal clear, the balance of available precedent favors us. From the prosecution memorandum it is clear that Marie has anticipated the strongest legal arguments, scrutinized the applicable law, and has charged the case accordingly. And, while with this prosecution the government clearly faces a strong and determined defense team, it is a challenge well worth facing. I also happen to know that there is absolutely no concern . . . about facing the challenges this case presents.

In closing, Oosterbaan renewed his offer to have CEOS "help you with this prosecution," and to send "whatever and whoever you need" to assist.

---

[74] Villafaña forwarded Black's letter to Menchel, explaining the circumstances relating to the removal of the computer equipment from Epstein's home, the steps she had taken to make the required consultations in the Department, and that she and Lourie had worked together on her response to Black.

[75] The news that the former CEOS Principal Deputy Chief was advising the Epstein team led to an email exchange between Sloman and CEOS Chief Oosterbaan, who commented, "By the way, let me know if you want me to put something in writing to you with our position and detailing all of the child prostitution cases she supervised with similar facts."

D. Acosta Decides on a Resolution That Includes a Two-Year Term of Incarceration

The next critical step in the development of the NPA was the decision to propose a two-year term of imprisonment. Although presented to the defense as the "minimum" the USAO would accept, in actuality the two-year proposal became only the starting point for the negotiations, with the result that the defense continued to chip away at it as the negotiations continued. The contemporaneous emails make no mention of any rationale for the decision to propose two years as the government's beginning negotiating position, and nobody with whom OPR spoke was able to recall how the decision was made. As discussed below, Acosta did offer OPR an explanation, but OPR was unable to find contemporaneous evidence supporting it.[76]

While the defense was communicating its objections to the federal investigation to Villafaña, Lourie, Menchel, and Sloman, Villafaña continued moving toward filing charges. On July 19, 2007, the day after receiving Oosterbaan's email supporting a potential prosecution, Villafaña emailed Lourie and Menchel seeking approval to take further investigative steps regarding three of Epstein's assistants. However, Menchel directed Villafaña to "hold off . . . until we decide what course of action we are going to take on [E]pstein which should happen next week." Menchel told OPR that he did not specifically recall why he asked Villafaña to wait, but he assumed it was because Acosta was deciding what course of action to take on the case.

On Monday, July 23, 2007, Menchel submitted a resignation notice to Acosta, stating that he would be leaving the USAO effective August 6, 2007.[77]

1. The July 26, 2007 Meeting in Miami

Early on the morning of Thursday, July 26, 2007, Villafaña informed Menchel that she was preparing a new draft indictment containing revisions he had suggested, including removal of all but three of the "travel counts" and "a large number of [the] overt acts," and the addition of overt acts and counts relating to two additional victims; she would not, however, have the revised indictment ready in time "for our discussion today" at their 2:00 p.m. meeting. Menchel told OPR that the fact that he had both proposed revisions to the indictment and also directed Villafaña to delay the investigative steps involving the assistants indicated that he was "trying to do something" with the case, but was waiting for Acosta to decide the "underlying issue" of whether to proceed with federal charges.

Acosta made that decision on or before July 26, 2007. On that afternoon, Villafaña met in Miami with Menchel. She told OPR that Sloman, as well as the FBI case agents and their supervisors, were also present, with Lourie participating by telephone. Villafaña told OPR that she expected that the meeting, requested by Menchel, would address the direction of the investigation. However, Villafaña told OPR that after everyone had assembled, Menchel entered the room and stated that Acosta "has decided to offer a two-year state deal." According to

---

[76] *See* Section IV.D.2 in this Part.

[77] As early as May 4, 2007, Menchel had informed Acosta that he was intending to leave the USAO to enter private practice.

Villafaña, Menchel left the meeting after almost no discussion, leaving Villafaña "shocked and stunned."

Menchel told OPR that he did not recall the July 26, 2007 meeting. Nonetheless, he strongly disputed Villafaña's description of events, asserting that it would have been "directly at odds with his management style" to convene such a meeting, announce Acosta's decision, and leave without discussion. Acosta told OPR that he had "decided and endorsed this resolution at some point," but he did not recall being aware that Menchel was going to announce the decision at the July 26 meeting; in addition, although Acosta did not recall the circumstances of Menchel's relaying of that decision, he said it "would have been consistent with" his decision for Menchel to do so. Neither Sloman nor Lourie recalled the meeting. The FBI case agent recalled attending a meeting at the USAO in Miami with her co-case agent and supervisors, together with Villafaña, Lourie (by telephone), Menchel, and Sloman, at which they discussed how to proceed with the Epstein case. According to the case agent, at this meeting the FBI insisted that Epstein be registered for life as a sexual offender, and the co-case agent advocated for waiting until the court had ruled on the USAO's ability to obtain Epstein's computer equipment.

Regardless of exactly how Acosta's decision regarding the two-year term was communicated to Villafaña and the FBI agents, and regardless of who initially proposed the specific term, the record shows that Acosta ultimately made the decision to offer Epstein a resolution that included a two-year term of imprisonment, as he acknowledged.[78]

2. The Subjects' Explanations for the Decision to Offer Epstein a Sentence with a Two-Year Term of Incarceration

Villafaña asserted that she was not consulted about the specific two-year term before the decision was made.[79] Villafaña told OPR that she had worked hard to develop a strong case, and none of her supervisors had identified to her any specific problem with the case that, in her view, explained the decision to extend an offer for a two-year sentence. Villafaña also told OPR that Menchel provided no explanation for this decision during the July 26, 2007 meeting, and Villafaña did not ask for an explanation because she accepted his statement that it was Acosta's decision. Villafaña described the proposal as "random," and told OPR, "[W]e're all [sentencing] guidelines people, so 24 months just makes no sense in the context of the guidelines. There's no way to get to 24 months with this set of offenses."[80]

---

[78] OPR notes that Villafaña did not appear hesitant to send emails to her supervisors setting forth her views and objections, and there is no reference before this meeting in any of her emails indicating that a decision had been made to offer a two-year term of incarceration. Therefore, given that a meeting had been arranged involving Menchel and Villafaña, and possibly most of the other primary USAO and FBI participants, it seems logical that Acosta made a decision to resolve the case with a two-year state plea not long before the meeting.

[79] OPR found no evidence in the documentary record indicating that Villafaña had knowledge of Acosta's decision or the two-year term before the July 26, 2007 meeting at which she said she learned of it.

[80] From the time the U.S. Sentencing Guidelines went into effect in 1987, they have been the mechanism for calculating federal criminal sentences. Since 2005, the Guidelines have been non-binding, but the federal courts are required to consider them. As noted in the commentary to USAM § 9-27.710,

Sloman also told OPR that he did not know how the decision to offer a two-year plea offer was reached, but he believed that Acosta made the decision based on recommendations from Menchel, Lourie, and Villafaña. He opined to OPR that the decision was likely based on an assessment by Menchel and Lourie of the litigation risks presented by the case.[81] Sloman added that he did not know how a two-year sentence might have related to specific charges or to either state or federal sentencing guidelines. Lourie likewise told OPR he did not recall how the two-year term was decided upon, or by whom, but he speculated that it may have been presented by the defense as the most Epstein would accept, and that the decision would have been reached by Acosta following "extended consideration, research, and discussion," among Acosta, Sloman, Menchel, Lourie, and Villafaña.[82]

Menchel told OPR that he did not recall discussing a two-year plea deal with Acosta or who reached the decision that two years was an appropriate sentence. Menchel also told OPR, however, that he recalled believing that if the USAO had filed the contemplated federal charges, Epstein would have felt he had "nothing to lose" and "undoubtedly" would have chosen to take the case to trial. Menchel recalled believing there was a real risk that the USAO might lose at trial, and in so doing, might cause more trauma to the victims, particularly those who were reluctant to testify. Menchel told OPR that he did not believe that anyone at the time looked at two years "as a fair result in terms of the conduct. I think that was not the issue. The issue was whether or not if we took this case to trial, would we risk losing everything," and "if we . . . felt we could have gotten more time, we would have, without having to press it to the trial."

Acosta told OPR that "I had decided and endorsed" the two-year resolution "at some point," and that it resulted from "back and forth" discussion "over the course of some days or a week or two." As noted earlier in this Report, Acosta viewed the USAO's role in this case merely as a "backstop" to the state's prosecution, which he explained to OPR was "a polite way of saying[, ']encouraging the state to do a little bit more.[']"[83] Acosta said that he understood two years' imprisonment to have represented the sentence Epstein faced under one of the original charges the PBPD was considering at the outset of the state investigation.[84] Acosta also told OPR that he

> the attorney for the government has a continuing obligation to assist the court in its determination of the sentence to be imposed. The prosecutor must be familiar with the guidelines generally and with the specific guideline provisions applicable to his or her case. In discharging these duties, the attorney for the government should . . . endeavor to ensure the accuracy and completeness of the information upon which the sentencing decisions will be based.

81 In Sloman's view, Menchel and Lourie were "two of the finest trial lawyers" in the USAO.

82 Lourie noted that Sloman and Menchel were "two extraordinarily experienced people in [Acosta's] front office who had tried . . . gobs and gobs of cases."

83 In commenting on OPR's draft report, Acosta's attorney asserted that OPR's use of Acosta's quote, "a little bit more," "unfairly minimized" Acosta's and the USAO's efforts to achieve justice in this case. Acosta's attorney also asserted that the phrase was "clearly soft-spoken understatement," that the terms obtained were "substantially more onerous than the state's alternative resolution," and that Acosta was "clearly declining the invitation to take the State to task and soft-pedaling an obvious distinction."

84 OPR examined this assertion and was unable to verify that the proposed two-year term of imprisonment corresponded with the charges that the PBPD considered at the outset of the state investigation or with the charge in

understood that the PBPD would not have asked the FBI to investigate Epstein if the state had pursued the appropriate charges. In other words, in Acosta's view, "[T]his was, rightly or wrongly, an analysis that distinguished between what is necessary to prevent manifest injustice, versus what is the appropriate federal outcome to that." Acosta told OPR that he believed he had discussed his concerns about the case with Lourie, Sloman, or Menchel, although he could not recall any specific conversation with them.

E. Villafaña Drafts a "Term Sheet" Listing the Requirements of a Potential Agreement with the Defense

A meeting with defense counsel was scheduled for Tuesday, July 31, 2007. Villafaña told OPR that between July 26 and July 30, 2007, she had "some sort of discussion" with her supervisors that resulted in her creation of a "term sheet" identifying the proposed terms for resolving the federal investigation through state charges. Sometime during that period, Villafaña left a voicemail message for Menchel. During their OPR interviews, neither Villafaña nor Menchel could recall what Villafaña said in that message. On July 30, 2007, Menchel emailed Villafaña:

> I received your voicemail this morning. I don't see any reason to change our approach. I think telling them that unless the state resolves this in a way that appropriately vindicates our interests and the interests of the victims, we will seek [federal charges] conveys that we are serious. While Lilly [Sanchez] has represented in the past that this would likely not happen, I never conveyed it in quite these terms before. In any event, this is the course of action that the US Attorney feels comfortable taking at this juncture.

The following day, July 31, 2007, Villafaña emailed a one-page "Terms of Epstein Non-Prosecution Agreement" to Sloman, Menchel, and Lourie. Villafaña told OPR she had never before seen or heard of a non-prosecution agreement and that it was a concept "completely foreign" to her.[85] Villafaña told OPR that the idea of styling the two-year state plea agreement with Epstein

---

the state indictment. OPR considered various potential state charges involving various numbers of victims and found no obvious reasonable state sentencing guidelines calculation that would have resulted in a two-year sentence.

[85] Deferred prosecution and non-prosecution agreements were standard, though infrequently used, vehicles for resolving certain federal criminal cases against corporate entities. A 2008 Departmental memorandum explained:

> The terms "deferred prosecution agreement" and "non-prosecution agreement" have often been used loosely by prosecutors, defense counsel, courts and commentators. As the terms are used in these Principles [of Federal Prosecution of Business Organizations], a deferred prosecution agreement is typically predicated upon the filing of a formal charging document by the government, and the agreement is filed with the appropriate court. In the non-prosecution agreement context, formal charges are not filed and the agreement is maintained by the parties rather than being filed with a court. Clear and consistent use of these terms will enable the Department to more effectively identify and share best practices and to track the use of such agreements. These Principles do not apply

as a "non-prosecution agreement" came from Acosta, although Menchel may have communicated that terminology to her. According to Villafaña, she asked that it include a mechanism for the victims to be provided monetary compensation through 18 U.S.C. § 2255 in lieu of the restitution that would have been available if Epstein were pleading guilty to federal charges.[86] Acosta told OPR that he "developed and approved" the term sheet."

Before the document was presented to defense counsel, two terms were dropped from Villafaña's draft—one providing that the agreement would apply only to already-identified victims, and another requiring the deal to be accepted, and Epstein to plead guilty, within the month. The final term sheet was as follows:

> to plea agreements, which involve the formal conviction of a corporation in a court proceeding.

Memorandum from Acting Deputy Attorney General Craig S. Morford to Heads of Departmental Components and United States Attorneys at n.2 (Mar. 7, 2008), available at https://www.justice.gov/archives/jm/criminal-resource-manual-163-selection-and-use-monitors. Villafaña did not have significant experience prosecuting corporate entities.

[86] A civil remedy for personal injuries suffered by victims of certain crimes is provided for in the federal criminal code at 18 U.S.C. § 2255. Subsection (a) of the statute, as in effect from July 27, 2006, to March 6, 2013, provided as follows:

> Any person who, while a minor, was a victim of a violation of section 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee. Any person as described in the preceding sentence shall be deemed to have sustained damages of no less than $150,000 in value.

Villafaña also told OPR that she asked that the terms include the requirement that Epstein plead to an offense that required him to register as a sexual offender; however, sex offender status was also mentioned in Menchel's July 3, 2007 email to Villafaña recounting his preliminary discussions with Sanchez.

CONFIDENTIAL PLEA NEGOTIATIONS

TERMS OF EPSTEIN NON-PROSECUTION AGREEMENT

- Epstein pleads guilty (not nolo contendere) to an Information filed by the Palm Beach County State Attorney's Office charging him with:
  (a) lewd and lascivious battery on a child, in violation of Fl. Stat. 800.04(4);
  (b) solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03; and
  (c) engaging in sexual activity with minors at least sixteen years of age, in violation of Fl. Stat. 794.05.

- Epstein and the State Attorney's Office make a joint, binding recommendation that Epstein serve at least two years in prison, without any opportunity for withholding adjudication or sentencing; and without probation or community control in lieu of imprisonment.

- Epstein agrees to waive all challenges to the information filed by the State and the right to appeal.

- Epstein agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and the subject matter. Epstein will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423.

- After Epstein enters his state court plea and is sentenced, the FBI and the U.S. Attorney's Office will close their investigations.

V. THE USAO PRESENTS EPSTEIN WITH KEY TERMS OF A DEAL: PLEAD GUILTY TO STATE CHARGES REQUIRING A TWO-YEAR TERM OF INCARCERATION AND SEXUAL OFFENDER REGISTRATION, AND AGREE TO A MEANS FOR THE VICTIMS TO OBTAIN MONETARY DAMAGES

Although the USAO term sheet was presented to Epstein's defense team on July 31, 2007, it took almost another two months to reach a final agreement in the form of the NPA. The contemporaneous emails show that over the course of those two months, defense counsel offered multiple counter-proposals to the USAO's stated terms, and alternated between working out the state plea disposition and seeking an alternative federal plea arrangement. The emails make clear that as the negotiations intensified in September 2007, the prosecutors became increasingly frustrated, particularly with what they perceived as the defense tactic of agreeing to terms and provisions but then backtracking or altering the agreed-upon terms in subsequent communications. It is apparent that the defense persistence achieved some measure of success, at least concerning

the period of imprisonment, because the USAO failed to hold firm to its proposal of "at least two years in prison." The USAO did, however, consistently reject defense proposals to change other terms, particularly the requirement that Epstein register as a sexual offender.

A. July 31, 2007: The USAO Presents Its Proposal to the Defense Team, which Makes a Counteroffer

Menchel, Sloman, Lourie, Villafaña, and the case agents met with Epstein attorneys Lefcourt, Sanchez, and Black on July 31, 2007, with Menchel "leading the meeting" for the USAO.[87] The USAO presented the term sheet, and Villafaña distributed a federal sentencing guidelines calculation showing that if prosecuted federally, Epstein faced a sentencing range of 188 to 235 months' incarceration.

Villafaña recalled that during the meeting, Epstein's attorneys opposed the requirement of sexual offender registration, argued that Epstein would not be safe in prison, suggested that Epstein serve a sentence of home confinement or "community control"[88] in lieu of incarceration, and emphasized that a state resolution provided greater sentencing flexibility.[89] Villafaña told OPR that when Epstein's attorneys expressed concern during the meeting about Epstein's security in a state prison and argued for a home confinement sentence, Menchel suggested Epstein plead to a federal charge so that he could serve his time in a federal facility. A few days after the meeting, Villafaña emailed Menchel, stating that she had "figured out a way to do a federal plea with a 2-1/2 year cap."

Although Acosta had authorized a plea to state charges, emails and other correspondence show that during the negotiations, the parties also considered structuring a plea around federal

---

87 Villafaña was the only witness with whom OPR spoke who had a substantive memory of this meeting.

88 According to the Florida Department of Corrections fact sheet for defendants subjected to community control,

> The Community Control supervision program was created as a diversion to incarceration or imprisonment; therefore it is an intensive supervision program where you are confined to your home unless you are working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by your officer. The program was designed to build accountability and responsibility along with providing a punishment alternative to imprisonment. While on Community Control supervision (also known as "house arrest") you will not be allowed to leave your home to visit family or friends, go out to dinner or to the movies, go on vacation, or many of the other activities you are used to being able to do . . . , but it does allow you to continue to work to support yourself and your family or attend school in lieu of being incarcerated and away from loved ones.

Florida Dept. of Corrections, Succeeding on Community Control at 1, http://www.dc.state.fl.us/cc/ccforms/Succeeding-on-Community-Control.pdf.

89 Villafaña told OPR that she was concerned about a state resolution because the defense team "had a lot of experience with the state system. We did not." Villafaña anticipated there would be ways to "manipulate" a state sentence and the USAO would be "giving up all control," and she told OPR that she discussed this concern with Lourie, although she could not recall when that discussion occurred.

charges in addition to state charges. On behalf of the defense team, Sanchez followed up on the July 31, 2007 meeting with an August 2, 2007 letter to Menchel:

> We welcomed your recognition that a state prison sentence is neither appropriate for, nor acceptable to, Mr. Epstein, as the dangers of the state prison system pose risks that are clearly untenable. We acknowledge that your suggestion of a plea to two federal misdemeanors was an attempt to resolve this dilemma. Our proposal is significantly punitive, and if implemented, would, we believe, leave little doubt that the federal interest was demonstrably vindicated.[90]

Sanchez added, "We must keep in mind that Jeffrey Epstein is a 54-year-old man who has never been arrested before. He has lived an otherwise exemplary life."

The "significantly punitive" proposal described in the defense letter involved no period of mandatory incarceration. Instead, Sanchez suggested two years of home confinement, with regular reporting to and visits from a community control officer; payment of restitution, damages, court and probationary costs, and law enforcement costs; random drug testing; community service; psychological counseling; and a prohibition on unsupervised contact with the victims. The letter specifically referred to the victim damages-recovery procedure that the government had proposed under 18 U.S.C. § 2255 and represented that Epstein was "prepared to fully fund the identified group of victims which are the focus of the [USAO] – that is, the 12 individuals noted at the meeting on July 31, 2007." Under the defense proposal, the state would incarcerate Epstein only if he failed to comply with the terms of supervised custody. Sanchez also advised that the defense team was seeking a meeting with Acosta.

B. In an August 3, 2007 Letter, the USAO States That a Two-Year Term of Imprisonment Is the Minimum That Will Vindicate the Federal Interest

Villafaña told OPR that she and her managers agreed the counteroffer was unacceptable, and she conferred with Lourie or Menchel about the government's response. Villafaña drafted for Menchel's signature a letter asserting that the USAO considered a two-year term of imprisonment to be the minimum sentence that would "vindicate" the federal interest in the Epstein investigation. Villafaña's draft stated that the USAO "has never agreed that a state prison sentence is not appropriate for Mr. Epstein," but was willing to allow Epstein to enter a guilty plea under Federal Rule of Criminal Procedure 11(c)(1)(C) to a federal felony charge with a binding recommendation for a two-year term of incarceration. Villafaña specified that Epstein would also be required to concede liability under 18 U.S.C. § 2255 for all of the victims identified during the federal investigation, "not just the 12 that formed the basis of an initial planned charging instrument."

---

[90] The USAO countered, however, that it "never agreed that a state prison sentence is not appropriate" and that "a plea to two federal misdemeanors was never extended or meant as an offer." Records show that throughout the Epstein matter, the USAO attorneys identified instances when defense attorneys misstated or otherwise did not accurately describe events or statements. Accordingly, in evaluating the subject attorneys' conduct, OPR did not rely on uncorroborated defense assertions.

Menchel made several substantive changes to Villafaña's draft letter. He specified that "a two-year term of *state* imprisonment" was the minimum sentence that would satisfy the federal interest in the case. (Emphasis added.) With regard to the option of a federal plea, Menchel wrote that the USAO "would be willing to explore a federal conviction" and retained the reference to a Rule 11(c) plea. Menchel also removed the reference to the specific state offenses to which Epstein would be required to plead guilty. Menchel forwarded the redraft to Acosta, suggesting that they speak about it the next morning, as well as to Sloman, Lourie, and Villafaña.

The final letter, as shown on the following pages, was identical to Menchel's redraft, except that it omitted all reference to a federal plea under Rule 11(c).[91]

[91] Menchel told OPR that he did not disfavor Rule 11(c) pleas but knew that the USAO believed the judges were generally averse to them. He did not recall why the provision was dropped from the letter, but "assumed" it was a decision by Acosta. In a September 6, 2007 email, Villafaña told Sloman that she and Menchel had discussed a Rule 11(c) plea, but she opined that Menchel "must have asked Alex about it and it was nixed." Villafaña told OPR that Lourie, too, had told her Acosta did not want to do a Rule 11(c) plea.

U.S. Department of Justice

United States Attorney
Southern District of Florida

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9100 - Telephone
(305) 530-6444 - Facsimile

August 3, 2007

VIA FACSIMILE
Lilly Ann Sanchez, Esq.
[redacted]

Re: Jeffrey Epstein

Dear Lilly:

Thank you for your letter of August 2nd regarding your proposal on how to resolve the Epstein matter.

As we explained at our meeting on July 31, 2007, the Office believes that the federal interest will not be vindicated in the absence of a two-year term of state imprisonment for Mr. Epstein. That offer was not meant as a starting point for negotiations, it is the minimum term of imprisonment that will obviate the need for federal prosecution. The Office has never agreed that a state prison sentence is not appropriate for Mr. Epstein. Rather we simply stated that if Mr. Epstein preferred to serve his sentence in a federal penetentiary, we would be willing to explore a federal conviction that may allow that in lieu of any state resolution. Further, as I made clear in our follow up telephone conversation after the meeting, a plea to two federal misdemeanors was never extended or meant as an offer.

We also would reiterate that the agreement to Section 2255 liability applies to all of the minor girls identified during the federal investigation, not just the 12 that form the basis of an initial planned charging instrument.

As you know, the ability to engage in flexible plea negotiations is dramatically changed upon the return of an indictment. Once an indictment is returned, the Office does not intend to file a Superseding Information containing a lesser charge or to dismiss the case in favor of state prosecution.

Please let us know your client's decision by no later than August 17. I have conferred with U.S. Attorney Acosta who has asked me to communicate that the two-year term of incarceration is a non-negotiable minimum to vindicate a federal interest, and, at this time, he is not inclined to meet with counsel for Mr. Epstein.

Sincerely,

R. Alexander Acosta
United States Attorney

By:
Matthew Menchel
Chief, Criminal Division

cc: Roy Black
Gerald B. Lefcourt
R. Alexander Acosta
Jeffrey Sloman
Andrew Lourie
A. Marie Villafaña

Menchel told OPR that in his view, the two-year sentence established a "floor" for negotiations and if Epstein rejected the offer, subsequent offers would require him to accept more jail time rather than less. Menchel told OPR that the USAO was "leaving our options open" by retaining the option of a federal plea because he thought the defense was "trying . . . to get him into a federal penitentiary." The letter's deadline of August 17, 2007, for acceptance of the government's offer was intended to accommodate Villafaña's request that the deadline provide her with enough time to go to New York, pursue investigative steps involving two of Epstein's assistants, do witness interviews, and take additional legal steps to obtain Epstein's computers if Epstein rejected the deal. Menchel told OPR he considered August 17 to be a firm deadline: "[I]f you tell someone they have two weeks, it should be two weeks." Menchel signed and sent the letter on Friday, August 3, 2007, which was his last day at the USAO before joining a private law firm.[92]

The following Monday, August 6, 2007, Villafaña contacted Menchel by email at his new firm to inquire whether the letter to Epstein's counsel had gone out on Friday. Villafaña explained

[92] Menchel told OPR that the timing of the letter to Sanchez was a "total coincidence," and had nothing to do with his impending departure from the USAO.

to OPR that she "wanted to know whether this letter went out. Because . . . if the letter didn't go out we can make this all go away and restart." Menchel confirmed to her that he had sent the letter out by email.

Later that day, the West Palm Beach FBI squad supervisor told Sloman that he understood Epstein had rejected the USAO's proposal, and he asked when Epstein would be charged. Villafaña told OPR that the squad supervisor "yelled at" Sloman about the USAO's decision not to prosecute Epstein federally. Sloman similarly told OPR that the squad supervisor "like [Villafaña] . . . [a]nd the agents felt very strongly about the case."[93]

C. August – September 2007: Epstein Hires Additional Attorneys, Who Meet with Acosta

1. Acosta Agrees to Meet with Epstein's New Attorneys

Villafaña told OPR that Epstein's team was "incensed" that Acosta would not meet with them and that the USAO had set such a short deadline to respond to its offer. Around this time, Epstein added to his team Kenneth Starr and Jay Lefkowitz, two prominent attorneys from the law firm Kirkland & Ellis, whom Acosta knew from his employment a decade earlier as an associate at the firm.[94] On the evening of August 6, 2007, Sloman emailed Acosta: "Just saw Menchel. I didn't know Kirkland made a call into you. You were right. Unbelievable." During their OPR interviews, neither Acosta nor Sloman remembered the call from Kirkland & Ellis and could provide no additional information about the contact.[95] A reply email from Acosta to Sloman indicates that the Kirkland & Ellis attorneys were considering elevating to the Department their objections to the USAO's involvement in the Epstein matter. In that email, Acosta stated, "They are likely to go to DC. We should strategize a bit. We are not changing positions, and that should be made clear."

The next day, Acosta wrote to Sloman:

> [Epstein's] attorneys want to go to DC on the case, on the grounds of a process foul, *i.e.*, that I have not met with them. I'm concerned that this will delay matters.
>
> I am thinking of heading this off, by (i) agreeing to meet to discuss general legal policy only (the only matter in which DC has arguable

[93] In an email to Lourie reporting the conversation, Sloman reported that he told the squad supervisor that "it's a tad more complicated" and commented, "The guy is killing me." The squad supervisor told OPR that he did not remember this exchange with Sloman, but he recalled the agents being "upset" with the proposed resolution of the case and he likely would have told Sloman, "When do we indict? Why don't we just move forward?"

[94] Acosta told OPR that as a junior associate with Kirkland & Ellis from September 1995 to March 1997, he had worked on at least one matter each with Starr and Lefkowitz, and since that time, he had professional acquaintanceships with both.

[95] Menchel told OPR that he did not remember the timing of the call, but he did remember an occasion on which he entered Acosta's office as Acosta was finishing a phone conversation, and Acosta stated, "[T]hat was Ken Starr," and told Menchel the call related to the Epstein case.

> jurisdiction), while making clear that we are not talking about the details of the case, and (ii) asking [CEOS Chief] Oosterba[an] to participate by teleconference, thereby intercepting the DC meeting.
>
> Thoughts?

Acosta told OPR that he had no concern about Departmental "scrutiny of the NPA scheme" and that "[i]f anything," he was concerned whether the Department might direct the USAO to "drop this case."[96]

2. Leading to the Meeting with Defense Counsel, Investigative Steps Are Postponed, and the Defense Continues to Oppose Villafaña's Efforts to Obtain the Computer Evidence

On August 8, 2007, Villafaña informed Acosta that she had spoken with Oosterbaan, who was willing to join a meeting with the defense; although he could not do so in person until after August 21, he was willing to participate by phone in order "to stay firm on our August 17th deadline." Villafaña also reiterated that she wanted to contact Epstein's assistants in New York and to interview some of Epstein's colleagues and former employees there. Noting that "there was some concern about [taking the proposed investigative steps] while we are trying to negotiate a plea," Villafaña asked Acosta for guidance. Lourie also emailed Acosta and Sloman, asking that the USAO "stick to our deadline if possible." Lourie pointed out that CEOS "has no approval authority" and opined it was "a bit extreme to allow the defense to keep arguing this [case] to different agencies." Acosta replied, "This will end up [at the Department] anyhow, if we don't meet with them. I'd rather keep it here. Brin[g]ing [the Chief of CEOS] in visibly does so. If our deadline has to slip a bit . . . it's worth it."

As a result, the investigative steps were postponed. On August 10, 2007, Villafaña emailed Lourie inquiring whether she could "still go ahead" with the New York trip and whether she could oppose Black's request to stay the litigation concerning the government's efforts to obtain Epstein's computer equipment until after Acosta's meeting with the defense team. Villafaña was reluctant to delay the litigation and reported to Lourie that agents recently had interviewed a girl who began seeing Epstein at age 14 and who was photographed in the nude by an Epstein assistant. On August 13, 2007, Villafaña advised Black that the USAO was not willing to agree to a stay of the litigation. However, Sanchez reached out to Lourie on August 22, 2007, and obtained his agreement to a joint request for a stay until the week after Acosta's meeting with defense counsel, which was scheduled for September 7, 2007.

Villafaña told OPR that, in her opinion, the defense efforts to put off the litigation concerning the computers was "further evidence of the importance of [this] evidence."[97] Villafaña suspected the computers contained evidence that "would have put this case completely to bed."

---

[96] In context, Acosta appeared to mean that although he was not concerned about the Department reviewing the NPA or its terms, he did have concerns that the Department would decide the USAO should not have accepted the case because of a lack of federal interest and might direct the USAO to end its involvement in the matter.

[97] Menchel told OPR, on the other hand, "there could be a lot of reasons why" defense counsel would resist "turn[ing] over an entire computer."

She believed that access to the computer evidence would strengthen the government's negotiating position, but that her supervisors "did not seem to recognize that." Villafaña said she did not understand why her supervisors were uninterested in determining what the computers contained. Instead, they instructed Villafaña to "keep calling the judge" to ask for a delay in the litigation proceedings.

Sloman told OPR that he recalled an issue about the computers, but did not recall "what the thinking was at the time" about pursuing that evidence or why Villafaña was "ordered to stand down." Acosta, Menchel, and Lourie all told OPR that they did not recall Villafaña's effort to obtain the computer evidence or that there had been litigation relating to it. Lourie, however, told OPR that the computers might have contained "very powerful evidence" that possibly "could have changed our advice to [Acosta], or his decision making." In his OPR interview, Menchel was uncertain whether the computer evidence would have been useful, but also acknowledged to OPR, "You always want more as a prosecutor."

On August 31, 2007, in preparation for the upcoming September 7, 2007 meeting with defense counsel that he planned to attend, CEOS Chief Oosterbaan traveled to West Palm Beach to meet with Villafaña and the case agents and to examine the case file. He explained to OPR that he wanted to see the file before meeting with the defense so that he could best "represent[] the interests of the prosecution team," and that he was in favor of going forward with the case. According to Villafaña, during his review of the file, Oosterbaan told her that the case was "really good" and offered to assist Villafaña at trial.

On September 6, 2007, the day before the meeting with defense counsel, Sloman sent Villafaña an email asking, "Please refresh my recollection. What is the 'deal' on the table?" Sloman told OPR that his question reflected the fact that in his capacity as FAUSA, he was involved in "a hundred other things" at that time.[98] Villafaña sent Sloman the term sheet and explained to him, "You and Matt [Menchel] and I had also discussed a possible federal plea to an Information charging a 371 conspiracy, with a Rule 11 plea with a two-year cap, but I think Matt must have asked Alex about it and it was nixed." Villafaña continued:

> There are three concerns that I hope we can address tomorrow. First, that there is an absolute drop-dead date for accepting or rejecting because it is strategically important that we indict before the end of September, which means . . . September 25th. Second, the agents and I have not reached out to the victims to get their approval, which as Drew [Oosterbaan] politely reminded me, is required under the law. And third, I do not want to make any promises about allowing Epstein to self-surrender because I still believe that we have a good chance of getting him detained.[99]

---

98 Sloman noted that with the attention given to the Epstein investigation, "it seems like . . . this was the only case [in the office], but there were other cases."

99 As Villafaña explained in her OPR interview, when a violent crime defendant self-surrenders, the government may have difficulty winning an argument for pretrial detention or bond. Contrary to Villafaña's assertion in the email, the CVRA, even when applicable, required only victim consultation, not victim approval, and as is explained in

Villafaña added that the PBPD Chief had alerted the FBI that an upcoming news article would report that Epstein was "going to plead to a state charge" and the PBPD Chief "wanted to know if the victims had been consulted about the deal." Sloman forwarded Villafaña's email to Acosta with a note that read simply, "fyi."

Later that evening, Villafaña circulated to Sloman, Lourie, and Oosterbaan two alternative documents: a draft federal plea agreement and a draft NPA.[100] The draft federal plea agreement, following the USAO's standard format, called for Epstein to plead guilty to a five-year conspiracy under 18 U.S.C. § 371 to entice minors to engage in prostitution, an offense requiring registration as a sexual offender, with a Rule 11(c) binding sentence of two years' imprisonment. The draft NPA contained the terms presented to the defense team on July 31, 2007, and called for Epstein to enter a state plea by September 28, 2007. Villafaña told OPR that because she had never seen a non-prosecution agreement before, she relied on a template she found either using USAO or the Department's internal online resources, but she did not do any additional research regarding the use of non-prosecution agreements.[101]

3. September 7, 2007: Acosta, Other USAO Attorneys, and FBI Supervisors Meet with Epstein Attorneys Starr, Lefkowitz, and Sanchez

On Friday, September 7, 2007, Acosta, Sloman, Villafaña, Villafaña's co-counsel, Oosterbaan, and one or two supervisory FBI agents met at the USAO's West Palm Beach office with defense attorneys Sanchez and, for the first time, Starr and Lefkowitz.[102] This was Acosta's first meeting with Epstein's defense team. Villafaña understood the purpose of this meeting was to afford Epstein's counsel an opportunity to "make a pitch" as to why the case should not be prosecuted federally. Villafaña recalled that at a "pre-meet" before defense counsel arrived, Acosta did not express concern about the viability of the prosecution or the strength of the case.

Acosta told OPR that the meeting was not "a negotiation," but a chance for the defense to present their arguments, which were made by Starr and focused primarily on federalism. Villafaña similarly recalled that the meeting mainly consisted of the defense argument that the Epstein case should remain a state matter in which the USAO should not interfere. Both Villafaña and her co-counsel recalled that Starr addressed himself directly to Acosta, and that Starr, who had held Senate-confirmed positions in the government, commented to Acosta that he and Acosta were "the only people in this room who have run the [gantlet] of confirmation by the Senate." Acosta did not recall the comment, but he told OPR, "[B]ack in July, we had decided that we were going

---

Chapter Three, the Department's position at the time was that victim consultation was not required in matters in which the government did not pursue a federal charge. The USAO's actions with respect to victim consultation and the Department's interpretation of the CVRA are discussed in detail in Chapter Three of this Report.

100 The initial draft NPA is attached as Exhibit 2 to this Report.

101 OPR was unable to identify a template upon which she might have relied.

102 Lourie was not present. During September 2007, he was traveling between Florida and Washington, D.C., as he transitioned to his new detail post as Principal Deputy Assistant Attorney General and Chief of Staff to the head of the Department's Criminal Division, Assistant Attorney General Alice Fisher. He served in that detail until he left the Department in February 2008.

forward, that either there is this pre-indictment resolution, or we go forward with an indictment. The September meeting did not alter or shift our position."[103]

Villafaña told OPR that after hearing the defense argument, Acosta reiterated that the federal interest in the case could be vindicated only by a state plea to an offense that required sexual offender registration, resulted in a two-year term of incarceration, and was subject to the 18 U.S.C. § 2255 process for providing compensation to the victims. When defense counsel objected to the registration requirement, Acosta held firm, and he also rejected the defense proposal for a sentence of home confinement. In a subsequent email exchange with Criminal Division Deputy Assistant Attorney General Sigal Mandelker, who supervised CEOS, Oosterbaan reported that the meeting was "non-eventful," noting that defense counsel argued "federalism" and might approach Criminal Division Assistant Attorney General Alice Fisher to present that argument directly to her.

VI. SEPTEMBER 2007: THE PLEA NEGOTIATIONS INTENSIFY, AND IN THE PROCESS, THE REQUIRED TERM OF IMPRISONMENT IS REDUCED

Acosta had dispensed with the August 17, 2007 plea deadline specified in Menchel's August 3, 2007 letter, in order to allow the defense to meet with him. After that meeting, and although Villafaña continued to plan to file charges on September 25, no new plea deadline was established, and the negotiations continued through most of September.

The defense used that time to push the USAO to make concessions. Because Acosta was not willing to compromise on the issue of sexual offender registration or providing a means through which the victims could seek monetary damages, the negotiations focused on the term of imprisonment. As the contemporaneous emails show, the USAO did not hold to its position that a two-year term of imprisonment was "the minimum" that the USAO would accept. To reach an agreement with the defense on Epstein's sentence, the USAO explored possible pleas in either federal or state court, or both, and Villafaña spent considerable time and effort working with defense counsel on developing alternative pleas with various outcomes. In the course of that process, the agreement was revised to require that Epstein accept a sentence of 18 months, with the understanding that under the state's sentencing procedures, he would likely serve just 15 months.

A. The Incarceration Term Is Reduced from 24 Months to 20 Months

Shortly after the September 7, 2007 meeting, Epstein attorney Gerald Lefcourt, who had not been present at the meeting, spoke with both Acosta and Lourie, and made a new counteroffer, proposing that Epstein serve 15 months in jail followed by 15 months in home confinement. On the afternoon of Monday, September 10, 2007, Villafaña emailed Sloman, identifying issues she wanted to discuss with him, including her concern that defense counsel was pushing for a resolution that would allow Epstein to avoid incarceration and possibly sexual offender registration. Villafaña stated that Lefcourt's counteroffer was "a reasonable counteroffer in light of our starting position of 24 months," but added that it was "a really low sentence." Villafaña

[103] Sloman echoed this point, telling OPR that Starr's presentation focused on the issue of federalism, but the USAO had already decided to defer prosecution to the state and after the meeting, the USAO continued on that path.

noted that the revised charges involved 19 victims, so the defense proposal for a 15-month sentence amounted to less than one month per victim. Villafaña requested that "whatever the U.S. Attorney decides to do," the agreement with Epstein should "follow . . . a version of my written non-prosecution agreement" in order to "avoid any state shenanigans and . . . keep the defense on a strict timeline."

Later that day, Villafaña circulated to Acosta and Sloman a revised NPA that called for a 20-month jail sentence to be followed by 10 months of home confinement. This redrafted NPA contained a provision that specified, "With credit for gain time, Epstein shall serve at least 17 months in a state correctional institution."[104] Acosta reviewed the revised NPA and amended it to include a statement clarifying that it was Epstein's obligation "to undertake discussions with the State of Florida to ensure compliance with these procedures." Villafaña sent her version of the revised NPA to Lefcourt that afternoon and forwarded Acosta's proposed change to him the following day, after she learned of it.

On September 11, 2007, the court contacted Villafaña to inquire whether the USAO would be prepared to proceed with the litigation concerning the computers the following day. At Sloman's direction, Villafaña asked the court to delay the hearing, and the court rescheduled it for the following week. At the same time, anticipating that plea negotiations would fail, Villafaña circulated a revised indictment to her co-counsel and Oosterbaan, seeking their feedback before sending it "through the chain of command." Villafaña also sent Oosterbaan the revised NPA and told him she was "still shooting for 9/25" to bring charges, assuming the defense declined the USAO's offer. Oosterbaan responded, "The counter-offering is unfortunate, but I suppose it's understandable."[105]

That afternoon, Lourie asked Villafaña, "What is our latest offer?" Villafaña responded, "Plead to the three specified [state] charges, a 30-month sentence, split 20 in jail and 10 in 'community control,' and agree that the girls are victims for purposes of damages. We also put in deadlines for a plea and sentencing date."

B. September 12, 2007: The USAO and Defense Counsel Meet with the State Attorney

Although the USAO and defense counsel had been discussing resolving the federal investigation with a plea to state charges, there is no evidence that the USAO involved the State Attorney's Office in those discussions until September 12, 2007. On that day, Lourie, Villafaña, and another USAO supervisor who would be replacing Lourie as manager of the USAO's West Palm Beach office, and Epstein attorneys Lefkowitz, Lefcourt, and Goldberger met with State Attorney Barry Krischer and Assistant State Attorney Lanna Belohlavek. Other than Villafaña, few of the participants had any memory of the meeting or the results of it. The available evidence indicates that the USAO made additional concessions during the meeting.

---

104 Through "gain time," Florida inmates can earn a reduction in their sentence for good behavior.

105 Oosterbaan told OPR that he did not recall having read the NPA at this juncture and "had no involvement with it."

Villafaña told OPR that during the meeting, the group discussed the draft NPA, but she did not think they gave a copy to Krischer and Belohlavek. Neither Krischer nor Belohlavek expressed concern about proceeding as the USAO was proposing. According to Villafaña, Belohlavek explained that a plea to the three state counts identified in the draft NPA would affect the state's sentencing guidelines, and that it would be better for the guidelines calculation if Epstein pled guilty to just one of the three counts. Villafaña recalled that when Belohlavek confirmed that Epstein would be required to register as a sexual offender if he pled to any one of the three charges, Lourie, speaking for the USAO, agreed to allow Epstein to enter his plea to just one state charge in addition to the pending state indictment, and the defense attorneys selected the charge of procurement of minors to engage in prostitution.[106] Lourie, however, disputed Villafaña's recollection that he made the final decision, stating that it was "illogical" to conclude that he had the authority to change the terms of agreement unilaterally.[107]

During the meeting, defense counsel raised concerns about Epstein serving time in state prison. Villafaña also told OPR that Lourie, the other supervisor, and she made clear during the meeting that they expected Epstein to be incarcerated 24 hours a day, seven days a week, during the entirety of his sentence, and they did not "particularly care" whether it was in a state or local facility. Belohlavek explained to OPR that in order for Epstein to serve his time in a county facility, rather than state prison, his sentence on each charge could be no more than 12 months, so that, for example, consecutive terms of 12 months and 6 months—totaling 18 months—could be served in the county jail. Villafaña told OPR:

> Our thing was incarceration 24 hours a day. So during this meeting, I remember [the defense] talking about . . . a one year count followed by a six-month count . . . that [Epstein] could serve them back to back but at the county jail, rather than having to go to a state facility. But then I said, "But if you do that, it's still going to have to be round the clock incarceration." And Barry Krischer said yes. And [he] said that to avoid [Epstein being extorted while incarcerated], he would be kept in solitary confinement.

Villafaña did not recall whether she and Lourie agreed to an 18-month sentence during that meeting, but she told OPR that in her view, allowing Epstein to serve his sentence in the county jail was not a "concession" because he would be incarcerated regardless.

Neither Lourie nor the other USAO supervisor present could recall any substantive details of the September 12, 2007 meeting, and Krischer and Belohlavek told OPR they did not remember the meeting at all. Krischer did, however, recall that he was "not offended at all" when he learned of the proposed federal resolution, requiring Epstein to plead to both the pending state indictment and an additional charge requiring sexual offender registration, explaining to OPR that Epstein "was going to plead guilty to my indictment, we were going to add an additional charge, he was

---

[106] Later, the defense would claim that they had mistakenly understood that the selected charge would not involve sexual offender registration.

[107] As noted below, a contemporaneous email indicates that shortly after the meeting, Lourie and Villafaña spoke with Acosta and Sloman, who concurred with the agreement.

going to become a registered sex offender, and he was going to go actually do time—which he hadn't done up to this point." Krischer asked, "Why would I turn that down?" Krischer also noted that at that time, sexual offender registration "was not the norm" in Florida, and he recognized that "it was clearly something that was important to the U.S. Attorney's Office."[108]

Acosta told OPR that he did not recall if he learned what transpired at the September 12 meeting, nor did he recall why the USAO team agreed to permit Epstein to plead guilty to only one charge. Acosta told OPR, however, that he recognized that Villafaña and Lourie needed "some degree of discretion to negotiate"; that "in the give and take" of negotiations, they might propose a concession; and he was comfortable with the concession as long as the charge to which Epstein ultimately pled "captured the conduct" in an "appropriate" way.

Although Epstein's attorneys expressed interest in Epstein serving his time in a county facility (rather than state prison), one of Epstein's attorneys alternatively expressed interest in Epstein serving his time in a federal facility, and along with discussions about the possible state resolution, the USAO and Epstein's counsel also discussed a possible federal plea with a sentence running concurrently to the sentence Epstein would receive on the already indicted state charge. Later that day, Villafaña sent Lefkowitz an email advising that she and Lourie had talked with Acosta and Sloman, and they were "all satisfied in principle with the agreement."[109] The next day, September 13, 2007, Villafaña sent an email to Acosta, Sloman, Lourie, and two other supervisors, identifying potential federal offenses that would yield a two-year sentence. Villafaña also emailed defense counsel, stating that she had been "spending some quality time with Title 18"—referring to the code of federal criminal statutes—to make sure there would be a "factual basis" for any federal plea, and identifying the federal statutes she was considering.

C. The Evidence Does Not Clearly Show Why the Term of Incarceration Was Reduced from 24 Months to 20 Months to 18 Months

OPR reviewed the contemporaneous records and asked Acosta, Villafaña, and Lourie to explain how the jail term Epstein would have to accept came to be reduced from two years to 18 months. Lourie had no recollection of the process through which the term of incarceration was reduced. Villafaña and Acosta offered significantly different explanations.

Villafaña told OPR:

> We had this flip flop between is it going to be a state charge, is it going to be a federal charge, is it going to be [a] state charge, is it going to be a federal charge? And to get to a federal charge, there was no way to do 24 months that made any sense. So somehow it ended up being 20 months and then it got to be 18 months. And these were calls that if I remember correctly, Jay Lefkowitz was

---

108 Belohlavek, however, told OPR that sexual offender registration "was a common occurrence" for enumerated state crimes, but the state crime charged in the state indictment against Epstein was not one of them.

109 The email does not indicate what the parties meant by "the agreement."

> having directly with Alex Acosta, and Alex Acosta agreed to 18 months.

Villafaña further explained to OPR:

> Regarding going from 24 months to 20 months, I recall a discussion that 24 months of federal time was really 20 months after gain time, so Epstein should be allowed to plead to 20 months' in the state. Epstein's counsel represented that he wouldn't get gain time like that in the [s]tate, and someone above me agreed. Later, of course, as shown in the agreements, Epstein's counsel (Jay Lefkowitz) got Alex to agree that Epstein should be allowed to earn gain time in the [s]tate, so the 20 months in the state became at least 17 months.
>
> Regarding going from 20 months' to 18 months, . . . this came from a negotiation between Epstein's counsel and Andy or Alex where the federal statutory max could only be 24 or 18, so 18 was agreed to. I also recall that, after Epstein's counsel decided that they wanted to proceed with an NPA and only a state guilty plea, I asked Alex why we didn't return to 20 months because the reason why we went to 18 months was because that was the only way to end up with a federal statutory maximum.[110]

However, a subsequent account of the history of negotiations with Epstein's attorneys, drafted by Villafaña for Acosta several weeks after the September 12, 2007 meeting with the State Attorney's Office, stated that "a significant compromise" reached at the meeting "was a reduction in the amount of jail time – from [the originally proposed] twenty-four months down to eighteen months, which would be served at the Palm Beach County Jail rather than a state prison facility." Acosta also noted to OPR that Villafaña was engaged in a "tough negotiation," and he was willing to allow her the discretion to reduce the amount of incarceration time without him "second-guessing" her. Acosta acknowledged that he "clearly approved it at some point."

Based on this record, OPR could not definitively determine when, how, or by whom the decision was made to reduce the required term of imprisonment from 24 months to 18 months. It is possible that the reduction was connected to Epstein's effort to achieve a result that would allow him to serve his time in a county facility, but it may also have resulted from the parties' attempts to reach agreement on federal charges that would not result in a sentence of incarceration greater than what had been discussed with respect to state charges. In the end, the evidence shows that Acosta approved of a reduced term of incarceration from 24 months to 18 months, and the USAO understood at the time that the state gain time requirement would further reduce the actual amount of time Epstein would spend incarcerated.

---

110 By "federal statutory maximum," Villafaña referred to 12-month and 6-month misdemeanors.

D. The Parties Continue to Negotiate but Primarily Focus on a Potential Plea to Federal Charges

During the remainder of September, Villafaña conducted plea negotiations and drafted the final NPA, mainly with Epstein attorney Jay Lefkowitz. In a September 13, 2007 email to CEOS Chief Oosterbaan, Villafaña reported that the plea negotiations were "getting fast and furious." She said that the defense wanted to establish a "victim's fund" through which Epstein could make payments to the victims, rather than having the victims file individual § 2255 court actions for damages, which she speculated was "to keep this stuff out of the public [c]ourt files."

According to the email documentation, by Friday, September 14, 2007, the parties had moved toward a "hybrid" federal plea agreement, incorporating a plea to state charges, which would allow Epstein to serve his sentence for all the charges concurrently in a federal prison. Villafaña informed Acosta, Sloman, Lourie, and other colleagues that negotiations with Lefkowitz had resulted in a tentative agreement for Epstein to plead to two federal charges: harassment to prevent a witness from reporting a crime (18 U.S.C. § 1512(d)(2), which was then a one-year misdemeanor), and simple assault on an airplane (18 U.S.C. § 113(a)(5), a six-month misdemeanor). Villafaña reported that Lefkowitz "put in a pitch for only 12 months, I put in a pitch that [Epstein] plead to 24 with a 20-month recommendation, and we decided that we would be stuck with the 18 months."

Later that day, Villafaña sent to Lefkowitz a draft "hybrid" plea agreement and information mirroring the agreement in principle she had described to her supervisors, but which she noted had "not yet been blessed" by them. The agreement provided that Epstein would plead guilty to the two federal charges for which the parties would jointly recommend that he be sentenced to the statutory maximum penalty of 18 months' imprisonment followed by 2 years of supervised release, and that he would also plead guilty to the state registrable offense of procurement of minors to engage in prostitution, for which Epstein and the State Attorney's Office would make a joint, binding recommendation that he be sentenced to serve at least 20 months in prison followed by 10 months of community control (home confinement). Although not specified in the draft agreement, the negotiations evidently expected the federal and state terms would run concurrently. In addition to payment of restitution, Epstein would not oppose jurisdiction or victim status for any of the victims identified in the federal investigation—at that point specified as numbering 40—who elected to file suit for damages under 18 U.S.C. § 2255. A guardian *ad litem* would be appointed to communicate with the defense on the victims' behalf.

Lourie, however, quickly made clear that he was not in favor of the proposal. In response to Villafaña's email about the potential federal charges, but after Villafaña sent the proposal to Lefkowitz, Lourie told her, "The assault [charge] sounds like a stretch and factually [is] sort of silly."[111] Lourie also told Sloman, Acosta, and another supervisor that he did not "like the assault charge" and believed that it would not "go smooth with every judge." Acosta responded, "If we need[,] let's find a different charge." On Saturday, September 15, 2007, Villafaña emailed Lefkowitz, using her personal email address, reporting that she had "gotten some negative reaction

[111] The charge was to be based on "an incident in which Epstein 'put great pressure' . . . on [one of his female assistants] to call the girls to set up appointments."

to the assault charge" and suggesting a different factual scenario to support a federal charge.[112] At this point, Sloman left on vacation, and he informed Acosta and Villafaña that in his absence Lourie had agreed "to help finalize this." Lourie spent the following work week at his new post at the Department in Washington, D.C., but communicated with his USAO colleagues by phone and email.

In a Sunday, September 16, 2007 email, Villafaña informed Lefkowitz that she had drafted a factual proffer to accompany a revised "hybrid" federal plea proposal. In that email, Villafaña also noted that she was considering filing charges in the federal district court in Miami, "which will hopefully cut the press coverage significantly." This email received considerable attention 12 years later when it was made public during the CVRA litigation and was viewed as evidence of the USAO's efforts to conceal the NPA from the victims. Villafaña, however, explained to OPR that she was concerned that news media coverage would violate the victims' privacy. She told OPR, "[I]f [the victims] wanted to attend [the plea hearing], I wanted them to be able to go into the courthouse without their faces being splashed all over the newspaper," and that such publicity was less likely to happen in Miami, where the press "in general does not care about what happens in Palm Beach."

Lefkowitz responded to Villafaña with a revised version of her latest proposed "hybrid" plea agreement, in a document entitled "Agreement." Significantly, this defense proposal introduced two new provisions. The first related to four female assistants who had allegedly facilitated Epstein in his criminal scheme. The defense sought a government promise not to prosecute them, as well as certain other unnamed Epstein employees, and a promise to forego immigration proceedings against two of the female assistants:

> Epstein's fulfilling the terms and conditions of the Agreement also precludes the initiation of any and all criminal charges which might otherwise in the future be brought against [four named female assistants] or any employee of [a specific Epstein-owned corporate entity] for any criminal charge that arises out of the ongoing federal investigation . . . . Further, no immigration proceeding will be instituted against [two named female assistants] as a result of the ongoing investigation.

The second new provision related to the USAO's efforts to obtain Epstein's computers:

> Epstein's fulfilling the terms and conditions of the Agreement resolves any and all outstanding [legal process] that have requested witness testimony and/or the production of documents and/or computers in relation to the investigation that is the subject of the Agreement. Each [legal process] will be withdrawn upon the execution of the Agreement and will not be re-issued absent reliable

[112] Villafaña told OPR that she sometimes used her home email account because "[n]egotiations were occurring at nights, on weekend[s], and while I was [away from the office for personal reasons], . . . and this occurred during a time when out of office access to email was very limited." Records show her supervisors were aware that at times she used her personal email account in communicating with defense counsel in this case.

> evidence of a violation of the agreement. Epstein and his counsel agree that the computers that are currently under [legal process] will be safeguarded in their current condition by Epstein's counsel or their agents until the terms and conditions of the Agreement are fulfilled.

Later that day, Villafaña sent Lefkowitz a lengthy email to convey two options Lourie had suggested: "the original proposal" for a state plea but with an agreement for an 18-month sentence, or pleas to state charges and two federal obstruction-of-justice charges. Villafaña also told Lefkowitz she was willing to ask Acosta again to approve a federal plea to a five-year conspiracy with a Rule 11(c) binding recommendation for a 20-month sentence. Villafaña explained:

> As to timing, it is my understanding that Mr. Epstein needs to be sentenced in the state after he is sentenced in the federal case, but not that he needs to plead guilty and be sentenced after serving his federal time. Andy recommended that some of the timing issues be addressed only in the state agreement, so that it isn't obvious to the judge that we are trying to create federal jurisdiction for prison purposes.

With regard to prosecution of individuals other than Epstein, Villafaña suggested standard federal plea agreement language regarding the resolution of all criminal liability, "and I will mention 'co-conspirators,' but I would prefer not to highlight for the judge all of the other crimes and all of the other persons that we could charge." Villafaña told OPR that she was willing to include a non-prosecution provision for Epstein's co-conspirators, who at the time she understood to be the four women named in the proposed agreement, because the USAO was not interested in prosecuting those individuals if Epstein entered a plea. Villafaña told OPR, "[W]e considered Epstein to be the top of the food chain, and we wouldn't have been interested in prosecuting anyone else." She did not consider the possibility that Epstein might be trying to protect other, unnamed individuals, and no one, including the FBI case agents, raised that concern. Villafaña also told OPR that her reference to "all of the other crimes and all of the other persons that we could charge" related to her concern that if the plea agreement contained information about uncharged conduct, the court might ask for more information about that conduct and inquire why it had not been charged, and if the government provided such information, Epstein's attorneys might claim the agreement was breached.[113]

With regard to immigration, Villafaña told OPR that the USAO generally did not take any position in plea agreements on immigration issues, and that in this case, there was no evidence that either of the two assistants who were foreign nationals had committed fraud in connection with their immigration paperwork, "and I think that they were both in status. So there wasn't any reason

[113] OPR understood Villafaña's concern to be that if the government were required to respond to a court's inquiry into additional facts, Epstein would object that the government was trying to cast him in a negative light in order to influence the court to impose a sentence greater than the agreed-upon term.

for them to be deported."[114] As to whether the foreign nationals would be removable by virtue of having committed crimes, Villafaña told OPR she did not consider her role as seeking removal apart from actual prosecution.

Villafaña concluded her email to Lefkowitz by expressing disappointment that they were not "closer to resolving this than it appears that we are," and offering to meet the next day to work on the agreement:

> Can I suggest that tomorrow we either meet live or via teleconference, either with your client or having him within a quick phone call, to hash out these items? I was hoping to work only a half day tomorrow to save my voice for Tuesday's hearing . . . , if necessary, but maybe we can set a time to meet. If you want to meet "off campus" somewhere, that is fine. I will make sure that I have all the necessary decision makers present or "on call," as well.[115]

Villafaña told OPR that she offered to meet Lefkowitz away from the USAO because conducting negotiations via email was inefficient, and Villafaña wanted "to have a meeting where we sat down and just finalized things. And what I meant by off campus is, sometimes people feel better if you go to a neutral location" for a face-to-face meeting.

On the morning of Monday, September 17, 2007, the USAO supervisor who was taking over Lourie's duties as manager of the West Palm Beach office asked Villafaña for an update on the plea negotiations, and she forwarded to him the email she had sent to Lefkowitz the previous afternoon. Villafaña told the manager, "As you can see . . . there are a number of things in their last draft that were unacceptable. All of the loopholes that I sewed up they tried to open."

Shortly thereafter, Villafaña alerted the new manager, Acosta, and Lourie that she had just spoken with Lefkowitz, who advised that Epstein was leaning towards a plea to state charges under a non-prosecution agreement, and she would be forwarding to Lefkowitz "our last version of the Non-Prosecution Agreement." Acosta asked that Villafaña "make sure they know it[']s only a draft" and reminded her that "[t]he form and language may need polishing." Villafaña responded, "Absolutely. There were a lot of problems with their last attempt. They tried to re-open all the loopholes that I had sewn shut." Villafaña sent to Lefkowitz the draft NPA that she had provided to Lefcourt on September 11, 2007, noting that it was the "last version" and would "avoid [him] having to reinvent the wheel." She also updated the FBI case agents on the status of negotiations, noting that she had told her "chain of command . . . that we are still on for the [September] 25th [to bring charges] . . . , no matter what."

After receiving the draft NPA, Lefkowitz asked Villafaña to provide for his review a factual proffer for a federal obstruction of justice charge, and, with respect to the NPA option, asked, "[I]f

---

114 According to the case agents, the West Palm Beach FBI office had an ICE agent working with them at the beginning of the federal investigation, and the ICE agent normally would have looked into the immigration status of any foreign national, but neither case agent recalled any immigration issue regarding any of the Epstein employees.

115 Lefkowitz was based in New York City but traveled to Miami in connection with the case.

we go that route, would you intend to make the deferred [*sic*] prosecution agreement public?" Villafaña replied that while a federal plea agreement would be part of the court file and publicly accessible, the NPA "would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA [Freedom of Information Act] request, but it is not something that we would distribute without compulsory process."[116] Villafaña told OPR that she believed Epstein did not want the NPA to be made public because he "did not want people to believe him to have committed a variety of crimes." As she explained to OPR, Villafaña believed the NPA did not need to be disclosed in its entirety, but she anticipated notifying the victims about the NPA provisions relating to their ability to recover damages.

E. The Parties Appear to Reach Agreement on a Plea to Federal Charges

Negotiations continued the next day, Tuesday, September 18, 2007. Responding to Villafaña's revised draft of the NPA, Lefkowitz suggested that Epstein plead to one federal charge with a 12-month sentence, followed by one year of supervised release with a requirement for home detention and two years of state probation, with the first six months of the state sentence to be served under community control. Villafaña replied, "I know that the U.S. Attorney will not go below 18 months of prison/jail time (and I would strongly oppose the suggestion)." Shortly thereafter, Villafaña emailed Acosta, Lourie, and the incoming West Palm Beach manager:

> Hi all – I think that we may be near the end of our negotiations with Mr. Epstein, and not because we have reached a resolution. As I mentioned yesterday, I spent about 12 hours over the weekend drafting Informations, changing plea agreements, and writing factual proffers. I was supposed to receive a draft agreement from them yesterday, which never arrived. At that time, they were leaning towards pleading only to state charges and doing all of the time in state custody.
>
> Late last night I talked to Jay Lefkowitz who asked about Epstein pleading to two twelve-month federal charges with half of his jail time being spent in home confinement pursuant to the guidelines. I told him that I had no objection to that approach but, in the interest of full disclosure, I did not believe that Mr. Epstein would be eligible because he will not be in Zone A or B.[117] This morning Jay Lefkowitz called and said that I was correct but, if we could get Mr. Epstein down to 14 months, then he thought he would be eligible.
>
> My response: have him plead to two separate Informations. On the first one he gets 12 months' imprisonment and on the second he gets

116 FOIA requires disclosure of government records upon request unless an exemption applies permitting the government to withhold the requested records. *See* 5 U.S.C. § 552.

117 Sentences falling within Zones A or B of the U.S. Sentencing Guidelines permit probation or confinement alternatives to imprisonment.

> twelve months, with six served in home confinement, to run consecutively.
>
> I just received an e-mail asking if Mr. Epstein could just do 12 months imprisonment instead.
>
> As you can see, Mr. Epstein is having second thoughts about doing jail time. I would like to send Jay Lefkowitz an e-mail stating that if we do not have a signed agreement by tomorrow at 5:00, negotiations will end. I have selected tomorrow at 5:00 because it gives them enough time to really negotiate an agreement if they are serious about it, and if not, it gives me one day before the Jewish holiday to get [prepared] for Tuesday . . . [September 25] , when I plan to [file charges], and it gives the office sufficient time to review the indictment package.
>
> Do you concur?

A few minutes later, the incoming West Palm Beach manager emailed Lourie, suggesting that Lourie "talk to Epstein and close the deal."[118]

Within moments, Lourie replied to the manager, with a copy to Villafaña, reporting that he had just spoken with Lefkowitz and agreed "to two fed[eral] obstruction[] charges (24 month cap) with nonbinding recommendation for 18 months. When [Epstein] gets out, he has to plead to state offenses, including against minor, registrable, and then take one year house arrest/community confinement." By reply email, Villafaña asked Lourie to call her, but there is no record of whether they spoke.

F. Defense Counsel Offers New Proposals Substantially Changing the Terms of the Federal Plea Agreement, which the USAO Rejects

Approximately an hour after Lourie's email reporting the deal he had reached with Lefkowitz, Lefkowitz sent Villafaña a revised draft plea agreement. Despite the agreement Lourie believed he and Lefkowitz had reached that morning, Lefkowitz's proposal would have resulted in a 16-month federal sentence followed by 8 months of supervised release served in the form of home detention. Lefkowitz also inserted a statement in his proposal explicitly prohibiting the USAO from requesting, initiating, or encouraging immigration authorities to institute immigration proceedings against two of Epstein's female assistants.

Villafaña circulated the defense's proposed plea agreement to Lourie and two other supervisors, and expressed frustration that the new defense version incorporated terms that were "completely different from what Jay just told Andy they would agree to." Villafaña also pointed out that the defense "wants us to recommend an improper calculation" of the sentencing guidelines

---

[118] The manager told OPR that he probably meant this as a joke because in his view the continued back-and-forth communications with defense counsel "was ridiculous," and the only way to "get this deal done" might be to have a direct conversation with Epstein.

and had added language waiving the preparation of a presentence investigation (PSI) "so he can keep all of his information confidential. I have already told Jay that the PSI language . . . was unacceptable to our office." Of even greater significance, in a follow-up email, Villafaña noted that the defense had removed both the requirement that Epstein plead to a registrable offense and the entire provision relating to monetary damages under 18 U.S.C. § 2255.

In the afternoon, Villafaña circulated her own proposed "hybrid" plea agreement, first internally to the management team with a note stating that it "contains the 18/12 split that Jay and Andy agreed to," and then to Lefkowitz. Regarding the prosecution of other individuals, she included the following provision: "This agreement resolves the federal criminal liability of the defendant and any co-conspirators in the Southern District of Florida growing out of any criminal conduct by those persons known to the [USAO] as of the date of this plea agreement," including but not limited to the conspiracy to solicit minors to engage in prostitution.

In her email to Lefkowitz, transmitting the plea agreement, Villafaña wrote:

> Could you share the attached draft with your colleagues. It is in keeping with what Andy communicated to me was the operative "deal." The U.S. Attorney hasn't had a chance to review all of the language, but he agrees with it in principle.
>
> . . . .
>
> [The West Palm Beach manager] and I will both be available at 2:00. . . . One of my suggestions is going to be (again) that we all sit down together in the same room, including Barry [Krischer] and/or Lanna [Belohlavek], so we can hash out the still existing issues and get a signed document.

Villafaña also emailed Acosta directly, telling him she planned to meet with Epstein's attorneys to work on the plea agreement, and asking if Acosta would be available to provide final approval. Acosta replied, "I don't think I should be part of negotiations. I'd rather leave it to you if that's ok." Acosta told OPR that "absent truly exceptional circumstances," he believed it was important for him "to not get involved" in negotiations, and added, "You can meet, like I did in September, [to] reaffirm the position of the office, [and] back your AUSA, but ultimately, I think your trial lawyer needs discretion to do their job." Villafaña told OPR, however, that she did not understand Acosta to be giving her discretion to conduct the negotiations as she saw fit; rather, she believed Acosta did not want to engage in face-to-face negotiations because "he wanted to have an appearance of having sort of an arm's length from the deal."[119] Villafaña replied to Acosta's

[119] As noted throughout the Report, Villafaña's interpretation of her supervisors' motivations for their actions often differed from the supervisors' explanations for their actions. Because it involved subjective interpretations of individuals' motivations, OPR does not reach conclusions regarding the subjects' differing views but includes them as an indication of the communication issues that hindered the prosecution team. *See* Chapter Two, Part Three, Section V.E.

message, "That is fine. [The West Palm Beach manager] and I will nail everything down, we just want to get a final blessing."

Negotiations continued throughout the day on Wednesday, September 19, 2007, with Villafaña and Lefkowitz exchanging emails regarding the factual proffer for a plea and the scheduling of a meeting to finalize the plea agreement's terms. During that exchange, Villafaña made clear to Lefkowitz that the time for negotiating was reaching an end:

> I hate to have to be firm about this, but we need to wrap this up by Monday. I will not miss my [September 25 charging] date when this has dragged on for several weeks already and then, if things fall apart, be left in a less advantageous position than before the negotiations. I have had an 82-page pros memo and 53-page indictment sitting on the shelf since May to engage in these negotiations. There has to be an ending date, and that date is Monday.

Early that afternoon, Lourie—who was participating in the week's negotiations from his new post at the Department in Washington, D.C.—asked Villafaña to furnish him with the last draft of the plea agreement she had sent to defense counsel, and she provided him with the "18/12 split" draft she had sent to Lefkowitz the prior afternoon. After reviewing that draft, Lourie told Villafaña it was a "[g]ood job" but he questioned certain provisions, including whether the USAO's agreement to suspend the investigation and hold all legal process in abeyance should be in the plea agreement. Villafaña told Lourie that she had added that paragraph at the "insistence" of the defense, and opined, "I don't think it hurts us." Villafaña explained to OPR that she held this view because "Alex and people above me had already made the decision that if the case was resolved we weren't going to get the computer equipment."

At 3:44 p.m. that afternoon, Lefkowitz emailed a "redline" version of the federal plea agreement showing his new revisions, and noted that he was "also working on a deferred [*sic*] prosecution agreement because it may well be that we cannot reach agreement here." The defense redline version required Epstein to plead guilty to a federal information charging two misdemeanor counts of attempt to intentionally harass a person to prevent testimony, the pending state indictment charging solicitation of prostitution, and a state information charging one count of coercing a person to become a prostitute, in violation of Florida Statute § 796.04 (without regard to age). Neither of the proposed state offenses required sexual offender registration. Epstein would serve an 18-month sentence and a concurrent 60 months on probation on the state charges. The redline version again deleted the provisions relating to damages under 18 U.S.C. § 2255 and replaced it with the provision requiring creation of a trust administered by the state court. It retained language proposed by Villafaña, providing that the plea agreement "resolves the federal criminal liability of the defendant and any co-conspirators in the Southern District of Florida growing out of any criminal conduct by those persons known to the [USAO] as of the date of this plea agreement," but also re-inserted the provision promising not to prosecute Epstein's assistants and the statement prohibiting the USAO from requesting, initiating, or encouraging immigration proceedings. It also included a provision stating the government's agreement to forgo a presentence investigation and a promise by the government to suspend the investigation and withdraw all pending legal process.

G. Villafaña and Lourie Recommend Ending Negotiations, but Acosta Urges That They "Try to Work It Out"

In the late afternoon of Wednesday, September 19, 2007, Villafaña expressed her increasing frustration to her supervisors. She emailed the defense redline version of the plea agreement to Lourie and the incoming West Palm Beach manager, identifying all of the provisions she had "specifically discussed with [the defense team] and rejected, that they have re-inserted into the agreement." (Emphasis in original). Villafaña opined, "This is NOT good faith negotiations." Lourie responded that he would "reach out to Alex to discuss."

Lourie immediately emailed Acosta the following:

> I looked at the latest draft from Jay [Lefkowitz] and I must agree with Marie. Based on my own conversations with him, his draft is out of left field. He claims to orally agree to our terms and then sends us a document that is the opposite. I suggest we simply tell him that his counter offer is rejected and that we intend to move forward with our case.

Acosta replied:

> Why don't we just call him. Tell him
>
> 1. You agree, and then change things.
>
> 2. That's not acceptable, and is in bad faith. Stop it or we'll indict.
>
> 3. Try to work it out.
>
> It seems that we are close, and it[']s worth trying to overcome what has to be painfully . . . annoying negotiating tactics.

Acosta explained to OPR that he recognized,

> [t]his negotiation was a pain, but if it was the right position, the fact that you've got annoying counsel on the other side doesn't it make it less of a right position. You tell them stop being annoying, you try to work it out, and if not, then you indict.

In response to Acosta's instruction, Lourie responded, "Ok will do." He also forwarded to Acosta the latest version of the USAO draft "hybrid" plea agreement that Villafaña had sent to Lefkowitz the previous day, which Lourie had requested and obtained from Villafaña earlier that afternoon.

Meanwhile, Villafaña sent to Lourie and his successor West Palm Beach manager a draft message she proposed to send to Lefkowitz with her objections to the defense revisions, explaining, "I know that you keep saying he is going to plead, and he will plead if we cave on

everything, but I really do not think that Mr. Epstein is going to engage in serious negotiations until he sees the Indictment and shows up in mag [federal magistrate judge] court." She suggested charging Epstein on a federal conspiracy charge, and if he refused to plead to that offense, superseding with additional charges and going to trial. She complained that after seven weeks of negotiations, "we are just spinning our wheels." Her proposed email to Lefkowitz detailed all of the objectionable provisions in his draft, and concluded, "If you or your client insists on these, there can be no plea agreement."

H. Acosta Edits the Federal Plea Agreement, and Villafaña Sends a Final Version to the Defense

The next day, Thursday, September 20, 2007, Villafaña emailed Assistant State Attorney Belohlavek and informed her:

> Our deadline is Monday evening for a signed agreement and arraignment in the federal system. At this time, things don't look promising anyway, but I will keep you posted. In their latest draft, they changed what they agreed to plead to in the state from solicitation of minors for prostitution (a registrable offense) to forcing adults into prostitution (a non-registrable offense). We will not budge on this issue, so it is looking unlikely that we will reach a mutually acceptable agreement. If that changes, I will let you know.

Acosta sent Lourie "[s]ome thoughts" about the USAO version of the proposed "hybrid" federal plea agreement he had received from Lourie the evening before, commenting that "it seems very straightforward" and "we are not changing our standard charging language" for the defense.[120] Noting that the draft was prepared for his signature, Acosta told Lourie that he did not typically sign plea agreements and "this should not be the first," adding that the USAO "should only go forward if the trial team supports and signs this agreement."[121] Lourie forwarded the email to Villafaña with a transmittal message simply reading, "I think Alex's changes are all good ones. Please try to incorporate his suggestions, change the signature block to your name and send as final to Jay." Lourie also noted to Acosta and Villafaña that he believed the defense would want to go back to the initial offer of a state plea with a non-prosecution agreement. When Villafaña sent the revised plea agreement to Lefkowitz later that afternoon, she advised him that if the defense wanted to return to the original offer of a state plea only, the draft NPA she had sent to him on September 17, 2007, would control.

---

[120] The USAO had standard federal plea agreement language, from which this "hybrid" plea agreement had substantially diverged.

[121] The standard procedure was for documents such as plea agreements to be signed by an AUSA under the name of the U.S. Attorney. In his OPR interview, Acosta further explained that wanted to give "the trial team" an opportunity to voice any objections because "if it's something they don't feel comfortable with we . . . shouldn't go forward with it."

I. The Defense Rejects the Federal Plea Agreement, Returns to the NPA "State-Only" Resolution, and Begins Opposing the Sexual Offender Registration Requirement

After having spent days negotiating the federal charges to be included in a plea agreement, by the afternoon of September 20, 2007, the defense rejected the federal plea option, and the parties resumed negotiations over the details of an NPA calling for Epstein to plead to only state charges. Through multiple emails and attempts (some successful) to speak directly with Acosta and other supervisors, defense attorneys vigorously fought the USAO's insistence that Epstein plead to a state charge requiring sexual offender registration.

After receiving the federal plea agreement, Lefkowitz spoke with Villafaña. She reported to Acosta and Lourie that Lefkowitz told her the defense was "back to doing the state-charges-only agreement" and wanted until the middle of the following week to work out the details, but that she had told defense counsel that "we need a signed agreement by tomorrow [Friday] or we are [filing charges] on Tuesday."

Lefkowitz emailed Villafaña about the draft NPA that she had sent to him, pointing out that it called for a 20-month jail sentence followed by 10 months of community control, rather than 18 months in jail and 12 under community control, and to ask if the USAO had "any flexibility" on the § 2255 procedure. Villafaña responded:

> The 18 and 12 has already been agreed to by our office, so that is not a problem. On the issue about 18 [U.S.C. §] 2255, we seem to be miles apart. Your most recent version not only had me binding the girls to a trust fund administered by the state court, but also promising that they will give up their [§] 2255 rights.
>
> I reviewed the e-mail that I sent you on Sunday with the comments on some of your other changes. In the context of a non-prosecution agreement, the office may be more willing to be specific about not pursuing charges against others. However, as I stated on Sunday, the Office cannot and will not bind Immigration.
>
> Also, your timetable will need to move up significantly. As [State Attorney] Barry [Krischer] said in our meeting last week, his office can put together a plea agreement, [and an] information, and get you all before the [state] judge on a change of plea within a day.

Villafaña alerted Krischer that evening that negotiations were "not going very well" and that defense counsel "changed their minds again, and they only want to plead to state charges, not concurrent state and federal." She added, "If we cannot reach . . . an agreement, then I need to [charge] the case on Tuesday [September 25] and I will not budge from that date."

In response to Villafaña's report of her conversation with Lefkowitz about the defense preference for a "state-charges-only agreement," Lourie alerted her that, "He wants to get out of [sexual offender] registration which we should not agree to." Lourie emailed Acosta:

> I think Jay [Lefkowitz] will try to talk you out of a registrable offense. Regardless of the merits of his argument, in order to get us down in time they made us an offer that included pleading to an offense against a minor (encouraging a minor into prostitution) and touted that we should be happy because it was registrable. For that reason alone, I don't think we should consider allowing them to come down from their own offer, either on this issue or on time of incarceration.

Lefkowitz attempted to reach Acosta that night, but Acosta directed Villafaña to return the call, and told Lourie that he did not want to open "a backchannel" with defense counsel. Lourie instructed Villafaña, "U can tell [J]ay that [A]lex will not agree to a nonregistration offense."

On the morning of Friday, September 21, 2007, Villafaña emailed Acosta informing him that "it looks like we will be [filing charges against] Mr. Epstein on Tuesday," reporting that the charging package was being reviewed by the West Palm Beach manager, and asking if anyone in the Miami office needed to review it. Villafaña also alerted Lourie that she had spoken that morning to Lefkowitz, who "was waffling" about Epstein pleading to a state charge that required sexual offender registration, and she noted that she would confer with Krischer and Belohlavek "to make sure the defense doesn't try to do an end run."

That same morning, Epstein attorney Sanchez, who had not been involved in negotiations for several weeks, emailed Sloman, advising, "[I] want to finalize the plea deal and there is only one issue outstanding and [I] do not believe that [A]lex has read all the defense submissions that would assist in his determination on this point . . . [U]pon resolution, we will be prepared to sign as soon as today." From his out-of-town vacation, Sloman forwarded the email to Acosta, who replied, "Enjo[y] vacation. Working with [M]arie on this." Sloman also forwarded Sanchez's email to Lourie and asked, "Do you know what she's talking about?" Lourie responded that Sanchez "has not been in any negotiations. Don't even engage with yet another cook."

J. The USAO Agrees Not to Criminally Charge "Potential Co-Conspirators"

Lefkowitz, in the meantime, sent Villafaña a revised draft NPA that proposed an 18-month sentence in the county jail, followed by 12 months of community control, and restored the provision for a trust fund for disbursement to an agreed-upon list of individuals "who seek reimbursement by filing suit pursuant to 18 U.S.C. § 2255." This defense draft retained the provision promising not to criminally charge Epstein's four female assistants and unnamed employees of the specific Epstein-owned corporate entity, but also extended the provision to "any potential co-conspirators" for any criminal charge arising from the ongoing federal investigation. This language had evolved from similar language that Villafaña had included in the USAO's earlier proposed draft federal plea agreement.[122] Lefkowitz also again included the sentence

[122] The language in the USAO's draft federal plea agreement stated, "This agreement resolves the federal criminal liability of the defendant and any co-conspirators in the Southern District of Florida growing out of any criminal conduct by those persons known to the [USAO] . . . ."

precluding the government from requesting, initiating, or recommending immigration proceedings against the two assistants who were foreign nationals.

At this point, Lefkowitz again sought to speak to Acosta, who replied by email: "I am happy to talk. My caveat is that in the middle of negotiations, u try to avoid[] undermining my staff by allowing 'interlocutor[]y' appeals so to speak so I'd want [M]arie on the call[.] I'll have her set something up."

Villafaña sent to Lefkowitz her own revised NPA, telling him it was her "attempt at combining our thoughts," but it had not "been approved by the office yet." She inserted solicitation of minors to engage in prostitution, a registrable offense, as the charge to which Epstein would plead guilty; proposed a joint recommendation for a 30-month sentence, divided into 18 months in the county jail and 12 months of community control; and amended the § 2255 provision.[123] Villafaña's revision retained the provision suspending the investigation and holding all legal process in abeyance, and she incorporated the non-prosecution provision while slightly altering it to apply to "any potential co-conspirator of Epstein, including" the four named assistants, and deleting mention of the corporate entity employees. Finally, Villafaña deleted mention of immigration proceedings, but advised in her transmittal email that "we have not and don't plan to ask immigration" proceedings to be initiated.[124]

Later that day, Villafaña alerted Lourie (who had arrived in Florida from Washington, D.C. early that afternoon) and the new West Palm Beach manager (copying her first-line supervisor and co-counsel) that she had included language that defense counsel had requested "regarding promises not to prosecute other people," and commented, "I don't think it hurts us." There is no documentation that Lourie, the West Palm Beach manager, or anyone else expressed disagreement with Villafaña's assessment. Rather, within a few minutes, Villafaña re-sent her email, adding that defense counsel was persisting in including an immigration waiver in the agreement, to which Lourie responded, "No way. We don't put that sort of thing in a plea agreement." Villafaña replied to Lourie, indicating she would pass that along to defense counsel and adding, "Any other thoughts?" When Lourie gave no further response, Villafaña informed defense counsel that Lourie had rejected the proposed immigration language.

OPR questioned the subjects about the USAO's agreement not to prosecute "any potential co-conspirators." Lourie did not recall why the USAO agreed to it, but he speculated that he left that provision in the NPA because he believed at the time that it benefited the government in some way. In particular, Lourie conjectured that the promise not to prosecute "any potential co-conspirators" protected victims who had recruited others and thus potentially were co-conspirators in Epstein's scheme. Lourie also told OPR, "I bet the answer was that we weren't going to charge" Epstein's accomplices, because Acosta "didn't really want to charge Epstein" in

---

123 Villafaña noted that she had consulted with a USAO employee who was a "former corporate counsel from a hospital" about the § 2255 language, and thought that the revised language "addresses the concern about having an unlimited number of claimed victims, without me trying to bind girls who I do not represent."

124 Villafaña gave OPR an explanation similar to that given by the case agents—that an ICE Special Agent had been involved in the early stages of the federal investigation of Epstein, and Villafaña believed the agent knew two of Epstein's female assistants were foreign nationals and would have acted appropriately on that information. Villafaña also said that the USAO generally did not get involved in immigration issues.

federal court. Sloman similarly said that he had the impression that the non-prosecution provision was meant to protect named co-conspirators who were also victims, "in a sense," of Epstein's conduct. Although later press coverage of the Epstein case focused on Epstein's connection to prominent figures and suggested that the non-prosecution provision protected these individuals, Sloman told OPR that it never occurred to him that the reference to potential co-conspirators was directed toward any of the high-profile individuals who were at the time or subsequently linked with Epstein.[125] Acosta did not recall the provision or any discussions about it. He speculated that if he read the non-prosecution provision, he likely assumed that Villafaña and Lourie had "thought this through" and "addressed it for a reason." The West Palm Beach manager, who had only limited involvement at this stage, told OPR that the provision was "highly unusual," and he had "no clue" why the USAO agreed to it.

Villafaña told OPR that, apart from the women named in the NPA, the investigation had not developed evidence of "any other potential co-conspirators. So, . . . we wouldn't be prosecuting anybody else, so why not include it? . . . I just didn't think that there was anybody that it would cover." She conceded, however, that she "did not catch the fact that it could be read as broadly as people have since read it."

K. The USAO Rejects Defense Efforts to Eliminate the Sexual Offender Registration Requirement

On the afternoon of Friday, September 21, 2007, State Attorney Krischer informed Villafaña that Epstein's counsel had contacted him and Epstein was ready to agree "to all the terms" of the NPA—except for sexual offender registration. According to Krischer, defense counsel had proposed that registration be deferred, and that Epstein register only if state or federal law enforcement felt, at any point during his service of the sentence, that he needed to do so. Krischer noted that he had "reached out" to Acosta about this proposal but had not heard back from him. Villafaña responded, "I think Alex is calling you now." Villafaña told OPR that, to her knowledge, Acosta called Krischer to tell him that registration was not a negotiable term.[126]

Later that afternoon, Villafaña emailed Krischer for information about the amount of "gain time" Epstein would earn in state prison. Villafaña explained in her email that she wanted to include a provision in the NPA specifying that Epstein "will actually be in jail at least a certain number of days to make sure he doesn't try to 'convince' someone with the Florida prison authorities to let him out early." Krischer responded that under the proposal as it then stood, Epstein would serve 15 months. He also told Villafaña that a plea to a registrable offense would not prevent Epstein from serving his time "at the stockade"—the local minimum security detention facility.[127]

---

[125] Sloman also pointed out that the NPA was not a "global resolution" and other co-conspirators could have been prosecuted "by any other [U.S. Attorney's] office in the country."

[126] Krischer told OPR that he did not recall meeting or having interactions with Acosta regarding the Epstein case or any other matter.

[127] The State Attorney concluded his email: "Glad we could get this worked out for reasons I won't put in writing. After this is resolved I would love to buy you a cup at Starbucks and have a conversation." Villafaña responded, "Sounds great." When asked about this exchange during her OPR interview, Villafaña said: "Everybody

At some point that day, Acosta spoke with Lefkowitz by phone regarding the need for Epstein to plead to a registrable offense. Throughout the weekend, with Villafaña's Monday deadline looming, defense counsel pressed hard to eliminate the sexual offender requirement. On Saturday, September 22, 2007, Sanchez sent a series of emails to Lourie. In the first, she provided details from a press report about a Florida public official who the previous day had pled guilty to child sex abuse charges and was sentenced to a term of probation. She noted that she "spoke to [M]att [Menchel]" and asked Lourie to call her. Two hours later she sent Lourie a second, lengthy email, strongly objecting to the registration requirement, and outlining "all arguments against registration [as a sexual offender] in this case." In this email, Sanchez claimed that there had been a "miscommunication" during the September 12, 2007 meeting, and that "we only agreed to the solicitation with minors because we believed and [Krischer] and [Belohlavek] confirmed it was NOT registrable." Sanchez complained that lifetime sexual offender registration was a "life sentence" that was "uncalled for," "does not make sense," and was "inappropriate" to impose "simply [because] the FBI wants it, in return for all there [*sic*] efforts." She listed numerous reasons why Epstein should not have to register, including his lack of a prior record or history of sexual offenses; the lack of any danger of recidivism; the ease with which he could be "tracked" without registering; and that it would be "virtually impossible to comply" with four separate state registration requirements. A few minutes later, Sanchez sent Lefcourt's phone number to Lourie "in case you want to speak to him directly."

In another email sent less than two hours later, Sanchez told Lourie she was writing again because "you are a very fair person. This resolution in the Epstein case is not reasonable. [I]t is a result of a misunderstanding at a meeting." She stated that Epstein's attorneys had "consistently emphasized their goal of 18 months in a federal camp" and "[e]veryone knew that a registerable offense precluded" a camp designation. Sanchez added, "Therefore it would have been wholly inconsistent with that primary goal of [Epstein's] safety to lightly concede to registration at that meeting." Sanchez concluded, "[I]mposing a life sentence on him is not something anyone will eventually be proud of. Please reconsider and help me get a fair result."

Lourie responded to none of the Sanchez emails, but he did reach out to Acosta for a phone conversation. By email late that night, at 10:26 p.m., Lefkowitz asked Lourie to phone him.

The next day, Lefkowitz emailed Acosta—with copies to Sloman, Lourie, and Villafaña—to "follow up on our conversation Friday," asking Acosta again to reconsider the requirement that Epstein plead to a registrable offense. Lefkowitz wrote that there had been a "misunderstanding" at the September 12, 2007 meeting:

> Before the meeting, Mr. Krischer and Ms. Belohlavek, a sex prosecutor for 13 years, told us that solicitation of a minor . . . is not a registerable offense. However, as it turned out, [it] is a registerable offense and our discussion at the meeting was based on a mistaken assumption. We suggest that Mr. Epstein enter two pleas—one to the Indictment and a second to a non-registerable charge.

---

has offered to buy me a cup of coffee. I have had coffee with no one." Krischer told OPR that the "reasons" to which he referred related to the pressure he had been getting from Chief Reiter about the Epstein case.

Lefkowitz set forth arguments similar to those Sanchez had presented to Lourie, as to why registration "based on the facts alleged in this case . . . simply does not make sense." In the event that Acosta did not agree to their proposed charges, Lefkowitz offered as an alternative "to stipulate that the state offense" would "constitute a prior sexual offense for purposes of enhanced recidivist sentencing" should Epstein ever again commit a federal sex offense against minors. As Lefkowitz further argued, "By accepting this option, you would be substituting the certainty of recidivist sentencing for the humiliation of registration." Emails reflect that, early that afternoon, Acosta, Lourie, and Villafaña discussed the matter in a conference call.

Lefkowitz also sent a revised version of the NPA to Villafaña that omitted identification of the charge to which Epstein would plead guilty. Later that day, Lefkowitz emailed Acosta:

> I got a call from [M]arie who said you had rejected our proposal. Does that mean you are not even prepared to have [Epstein] commit now to plead to the registerable offense near the end of his 18 month sentence and then be sentenced to 12 month[s] community control for that charge? I thought that was exactly what you proposed [F]riday (although you wanted, but were not able, to do it with some kind of federal charge).
>
> But that still gives you a registerable sex offense, 30 months total, and 18 in jail.
>
> How can that not satisfy you—while still ensuring that [E]pstein is not unduly endangered in jail?

Acosta responded, "I do not mean to be difficult, but our negotiations must take place with the AUSAs assigned to the case." Acosta added that he had spoken with Lourie and Villafaña, and they had "discretion to proceed as they believe just and appropriate." Acosta copied Villafaña, and she emailed Acosta to thank him "for the support."

L. The Defense Adds a Confidentiality Clause

Throughout that Sunday evening, Lefkowitz had numerous email exchanges with Villafaña, and apparently a conference call with Lourie (who was returning to Washington, D.C.) and Villafaña. Later that evening, Lefkowitz sent Villafaña a new version of the NPA that, for the first time, included a confidentiality term:

> It is the intention of the parties to this Agreement that it not be disseminated or disclosed except pursuant to court order. In the event the Government must disclose this Agreement in response to a request pursuant to the Freedom of Information Act, the Government agrees to provide Epstein notice before the disclosure of this Agreement.

After making additional revisions, Villafaña sent this NPA to Acosta and Lourie as the "final" version, asking Acosta to let her know what he thought of it. Among her revisions, she changed the confidentiality provision to the following:

> The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.[128]

VII. SEPTEMBER 24, 2007: ACOSTA MAKES FINAL EDITS, AND THE NPA IS SIGNED

The contemporaneous emails show that Villafaña continued to update Acosta as the parties negotiated the final language and that Acosta reviewed and edited the NPA. Shortly after midnight on Monday, September 24, 2007, Acosta sent Villafaña "[s]mall edits" to the "final" NPA she had sent to him. Among his changes was language modifying provisions that appeared to require the State Attorney's Office or the state court to take specific actions, such as requiring that Epstein enter his guilty plea by a certain date. Acosta explained in his email, "I'm not comfortable with requiring the State Attorney to enter into a [joint sentencing] recommendation" or "requiring a State court to stick with our timeline" for entry of the guilty plea and sentencing. Accordingly, Acosta substituted language that required Epstein alone to make a binding sentencing recommendation to the state court, and required Epstein to use his "best efforts" to enter his guilty plea and be sentenced by the specified dates. Acosta also instructed Villafaña to restore a reference to Epstein's wish "to reach a global resolution of his state and federal criminal liabilities." Lourie, who had returned to the Department in Washington, D.C., had a phone conversation with Lefkowitz and sent additional comments on the final draft to Acosta and Villafaña. Villafaña sent a new revision, incorporating edits from Acosta and Lourie, to Lefkowitz later that morning.

On the afternoon of September 24, 2007, Villafaña circulated the new "final" version of the NPA to Acosta, Sloman, Lourie, and other supervisors, and asked Lefkowitz to send her the signed agreement. After Lefkowitz electronically transmitted to Villafaña a copy of the NPA signed by Epstein, she emailed her immediate supervisor and her co-counsel: "They have scanned and emailed the signed agreement. It is done."

In his transmittal email, Lefkowitz asked Villafaña to "[p]lease do whatever you can to keep this from becoming public." Villafaña responded:

> I have forwarded your message only to Alex, Andy, and [the West Palm Beach manager]. I don't anticipate it going any further than that. When I receive the originals, I will sign and return one copy to you. The other will be placed in the case file, which will be kept confidential since it also contains identifying information about the girls.
>
> When we reach an agreement about the attorney representative for the girls, we can discuss what I can tell him and the girls about the

[128] In commenting on OPR's draft report, Lourie observed that because the NPA contained names of uncharged co-conspirators and other protected information, the USAO would have a duty to redact the information before disclosing the NPA.

> agreement. I know that Andy promised Chief Reiter an update when a resolution was achieved. . . . [The West Palm Beach manager] is calling, but [he] knows not to tell Chief Reiter about the money issue, just about what crimes Mr. Epstein is pleading guilty to and the amount of time that has been agreed to. [He] also is telling Chief Reiter not to disclose the outcome to anyone.

OPR questioned Villafaña about this email. She explained that she generally kept confidential the terms of the resolution of any case. She understood that "the way that the [Epstein] case was resolved" needed to remain confidential, but the victims could be informed about what happened because by the NPA's terms, they needed to know what the agreement was about.

Villafaña emailed the West Palm Beach manager, asking him to tell PBPD Chief Reiter "the good news" but "leave out the part about damages," and explained that she wanted to meet with the victims herself to explain how the damages provision would work. Villafaña also told him that Lourie had asked that Reiter share information about the NPA only with the PBPD Detective who had led the state investigation of Epstein.[129] Villafaña forwarded to Acosta, Lourie, and the West Palm Beach manager Lefkowitz's email asking that the USAO try to keep the NPA from becoming public. Acosta responded that the agreement "already binds us not to make public except as required by law under [the Freedom of Information Act]," and asked, "[W]hat more does he want?" Villafaña replied, "My guess is that if we tell anyone else (like the police chief or FBI or the girls), that we ask them not to disclose." Soon thereafter, Acosta emailed Lourie, Villafaña, and the West Palm Beach manager to set up a call to discuss "who we tell and how much," adding, "Nice job with a difficult negotiation."

The final NPA, as signed by Epstein, his attorneys Lefcourt and Sanchez, and Villafaña, contained the following pertinent provisions:

Charges: Epstein would plead guilty to the pending Palm Beach County indictment, plus one count of solicitation of minors to engage in prostitution, a registrable offense.

Sentence: The parties would make a joint, binding recommendation for a 30-month sentence divided as follows: consecutive terms of 12 months and 6 months in the county jail, without opportunity for withholding adjudication or sentencing and without community control or probation, followed by 12 months of community control, consecutive.[130]

Damages: As long as the identified victims proceeded exclusively under 18 U.S.C. § 2255, Epstein would not contest federal court jurisdiction or the victims' status as victims. The USAO would provide to Epstein a list of individuals

---

129 The West Palm Beach manager told OPR that he called Chief Reiter, who was "fine" with the outcome.

130 Withholding adjudication or sentencing referred to a special sentence in which the judge orders probation but does not formally convict the defendant of a criminal offense. *See* Fla. Stat. § 948.01 (2007).

it had identified as victims.[131] The USAO, with the good faith approval of Epstein's counsel, would select an attorney representative for the victims, whom Epstein would pay.

Timing: Epstein would make his best efforts to enter his guilty plea and be sentenced by October 26, 2007. The USAO had no objection to Epstein self-reporting to begin serving his sentence by January 4, 2008.

Immunity: The USAO would not initiate criminal charges against "any potential co-conspirator of Epstein," including four named personal assistants.

Other: Epstein was obligated to undertake discussions with the State Attorney's Office to ensure compliance with this agreement.

Epstein waived his right to appeal.

Epstein agreed that he would not be afforded any benefits with respect to gain time or other rights, opportunities, and benefits not available to any other inmate.

The federal investigation would be suspended and all pending legal process held in abeyance unless and until Epstein violated any term of the agreement. Evidence "requested by or directly related to" the pending legal process, "including certain computer equipment," would be kept inviolate until all the NPA terms had been satisfied.

Breach: The USAO would be required to notify Epstein of any alleged breach of the agreement within 90 days of the expiration of the term of home confinement, and would be required to initiate prosecution within 60 days thereafter.

Disclosure: The parties "anticipate[d]" that the agreement would not be made part of any public record, and if the USAO received a Freedom of Information Act request or compulsory process commanding disclosure of the agreement, it would provide notice to Epstein before making any disclosure.[132]

That evening, Lefkowitz emailed Lourie to express concern about the notification he understood would be given to Chief Reiter, stating, "I am very concerned about leaks unduly prejudicing Jeffrey [Epstein] in the media."[133] He added, "I have enjoyed working with you on

---

131 The USAO had not informed the defense of the victims' identities at this point. The parties anticipated that the USAO would send Epstein's attorneys a list of victims when Epstein fulfilled his obligation under the NPA to enter his state guilty pleas.

132 The final NPA is attached as Exhibit 3 to this Report.

133 On October 3, 2007, the Miami FBI media officer notified the USAO that the *New York Post* had reported that federal authorities were not going to pursue federal charges against Epstein. According to the *Post*, Epstein would plead guilty to soliciting underage prostitutes, "in a deal that will send him to prison for about 18 months," followed by "a shorter period of house confinement," and, according to "sources," federal authorities had "agreed to drop their

this matter." Lourie responded with an assurance that the Reiter notification was only "so he does not find out about it in the paper," and he concluded: "I enjoyed it as well. Mr. Epstein was fortunate to have such excellent representation."

VIII. POST-NPA NEGOTIATIONS

Almost immediately after the NPA was signed, conflicts arose about its terms, and the difficult negotiation process began anew. The USAO quickly realized that there were numerous issues concerning the monetary damages provision that were not resolved in the NPA, and the parties differed in their interpretations of the § 2255 provision, in particular the role and duties of the attorney representative for the victims. As negotiations regarding the damages provision continued, the defense was able to delay having Epstein enter his guilty plea in state court.

A. September – October 2007: Sloman's Concerns about Selection of an Attorney Representative Lead to a Proposed NPA Addendum

The first controversy centered on the appointment of an attorney representative for the victims. Initially, Villafaña reached out to a private attorney who was one of several suggested to her for that role. Villafaña notified Lefkowitz that she was recommending the attorney to serve as the victims' representative and suggested a phone conference to discuss what information the USAO could disclose to the attorney about the case. Villafaña told Lefkowitz that she had never met the attorney, but he had been recommended by "a good friend in our appellate section" and by one of the district judges in Miami.[134] Over the next few days, Villafaña exchanged messages with the attorney about the possibility of his serving as the attorney representative. She also exchanged emails with Lefkowitz, passing along procedural questions raised by the attorney.

By this time, Lourie had fully transitioned to his detail at the Department's Criminal Division. Sloman, who had been on vacation during the week the NPA was finalized, returned to the office, reviewed the final agreement, and immediately expressed his disapproval of the provision authorizing the USAO to select an attorney representative for the victims, which he believed might raise the appearance of a conflict of interest. Instead, he proposed that a special master make the selection. Although evidently frustrated by Sloman's belated proposal, Villafaña conveyed to Lefkowitz the suggestion that a special master be appointed to select the attorney representative, rather than having the USAO make the selection.[135] She provided Lefkowitz with

---

probe into possible federal criminal violations in exchange for the guilty plea to the new state charge, with the understanding that he will do prison time." Dan Mangan, "'Unhappy Ending' Plea Deal—Moneyman to Get Jail For Teen Sex Massages," *New York Post*, Oct. 1, 2007. *ABC News* later reported that federal charges "could carry more substantial prison time. Now, Epstein's high-powered lawyers, including Kenneth Starr, . . . may try to get him out of registering as a sex offender . . . ." Scott Michels, "Money Manager Said to Plan to Plead Guilty to Prostitution Charges: Jeffrey Epstein may serve about 18 months in prison for soliciting prostitutes," *ABC News*, Oct. 11, 2007.

[134] The "good friend" was an AUSA whom Villafaña was dating. The defense subsequently raised this as a misconduct issue, alleging that Villafaña was "closely associated" with the individual nominated for the victims' representative position.

[135] In a separate email to the proposed attorney representative, Villafaña commented, "[O]f course they tell me this now."

a proposal regarding the special master's responsibilities, along with a draft letter to send to the special master explaining the procedure for selecting an attorney representative.

Lefkowitz objected to this proposal in a letter to Villafaña, pointing out that the NPA did not provide for the appointment of a special master. More importantly, Lefkowitz used the discussion of the special master as an opening to press for other alterations to the language of the NPA or, at least, to its interpretation. Focusing on the attorney representative, Lefkowitz argued that the attorney's role should be viewed as limited to negotiating settlements and that the attorney was precluded from filing lawsuits on behalf of victims who could not reach a negotiated settlement with Epstein. Lefkowitz proposed:

> [T]he selected attorney should evaluate the claims of each identified individual, negotiate a total fund amount with Mr. Epstein, then distribute the monies based on the strength of each case. For those identified individuals who elect not to settle with Mr. Epstein, they may proceed on their own, but by doing so, they would not be suing under § 2255 as contemplated by [the NPA] and therefore may not continue to be represented by the selected attorney.

Lefkowitz also objected to Villafaña's draft letter to the special master, asserting that it was essential for the defense to participate in crafting a "mutually acceptable communication" to the victims. Going further, Lefkowitz claimed that any contact between the USAO and the victims about the § 2255 provision would violate the agreement's confidentiality provision. Lefkowitz admonished the government not to contact the victims "to inform them of the resolution of the case, including [the] appointment of the selected attorney and the settlement process."

Villafaña forwarded Lefkowitz's letter to Sloman, complaining that the defense interpretation of the § 2255 procedure violated the clear language of the NPA and asking, "Can I please just indict him [Epstein]?" Days later, Sanchez emailed Sloman, and then sent a follow-up letter, asking that Sloman "help resolve" the issue regarding the attorney representative's role, and arguing that Epstein had never intended by signing the NPA to promise to pay fees for the victims' civil lawsuits in the event a settlement could not be reached. When Villafaña explained to Sloman her views on Sanchez's arguments, Sloman responded, "I suggest that you communicate your proposal back to [Sanchez]. The more 'voices' they hear the more wedges they try to drive between us." Villafaña agreed, noting that "[t]here are so many of them over there, I am afraid we are getting triple-teamed."[136]

Villafaña sent Sanchez a letter regarding the roles of the special master and attorney representative. The next day, October 10, 2007, Lefkowitz sent a six-page letter to Acosta, as a "follow up to our conversation yesterday," expressing "serious disagreements" with Villafaña's view of the process for victims to claim § 2255 damages under the NPA. Lefkowitz reiterated the defense position that the attorney representative's role was meant to be limited to negotiating settlements for the victims, rather than pursuing litigation. Lefkowitz claimed that a requirement

---

136 Villafaña also alerted Sloman that a newspaper was reporting that defense counsel was writing a letter to Acosta asking for reconsideration of the requirement that Epstein register as a sexual offender. Villafaña commented, "It appears they don't understand that a signed contract is binding."

that Epstein pay the victims' legal fees incurred from contested litigation would "trigger profound ethical problems," in that the attorney representative would have an incentive to reject settlement offers in order to incur more fees. In addition, Lefkowitz rejected Villafaña's view that Epstein had waived the right to challenge § 2255 liability as to victims who did not want to settle their claims, and contended that any such victims "will have to prove, among other things, that they are victims under the enumerated statutes." Finally, Lefkowitz again argued that the USAO should not discuss the settlement process with the victims who were to be identified as eligible for settlement under § 2255:

> Ms. Villafaña proposes that either she or federal agents will speak with the [victims] regarding the settlement process. We do not think it is the government's place to be co-counsel to the [victims], nor should the FBI be their personal investigators. Neither federal agents nor anyone from your Office should contact the [victims] to inform them of the resolution of the case, including appointment of the attorney representative and the settlement process. Not only would that violate the confidentiality of the Agreement, but Mr. Epstein also will have no control over what is communicated to the [victims] at this most critical stage. We believe it is essential that we participate in crafting a mutually acceptable communication to the [victims]. We further believe that communications between your Office or your case agents and the [victims] might well violate Rule 6(e)(2)(B) of the Federal Rules of Criminal Procedure. The powers of the federal grand jury should not, even in appearance, be utilized to advance the interests of a party to a civil lawsuit.[137]

Lefkowitz concluded, "I look forward to resolving these open issues with you during our 4:30 call today."[138]

Villafaña was at that time on sick leave, and Sloman and Acosta exchanged emails about crafting an addendum to the NPA to address the method of appointing an attorney representative and to articulate the representative's duties. The next day, October 11, 2007, Sloman exchanged emails with Lefkowitz about the text of a proposed addendum.

B. October 12, 2007: Acosta and Defense Attorney Lefkowitz Meet for Breakfast

On the morning after his scheduled afternoon phone call with Lefkowitz, Acosta exchanged emails with Lefkowitz, arranging to meet for breakfast the following day, on October 12, 2007, at a Marriott hotel in West Palm Beach. Contemporaneous records show that Acosta was previously scheduled to be in West Palm Beach for a press event on October 11 and to speak at the Palm Beach County Bench Bar conference the following midday, and that he stayed overnight at the Marriott.

---

137 Federal Rule of Criminal Procedure 6(e)(2)(B) relates to secrecy of federal grand jury matters.

138 OPR did not locate any emails indicating what happened on the call.

However, as with Villafaña's publicly released emails to Lefkowitz, this meeting between Acosta and Lefkowitz drew criticism when the media learned of it during the CVRA litigation. It was seen either as further evidence of the USAO's willingness to meet with Epstein's attorneys while simultaneously ignoring the victims, or as a meeting at which Acosta made secret agreements with the defense.

Two letters written later in 2007 refer to the breakfast meeting. In a December 2007 letter to Sanchez, Acosta stated that he had "*sua sponte* proposed the Addendum to Mr. Lefkowitz at an October meeting in Palm Beach . . . . in an attempt to avoid what I foresaw would likely be a litigious selection process."[139] In an October 23, 2007 letter from Lefkowitz to Acosta, less than two weeks after the breakfast meeting, Lefkowitz represented that during the meeting, Acosta

> assured me that [the USAO] would not intervene with the State Attorney's Office regarding this matter; or contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter; and that neither [the USAO] nor the [FBI] would intervene regarding the sentence Mr. Epstein receives pursuant to a plea with the State, so long as the sentence does not violate state law.[140]

However, two days after receiving this letter, Acosta revised a response letter drafted by Sloman, adding the term "inaccurate" to describe Lefkowitz's claims that Acosta had promised not to intervene with the State Attorney's Office, contact individual witnesses or claimants, or intervene regarding Epstein's sentence.[141] The draft response stated, "[S]uch a promise equates to the imposition of a gag order. Our Office cannot and will not agree to this."[142]

Acosta told OPR that he did not remember the breakfast meeting, but he speculated that the meeting may have been prompted by defense complaints that Villafaña had recommended "her boyfriend's partner" to serve as attorney representative.[143] Acosta said that "the way this was reported [in the press] was that I negotiated [the NPA] over breakfast," which was inaccurate because the NPA had been signed weeks before the breakfast meeting.[144] When asked about

---

139 In fact, Sloman and Lefkowitz had been working on language for the Addendum before Acosta's breakfast meeting with Lefkowitz. It is possible that Acosta was not aware of Sloman's efforts or had forgotten about them when writing the December 7, 2007 letter.

140 This letter is discussed further in the following section of this Report.

141 OPR did not find evidence establishing that the response was ever sent.

142 Sloman's initial draft response referred to a conversation the previous day in which Acosta had "clarified" Lefkowitz's claims about what Acosta had purportedly said in the October 12, 2007 breakfast meeting.

143 As noted previously, the attorney whom Villafaña recommended was a friend of another AUSA whom Villafaña was then dating, but had no professional relationship with either Villafaña or the other AUSA.

144 For example, the *Miami Herald*'s November 2018 investigative report stated that "on the morning of the breakfast meeting, a deal was struck—an extraordinary plea agreement that would conceal the full extent of Epstein's crimes and the number of people involved. . . . [T]he deal—called a non-prosecution agreement—essentially shut down an ongoing FBI probe . . . ." Julie K. Brown, "Perversion of Justice: How a future Trump cabinet member gave a serial sex abuser the deal of a lifetime," *Miami Herald*, Nov. 28, 2018. The NPA, however, was finalized and signed

Lefkowitz's description of their breakfast meeting discussion, Acosta told OPR that there were "several instances" in which Lefkowitz and other defense counsel mischaracterized something he or an AUSA said, in a way that was misleading.

Emails show that, immediately after the breakfast, Acosta phoned Sloman, who then emailed to Lefkowitz a revision to the Addendum language they had been negotiating and who also later reported to Villafaña that Lefkowitz's "suggested revision has been rejected." Other emails show that the parties continued to be at odds about the proposed language for the NPA addendum for several days after the breakfast meeting.

C. Acosta Agrees to the Defense Request to Postpone Epstein's Guilty Plea; the Parties Continue to Negotiate Issues concerning the Attorney Representative and Finally Reach Agreement on the NPA Addendum

A week after his breakfast meeting with Acosta, Lefkowitz—citing a scheduling conflict—sent Acosta an email seeking his agreement to postpone Epstein's entry of his guilty plea in state court from October 26, 2007, the date agreed to in the NPA, to November 20, 2007. In his email, Lefkowitz reported that the State Attorney's Office had agreed to the postponement, and he noted that Acosta had said during the breakfast meeting that he "didn't want to dictate a schedule to the state."[145] Acosta solicited input from Sloman, who later that day emailed Lefkowitz and agreed to the postponement.

With Lourie having departed from the USAO, Sloman became more involved in negotiating the NPA addendum than he had been in the negotiations leading to the NPA, and he quickly came up against the problem Villafaña and Lourie had faced: the defense attorneys continued to negotiate provisions to which they had seemingly already agreed. Between October 12 and 19, 2007, in a series of email exchanges and phone conversations, Acosta, Sloman, Villafaña, and Lefkowitz continued working on language for the NPA addendum addressing the process for selection of the attorney representative and describing which of the representative's activities Epstein would be required to reimburse. Although it appeared that progress was being made towards reaching agreement on the terms of an addendum, on October 19, 2007, Lefkowitz emailed Sloman identifying "areas of concern" with a proposal the USAO had made days before. Sloman forwarded this email to Acosta, noting that it "re-ploughs some of what we accomplished this week," and raised "unnecessary" issues. Sloman reported to Acosta that a victim in New York had filed a civil lawsuit against Epstein, and Villafaña was concerned that "this may be the real reason for the delay in the . . . plea. She thinks that [Epstein] . . . want[s] to knock that lawsuit out before the guilty plea to deter others." Sloman also alerted Acosta that newspaper reports indicated that Epstein had planted false stories in the press in an attempt to discredit the victims.

---

almost three weeks before the breakfast meeting occurred. OPR discusses the breakfast meeting further in its analysis at Chapter Two, Part Three, Section IV.E.2.

[145] Assuming Acosta made the remark Lefkowitz attributed to him, it was consistent with the position Acosta had taken before the NPA was signed. As noted previously, during the NPA negotiations, Acosta had instructed Villafaña to omit language requiring the State Attorney's Office to take action by a certain date, because he was "not comfortable with requiring the State" to comply with a specific deadline. During his interview, Acosta told OPR that "we as federal prosecutors are not going to walk in and dictate to the state attorney."

On October 22, 2007, Sloman responded to the issues Lefkowitz had raised, rejecting some defense proposals but agreeing to modify certain language in the proposed addendum to "satisfy your concern."[146] Noting that the addendum and a revised letter to the special master were attached, Sloman ended by stating, "[T]his needs to be concluded. Alex and I believe that this is as far as we can go. Therefore, please advise me whether we have a deal no later than COB tomorrow . . . ."

Nonetheless, the next day, Lefkowitz sent Acosta a three-page letter reiterating the Epstein team's disagreements with the USAO's interpretation of the NPA. Lefkowitz noted, however, that Epstein had "every intention of honoring the terms of [the NPA] in good faith," and that the defense letter was not intended to be "a rescission or withdrawal from the terms of the [NPA]." Lefkowitz added:

> I also want to thank you for the commitment you made to me during our October 12 meeting in which you promised genuine finality with regard to this matter, and assured me that your Office would not intervene with the State Attorney's Office regarding this matter; or contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter; and that neither your Office nor the [FBI] would intervene regarding the sentence Mr. Epstein receives pursuant to a plea with the State, so long as that sentence does not violate state law. Indeed, so long as Mr. Epstein's sentence does not explicitly violate the terms of the Agreement, he is entitled to any type of sentence available to him, including but not limited to gain time and work release.

Sloman forwarded the letter to Villafaña, commenting, "Wait [until] you see this one." Villafaña replied:

> Welcome to my world. I love the way that they want to interpret this agreement.
>
> . . . .
>
> It also looks like they are planning to ask for and receive a sentence far lower than the one we agreed to. Has anyone talked to Barry [Krischer] about this? Maybe this is the real reason for the delay in entering the guilty plea? We also have to contact the victims to tell [them] about the outcome of the case and to advise them than an attorney will be contacting them regarding possible claims against Mr. Epstein. If we don't do that, it may be a violation of the Florida Bar Rules for the selected attorney to "cold call" the girls.

[146] The defense raised issues concerning the attorney representative, the statutory limit on damages, and inclusion of certain victims.

. . . .

> Why don't we agree to mutual recission [*sic*] and indict him?

Acosta also weighed in, sending both Villafaña and Sloman an email with a subject line that read "This has to stop," in which he stated:

> Just read the letter.
>
> 1. We specifically refused to include the provision saying that we would not communicate. If I recall the conference call, we told him we could not agree to a gag order using those words.
>
> 2. The purpose of the agreement was not an out of court settlement. Seems that they can't take no. Let's talk re how to proceed. I'm not sure we will ever agree on a letter [to the special master about how to select an attorney representative] at this point.

Notwithstanding Acosta's assessment and prediction, after Sloman sent to Lefkowitz a new draft addendum and they spoke by phone, the parties reached agreement on the addendum's terms.[147]

On October 25, 2007, Sloman sent a letter to the person whom the USAO had selected to serve as special master, outlining the special master's duties. A few days later, on October 29, 2007, Epstein and his attorneys Lefcourt and Sanchez signed the NPA addendum.[148] Villafaña's name was printed as the USAO representative, but at Villafaña's request, Sloman signed the addendum for her on behalf of the USAO.

Villafaña later emailed Sloman thanking him for "the advice and the pep talk," which apparently related to the defense attorneys' allegation of impropriety concerning her initial selection of the private attorney to assist the victims. Villafaña explained to Sloman:

> The funny thing is that I had never met (and still haven't met) or spoken to [the private attorney] before I asked him if he would be willing to take on this case. . . . But as soon as you mentioned the appearance problem, I saw where the problem would arise and agreed that the Special Master would be a safer route. I just worry that the defense's attacks on me could harm the victims.

Sloman responded that defense counsel had "put an . . . insidious spin" on Villafaña's role in proposing the private attorney, but Sloman added, "I hope that you understand that these ad hominem attacks against you do not diminish in our eyes what you and the agents have accomplished."

---

147 Acosta and Villafaña were copied on this email.

148 The Addendum is attached as Exhibit 4 to this Report.

D. Epstein Further Delays His Guilty Plea

The addendum did not bring the case to conclusion. Instead, the matter entered a new, protracted phase, which involved the upper echelons of the Department of Justice. Despite the fact that Epstein and his attorneys had signed the NPA, they pursued a new strategy of appealing to senior Department managers with the goal of setting aside the NPA entirely. Although ultimately unsuccessful, the strategy delayed the entry of Epstein's guilty plea by months.

On October 29, 2007, Villafaña emailed Sloman, raising several issues that she wanted Sloman to address with Lefkowitz. Among other things, Villafaña pointed out that the NPA required Epstein to use his "best efforts" to comply with the agreement, but he had failed to comply with the timeline established by the NPA when he sought and obtained a plea hearing postponement from October 26 to November 20. Responding to Lefkowitz's attempts to limit the USAO's communications with various entities and individuals, Villafaña noted that the USAO needed to be able to communicate with the State Attorney's Office and the victims' attorney "to [e]nsure that Epstein is abiding by the terms of the agreement."

That same day, Assistant State Attorney Belohlavek informed Sloman that the state judge assigned to the case had scheduled Epstein's plea and sentence in early January 2008. Belohlavek assured Sloman that the "plea and sentence will definitely occur before the January 4th date that was agreed on by all for the sentencing."[149] Nonetheless, emails over the course of the next month show that the USAO, the State Attorney's Office, and defense counsel continued to communicate regarding the date of the guilty plea, with the USAO asserting that a proposed January 7, 2008 date for the entry of Epstein's guilty plea was "unacceptable," while the defense contended that Epstein had not agreed to any date. Finally, after multiple communications referring to various potential dates, on December 7, 2007, Epstein attorney Jack Goldberger issued a Notice of Hearing, setting the case for January 4, 2008.[150]

E. Epstein Seeks Departmental Review of the NPA's § 2255 Provision Relating to Monetary Damages for the Victims

With Epstein's plea hearing delayed, he launched a new effort to undermine the validity of the NPA, this time within the Department. On November 16, 2007, Epstein attorney Kenneth Starr called the office of Assistant Attorney General for the Criminal Division Alice Fisher and left a message that he was calling regarding Epstein.[151] At Fisher's request, Lourie, who in late September 2007 had begun serving his detail as Fisher's Principal Deputy and Chief of Staff, returned the call. Fisher told OPR that she had no recollection of this call, and Lourie also could

---

149 The NPA had required Epstein's plea and sentencing to occur by October 26, 2007, but provided that Epstein could report to begin serving his sentence on January 4, 2008.

150 *State v. Epstein*, No. 2006-CF-9454, Notice of Hearing (Fifteenth Judicial Circuit, Dec. 7, 2007).

151 In a meeting with Acosta and Sloman on November 21, 2007, Lefkowitz informed them that Starr had placed a call to Fisher.

not recall for OPR the substance of his conversation with Starr, other than that it was likely about Epstein's wish to have the Department review the case.[152]

On November 28, 2007, Starr requested, by letter, a meeting with Fisher. In his letter, Starr argued that the USAO improperly had compelled Epstein to agree to pay civil damages under 18 U.S.C. § 2255 as part of a state-based resolution of a criminal case. On the same day, Lefkowitz emailed Sloman, complaining about the USAO's plan to notify victims about the § 2255 provision and alerting Sloman that Epstein's counsel were seeking a meeting with the Assistant Attorney General "to address what we believe is the unprecedented nature of the section 2255 component" of the NPA. After Lourie sent to Sloman a copy of the Starr letter, Sloman forwarded it to Villafaña, asking her to prepare a chronology of the plea negotiations and how the § 2255 provision evolved. Villafaña responded that she was "going through all of the ways in which they have tried to breach the agreement to convince you guys to let me indict."

In Washington, D.C., Lourie consulted with CEOS Chief Oosterbaan, asking for his thoughts on defense counsel's arguments. At the same time, at Lourie's request, Villafaña sent the NPA and its addendum to Lourie and Oosterbaan. Oosterbaan responded to Lourie that he was "not thrilled" about the NPA; described Epstein's conduct as unusually "egregious," particularly because of its serial nature; and observed that the NPA was "pretty advantageous for the defendant and not all that helpful to the victims." He opined, however, that the Assistant Attorney General would not and should not consider or address the NPA "other than to say that she agrees with it." During her OPR interview, Fisher did not recall reading Starr's letter or discussing it with Oosterbaan, but believed the comment about her "agree[ing] with it" referred to a federal prosecution of Epstein, which she believed was appropriate. She told OPR, however, that she "played no role in" the NPA and did not review or approve the agreement either before or after it was signed.

As set forth in more detail in Chapter Three of this Report, Villafaña planned to notify the victims about the NPA and its § 2255 provision, as well as about the state plea hearing, and she provided a draft of the notification letter to Lefkowitz for comments. On November 29, 2007, Lefkowitz sent Acosta a letter complaining about the draft notification to the victims. Lefkowitz asked the USAO to refrain from notifying the victims until after defense counsel met with Assistant Attorney General Fisher, which he anticipated would take place the following week. Internal emails indicate that Lourie contacted Oosterbaan about his availability for a meeting with Starr, but both Fisher and Lourie told OPR that such a meeting never took place, and OPR found no evidence that it did.

Acosta promptly responded to Lefkowitz by letter, directing him to raise his concerns about victim notification with Villafaña or Sloman. Acosta also addressed Epstein's evident efforts to stop the NPA from being enforced:

---

[152] In a short email to Fisher, the next day, Lourie reported simply: "He was very nice. Kept me on the phone for [a] half hour talking about [P]epperdine," referring to the law school where Starr served as Dean.

> [S]ince the signing of the September 24th agreement, more than two months[] ago, it has become clear that several attorneys on your legal team are dissatisfied with that result.
>
> . . . .
>
> [You], Professor Dershowitz, former Solicitor [General] Starr, former United States Attorney Lewis, Ms. Sanchez and Messrs. Black, Goldberger and Lefcourt previously had the opportunity to review and raise objections to the terms of the Agreement. The defense team, however, after extensive negotiation, chose to adopt the Agreement. Since then counsel have objected to several steps taken by the U.S. Attorney's Office to effectuate the terms of the Agreement, in essence presenting collateral challenges to portions of the Agreement.
>
> It is not the intention of this Office ever to require a defendant to enter a plea against his wishes. Your client has the right to proceed to trial. If your client is dissatisfied with his Agreement, or believes that it is unlawful or unfair, we stand ready to unwind the Agreement.

In a separate, seven-page letter to Starr, with Villafaña's and Sloman's input, Acosta responded to the substance of Starr's November 28 letter to Assistant Attorney General Fisher. Fisher told OPR that she did not recall why Acosta, rather than her office, responded to the letter, but she conjectured that "probably I was trying to make sure that somebody responded since [the Criminal Division wasn't] going to respond."[153]

In his seven-page letter, sent to Starr on December 4, 2007, Acosta wrote:

> The Non-Prosecution Agreement entered into between this Office and Mr. Epstein responds to Mr. Epstein's desire to reach a global resolution of his state and federal criminal liability. Under this Agreement, this District has agreed to defer prosecution for enumerated sections of Title 18 in favor of prosecution by the State of Florida, provided . . . Mr. Epstein satisfies three general federal interests: (1) that Mr. Epstein plead guilty to a "registerable" offense; (2) that this plea include a binding recommendation for a sufficient term of imprisonment; and (3) that the Agreement not harm the interests of his victims.

Acosta explained in the letter that the USAO's intent was "to place the identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less." Acosta documented the USAO's understanding of the operation of the NPA's § 2255

[153] The USAO may have been asked to respond because Starr's letter raised issues that had not been previously raised with the USAO, and it would normally fall to the USAO to address them in the first instance.

provision, recounted the history of NPA negotiations, and described the post-signing efforts by Epstein's counsel to challenge portions of the NPA. Acosta's letter concluded:

> Although it happens rarely, I do not mind this Office's decision being appealed to Washington, and have previously directed our prosecutors to delay filings in this case to provide defense counsel with the option of appealing our decisions. Indeed, although I am confident in our prosecutors' evidence and legal analysis, I nonetheless directed them to consult with the subject matter experts in [CEOS] to confirm our interpretation of the law before approving their [charges]. I am thus surprised to read a letter addressed to Department Headquarters that raises issues that either have not been raised with this Office previously or that have been raised, and in fact resolved, in your client's favor.
>
> I am troubled, likewise, by the apparent lack of finality in this Agreement. The AUSAs who have been negotiating with defense counsel have for some time complained to me regarding the tactics used by the defense team. It appears to them that as soon as resolution is reached on one issue, defense counsel finds ways to challenge the resolution collaterally. My response thus far has been that defense counsel is doing its job to vigorously represent the client. That said, there must be closure on this matter. Some in our Office are deeply concerned that defense counsel will continue to mount collateral challenges to provisions of the Agreement, even after Mr. Epstein has entered his guilty plea and thus rendered the agreement difficult, if not impossible, to unwind.
>
> . . . .
>
> I would reiterate that it is not the intention of this Office ever to force the hand of a defendant to enter into an agreement against his wishes. Your client has the right to proceed to trial. Although time is of the essence . . . I am directing our prosecutors not to issue victim notification letters until this Friday . . . to provide you with time to review these options with your client. . . . We expect a written decision by [December 7, 2007] at 5 p.m., indicating whether the defense team wishes to reaffirm, or to unwind, the Agreement.

Acosta explained to OPR that he did not view his letter as "inviting" Departmental review, but he believed the Department had the "right" to address Epstein's concerns. Moreover, the USAO's only option at that time was to declare Epstein in breach of the NPA, which would have prompted litigation as to whether Epstein was, in fact, in breach. Acosta noted that defense counsel repeatedly proclaimed Epstein's intent to abide by the agreement, making any USAO effort to declare him in breach more difficult. In fact, the day after receiving Acosta's letter, Starr and Lefkowitz responded to Acosta (with copies to Sloman and Assitant Attorney General Fisher) that

the defense "[f]irst and foremost" reaffirmed the NPA and that Epstein "has no intention of unwinding the agreement."

On December 7, 2007—the deadline set by Acosta in his December 4, 2007 letter to Starr—the defense transmitted to the USAO a one-sentence "Affirmation" of the NPA and its addendum, signed by Epstein.[154]

F. Despite Affirming the NPA, Defense Counsel Intensify Their Challenges to It and Accuse Villafaña of Improper Conduct

1. December 7 and 11, 2007: Starr and Lefkowitz Send to Acosta Letters and "Ethics Opinions" Complaining about the Federal Investigation and Villafaña

On the same day that the defense team sent Epstein's "Affirmation" to the USAO, Starr and Lefkowitz sent to Acosta two "independent ethics opinions"—one authored by prominent criminal defense attorney and former U.S. Attorney Joe Whitley, which assessed purported improprieties in the federal investigation of Epstein, and the other, by a prominent retired federal judge and former U.S. Attorney, arguing against the NPA's use of the civil damages recovery provision under 18 U.S.C. § 2255 "as a proxy for traditional criminal restitution."

Days later, on December 11, 2007, Starr sent a letter to Acosta transmitting two lengthy submissions authored by Lefkowitz presenting substantive challenges to the NPA and to the "background and conduct of the investigation." These submissions repeated arguments previously raised by the defense but also asserted new issues. In one submission, 20 pages long, Lefkowitz addressed the "improper involvement" of federal authorities in the investigation and criticized Villafaña for a number of alleged improprieties, including having engaged in "unprecedented federal overreaching" by seeking to prosecute Epstein federally, "insist[ing]" that the State Attorney's Office "charge Mr. Epstein with violations of law and recommend a sentence that are significantly harsher than what the State deemed appropriate," and requiring that Epstein plead guilty to a registrable offense, a "harsh" condition that was "unwarranted."[155]

Lefkowitz also argued that the federal investigation relied upon a state investigation that was "tainted" by the lead PBPD Detective's misrepresentation of key facts in affidavits and interview summaries, leading the USAO to make its charging decision based on flawed information that "compromised the federal investigation." Finally, Lefkowitz criticized federal involvement in the state plea process as a violation of "the tenets of the Petite Policy." In a second, 13-page submission, Lefkowitz reiterated Epstein's complaints about the § 2255 component of the NPA, arguing, among other things, that federal prosecutors "should not be in the business of helping alleged victims of state crimes secure civil financial settlements."

---

154 The Affirmation read: "I, Jeffrey E. Epstein do hereby re-affirm the Non-Prosecution Agreement and Addendum to same dated October 30, 2007."

155 Villafaña sent Lefkowitz a five-page letter responding to the accusations made against her personally.

Notwithstanding these voluminous submissions, Lefkowitz added that Epstein "unconditionally re-asserts his intention to fulfill and not seek to withdraw from or unwind" the NPA.

2. As a Result of the Starr and Lefkowitz Submissions, the New USAO Criminal Chief Begins a Full Review of the Evidence, and Acosta Agrees to Meet Again with Defense Counsel

After reviewing Starr's and Lefkowitz's letters, Sloman notified Villafaña that "in light of the recent Kirkland & Ellis correspondence" he had asked Robert Senior, who had succeeded Menchel as Chief of the USAO's Criminal Division, to review *de novo* the evidence underlying the proposed revised indictment, and Sloman asked Villafaña to provide Senior with all the state and FBI investigative materials.

In the meantime, Acosta agreed to meet with Starr and other Epstein defense attorneys to discuss the defense complaints raised in Lefkowitz's December 11, 2007 submissions.[156] The meeting took place in Miami on December 14, 2007. The defense team included Starr, Dershowitz, Lefcourt, and Boston attorney Martin Weinberg. The USAO side included Acosta, Sloman, Villafaña, and another senior AUSA, with the Miami FBI Special Agent in Charge and Assistant Special Agent in Charge also present. In addition to previously raised arguments, during this meeting, Epstein's attorneys raised a new argument—that the state charge to which Epstein had agreed to plead guilty did not apply to the facts of the case.

3. The Defense Notifies Acosta That It May Pursue a Department Review of the USAO's Actions

Shortly after the December 14, 2007 meeting, Lefkowitz notified Acosta that if the issues raised at the meeting could not be resolved promptly, the defense team may "have no alternative but to seek review in Washington." Acosta notified Assistant Attorney General Fisher that the defense team might make an appeal to her, and he asked her to grant such a request for review and "to in fact review this case in an expedited manner [in order] to preserve the January 4th plea date." Starr and Lefkowitz then sent to Acosta a lengthy letter, with numerous previously submitted defense submissions, reviewing issues discussed at the meeting, and advising that Epstein sought a "prompt, independent, expedited review" of the evidence by "you or someone you trust." The letter reiterated Epstein's position that his conduct did not amount to a registrable offense under state law or a violation of federal law, and with respect to the NPA's § 2255 provision, that it was "improper" to require Epstein to pay damages "to individuals who do nothing but simply assert a claim" under the statute.

---

156 As Assistant Attorney General Fisher's Chief of Staff, Lourie had informed Starr that Fisher hoped Starr would speak to Acosta to "resolve the[] fairly narrow issues" raised in Starr's correspondence with Acosta. Acosta had the Starr and Lefkowitz submissions of December 11 forwarded to Fisher.

4. Acosta Attempts to Revise the NPA § 2255 Language concerning Monetary Damages, but the Defense Does Not Accept It

Acosta undertook to respond to defense counsel's continuing concern about the § 2255 provision. He sent to Deputy Assistant Attorney General Sigal Mandelker language that he proposed including in a revision to the NPA's § 2255 implementation section. Mandelker forwarded the language to her counterpart in the Civil Division, who responded to Mandelker and Acosta that he did not have "any insight" to offer. On December 19, 2007, after Acosta and Sloman had a phone conversation with Starr and Lefkowitz, Acosta sent to Sanchez a letter proposing to resolve "our disagreements over interpretation[]" by replacing the existing language of the NPA relating to § 2255 with a provision that would read:

> Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein [had] been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name . . . as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less.

Acosta also noted that he had resisted his prosecutors' urging to declare the NPA breached by the defense delays.[157]

Lefkowitz responded by letter a few days later, suggesting that Acosta's proposal raised "several troubling questions" and that "the problem arises from the incongruity that exists when attempting to fit a federal civil remedies statute into a criminal plea agreement."[158] In a follow-up letter to Acosta, to address the USAO's concern that Epstein was intentionally delaying the entry of his guilty plea, Lefkowitz asserted that "any impediment to the resolution at issue is a direct cause of the disagreements between the parties," and that defense counsel had "at all times made and will continue to make sincere efforts to resolve and finalize issues as expeditiously as possible."

Acosta told OPR that despite this assurance from defense counsel, he was "increasingly frustrated" by Epstein's desire to take an "11th hour appeal" to the Department so soon before the

---

[157] As described in detail in Chapter Three, Acosta's December 19, 2007 letter also addressed defense objections to notifying the victims about the NPA and the state plea.

[158] After Starr and Lefkowitz had another conversation with Acosta and Sloman, Lefkowitz sent a second letter to Acosta reiterating concerns with the § 2255 provision and asserting that the provision was "inherently flawed and becoming truly unmanageable." In the end, the defense team rejected Acosta's December 19, 2007 NPA modification letter.

scheduled January 4, 2008 plea hearing. As soon became apparent, Acosta was unable to achieve an expedited review so that Epstein could plead guilty and be sentenced by January 4, 2008, and the plea and sentencing date was rescheduled. On January 2, 2008, Sloman spoke with Assistant State Attorney Belohlavek, who confirmed that the change of plea hearing had been postponed. In an email reporting this to Acosta and Villafaña, Sloman said that Epstein's local defense attorney Goldberger had told Belohlavek the postponement was because the facts "did not fit the proposed state charge," and that Belohlavek told Sloman she agreed with that assessment.[159] The next day, Villafaña sent to Acosta and Sloman a local newspaper article reporting that Epstein's state plea hearing was reset for March and in exchange for it the federal authorities would drop their investigation of him. Acosta also sent to Sloman and Villafaña an email memorializing a statement made to him by Lefkowitz in a phone call that day: "'I [Lefkowitz] may have made a mistake 6 months ago. [Belohlavek] told us solicitation [is] not registrable. It turns out that the actual offense charged is.'"[160]

5. January 7, 2008: Acosta and Sloman Meet with Sanchez, Who Makes Additional Allegations of USAO Misconduct

On January 7, 2008, Acosta and Sloman met with defense attorney Sanchez at her request. According to meeting notes made by Sloman, among other things, Sanchez alleged that the USAO's media spokesperson had improperly disclosed details of the Epstein case to a national news reporter, and Sanchez "suggested that the USAO could avoid any potential ugliness in DC by agreeing to a watered-down resolution for Epstein." After Acosta excused himself to attend another meeting and Sloman refused to speak further with Sanchez "without a witness present," she left. Later that day, Acosta and Sloman spoke by phone with Starr, Lefkowitz, and Sanchez, who expressed concern about the "leak" to the news media, reiterated their objections to the NPA, and pressed for the "watered-down resolution," which they specified would mean allowing Epstein to plead to a charge of coercion instead of procurement, avoid serving time in jail, and not register as a sexual offender. A note in the margin of Sloman's handwritten notes of the conversation reads: "We're back to where we started in September."

That evening, Villafaña expressed concern that the delay in resolving the matter was affecting the USAO's ability to go forward with a prosecution should Epstein renege on his agreement, and she outlined for Acosta and Sloman the steps she proposed to take while Epstein was pursuing Departmental review. Those steps included re-establishing contact with victims, interviewing victims in New York and one victim who lived in a foreign country, making contact with "potential sources of information" in the Virgin Islands, and re-initiating proceedings to obtain Epstein's computers.

In the meantime, USAO Criminal Division Chief Robert Senior performed a "soup to nuts" review of the Epstein investigation, reviewing the indictment package and all of the evidence Villafaña had compiled. He told OPR that he could not recall the reason for his review, but opined

---

[159] Belohlavek told OPR that she did not recall this incident, but she noted that the PBPD report did set forth facts supporting the charge of procurement of a minor.

[160] Although the meeting Lefkowitz had with Lourie, Villafaña, Krischer, and Belohlavek to discuss the state resolution was only four months prior, not six, Lefkowitz's reference was likely to the September 12, 2007 meeting.

that it was to establish whether, if the plea fell apart, he, as Chief, would agree "that we can go forward with" the charges. He did recall being concerned, after completing the review, that "we did not have . . . a lot of victims . . . lined up and ready to testify" and that some victims might "not be favorable for us." Nevertheless, he concluded that the proposed charges were sound, and he told Acosta that he would approve proceeding with a federal case.

6. Acosta Asks CEOS to Review the Evidence

Notwithstanding Senior's favorable review, Acosta and Sloman told Starr and Lefkowitz that they "appreciate[d]" that the defense wanted a "fresh face" to conduct a review, and noted that the Criminal Chief had not undertaken the "in-depth work associated with the issues raised by the defense." They told the defense team that Acosta had asked CEOS to "come on board" and that CEOS Chief Oosterbaan would designate an attorney having "a national perspective" to conduct a fresh review in light of the defense submissions. Oosterbaan assigned a CEOS Trial Attorney who Villafaña understood was to review the case and prepare for trial in the event Epstein did not "consummate" the NPA. The CEOS Trial Attorney traveled to Florida to review the case materials, and to meet with Villafaña to discuss the case and interview some of the victims. After one such meeting, Villafaña wrote to Acosta and Sloman:

> We just finished interviewing three of the girls. I wish you could have been there to see how much this has affected them.
>
> One girl broke down sobbing so that we had to stop the interview twice within a 20 minute span. She regained her composure enough to continue a short time, but she said that she was having nightmares about Epstein coming after her and she started to break down again, so we stopped the interview.
>
> The second girl . . . told us that she was very upset about the 18 month deal she had read about in the paper. She said that 18 months was nothing and that she had heard that the girls could get restitution, but she would rather not get any money and have Epstein spend a significant time in jail.
>
> . . .
>
> These girls deserve so much better than they have received so far, and I hate feeling that there is nothing I can do to help them.[161]

The CEOS Trial Attorney had substantial experience prosecuting child exploitation cases. She told OPR that in her view, the victim witnesses in this case presented a number of challenges for a prosecution: some of the victims did not want to admit they had sexual contact with Epstein; some had recruited other victims to provide Epstein massages, and thus could have been charged as accomplices; some had "drug histories and . . . things like that"; some could appear to have been "complicit"; and there was no evidence of physical violence against the victims. She did not regard

[161] Villafaña added, "We have four more girls coming in tomorrow. Can I persuade you to attend?"

these victim issues as insurmountable but, based on these alone, the CEOS Trial Attorney considered a potential prosecution of Epstein to be a "crap shoot." In addition, she told OPR that there were novel legal issues in the case that also presented difficulties, although she believed these difficulties could be overcome. Shortly after the CEOS Trial Attorney met with the victims, however, "things just stopped" when Oosterbaan instructed her to cease her involvement in the case and CEOS engaged in the Criminal Division review sought by Epstein's defense team.

IX. FEBRUARY – JUNE 2008: THE DEPARTMENT'S REVIEW

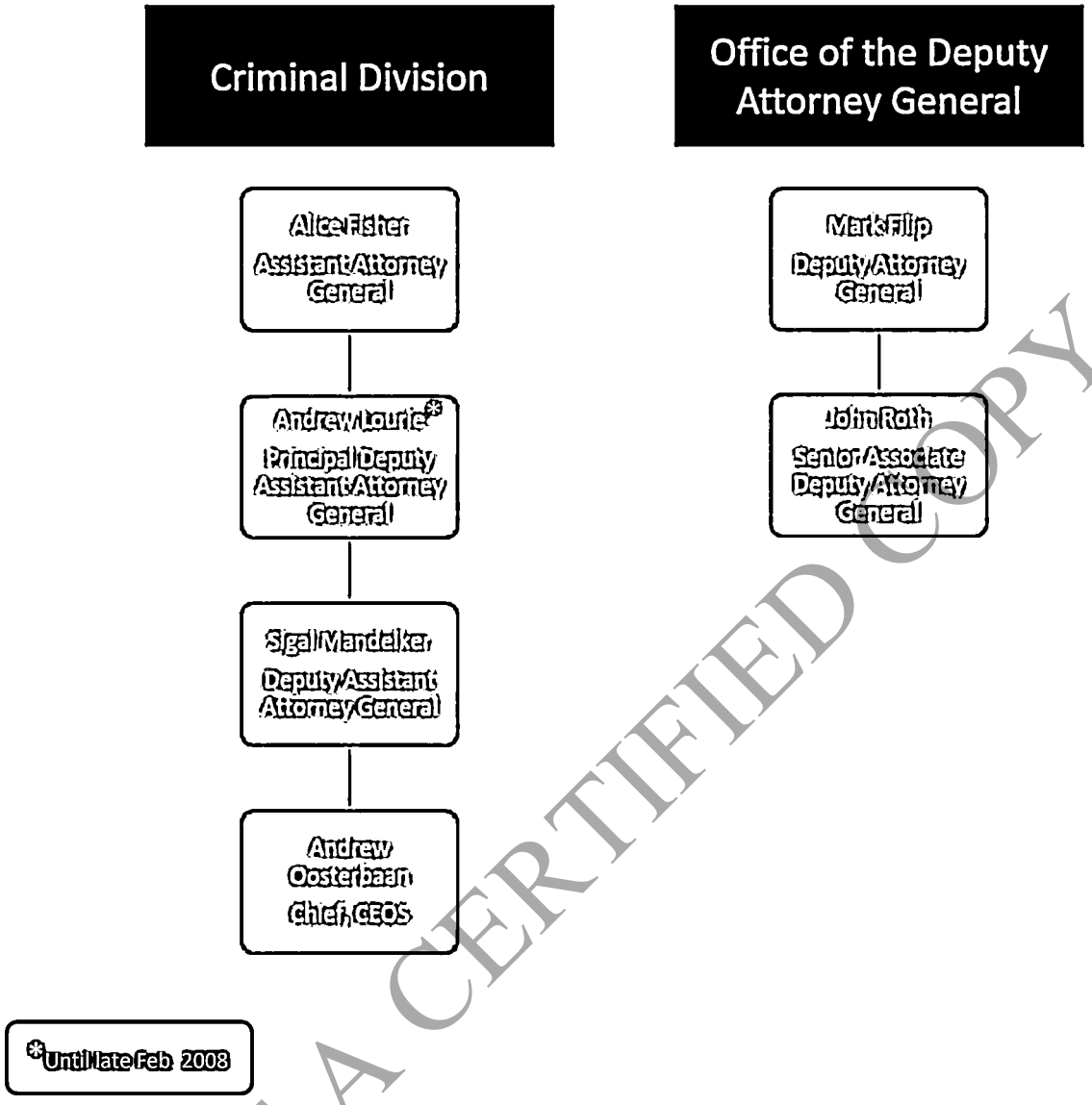
Epstein's defense attorneys sought a broad review from the Department, one that would encompass the defense complaints about federal jurisdiction, specific terms in the NPA, and the various allegations of professional misconduct by USAO attorneys and other personnel. The Department, however, only reviewed the issue of federal jurisdiction and never reviewed the NPA or any specific provisions.[162] Nonetheless, the process took several months as the defense appealed first to CEOS and the Department's Criminal Division, and then to the Office of the Deputy Attorney General. The chart set forth on the following page shows the positions and relationships among the individuals in those offices involved in communicating with the USAO or defense beginning in November 2007 or in those offices' reviews, which continued through June 2008.

[162] On February 28, 2008, USAO Criminal Division Chief Senior sent to the Civil Rights Division written notification of the USAO's "ongoing investigation of a child exploitation matter" involving Epstein and others "that may result in charges of violations of 18 U.S.C. § 1591." USAM § 8-3.120 required a U.S. Attorney to notify the Civil Rights Division, in writing, "[a]t the outset of a criminal investigation . . . that may implicate federal criminal civil rights statutes, . . . and in no event later than ten days before the commencement of the examination of witnesses before a grand jury." The provision also required notification to CEOS in cases involving sex trafficking of minors. The written notification was to identify the targets of the investigation, the factual allegations to be investigated, the statutes which may have been violated, the U.S. Attorney's assessment of the significance of the case, whether the case was of "national interest," and the U.S. Attorney's proposed staffing of the matter.

Villafaña became aware of this requirement in late February 2008, and she prepared a written notification that was edited by Sloman, who discussed it with Acosta. After briefly summarizing the facts, Senior advised:

> The Office anticipates charges of violations of Title 18, United States Code, Sections 371, 2422, 2423, and 1591. The investigation of the case by the City of Palm Beach Police Department has resulted in press coverage because of the titillating nature of the facts, but we see this case as similar to other "child prostitution" cases charged by our office, and not a matter of "national interest" as defined by the U.S. Attorney's Manual.

In the notification, Senior stated that CEOS "has been involved and is currently reviewing the matter," he anticipated the case would be staffed by USAO and Department personnel, and "[i]f we determine that the case should be [charged], a copy [of the charging document] will be forwarded to you." OPR did not locate a response from the Civil Rights Division to the notification.



A. February – May 15, 2008: Review by CEOS and the Criminal Division

On February 21, 2008, soon after the CEOS Trial Attorney met with victims, Oosterbaan spoke with Lefkowitz about CEOS's role. In a subsequent email to Villafaña, Sloman, and Senior, Oosterbaan explained:

> I told [Lefkowitz] that all I want to do is help the process move forward, and if they think we best help the process by taking a fresh and objective look at the case and their arguments [then] that is what I want to do. I told him that if that's what they want – if that is what will help the process to move forward – then I don't think it's advisable for CEOS to partner with the USAO on the case. He wants to think about that (and probably talk to his co-counsel about

> whether it is better to have us partnered in the case or just serve a review function) and he said he'd get back to me later today.

Oosterbaan told OPR that this email reflects that he likely told Acosta that he intended to limit CEOS's role to review only, and Acosta asked him to "make sure the defense is okay with that," to preempt a possible defense complaint about CEOS's involvement in the review. Oosterbaan explained to OPR that "the defense ke[pt] bringing up new arguments and new problems and [the USAO was saying] look if we're going to do this, if you've got a problem with it, tell us now."

By February 25, 2008, Lefkowitz told Oosterbaan, who informed Sloman, that the CEOS role should be "review only." Lourie had just then left the Department to enter private practice, and Oosterbaan continued to keep his direct supervisor, Deputy Assistant Attorney General Mandelker, informed of the defense team contacts. Sloman emailed Lefkowitz that CEOS was "ready to proceed immediately" with a review of the matter. Sloman advised Lefkowitz that "in the event CEOS decides that a federal prosecution should not be undertaken against Mr. Epstein, this Office will close its investigation," but that, "should CEOS disagree with Mr. Epstein's position, Mr. Epstein shall have one week to abide by [the NPA]." Sloman forwarded this email to Villafaña, who responded, "Why would we possibly let him keep the same deal after all he has put us through? And after we have discovered 6 new girls . . . ."

The defense soon signaled that the CEOS review would not end Epstein's requests for the Department's involvement. On February 29, 2008, Lefkowitz requested a defense meeting with Oosterbaan on March 12, 2008.[163] Starr spoke to Assistant Attorney General Fisher and "made it clear that [the defense team would] want an audience with her if [CEOS] decid[ed] to support the prosecution." On March 6, 2008, Acosta alerted Sloman and Oosterbaan that Starr and Lefkowitz had called him to express "concern" about Oosterbaan's participation in the case, and indicated that "they may ask for more senior involvement." Acosta "informed them that they certainly had the right to ask whomever they wanted for whatever they thought appropriate, and that whatever process would be given them was up to whomever they asked."

The next day, Lefkowitz followed up with Acosta in an email:

> We appreciate that you will afford us as much time as Main Justice determines is appropriate for it to conduct a review of this matter. As you have suggested, we will initiate that review process with Drew Oosterbaan, and engage in a discussion with him about all of the facts and circumstances, as well as the legal and policy issues associated with this case. . . . However, due to our misgivings (engendered because Drew has told us that he sees himself as a prosecutor and has already made clear he would be ready and willing to prosecute this case himself[)] we may well find it necessary to

[163] The defense team meeting with CEOS was originally to be set for late January, but never got scheduled for that time. On February 25, Sloman informed Lefkowitz that the USAO was "very concerned about additional delays" in the Departmental review process, but would agree to a short extension of the March 3 deadline "to provide CEOS time to engage in a thorough review."

> appeal an adverse determination by him within the DOJ. Ken [Starr] and I appreciate that you understand this and have no objection to our seeking appellate review within DOJ.

Starr, Lefkowitz, and Martin Weinberg attended the March 12, 2008 meeting, as well as the former Principal Deputy Chief of CEOS, who had joined the Epstein defense team. Oosterbaan, Mandelker, and a current CEOS Deputy Chief represented the Department. The current CEOS Deputy Chief told OPR that it was primarily a "listening session" with Starr doing most of the presentation. Oosterbaan told OPR that he recalled "some back and forth" because the defense team was saying "some outrageous things." Both Oosterbaan and his Deputy Chief were disturbed that the former CEOS Principal Deputy Chief, who had been an aggressive advocate for child exploitation prosecutions, was supporting the defense position, although according to the CEOS Deputy Chief, the former Principal Deputy Chief gave only a "weak pitch" that was not effective.

After the meeting, Starr and Lefkowitz made multiple written submissions to the Criminal Division. One submission provided a lengthy list of USAO actions that "have caused us serious concern," including the following:

> "Federal involvement in a state criminal prosecution without any communication with state authorities";[164]
>
> the issuance of legal process and document requests for items that "had no connection to the conduct at issue";
>
> the nomination "of an individual closely associated with one of the Assistant United States Attorneys involved in this case" to serve as the victims' attorney representative;
>
> the "insistence" on a victim notification letter inviting the victims to make sworn statements at Epstein's sentencing; and
>
> the purported existence of a "relationship" between Sloman and a law firm representing several of the alleged victims in civil suits against Epstein.[165]

---

[164] This complaint appeared to be at odds with Villafaña's understanding that the defense objected to USAO communications with the state authorities. In November 2007, Sloman noted to Lefkowitz, "Your recent correspondence attempting to restrict our Office from communicating with the State Attorney's Office . . . raises concern." In a March 2008 email reporting to CEOS about the state case, Villafaña noted that she did not know whether a state "misdemeanor deal [was] back on the table because the defense demanded that we have no contact with the State Attorney's Office, so I haven't spoken with the [Assistant State Attorney] in over 6 months." Villafaña later reported to Acosta and Sloman that when Krischer complained to her that the USAO had not been communicating with him, she explained to Krischer that "it was the defense who were blocking the channels of communication."

[165] In approximately 2001, Sloman briefly left the USAO and for a few months was in private practice with a Miami attorney, whose practice specialized in plaintiffs' sexual abuse claims. During 2007-2008, the attorney

In another letter, Starr renewed the defense accusation that the USAO improperly disclosed information about the case to the media, and accused Sloman and Villafaña of "encouraging civil litigation" against Epstein. Finally, in a letter to Assistant Attorney General Fisher on May 14, 2008, Starr thanked her for having spoken with him the previous day, reiterated the defense team's various complaints, and asked her to meet with him, Lefkowitz, and Whitley.

Meanwhile, Oosterbaan's Deputy Chief drafted a decision letter to be sent from Oosterbaan to Lefkowitz, and over the course of several weeks, it was reviewed by and received input from Deputy Assistant Attorney General Mandelker and Assistant Attorney General Fisher, as well as the Criminal Division's Appellate Section (regarding certain legal issues) and Office of Enforcement Operations (regarding the Petite policy). Oosterbaan told OPR that, notwithstanding the defense submissions on a wide variety of issues and complaints, CEOS's review was limited to determining whether there was a basis for a federal prosecution of Epstein.

Oosterbaan's letter, sent to Lefkowitz on May 15, 2008, notified the defense team that CEOS had completed its independent evaluation of whether prosecution of Epstein for federal criminal violations "would contradict criminal enforcement policy interests." The letter specified that CEOS's review addressed the "narrow question" of whether a legitimate basis existed for a federal prosecution, and that CEOS did not conduct a *de novo* review of the facts, analyze issues relating to federal statutes that did not pertain to child exploitation, or review the terms of the NPA or the prosecutorial misconduct allegations. The letter stated that based on its examination of the material relevant to its limited review of the matter, CEOS had concluded that "federal prosecution in this case would not be improper or inappropriate" and that Acosta "could properly use his discretion to authorize prosecution in this case."

On May 19, 2008, Lefkowitz reached out to Acosta to request a meeting and specifically asked that Acosta "not shunt me off to one of your staff." Lefkowitz made several points in support of the request for a meeting: (1) CEOS's letter acknowledged that federal prosecution of Epstein would involve a "novel application" of relevant federal statutes;[166] (2) CEOS's conclusion that federal prosecution would not be "an abuse of discretion" was "hardly an endorsement" of the case;[167] (3) CEOS did not address Epstein's prosecutorial misconduct allegations; and (4) "critical new evidence," in the form of recent defense counsel depositions of victims confirmed "that

represented Epstein victims. The Epstein defense team alleged in the letter that Sloman's past association with the attorney caused Sloman to take actions to favor victims' potential civil lawsuits against Epstein.

[166] Oosterbaan's letter stated, "Mr. Acosta can soundly exercise his authority to decide to pursue a prosecution even though it might involve a novel application of a federal statute." This statement referred to a defense argument based on a prior Departmental expression of concern about a Congressional proposal to expand federal law to "adult prostitution where no force, fraud or coercion was used." Oosterbaan stated that "the Department's efforts are properly focused on the commercial sexual exploitation of children"—even if wholly local—and "the exploitation of adults through force, fraud, or coercion." He then observed that the fact "that a prosecution of Mr. Epstein might not look precisely like the cases that came before it is not dispositive."

[167] Oosterbaan began his letter, however, by making it clear that CEOS had considered "the narrow question as to whether there is a legitimate basis for the U.S. Attorney's Office to proceed with a federal prosecution of Mr. Epstein."

federal prosecution is not appropriate in this case."[168] Lefkowitz alluded to the possibility of seeking further review of the matter by the Deputy Attorney General or Attorney General, should the defense be unable to "resolve this matter directly with" Acosta.

Acosta declined the request to respond personally and directed Lefkowitz to communicate with the "trial team." That same day, Sloman sent Lefkowitz a letter asking that all further communication about the case be made to Villafaña or her immediate supervisor, and reiterating that Acosta would not respond personally to counsel's email or calls. Sloman noted that the USAO had "bent over backwards to exhaustively consider and re-consider" Epstein's objections, but "these objections have finally been exhausted." Sloman advised that the USAO would terminate the NPA unless Epstein complied with all of its terms by the close of business on June 2, 2008.

B. May – June 23, 2008: Review by the Office of the Deputy Attorney General

Also on May 19, 2008, Starr and Whitley co-authored a letter to Deputy Attorney General Mark Filip asking for review "of the federal involvement in a quintessentially state matter."[169] In the letter, they acknowledged that CEOS had recently completed "a very limited review" of the Epstein case, but contended that "full review of all the facts is urgently needed at senior levels of the Justice Department." They argued that federal prosecution of Epstein was "unwarranted," and that "the irregularity of conduct by prosecutors and the unorthodox terms of the [NPA] are beyond any reasonable interpretation of the scope of a prosecutor's responsibilities." They followed up with a second letter on May 27, 2008, in which they asserted "the bedrock need for integrity in the enforcement of federal criminal laws" and "the profound questions raised by the unprecedented extension of federal laws . . . to a prominent public figure who has close ties to President Clinton" required Departmental review. On this latter point, they argued that Epstein "entered the public arena only by virtue of his close personal association with former President Bill Clinton," and that there was "little doubt" that the USAO "never would have contemplated a prosecution in this case if Mr. Epstein were just another 'John.'" This was the first defense submission mentioning Epstein's connection to President Clinton and raising the insinuation that the federal involvement in the investigation was due to politics.

In the May 27, 2008 letter to the Deputy Attorney General, Starr and Whitley used the existing June 2, 2008 deadline for the entry of Epstein's guilty plea to argue that it made the need for review of the case "all the more exigent." John Roth, a Senior Associate Deputy Attorney General who was handling the matter, instructed the USAO to rescind the deadline, and on May 28, 2008, Sloman notified Lefkowitz that the USAO had postponed the deadline pending completion of the review by the Deputy Attorney General's office.[170] Meanwhile, the Criminal

---

[168] Under Florida Rule of Criminal Procedure 3.220, defendants are permitted to depose victims, and Epstein's counsel utilized that procedure aggressively and expansively to conduct sworn interviews of multiple victims, including victims who were not part of the state prosecution, to learn information about the federal investigation.

[169] In addition to having served as U.S. Attorney in two different districts, Whitley had served as Acting Associate Attorney General, the Department's third-highest position.

[170] On May 28, 2008, Attorney General Mukasey was in Miami for unrelated events and had lunch at the USAO with Acosta and other senior managers. OPR found no indication that the Epstein matter was discussed.

Division forwarded to Roth the prior defense submissions, describing them as "an enormous amount of material" regarding the Epstein matter. On June 3, 2008, Sloman sent to Roth a lengthy letter from Sloman to the Deputy Attorney General, recounting in detail the history of negotiations with Epstein's counsel culminating in the NPA, and addressing Epstein's claims of professional misconduct. Among the documents submitted with the letter were the prosecution memorandum, one of the proposed charging documents, and the NPA with its addendum and Acosta's December 19, 2007 letter to Sanchez.

As the review was ongoing in the Office of the Deputy Attorney General, State Attorney Krischer mentioned to the USAO's West Palm Beach manager that Krischer and Epstein's local defense attorney Jack Goldberger had arrived at a resolution of Epstein's case that would involve a 90-day jail term, but Krischer provided no further information. Upon learning of this, Villafaña wrote to her immediate supervisor: "Please tell me that you are joking. Maybe we should throw him [Epstein] a party and tell him we are sorry to have bothered him." Villafaña and her immediate supervisor later had phone and email exchanges with Krischer and with Epstein's local counsel to insist that the state plea comply with the terms of the NPA, or "we will consider it a breach of the agreement and proceed accordingly."[171]

Deputy Attorney General Filip told OPR he had never heard of Epstein before receiving Starr's letter. Following the office's standard protocol, Starr's letter was handled by John Roth, an experienced senior federal prosecutor who had served some years before as an AUSA in the USAO. Roth also told OPR that he had never before heard of Epstein. Roth explained to OPR that he did not conduct an independent investigation, interview witnesses, or meet with Epstein's counsel, and instead limited his review to written materials submitted by Epstein's attorneys and by Sloman to the Deputy Attorney General's office, as well as materials that the defense team and the USAO had previously provided to CEOS and the Criminal Division front office, and that CEOS furnished to him. Roth discussed the matter with two senior staff colleagues, as well as with the Deputy Attorney General, who also reviewed the submissions.

Roth told OPR that it was his understanding that Epstein had reneged on the NPA, and because he believed the NPA was a "dead letter," he did not review the terms of the agreement or ratify it *post hoc*. On the other hand, Deputy Attorney General Filip told OPR he understood that the NPA was still in effect and that Epstein was trying to undermine the federal jurisdictional basis for the agreement. Apart from addressing Epstein's federalism arguments, however, Deputy Attorney General Filip did not believe it was the "mission" of the Office of the Deputy Attorney General to review the Epstein case *de novo* or to examine the NPA's terms or determine whether the NPA reached the "right balance" between state and federal punishment. He told OPR, "[W]e heard an appeal. . . . [Epstein] wanted a meeting to argue for relief. We didn't give him a meeting and we didn't give him [any] relief." Deputy Attorney General Filip told OPR that no one in his office who looked at Epstein's arguments "felt that it was a sympathetic appeal." In particular, he told OPR that defense counsel's argument that there was no basis for a federal prosecution was "ludicrous," and the assertion that the USAO's investigation of Epstein was politically motivated "just seemed unserious."

---

171 Villafaña urged Sloman, "Someone really needs to talk to Barry."

On Monday, June 23, 2008, Roth sent a brief letter to Starr and Lefkowitz informing them that the office had "completed a thorough review" of the USAO's handling of the Epstein matter and did not believe intervention by the Deputy Attorney General was warranted in view of the "considerable discretion" vested by the Department in U.S. Attorneys. He added, "Even if we were to substitute our judgment for that of the U.S. Attorney, we believe that federal prosecution of this case is appropriate."

Immediately after receiving a copy of Roth's letter, Villafaña notified defense counsel that Epstein would have until close of business on Monday, June 30, 2008, to comply with the NPA by entering his guilty plea, being sentenced, and surrendering to begin serving his sentence. On June 26, 2008, Roth alerted the Office of the Attorney General that Epstein's counsel might try to contact the Attorney General to request additional review and urged the Attorney General not to take defense counsel's calls. Roth told OPR that he was concerned that Epstein's team would try to take a further appeal in order to delay resolution of the case.

Meanwhile, Starr sent a concluding email to Acosta, acknowledging they had reached "the end of a long and arduous road" and adding, "While I am obviously very unhappy at what I believe is the government's treatment of my client, a man whom I have come to deeply admire, I recognize that we have filed and argued our 'appellate motions' and lost. . . . I would like to have . . . some closure with you on this matter so that in the years to come, neither of us will harbor any ill will over the matter."

X. JUNE 2008 – JUNE 2009: EPSTEIN ENTERS HIS PLEAS AND SERVES HIS CUSTODIAL SENTENCE

On Friday, June 27, 2008, Villafaña renewed her requests to Epstein's local attorneys Goldberger and Black for a copy of the state plea agreement reached with the State Attorney's Office, noting that their failure to provide it was a material breach of the NPA. After receiving and reviewing the plea agreement form, which was not yet signed, Villafaña sent another letter to Goldberger and Black, informing them that the proposed sentencing provision did not comply with the requirements of the NPA. Specifically, as written, the plea agreement called for a sentence of 12 months in "the Palm Beach County Detention Facility," followed consecutively by "18 months Community Control" with a special condition that the defendant serve "the first 6 months [of community control] in the Palm Beach County Detention Facility." Villafaña objected to the community control provision, reminding Goldberger and Black that the NPA required Epstein to "make a binding recommendation of eighteen months *imprisonment*, which means confinement twenty-four hours a day at the County Jail." In a subsequent email to Sloman, Villafaña recounted that she had spoken about the issue with Goldberger, who "'swore' that Epstein would be in custody 24-hours-a-day during the community confinement portion of his sentence." Villafaña added that Goldberger "let it slip that Epstein would not be at the jail, he would be at the stockade . . . . Since we specifically discussed this at the meeting with [the State Attorney] months ago that Epstein would be at [the jail], this certainly violates the spirit of the [NPA] agreement."[172] Villafaña told Sloman, "[S]omething smells very bad."

[172] The Main Detention Center for Palm Beach County is a facility housing maximum, medium, and minimum custody adult males, as well as juvenile and special population male and female inmates. *See*

The next day, Villafaña asked Goldberger to change the plea agreement by inserting the word "imprisoned" after "6 months," and Goldberger agreed to do so. Villafaña, however, did not ask that the agreement be amended to clarify that the reference to "the Palm Beach County Detention Facility" meant the jail, rather than the Stockade. The final signed plea agreement form further clarified the sentence, providing that after serving 12 months in the Palm Beach County Detention Facility, Epstein would be "sentenced to 6 months in the Palm Beach County Detention Facility . . . to be served consecutive to the 12 month sentence," followed by "12 months Community Control." The word "imprisoned" was hand written after "6 months" but then crossed out and replaced by "jail sentence."[173]

A. June 30, 2008: Epstein Enters His Guilty Pleas in State Court

Epstein, with his attorney Jack Goldberger, appeared in Palm Beach County court on June 30, 2008, and entered guilty pleas to the indictment charging him with one felony count of solicitation of prostitution and to a criminal information charging him with one felony count of procurement of a minor to engage in prostitution.[174] At the plea hearing, which Villafaña and the FBI case agent attended as spectators, Assistant State Attorney Belohlavek did not proffer the facts of the case; instead she only recited the charging language in the indictment and the criminal information:

> [B]etween August 1, 2004 and October 31, 2005, the defendant in Palm Beach County did solicit or procure someone to commit [prostitution] on three or more occasions. And . . . between August 1, 2004 and October 9, 2005, the defendant did procure a minor under the age of 18 to commit prostitution in Palm Beach County also.[175]

The court found this to be "a sufficient factual basis to support the pleas," and engaged in a colloquy with Belohlavek regarding Epstein's victims:

> The Court: Are there more than one victim?
>
> Ms. Belohlavek: There's several.
>
> . . . .

http://www.pbso.org/inside-pbso/corrections/general/. The "Stockade" was a "lower security 'camp-style' facility" co-located with the Palm Beach County Sheriff's Office. Both were administered by the Sheriff's Office.

173 Plea in the Circuit Court, signed June 30, 2008, and filed in court. Villafaña complained to Goldberger when she learned later about the change from "imprisoned" to "jail sentence."

174 The Information is attached as Exhibit 5.

175 *State v. Epstein*, case nos. 06-CF-9454 and 08-CF-9381, Transcript of Plea Conference at 41-42 (Fifteenth Judicial Circuit, June 30, 2008) (Plea Hearing Transcript). Belohlavek told OPR that reciting the statutory language of the charge as the factual basis for the plea was the typical practice for a state court plea.

The Court:	Are all the victims in both these cases in agreement with the terms of the plea?
Ms. Belohlavek:	I have spoken to several myself and I have spoken to counsel, through counsel as to the other victim, and I believe, yes.
The Court:	And with regard to the victims under age eighteen, is that victim's parents or guardian in agreement with the plea?
Ms. Belohlavek:	That victim is not under age 18 any more and that's why we spoke with her counsel.
The Court:	And she is in agreement with the plea?
Ms. Belohlavek:	Yes.[176]

When the court asked if the plea was "in any way tied to any promises or representations by any civil attorneys or other jurisdictions," Goldberger and Belohlavek, with Epstein present, spoke with the judge at sidebar and disclosed the existence of the "confidential" non-prosecution agreement with the USAO, and the court ordered that a copy of it be filed under seal with the court.

After the court accepted Epstein's guilty pleas, and imposed sentence on him pursuant to the plea agreement, Epstein was taken into custody to begin serving his sentence immediately.

In the aftermath of the plea, numerous individuals familiar with the investigation expressed positive reactions to the outcome, and Villafaña received several congratulatory messages. Oosterbaan wrote, "Congratulations, Marie—at long last! Your work on this matter was truly exceptional, and you obtained a very significant result that will serve the victims well." One senior colleague who was familiar with the case noted, "This case only resolved with the filthy rich bad guy going to jail because of your dedication and determination." Another wrote, "If it had not been for you, he would have gotten away with it." The CEOS Trial Attorney who had worked briefly with Villafaña told her, "But for your tenacity, he'd be somewhere ruining another child's life." One victim's attorney stated, "[G]reat job of not letting this guy off." But Villafaña was not satisfied with the outcome, responding to one colleague, "After all the hell they put me through, I don't feel like celebrating 18 months. He should be spending 18 years in jail."

Acosta later publicly stated that the FBI Special Agent in Charge called him "to offer congratulations" and "to praise our prosecutors for holding firm against the likes of Messrs. Black,

[176] Plea Hearing Transcript at 20, 42. OPR was unable to determine to which victims Belohlavek was referring, and Belohlovek did not recall during her OPR interview, but it is possible that she was referring only to the victims of the charged crimes rather than to all of the victims identified in either the state or federal investigations. Belohlavek told OPR that because of the nature of the charges (that is, involving prostitution), she did not know whether "technically under the law" the girls were "victims" whom she was required to notify of the plea hearing.

Dershowitz, Lefkowitz and Starr."[177] In that same later public statement, Acosta noted that he received communications from Dershowitz, Starr, and Lefkowitz, who "all sought to make peace" with him; Acosta referred to it as "a proud moment."

On July 7, 2008, an Epstein victim filed an emergency petition against the Department, in federal court in Miami, alleging violation of her rights under the CVRA; a second victim joined the petition soon thereafter. The history of the litigation and issues relating to it are discussed in Chapter Three of this Report.

B. Epstein Is Placed on Work Release

A few days after Epstein's guilty plea, Villafaña reported to Sloman that Epstein was incarcerated at the low-security Stockade, rather than the Main Detention Center where county prisoners were usually housed. She also told Sloman that according to the Sheriff's Office, Epstein was eligible for work release. Although the USAO had made clear that it expected Epstein to be incarcerated 24 hours a day, every day, the subject of work release had not been addressed explicitly during the NPA negotiations, and the NPA itself was silent on the issue. Epstein's acceptance into the work release program as a convicted sexual offender was seen by many as another special benefit given to Epstein. Because the decision to allow Epstein into the work release program was made by the Palm Beach Sheriff's Office, OPR did not investigate whether any state, county, or Sheriff's Office rules were violated. OPR did examine the USAO's consideration of work release prior to signing the NPA and its subsequent unsuccessful efforts to ensure that Epstein remained incarcerated 24 hours a day.

The first specific reference to work release was made weeks after the NPA was signed, when Lefkowitz asserted, in his October 23, 2007 letter to Acosta, that, "so long as Mr. Epstein's sentence does not explicitly violate the terms of the [NPA] he is entitled to any type of sentence available to him, including but not limited to gain time and work release."

In November 2007, Sloman had an exchange of letters with Lefkowitz about the USAO's understanding that Epstein had agreed to serve his full jail term in "continuous confinement," pointing out that the NPA "clearly indicates that Mr. Epstein is to be incarcerated." Sloman noted that Florida's Department of Corrections's rules did not allow individuals registered as sexual offenders to participate in work release, and thus Epstein would not be eligible for a work release program. Sloman concluded that the USAO "is putting you on notice that it intends to make certain that Mr. Epstein is 'treated no better and no worse than anyone else' convicted of the same offense," and that if Epstein were to be granted work release, the USAO would "investigate the reasons why an exception was granted in Mr. Epstein's case."[178]

However, also in November, State Attorney Krischer told Sloman that Epstein was, in fact, eligible to petition for work release because his sexual offender registration would not take place

---

[177] Letter from R. Alexander Acosta "To whom it may concern" (Mar. 20, 2011), published online in *The Daily Beast*. The FBI Special Agent in Charge told OPR that he had no recollection of such a call, but acknowledged that it could have occurred.

[178] Sloman provided a draft of this letter to Acosta for his approval before the letter was sent to Lefkowitz.

until after Epstein completed his sentence, but that Krischer would oppose such a petition "if it is in the agreement."[179] On November 16, 2007, the case agents met with Belohlavek and asked if the State Attorney's Office would oppose a request that Epstein be granted work release. Belohlavek was noncommittal, and when the agents asked that she include language in the state's plea agreement prohibiting Epstein from participating in work release, she responded that she would have to discuss the issue with the State Attorney.[180] Krischer later told OPR that work release was "within the control of the Sheriff's Office, not my office." The state's plea agreement with Epstein did not address the issue of work release.

The day after Epstein entered his June 30, 2008 plea, Villafaña and her immediate supervisor met with a Palm Beach Sheriff's Office official to discuss work release. According to Villafaña, the official told them, "Epstein would be eligible for work release and will be placed on work release," a statement that contradicted the information the case agents had been given by a jail supervisor the previous November, as well as statements made by defense attorney Jack Goldberger to Villafaña just days before the plea was entered, when he "*specifically* told [Villafaña] that [Epstein] would *not* get work release." Villafaña alerted the Sheriff's Office official that although Epstein told the court during his plea proceeding that he had worked "every day" for a "couple of years" at the "Florida Science Foundation," that entity did not even exist until November 2007.[181] Moreover, the address Epstein provided to the court for the "Florida Science Foundation" was the office of Epstein's attorney Jack Goldberger. Villafaña and her supervisor asked that the Sheriff's Office notify the USAO if Epstein applied for work release.

Acosta told OPR that he was aware Villafaña was trying to ensure that Epstein did not get work release, and he would not have contradicted her efforts. Acosta explained that the USAO expected Epstein would be "treated just like everyone else," but that, as shown by "our subsequent communications with the [S]tate [A]ttorney's [O]ffice," having Epstein on work release "was not what our office envisioned."

In August 2008, Villafaña spoke with defense attorney Black about ensuring Epstein's compliance with the NPA, and raised the issue of work release. Villafaña later reported to Acosta and Sloman that Black assured her he had "reminded the team that . . . 18 months IN JAIL is a material term of the agreement."

The USAO never received notice of Epstein's work release application. On October 10, 2008, less than three-and-a-half months after Epstein entered his guilty plea, the Palm Beach Sheriff's Office placed him into the work release program, permitting him to leave the Stockade

---

179 According to Sloman, Krischer explained that even without registration Epstein would be "treated" as a "sex offender" and that "just like any other sex offender, he can petition the court for work release."

180 In the November 16, 2007 email, on which she copied Acosta, Villafaña also indicated that she was "reviewing all of the statutes" to determine whether there was any impediment to a state judge granting Epstein work release. In a subsequent email, the FBI case agents informed Villafaña that they had also spoken with a "jail supervisor," who advised them that although Epstein, as a sexual offender, would not qualify for work release, the judge could nevertheless order him placed on work release if he was sentenced to a year or less of incarceration.

181 During the plea hearing, Epstein told the court he was "President" of the Florida Science Foundation, it had been in existence for 15 years, and he worked there "every day." Plea Hearing Transcript at 27-29.

for up to 12 hours per day, six days per week, to work at the "Florida Science Foundation" office in West Palm Beach.[182] In mid-November 2008, Villafaña learned that Epstein was on work release. She notified Acosta, Sloman, and the USAO Criminal Division Chief of this development in an email, and asked, "Can I indict him now?"

On November 24, 2008, Villafaña sent defense attorney Black a letter, notifying him that the USAO believed Epstein's application to and participation in the work release program constituted a material breach of the NPA. Villafaña reminded Black that she had "more than a dozen e-mails" expressing the USAO's "insistence" that Epstein be incarcerated for 18 months, and that her June 27, 2008 letter to counsel made clear that this meant "confinement for twenty-four hours a day." Villafaña noted that Goldberger had not inserted the word "imprisoned" into the plea agreement, as he had agreed to do, but instead inserted the term "jail sentence." Villafaña told counsel:

> The [USAO's] Agreement not to prosecute Mr. Epstein was based upon its determination that eighteen months' incarceration (i.e., confinement twenty-four hours a day) was sufficient to satisfy the federal interest in Mr. Epstein's crimes. Accordingly, the U.S. Attorney's Office hereby gives notice that Mr. Epstein has violated the [NPA] by failing to remain incarcerated twenty-four hours a day for the eighteen-month term of imprisonment. The United States will exercise any and all rights it has under the [NPA] unless Mr. Epstein immediately ceases and desists from his breach of this agreement.

According to Villafaña, the FBI case agent spoke with the Stockade's work release coordinator and reported back that that the work release coordinator told her he had been led to believe the government knew Epstein had applied for the program, and that he had been threatened with legal action if he did not allow Epstein to participate in work release.

On November 26, 2008, the USAO advised the Department that Acosta was recused from all matters involving the law firm of Kirkland & Ellis, which was still heavily involved in the Epstein case, because Acosta was discussing with the firm the possibility of employment.[183] As a result, Sloman became the senior USAO official responsible for making final decisions related to Epstein.

Also on November 26, 2008, Black responded to Villafaña's letter, acknowledging that Epstein was serving his sentence in the Palm Beach County Work Release Program, but denying that Epstein was in breach of the NPA.[184] Black noted that the NPA did not prohibit work release; the NPA expressly provided that Epstein was to be afforded the same benefits as any other inmate;

---

182 Michele Dargan and David Rogers, "Palm Beach sex offender Jeffrey Epstein 'treated differently,'" *Palm Beach Daily News*, Dec. 13, 2008.

183 The recusal was formally approved by the Department on December 8, 2008.

184 Black forwarded the email to Sloman, noting that Villafaña "is very concerned about anything Epstein does" and that the defense team would "abide by" Sloman's decision on the issue.

Florida law treated work release as part of confinement; and the Palm Beach County Sheriff's Office had discretion to grant work release to any inmate. Black also claimed that Acosta "recognized that Mr. Epstein might serve a portion of his sentence through the Work Release Program" and pointed out that the December 6, 2007 draft victim notification letter sent to Lefkowitz for review specifically referred to the victim's right to be notified "if [Epstein] is allowed to participate in a work release program."

On December 3, 2008, in advance of a scheduled meeting with Black, Villafaña sent Sloman and Criminal Division Chief Senior an email about Epstein's participation in the work release program:

> It appears that, since Day 1, Goldberger and Krisher [*sic*] . . . have been scheming to get Epstein out on work release. For example, the indictment incorrectly charges Epstein for an offense that would have made him ineligible for work release if it had been charged correctly. (Remember that Krisher [*sic*] also went along with letting us believe that Epstein was pleading to a registrable offense when Epstein's folks and Krisher [*sic*] believed that . . . the offense was not registrable.) Krisher [*sic*] and Goldberger also told us that Epstein would be housed at the Palm [Beach County] Jail, not the Stockade, but he would not have been eligible for work release if at the jail. . . .
>
> As part of his work release, Epstein has hired off-duty Sheriff's deputies to provide him with "protection." It appears that he is paying between $3000 and $4100 per week for this service, despite the work release rules barring anyone from the Sheriff's Office (and the Sheriff's Office itself) from having "any business transactions with inmates . . . while they are in the custody or supervision of the Sheriff . . . ."

Villafaña added that she and her immediate supervisor believed that the USAO "should not budge on the 24-hour-a-day incarceration" requirement. Referring to the CVRA litigation, Villafaña also pointed out that two victims had brought suit against the USAO "for failing to keep them informed about the investigation," and the office had "an obligation to inform all of the victims upon Epstein's release."

On December 11, 2008, Villafaña wrote to the Corrections Division of the Palm Beach County Sheriff's Office to express the USAO's view that Epstein was not eligible for work release and to alert the Sheriff's Office that Epstein's work release application contained several inaccuracies and omitted relevant information. Villafaña pointed out that Epstein's application identified his place of employment as the "Florida Science Foundation," and the telephone number listed in the application for the "Florida Science Foundation" was the telephone number to the law firm of Epstein's attorney Jack Goldberger. Villafaña also noted that the individual identified in the work release file as Epstein's "supervisor" at the "Florida Science Foundation" had submitted publicly available sworn filings to the Internal Revenue Service indicating that Epstein worked only one hour per week and earned no compensation, but that same individual had represented to

the Sheriff's Office that Epstein's duties required him to work six days a week for 12 hours per day. Finally, Villafaña pointed out that Epstein's purported "supervisor"—who as the Foundation's vice president was subordinate to Epstein, the Foundation's president—had promised to alert the Sheriff's Office if Epstein failed to comply with his work schedule, but the "supervisor" lived and worked in the New York metropolitan area and was unable to monitor Epstein's activities on a day-to-day basis. The Sheriff's Office neither acknowledged nor responded to Villafaña's letter.

In March 2009, Sloman met in Miami with Dershowitz for, as Dershowitz characterized it in a subsequent email, "a relaxed drink and conversation," which included a discussion of the Epstein case. After that encounter, Dershowitz emailed Sloman, expressing appreciation for Sloman's "assurance that the feds will not interfere with how the Palm Beach sheriff administers" Epstein's sentence "as long as he is treated like any similarly situated inmate." Sloman responded:

> Regarding Mr. Epstein, the United States Attorney's Office will not interfere with how the Palm Beach Sheriff's Office administers the sentence imposed by the Court. That being said, this does not mean that the USAO condones or encourages the PBSO to mitigate the terms and conditions of his sentence. Furthermore, it does not mean that, if contacted for our position concerning alternative custody or in-home detention, we would not object. To be clear, if contacted we will object. Naturally, I also expect that no one on behalf of Mr. Epstein will use my assurance to you to affirmatively represent to PBSO that the USAO does not object to an alternative custody or home detention.

A week later, Dershowitz emailed Sloman again, this time expressing appreciation for Sloman's "willingness to call the sheriff and advise him that your office would take no position on how he handled Epstein's sentence," as long as Epstein did not receive special treatment, but adding, "[L]et's put any call off for a while."

Epstein's sentence required that he be confined to his home for a 12-month period following his release from prison. On July 22, 2009, almost 13 months after he began serving his sentence, Epstein was released from the Stockade and placed on home confinement.[185] At this time, he registered as a sexual offender.

XI. POST-RELEASE DEVELOPMENTS

In the summer of 2009, allegations surfaced that Epstein had cooperated with the U.S. Attorney's Office for the Eastern District of New York's investigation of investment bank Bear Stearns, and that he had been released early from his 18-month imprisonment term because of that

[185] In Florida, what is commonly referred to as house arrest is actually the Community Control supervision program. Florida Statute § 948.001(3) defines the program as "a form of intensive, supervised custody in the community."

cooperation.[186] When Villafaña spoke with attorneys in the Eastern District of New York, however, an AUSA there told Villafaña that "[t]hey had never heard of" Epstein, and he had not cooperated with the Bear Stearns case.[187] During her OPR interview, Villafaña told OPR that to her knowledge, the rumor of Epstein's cooperation was "completely false."

Villafaña and the USAO continued to monitor Epstein's compliance with the terms of the NPA. In August 2009, Villafaña alerted her supervisors that Epstein was in apparent violation of his home detention—he had been spotted walking on the beach, and when stopped by the police, he claimed that he was walking "to work" at an office nearly eight miles from his home. Villafaña passed this information along to the Palm Beach County probation office.[188] By letter dated September 1, 2009, Black wrote to Sloman seeking the USAO's agreement to transfer supervision of the community control phase of Epstein's sentence to the U.S. Virgin Islands, where Epstein maintained his "primary residence." In response, Villafaña notified Black that the USAO opposed such a request and would view it as a violation of the NPA. Three months later, Sloman met with Dershowitz and, among other issues, informed him that the USAO opposed early termination of Epstein's community control supervision and would object to a request to transfer Epstein's supervision to the U.S. Virgin Islands.

After serving his year on home detention in Florida, Epstein completed his sentence on July 21, 2010.

186 *See* "Out of Prison," *New York Post*, July 23, 2009.

187 The New York AUSA had emailed Villafaña, "We're the prosecutors in [the Bear Stearns case] . . . . We saw the below article from the New York Post and wanted to ask you about this defendant, Epstein, who we had never heard of until this morning. We've since learned that he is pretty unsavory." Villafaña reported to Sloman and other supervisors that she "just got off the phone with the prosecutors from the Bear Stearns case in [the Eastern District of] New York. They had seen the NY Post article that claimed that Epstein got such a low sentence because he was cooperating with the feds on the Bear Stearns prosecution. They had never heard of him." In a second email, she confirmed, "There has been absolutely no cooperation here or in New York, from what they told me."

188 Black later wrote a letter to Villafaña claiming that Epstein had "specific authorization to walk to work," the distance between his home and office was "less than three miles," and when the matter was "fully investigated," Epstein was found to be in "total compliance" with the requirements of his sentence.

CHAPTER TWO

PART TWO: APPLICABLE STANDARDS

I. OPR'S ANALYTICAL FRAMEWORK

OPR finds professional misconduct when an attorney intentionally violates or acts in reckless disregard of a known, unambiguous obligation imposed by law, rule of professional conduct, or Department regulation or policy. In determining whether an attorney has engaged in professional misconduct, OPR uses the preponderance of the evidence standard to make factual findings.

An attorney intentionally violates an obligation or standard when the attorney (1) engages in conduct with the purpose of obtaining a result that the obligation or standard unambiguously prohibits; or (2) engages in conduct knowing its natural or probable consequence, and that consequence is a result that the obligation or standard unambiguously prohibits. An attorney acts in reckless disregard of an obligation or standard when (1) the attorney knows or should know, based on his or her experience and the unambiguous nature of the obligation or standard, of an obligation or standard; (2) the attorney knows or should know, based on his or her experience and the unambiguous applicability of the obligation or standard, that the attorney's conduct involves a substantial likelihood that he or she will violate, or cause a violation of, the obligation or standard; and (3) the attorney nonetheless engages in the conduct, which is objectively unreasonable under all the circumstances. Thus, an attorney's disregard of an obligation is reckless when it represents a gross deviation from the standard of conduct that an objectively reasonable attorney would observe in the same situation.

If OPR determines that an attorney did not engage in professional misconduct, OPR determines whether the attorney exercised poor judgment, engaged in other inappropriate conduct, made a mistake, or acted appropriately under all the circumstances. An attorney exercises poor judgment when, faced with alternative courses of action, he or she chooses a course of action that is in marked contrast to the action that the Department may reasonably expect an attorney exercising good judgment to take. Poor judgment differs from professional misconduct in that an attorney may act inappropriately and thus exhibit poor judgment even though he or she may not have violated or acted in reckless disregard of a clear obligation or standard. In addition, an attorney may exhibit poor judgment even though an obligation or standard at issue is not sufficiently clear and unambiguous to support a professional misconduct finding. A mistake, on the other hand, results from an excusable human error despite an attorney's exercise of reasonable care under the circumstances.

An attorney who makes a good faith attempt to ascertain the obligations and standards imposed on the attorney and to comply with them in a given situation does not commit professional misconduct. Evidence that an attorney made a good faith attempt to ascertain and comply with the obligations and standards imposed can include, but is not limited to, the fact that the attorney reviewed materials that define or discuss one or more potentially applicable obligations and standards, consulted with a supervisor or ethics advisor, notified the tribunal or the attorney representing a party or person with adverse interests of an intended course of conduct, or took

affirmative steps the attorney reasonably believed were required to comply with an obligation or standard.

II. APPLICABLE STANDARDS OF CONDUCT

A. The United States Attorneys' Manual

Among its many provisions, the United States Attorneys' Manual (USAM) includes general statements of principles that summarize appropriate considerations to be weighed, and desirable practices to be followed, by federal prosecutors when discharging their prosecutorial responsibilities.[189] The goal of the USAM is to promote "the reasoned exercise of prosecutorial authority and contribute to the fair, evenhanded administration of the Federal criminal laws," and to promote public confidence that important prosecutorial decisions will be made "rationally and objectively on the merits of each case." USAM § 9-27.001.

Because the USAM is designed to assist in structuring the decision-making process of government attorneys, many of its principles are cast in general terms, with a view to providing guidance rather than mandating results. *Id.*; *see also* USAM § 9-27.120, comment ("It is expected that each Federal prosecutor will be guided by these principles in carrying out his/her criminal law enforcement responsibilities . . . . However, it is not intended that reference to these principles will require a particular prosecutorial decision in any given case."); USAM § 9-27.110, comment ("Under the Federal criminal justice system, the prosecutor has wide latitude in determining when, whom, how, and even whether to prosecute for apparent violations of Federal criminal law."). However, USAM § 9-27.130 provides that AUSAs who depart from the principles of federal prosecution articulated in the USAM may be subject to internal discipline. In particular, USAM § 9-27.130 states that each U.S. Attorney should establish internal office procedures to ensure that prosecutorial decisions are made at an appropriate level of responsibility and are consistent with the principles set forth in the USAM, and that serious, unjustified departures from the principles set forth in the USAM are followed by remedial action, including the imposition of disciplinary sanctions when warranted and deemed appropriate.

U.S. Attorneys have "plenary authority with regard to federal criminal matters" and may modify or depart from the principles set forth in the USAM as deemed necessary in the interest of fair and effective law enforcement within their individual judicial districts. USAM §§ 9-2.001, 9.27-140. The USAM provisions are supplemented by the Department's Criminal Resource Manual, which provides additional guidance relating to the conduct of federal criminal prosecutions.

1. USAM Provisions Relating to the Initiation and Declination of a Federal Prosecution

Federal prosecutors do not open a case on every matter referred to them. USAM § 9-2.020 explicitly authorizes a U.S. Attorney "to decline prosecution in any case referred directly to

[189] In 2018, the USAM was revised and reissued as the Justice Manual. In assessing the subjects' conduct, OPR relies upon the standards of conduct in effect at the time of the events in issue. Accordingly, unless otherwise noted, citations in this Report are to the 1997 edition of the USAM, as revised through January 2007.

him/her by an agency unless a statute provides otherwise." Whenever a U.S. Attorney closes a case without prosecution, the file should reflect the action taken and the reason for it. USAM § 9-27.220 sets forth the grounds to be considered in making the decision whether to commence or decline federal prosecution. A federal prosecutor should commence or recommend prosecution if he or she believes that admissible evidence will probably be sufficient to obtain and sustain a conviction of a federal offense, unless (1) the prosecution would serve no federal interest; (2) the person is subject to effective prosecution in another jurisdiction; or (3) there exists an adequate alternative to prosecution. A comment to this provision indicates that it is the prosecutor's task to determine whether these circumstances exist, and in making that determination, the prosecutor "should" consult USAM §§ 9-27.230, 9-27.240, or 9-27.250, as appropriate.

USAM § 9-27.230 sets forth a non-exhaustive list of considerations that a federal prosecutor should weigh in determining whether a substantial federal interest would be served by initiating prosecution against a person:

1. Federal law enforcement priorities;[190]
2. The nature and seriousness of the offense;[191]
3. The deterrent effect of prosecution;
4. The person's culpability in connection with the offense;
5. The person's history with respect to criminal activity;
6. The person's willingness to cooperate in the investigation or prosecution of others; and
7. The probable sentence or other consequences if the person is convicted.

The USAM contemplates that, on occasion, a federal prosecutor will decline to open a case in deference to prosecution by the state in which the crime occurred. USAM § 9-27.240 directs that in evaluating the effectiveness of prosecution in another jurisdiction, the federal prosecutor should weigh "all relevant considerations," including the strength of the other jurisdiction's interest in prosecution, the other jurisdiction's ability and willingness to prosecute effectively, and the probable sentence or other consequences the person will be subject to if convicted in the other jurisdiction. A comment to this provision explains:

---

190 A comment to this provision directs the prosecutor to consider carefully the extent to which a federal prosecution would be consistent with established federal prosecutorial priorities.

191 A comment to this provision explains that an assessment of the nature and seriousness of the offense must also include consideration of the impact on the victim. The comment further cautions that when restitution is at issue, "care should be taken . . . to ensure against contributing to an impression that an offender can escape prosecution merely by returning the spoils of his/her crime."

> Some offenses, even though in violation of Federal law, are of particularly strong interest to the authorities of the state or local jurisdiction in which they occur, either because of the nature of the offense, the identity of the offender or victim, the fact that the investigation was conducted primarily by state or local investigators, or some other circumstance. Whatever the reason, when it appears that the Federal interest in prosecution is less substantial than the interest of state or local authorities, consideration should be given to referring the case to those authorities rather than commencing or recommending a Federal prosecution.

Another comment cautions that in assessing whether to defer to state or local authorities, "the Federal prosecutor should be alert to any local conditions, attitudes, relationships or other circumstances that might cast doubt on the likelihood of the state or local authorities conducting a thorough and successful prosecution."

USAM § 9-27.260 identifies impermissible considerations relating to the decision whether to initiate or decline a federal prosecution. Specifically, the decision may not be based on consideration of the person's race, religion, sex, national origin, or political association, activities, or beliefs; the prosecutor's "own personal feelings" about the person or the victim; or the possible effect of the decision on the prosecutor's own professional or personal circumstances. When opting to decline federal prosecution, the prosecutor should ensure that the reasons for that decision are communicated to the investigating agency and reflected in the office files. USAM § 9-27.270.

2. USAM § 9-2.031: The Petite Policy

Although the Constitution does not prohibit prosecutions of a defendant by both state and federal authorities, even when the conduct charged is identical in both charging jurisdictions, the Department has a long-standing policy, known as the Petite policy, governing federal prosecutions charged after the initiation of a prosecution in another jurisdiction based on the same or similar conduct.[192] The general principles applicable to the prosecution or declination decision are set forth in USAM § 9-2.031, "Dual and Successive Prosecution Policy ('Petite Policy')," which contains guidelines for a federal prosecutor's exercise of discretion in determining whether to bring a federal prosecution based on the substantially same act or transaction involved in a prior state or federal proceeding. The policy applies "whenever there has been a prior state or federal prosecution resulting in an acquittal, a conviction, including one resulting from a plea agreement, or a dismissal or other termination on the merits after jeopardy has attached."

In circumstances in which the policy applies, a prosecutor nonetheless can initiate a new federal prosecution when three substantive prerequisites exist. The prerequisites are as follows:

(1) The matter must involve a substantial federal interest. The determination whether a substantial federal interest is involved is made on a case-by-case basis. Matters

---

192 *See Rinaldi v. United States*, 434 U.S. 22, 27-29 (1977); *Petite v. United States*, 361 U.S. 529 (1960).

that come within the national investigation and prosecution priorities established by the Department are more likely to satisfy this requirement than other matters.

(2) The prior prosecution must have left the substantial federal interest "demonstrably unvindicated." In general, the Department presumes that a prior prosecution has vindicated federal interests, but that presumption may be overcome in certain circumstances. As relevant here, the presumption may be overcome when the choice of charges in the prior prosecution was based on factors such as incompetence, corruption, intimidation, or undue influence. The presumption may be overcome even when the prior prosecution resulted in a conviction, if the prior sentence was "manifestly inadequate in light of the federal interest involved and a substantially enhanced sentence—including forfeiture and restitution as well as imprisonment and fines—is available through the contemplated federal prosecution."

(3) The government must believe that the defendant's conduct constitutes a federal offense, and that the admissible evidence probably will be sufficient to obtain and sustain a conviction.

However, the satisfaction of the prerequisites does not require a prosecutor to proceed with a federal investigation or charges nor is the Department required to approve the proposed prosecution.

The Petite policy cautions that whenever a matter involves overlapping federal and state jurisdiction, federal prosecutors should consult with their state counterparts "to determine the most appropriate single forum in which to proceed to satisfy the substantial federal and state interests involved." If a substantial question arises as to whether the Petite policy applies to a particular prosecution, the prosecutor should submit the matter to the appropriate Assistant Attorney General for resolution. Prior approval from the appropriate Assistant Attorney General must be obtained before bringing a prosecution governed by this policy.

3. USAM Provisions Relating to Plea Agreements

Federal prosecutors have discretion to resolve an investigation or pending case through a plea agreement. USAM §§ 9-27.330; 9-27.400. Negotiated pleas are also explicitly sanctioned by Federal Rule of Criminal Procedure 11(c)(1).[193] Regardless of whether the plea agreement is offered pre-charge or post-charge, the prosecutor's plea bargaining "must honestly reflect the totality and seriousness of the defendant's conduct." USAM § 9-27.400, comment.[194] The importance of selecting a charge that reflects the seriousness of the conduct is echoed in USAM § 9-27.430, which directs the prosecutor to require a defendant to plead to an offense that represents the most serious readily provable charge consistent with the nature and extent of the

[193] As previously noted, Rule 11(c)(1)(C) permits the parties to agree to resolve the case in exchange for a specific sentence, subject to the court's acceptance of the agreement.

[194] *See also* USAM § 9-27.300 ("Once the decision to prosecute has been made, the attorney for the government should charge . . . the most serious offense that is consistent with the nature of the defendant's conduct, and that is likely to result in a sustainable conviction.").

defendant's criminal conduct, has an adequate factual basis, makes likely the imposition of an appropriate sentence and order of restitution, and does not adversely affect the investigation or prosecution of others. USAM § 9-27.420 specifies:

> In determining whether it would be appropriate to enter into a plea agreement, the attorney for the government should weigh all relevant considerations, including:
>
> 1. The defendant's willingness to cooperate in the investigation or prosecution of others;
>
> 2. The defendant's history with respect to criminal activity;
>
> 3. The nature and seriousness of the offense or offenses charged;
>
> 4. The defendant's remorse or contrition and his/her willingness to assume responsibility for his/her conduct;
>
> 5. The desirability of prompt and certain disposition of the case;
>
> 6. The likelihood of obtaining a conviction at trial;
>
> 7. The probable effect on witnesses;
>
> 8. The probable sentence or other consequences if the defendant is convicted;
>
> 9. The public interest in having the case tried rather than disposed of by a guilty plea;
>
> 10. The expense of trial and appeal;
>
> 11. The need to avoid delay in the disposition of other pending cases; and
>
> 12. The effect upon the victim's right to restitution.

4. USAM Provisions Relating to Non-Prosecution Agreements

USAM § 9-27.600 authorizes government attorneys to enter into a non-prosecution agreement in exchange for a person's cooperation. The provision explains that a non-prosecution agreement is appropriate for this purpose when, in the prosecutor's judgment, the person's timely cooperation "appears to be necessary to the public interest and other means of obtaining the desired cooperation are unavailable or would not be effective." A comment to this provision explains that such "other means" include seeking cooperation after trial and conviction, bargaining for

cooperation as part of a plea agreement, or compelling cooperation under a "use immunity" order. The comment observes that these alternative means "are clearly preferable to permitting an offender to avoid any liability for his/her conduct" and "should be given serious consideration in the first instance." USAM §§ 9-27.620 and 9-27.630 set forth considerations a prosecutor should take into account when entering into a non-prosecution agreement. Generally, the U.S. Attorney has authority to approve a non-prosecution agreement. USAM § 9-27.600 comment. However, USAM § 9-27.640 directs that a government attorney should not enter into a non-prosecution agreement in exchange for a person's cooperation without first obtaining the approval of the appropriate Assistant Attorney General, or his or her designee, when the person is someone who "is likely to become of major public interest."

These USAM provisions do not address the uses of non-prosecution agreements in circumstances other than when needed to obtain cooperation.

5. USAM Provisions Relating to Grants of Immunity

Nothing in the USAM directly prohibits the government from using the criminal exposure of third parties in negotiating with a criminal defendant. Instead, the provision that addresses immunity relates only to the exchange of limited immunity for the testimony of a witness who has asserted a Fifth Amendment privilege against self-incrimination. *See* USAM §§ 9-23.100 *et seq.*

6. USAM/C.F.R. Provisions Relating to Financial Conflicts of Interest

Department employees are expected to be aware of, and to comply with, all ethics-related laws, rules, regulations, and policies. *See, generally,* USAM § 1-4.000 *et seq*. Specifically, a government attorney is prohibited by criminal statute from participating personally and substantially in any particular matter in which he has a financial interest or in which such an interest can be imputed to him. *See* 18 U.S.C. § 208 and 5 C.F.R. §§ 2635.401-402. In addition, a Department employee should seek advice from an ethics official before participating in any matter in which his impartiality could be questioned. If a conflict of interest exists, in order for the employee to participate in the matter, the head of the employee's component, with the concurrence of an ethics official, must make a determination that the interest of the government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the Department's programs and operations. The determination must be made in writing. *See* 5 C.F.R. §§ 2635.501-502.

B. Other Department Policies

1. Department Policies Relating to the Disposition of Charges

The Attorney General has the responsibility for establishing prosecutorial priorities for the Department. Over the span of several decades, each successive Attorney General has articulated those priorities in policy memoranda issued to all federal prosecutors. As applicable here, on September 22, 2003, Attorney General John Ashcroft issued a memorandum regarding "Department Policy Concerning Charging Criminal Offenses, Disposition of Charges, and Sentencing" (Ashcroft Memo). The Ashcroft Memo, which explicitly superseded all previous Departmental guidance on the subject, set forth policies "designed to ensure that all federal

prosecutors adhere to the principles and objectives" of the Sentencing Reform Act of 1984, the Sentencing Guidelines, and the PROTECT Act "in their charging, case disposition, and sentencing practices."[195]

The Ashcroft Memo directed that, "in all federal cases, federal prosecutors must charge and pursue the most serious, readily provable offense or offenses that are supported by the facts of the case," except as authorized by an Assistant Attorney General, U.S. Attorney, or designated supervisory authority in certain articulated limited circumstances. The Ashcroft Memo cautioned that a charge is not "readily provable" if the prosecutor harbors a good faith doubt, based on either the law or the evidence, as to the government's ability to prove the charge at trial. The Ashcroft Memo explains that the "basic policy" "requires federal prosecutors to charge and pursue all charges that are determined to be readily provable" and would yield the most substantial sentence under the Sentencing Guidelines.

The policy set forth six exceptions, including a catch-all exception that permits a prosecutor to decline to pursue readily provable charges "in other exceptional circumstances" with the written or otherwise documented approval of an Assistant Attorney General, U.S. Attorney, or "designated supervisory attorney." As examples of circumstances in which such declination would be appropriate, the Ashcroft Memo cites to situations in which a U.S. Attorney's Office is "particularly over-burdened," the trial is expected to be of exceptionally long duration, and proceeding to trial would significantly reduce the total number of cases the office could resolve. The Ashcroft Memo specifically notes that "[c]harges may be declined . . . pursuant to a plea agreement only to the extent consistent" with the policies established by the Memo.

On January 28, 2005, Deputy Attorney General James Comey issued a memorandum entitled "Department Policies and Procedures Concerning Sentencing." That memorandum reiterated that federal prosecutors "must continue to charge and pursue the most serious readily provable offenses," and defined that term as the offenses that would "generate the most substantial sentence" under the Sentencing Guidelines, any applicable mandatory minimum, and any statutorily required consecutive sentence.

Importantly, although the Ashcroft and Comey memoranda limit an individual line prosecutor's ability to decline "readily provable" charges in their entirety, no such restriction is placed upon the U.S. Attorneys, who retained authority to approve exceptions to the policy. In addition, the policy applies to "readily provable" charges, thus inherently allowing a prosecutor

---

[195] The Ashcroft Memo was issued before the Supreme Court decided *United States v. Booker*, 543 U.S. 220 (2005), which struck down the provision of the federal sentencing statute that required federal district judges to impose a sentence within the applicable Federal Sentencing Guidelines range. Those Guidelines were the product of the United States Sentencing Commission, which was created by the Sentencing Reform Act of 1984. The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act of 2003, Pub. L. 108–21, 117 Stat. 650, was directed at preventing child abuse. It included a variety of provisions designed to improve the investigation and prosecution of violent crimes against children. Among other things, the PROTECT Act provided for specific sentencing considerations for certain sex-related offenses, such as those involving multiple occasions of prohibited sexual conduct or those involving material with depictions of violence or with specified numbers of images.

flexibility to decline to bring a particular charge based on a "good faith doubt" that the law or evidence supports the charge.

2. Department Policy Relating to Deportation of Criminal Aliens

On April 28, 1995, the Attorney General issued a memorandum to all federal prosecutors entitled "Deportation of Criminal Aliens," directing federal prosecutors to actively and directly become involved in the process of removing criminal aliens from the United States. In pertinent part, this memorandum notes that prosecutors can make a major contribution to the expeditious deportation of criminal aliens by effectively using available prosecution tools for dealing with alien defendants. These tools include (1) stipulated administrative deportation orders in connection with plea agreements; (2) deportation as a condition of supervised release under 18 U.S.C. § 3853(d); and (3) judicial deportation orders pursuant to 8 U.S.C. § 1252a(d). The memorandum further directs:

> All deportable criminal aliens should be deported unless extraordinary circumstances exist. Accordingly, absent such circumstances, Federal prosecutors should seek the deportation of deportable alien defendants in whatever manner is deemed most appropriate in a particular case. Exceptions to this policy must have the written approval of the United States Attorney.

See also USAM § 9-73.520. A "criminal alien" is a foreign national who has been convicted of a crime.[196]

Stipulated administrative deportation orders can be based "on the conviction for an offense to which the alien will plead guilty," provided that the offense is one of those enumerated in 8 U.S.C. § 1251 as an offense that causes an alien to be deported. Under 8 U.S.C. § 1251(a)(2)(A)(i), any alien who is convicted of a crime of "moral turpitude" within five years after the date of entry (or 10 years in the case of an alien provided lawful permanent resident status), and is either sentenced to confinement or confined to prison for one year or longer, is deportable.

C. Case Law

1. Prosecutorial Discretion

On many occasions, the Supreme Court has discussed the breadth of the prosecutor's discretion in deciding whether and whom to prosecute. In *Bordenkircher v. Hayes*, 434 U.S. 357 (1978), the Court considered the propriety of a prosecutor's threat during plea negotiations to seek more serious charges against the accused if the accused did not plead guilty to the offense originally charged. The defendant, Hayes, opted not to plead guilty to the original offense, and

---

196 According to the U.S. Customs and Border Protection, "The term 'criminal alien' refers to aliens who have been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol." *See* U.S. Dept. of Homeland Security, U.S. Customs and Border Protection, CBP Enforcement Statistics, Criminal Alien Statistics Fiscal Year 2020, available at https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-alien-statistics.

the prosecutor indicted him on more serious charges. Hayes was thereafter convicted and sentenced under the new indictment. The state court of appeals rejected Hayes's challenge to his conviction, concluding that the prosecutor's decision to indict on more serious charges was a legitimate use of available leverage in the plea-bargaining process. Hayes filed for review of his conviction and sentence in federal court, and although Hayes lost at the district court level, the U.S. Court of Appeals for the Sixth Circuit concluded that the prosecutor's conduct constituted impermissible vindictive prosecution.

The Supreme Court reversed the Sixth Circuit's ruling. The Court opined that "acceptance of the basic legitimacy of plea bargaining necessarily implies rejection of any notion that a guilty plea is involuntary in a constitutional sense simply because it is the end result of the bargaining process." *Id.* at 363. A long as the prosecutor has probable cause to believe a crime has been committed, "the decision whether or not to prosecute, and what charge to file or bring before a grand jury, *rests entirely in his discretion*." *Id.* at 364 (emphasis added). The Court explained that selectivity in enforcement of the criminal law is not improper unless based upon an unjustifiable standard such as race, religion, or other arbitrary classification. *Id.*

These principles were reiterated in *Wayte v. United States*, 470 U.S. 598 (1985), a case involving the government's policy of prosecuting only those individuals who reported themselves as having failed to register with the Selective Service system. The petitioner in *Wayte* claimed that the self-reported non-registrants were "vocal" opponents of the registration program who were being punished for the exercise of their First Amendment rights. The Supreme Court rejected this argument, stating that the government has "broad discretion" in deciding whom to prosecute, and that the limits of that discretion are reached only when the prosecutor's decision is based on an unjustifiable standard. *Id.* at 607-08. Because the passive enforcement policy was not intended to have a discriminatory effect, the claim of selective prosecution failed.

In *Imbler v. Pachtman*, 424 U.S. 409 (1976), the Supreme Court considered whether a state prosecutor acting within the scope of his duties could be sued under 42 U.S.C. § 1983 for violation of the defendant's constitutional rights when the defendant alleged that the prosecutor and others had unlawfully conspired to charge and convict him. The Court held that "in initiating a prosecution and in presenting the State's case," conduct that is "intimately associated with the judicial phase of the criminal process," the prosecutor enjoyed absolute immunity from a civil suit for damages. *Id.* at 430-31. In *Harrington v. Almy*, 977 F.2d 37 (1st Cir. 1992), the court applied *Imbler* to a challenge to a prosecutor's decision not to prosecute. The court noted that "given the availability of immunity for the decision *to* charge, it becomes even more important that symmetrical protection be available for the decision *not to* charge." *Id.* at 41 (emphasis in original).

Finally, in an analogous area of the law, in *Heckler v. Chaney,* 470 U.S. 821 (1985), the Supreme Court concluded that an agency's decision not to undertake an enforcement action is not reviewable under the federal Administrative Procedure Act, 5 U.S.C. §§ 500-706.

2. Plea Agreement Promises of Leniency towards a Third Party

Case law regarding promises made during plea negotiations not to prosecute a third-party arises in two contexts. First, defendants have challenged the voluntariness of the resulting plea

when prosecutors have used third parties as leverage in plea negotiations. Numerous courts have made clear, however, that a plea is not invalid when entered under an agreement that includes a promise of leniency towards a third party or in response to a prosecutor's threat to prosecute a third party if a plea is not entered. *See, e.g., United States v. Marquez*, 909 F.2d 738, 741-42 (2d Cir. 1990) (rejecting claim that plea was involuntary because of pressure placed upon a defendant by the government's insistence that a defendant's wife would not be offered a plea bargain unless he pled guilty); *Martin v. Kemp*, 760 F.2d 1244, 1248 (11th Cir. 1985) (in order to satisfy "heavy burden" of establishing that the government had not acted "in good faith," a defendant challenging voluntariness of his plea on grounds that the prosecutor had threatened to bring charges against the defendant's pregnant wife had to establish that government lacked probable cause to believe the defendant's wife had committed a crime at the time it threatened to charge her); *Stinson v. State*, 839 So. 2d 906, 909 (Fla. App. 2003) ("In cases involving . . . a promise not to prosecute a third party, the government must act in good faith . . . [and] must have probable cause to charge the third party.").

The second context concerns situations in which courts have enforced prosecutors' promises of leniency to third parties. For example, in *State v. Frazier*, 697 So. 2d 944 (Fla. App. 1997), as consideration for the defendant's guilty plea, the prosecutor agreed and announced in open court that the government would dismiss charges against the defendant's niece and nephew, who had all been charged as a result of the same incident. When the state reneged and attempted to prosecute the niece and nephew, the trial court dismissed the charges against them, and the state appealed. The appellate court affirmed the dismissal, concluding that under contract law principles, the niece and nephew were third-party beneficiaries of the plea agreement and were therefore entitled to enforce it.

Apart from voluntariness or enforceability concerns, courts have not suggested that a prosecutor's promise not to prosecute a third party amounts to an inappropriate exercise of prosecutorial discretion.

D. State Bar Rules

During the period relevant to this Report, the five subject attorneys were members of the bar in several different states and were subject to the rules of professional conduct in each state in which they held membership.[197] In determining which rules apply, OPR applied the local rules of the U.S. District Court for the Southern District of Florida (Local Rules) and the choice-of-law provisions of each applicable bar. Local Rule 11.1(f) incorporates rules governing the admission, practice, peer review, and discipline of attorneys (Attorney Admission Rules).[198] Attorney Admission Rule 4(d) provides that any U.S. Attorney or AUSA employed full-time by the government may appear and participate in particular actions or proceedings on behalf of the United States in the attorney's official capacity without petition for admission. Any attorney so appearing

197 The subjects' membership in state bars other than Florida would not affect OPR's conclusions in this case.

198 These rules have been in effect since December 1994.

is subject to all rules of the court.[199] Attorney Admission Rule 6(b)(2)(A) makes clear that attorneys practicing before the court are subject to the Florida Bar's Rules of Professional Conduct (FRPC). Moreover, the choice-of-law provisions contained within the relevant state's rules of professional conduct make the FRPC applicable to their conduct.

1. FRPC 4-1.1 – Competence

FRPC 4-1.1 requires that a lawyer provide competent representation to a client.[200] Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A comment to the rule clarifies that the factors relevant to determining a lawyer's competence to handle a particular matter include "the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter, and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field." The comment further notes that "[i]n many instances the required proficiency is that of a general practitioner." With respect to particular matters, competence requires inquiry into and analysis of the factual and legal elements of the problem. The comment to Rule 4-1.1 explains that "[t]he required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence."

2. FRPC 4-1.3 – Diligence

FRPC 4-1.3 specifies that a lawyer should act with reasonable diligence and promptness in representing a client. A comment to this rule explains, "A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor." A lawyer must exercise "zeal" in advocating for the client, but is not required "to press for every advantage that might be realized for a client."

3. FRPC 4-4.1 – Candor in Dealing with Others

FRPC 4-4.1 prohibits a lawyer from knowingly making a false statement of material fact or law to a third person during the course of representation of a client. A comment to this rule explains that "[m]isrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements," and "[w]hether a particular statement should be regarded as one of fact can depend on the circumstances."

---

199 *See also* 28 U.S.C. § 530B(a), providing that government attorneys are subject to state laws and state and local federal court rules governing attorneys in each state where the government attorney engages in his duties.

200 The federal prosecutor does not have an individual "client," but rather represents the people of the United States. *See generally* 28 U.S.C. § 547 (duties of U.S. Attorney); 28 C.F.R. § 0.5(b) (the Attorney General represents the United States in legal matters).

4. FRPC 4-8.4 – Conduct Prejudicial to the Administration of Justice

FRPC 4-8.4(c) states that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

FRPC 4-8.4(d) prohibits a lawyer from engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice.

In *Florida Bar v. Frederick*, 756 So. 2d 79, 87 (Fla. 2000), the court noted that FRPC 4-8.4(d) is not limited to conduct that occurs in a judicial proceeding, but can be applied to "conduct in connection with the practice of law." In *Florida Bar v. Shankman*, 41 So. 3d 166, 172 (Fla. 2010), for example, an attorney's continuous hiring and firing of firms to assist in the client's matter resulted in delayed resolution of the case and constituted a violation of FRPC 4-8.4(d) due to the delay in the administration of justice and the increased costs to the client.[201]

[201] OPR also examined FRPC 4-3.8, Special Responsibilities of a Prosecutor. Nothing in the text of that rule, however, was relevant to the issues addressed in this Report. A comment to FRPC Rule 4-3.8 notes that Florida has adopted the American Bar Association (ABA) Standards of Criminal Justice Relating to the Prosecution Function. These "standards," however, are not binding rules of conduct but rather provide guidance to prosecutors. Indeed, the ABA has expressly stated that these standards "are not intended to serve as the basis for the imposition of professional discipline, to create substantive or procedural rights for accused or convicted persons, to create a standard of care for civil liability, or to serve as a predicate for a motion to suppress evidence or dismiss a charge." OPR does not consider the ABA standards as binding on the conduct of Department prosecutors.

[Page Intentionally Left Blank]

CHAPTER TWO

PART THREE: ANALYSIS

I. OVERVIEW

Following the *Miami Herald* report in November 2018, media scrutiny of and public attention to the USAO's handling of its Epstein investigation has continued unabated. At the heart of the public's concern is the perception that Epstein's 18-month sentence, which resulted in a 13-month term of actual incarceration, was too lenient and inadequately punished Epstein's criminal conduct. Although many records have been released as part of civil litigation stemming from Epstein's conduct, the public has received only limited information regarding the decision-making process leading to the signed NPA. As a result, questions have arisen about Acosta and his staff's motivations for entering into the NPA. Publicly released communications between prosecutors and defense counsel, the leniency of the sentence, and an unusual non-prosecution provision in the NPA have led to allegations that Acosta and the USAO gave Epstein a "sweetheart deal" because they were motivated by improper influences, such as their preexisting and personal relationships with his attorneys, or even corrupt influences, such as the receipt of personal benefits from Epstein.

Through its investigation, OPR has sought to answer the following core questions: (1) who was responsible for the decision to resolve the federal investigation through the NPA and for its specific terms; (2) did the NPA or any of its provisions violate Department policies or other rules or regulations; and (3) were any of the subjects motivated to resolve the federal investigation by improper factors, such as corruption or favoritism. To the extent that available records and witness interviews shed light on these questions, OPR shows in detail the process that led to the NPA, from the initial complaint to the USAO through the intense and often confusing negotiation process. After a thorough and detailed examination of thousands of contemporaneous records and extensive interviews of subjects and witnesses, OPR is able to answer most of the significant questions concerning the NPA's origins and development. Although some questions remain, OPR sets forth its conclusions and the bases for them in this Part.

II. ACOSTA REVIEWED AND APPROVED THE TERMS OF THE NPA AND IS ACCOUNTABLE FOR IT

Although Acosta did not sign the NPA, he approved it, with knowledge of its terms. He revised drafts of the NPA and added language that he thought appropriate. Acosta told OPR that he either was informed of, or had access to information concerning, the underlying facts of the case against Epstein. OPR did not find any evidence suggesting that any of his subordinates misled him about the facts or withheld information that would have influenced his decision, and Acosta did not make such a claim to OPR. As Acosta affirmed in his OPR interview, the "three pronged resolution, two years . . . , registration and restitution, . . . ultimately that was approved on my authority. . . . [U]ltimately, I approved it, and so, I . . . accept that. I'm not . . . pushing away responsibility for it."

In making its misconduct assessments, OPR considers the conduct of subjects individually. Menchel, Sloman, Lourie, and Villafaña were involved in the matter to varying degrees, at

different points in time, and regarding different decisions. Menchel, for example, participated in formulating the USAO's initial written offer to the defense, but he had no involvement with actions or decisions made after August 3, 2007. Sloman was absent during part of the most intense negotiations in September 2007 and did not see the final, signed version of the NPA until he returned. Villafaña and Lourie participated in the negotiations, and Lourie either made decisions during the September 12, 2007 meeting with the defense and State Attorney's Office, or at least indicated agreement pending Acosta's approval. In any event, whatever the level of Sloman's, Menchel's, Lourie's, and Villafaña's involvement, they acted with the knowledge and approval of Acosta.

Under OPR's analytical framework, an attorney who makes a good faith attempt to ascertain the obligations and standards imposed on the attorney and to comply with them in a given situation does not commit professional misconduct. Evidence that an attorney made a good faith attempt to ascertain and comply with the obligations and standards imposed can include, but is not limited to, the fact that the attorney consulted with a supervisor.[202] In this regard, OPR's framework is similar to a standard provision of the professional conduct rules of most state bars, which specify that a subordinate lawyer does not engage in misconduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty. *See, e.g.*, FRPC 4-5.2(b). Therefore, in addition to the fact that OPR did not find a violation of a clear and unambiguous standard as discussed below, OPR concludes that Menchel, Sloman, Lourie, and Villafaña did not commit professional misconduct with respect to any aspect of the NPA because they acted under Acosta's direction and with his approval.

III. OPR FOUND THAT NONE OF THE SUBJECTS VIOLATED A CLEAR AND UNAMBIGUOUS STATUTE, PROFESSIONAL RESPONSIBILITY RULE OR STANDARD, OR DEPARTMENT REGULATION OR POLICY, IN NEGOTIATING, APPROVING, OR ENTERING INTO THE NPA

A central issue OPR addressed in its investigation relating to the NPA was whether any of the subjects, in developing, negotiating, or entering into the NPA, violated any clear and unambiguous standard established by rule, regulation, or policy. OPR does not find professional misconduct unless a subject attorney intentionally or recklessly violated a clear and unambiguous standard. OPR considered three specific areas: (1) standards implicated by the decision to decline a federal court prosecution; (2) standards implicated by the decision to resolve the federal investigation through a non-prosecution agreement; and (3) standards implicated by any of the NPA's provisions, including the promise not to prosecute unidentified third parties. As discussed below, OPR concludes that in each area, and in the absence of evidence establishing that his decisions were based on corrupt or improper influences, the U.S. Attorney possessed broad discretionary authority to proceed as he saw fit, authority that he could delegate to subordinates, and that Acosta's exercise of his discretionary authority did not breach any clear and unambiguous standard. As a result, OPR concludes that none of the subject attorneys violated a clear and

[202] The failure to fully advise a supervisor of relevant and material facts can warrant a finding that the subordinate attorney has not acted in "good faith." OPR did not find evidence supporting such a conclusion here, and Acosta did not claim that he was unaware of material facts needed to make his decision.

unambiguous standard or engaged in professional misconduct in developing, negotiating, or entering into the NPA, including its addendum.

A. U.S. Attorneys Have Broad Discretion to Resolve Investigations or Cases as They Deem Appropriate, and Acosta's Decision to Decline to Prosecute Epstein Federally Does Not Constitute Professional Misconduct

The U.S. Attorneys exercise broad discretion in enforcing the nation's criminal laws.[203] As a general matter, federal prosecutors "are designated by statute as the President's delegates to help him discharge his constitutional responsibility to 'take Care that the Laws be faithfully executed.'" *United States v. Armstrong,* 517 U.S. 456, 464 (1996) (quoting U.S. Const. art. II, § 3). Unless based on an impermissible standard such as race, religion, or other arbitrary classification, a prosecutor's charging decisions—including declinations—are not dictated by law or statute and are not subject to judicial review. *See United States v. LaBonte,* 520 U.S. 751, 762 (1997) ("Such discretion is an integral feature of the criminal justice system, and is appropriate, so long as it is not based upon improper factors.").

Department policy guidance in effect at the time the USAO was handling the Epstein case helped ensure "the reasoned exercise of prosecutorial authority," but did not require "a particular prosecutorial decision in any given case." USAM §§ 9-27.001, 9-27.120 (comment). Rather than mandating specific actions, the USAM identified considerations that should factor into a prosecutor's charging decisions, including that the defendant was "subject to effective prosecution in another jurisdiction." USAM § 9-27.220. Importantly, U.S. Attorneys had "plenary authority with regard to federal criminal matters" and could modify or depart from the principles set forth in the USAM as deemed necessary in the interest of fair and effective law enforcement within their individual judicial districts. USAM §§ 9-2.001, 9-27.140. As stated in the USAM, "[t]he United States Attorney is invested by statute and delegation from the Attorney General with the broadest discretion in the exercise of such [prosecutive] authority," which includes the authority to decline prosecution. USAM § 9-2.001.

In addition, the USAM contemplated that federal prosecutors would sometimes decline federal prosecution in deference to a state prosecution of the same conduct and provided guidance in the form of factors to be considered in making the decision, including the strength of the other jurisdiction's interest in prosecution, the other jurisdiction's ability and willingness to prosecute effectively, and the probable sentence or other consequences if the person is convicted in the other jurisdiction. USAM § 9-27.240.[204] A comment to this provision stated that the factors are "illustrative only, and the attorney for the government should also consider any others that appear relevant to hi[m]/her in a particular case."

---

[203] *See, e.g., Wayte,* 470 U.S. at 607; *United States v. Goodwin,* 457 U.S. 368, 380 n.11 (1982); *Bordenkircher,* 434 U.S. at 364; *Imbler*, 424 U.S. 409.

[204] The discretionary authority under USAM § 9-27.240 to defer prosecution in favor of another jurisdiction is distinct from the Petite policy, which establishes guidelines for the exercise of discretion in determining whether to bring a federal prosecution based on conduct substantially the same as that involved in a prior state or federal proceeding. *See* USAM § 9-2.031.

As the U.S. Attorney, and in the absence of evidence establishing that his decision was motivated by improper factors, Acosta had the "plenary authority" under federal law and under the USAM to resolve the case as he deemed necessary and appropriate. As discussed in detail below, OPR did not find evidence establishing that Acosta, or the other subjects, were motivated or influenced by improper considerations. Because no clear and unambiguous standard required Acosta to indict Epstein on federal charges or prohibited his decision to defer prosecution to the state, OPR does not find misconduct based on Acosta's decision to decline to initiate a federal prosecution of Epstein.

B. No Clear and Unambiguous Standard Precluded Acosta's Use of a Non-Prosecution Agreement to Resolve the Federal Investigation of Epstein

OPR found no statute or Department policy that was violated by Acosta's decision to resolve the federal investigation of Epstein through a non-prosecution agreement.

The prosecutor's broad charging discretion includes the option of resolving a case through a non-prosecution agreement or a related and similar mechanism, a deferred prosecution agreement. *United States v. Fokker Servs. B.V.*, 818 F.3d 733 (D.C. Cir. 2016). These agreements "afford a middle-ground option to the prosecution when, for example, it believes that a criminal conviction may be difficult to obtain or may result in unwanted collateral consequences for a defendant or third parties, but also believes that the defendant should not evade accountability altogether." *Id.* at 738. As with all prosecutorial charging decisions, the choice to resolve a case through a non-prosecution agreement or a deferred prosecution agreement "resides fundamentally with the Executive" branch. *Id.* at 741.

OPR found no clear and unambiguous standard in the USAM prohibiting the use of a non-prosecution agreement in the circumstances presented in Epstein's case. The USAM specifically authorized and provided guidance regarding non-prosecution agreements or deferred prosecution agreements made in exchange for a person's timely cooperation when such cooperation would put the person in potential criminal jeopardy and when alternatives to full immunity (such as testimonial immunity) were "impossible or impracticable." USAM § 9-27.600 (comment).[205] The "cooperation" contemplated was cooperation in the criminal investigation or prosecution of another person. In certain circumstances, government attorneys were required to obtain approval from the appropriate Assistant Attorney General before entering into a non-prosecution agreement in exchange for cooperation.

Epstein, however, was not providing "cooperation" as contemplated by the USAM, and the USAM was silent as to whether a prosecutor could use a non-prosecution agreement in circumstances other than in exchange for cooperation in the investigation or prosecution of another. Notably, although the USAM provided guidance and approval requirements in cases involving cooperation, the USAM did not prohibit the use of a non-prosecution agreement in other situations. Accordingly, OPR concludes that the USAM did not establish a clear and unambiguous obligation prohibiting Acosta from ending the federal investigation through a non-prosecution

[205] USAM § 9-27.650 required that non-prosecution agreements in exchange for cooperation be fully memorialized in writing. Although this requirement was not applicable for the reasons given above, the NPA complied by fully memorializing the terms of the agreement.

agreement that did not require Epstein's cooperation nor did the USAM require Acosta to obtain Departmental approval before doing so.

C. The NPA's Individual Provisions Did Not Violate Any Clear and Unambiguous Standards

Although Acosta, as U.S. Attorney, had discretion generally to resolve the case through a non-prosecution agreement that deferred prosecution to the state, OPR also considered whether a clear and unambiguous standard governed any of the individual provisions of the NPA. Specifically, OPR examined Acosta's decision to permit Epstein to resolve the federal investigation by pleading guilty to state charges of solicitation of minors to engage in prostitution and solicitation to prostitution, with a joint, binding recommendation for an 18-month sentence of incarceration. Because, as noted above, OPR found no clear guidance applicable to non-prosecution agreements not involving cooperation, OPR examined Departmental policies relating to plea offers to assess the propriety of the NPA's charge and sentence requirements. OPR also examined the provision declining to prosecute Epstein's unidentified "potential co-conspirators," to determine whether that provision violated Departmental policy regarding grants of immunity. Finally, OPR considered whether there was a clear and unambiguous obligation under the Department's policy regarding the deportation of criminal aliens, which would have required further action to be taken against the two Epstein assistants who were foreign nationals.

After considering the applicable rules and policies, OPR finds that Acosta's decision to resolve the federal investigation through the NPA did not violate any clear and unambiguous standards and that Acosta had the authority to resolve the federal investigation through a state plea and through the terms that he chose. Accordingly, OPR concludes that Acosta did not commit professional misconduct in developing, negotiating, or approving the NPA, nor did the other subjects who implemented his decisions with respect to the resolution.[206]

1. Acosta Had Authority to Approve an Agreement That Required Epstein to Plead to Offenses Resulting in an 18-Month Term of Incarceration

Federal prosecutors have discretion to resolve a pending case or investigation through a plea agreement, including a plea that calls for the imposition of a specific, predetermined sentence. USAM §§ 9-27.330, 9-27.400; *see also* Federal Rule of Criminal Procedure 11(c)(1).

---

[206] OPR also considered whether Acosta, Sloman, Menchel, Lourie, or Villafaña failed to comply with professional ethics standards requiring that attorneys exercise competence and diligence in their representation of a client. Attorneys have a duty to provide competent, diligent representation to their clients, which generally requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. *See, e.g.*, FRPC 4-1.1, 4-1.3. The requirement of diligence obligates an attorney to exercise "zeal" in advocating for the client, but does not require the attorney "to press for every advantage that might be realized for a client." *See* FRPC 4-1.3 (comment). Although OPR criticizes certain decisions made during the USAO's investigation of Epstein, those decisions, even if flawed, did not violate the standard requiring the exercise of competence or diligence. The subjects exhibited sufficient knowledge, skill, preparation, thoroughness, and zeal during the federal investigation and the NPA negotiations to satisfy the general standards established by the professional responsibility rules. An attorney may attain a flawed result but still exercise sufficient competence and diligence throughout the representation to meet the requirements of the standard.

Longstanding Department policy directs prosecutors to require the defendant to plead to the most serious readily provable charge consistent with the nature and extent of the defendant's criminal conduct, that has an adequate factual basis, is likely to result in a sustainable conviction, makes likely the imposition of an appropriate sentence and restitution order, and does not adversely affect the investigation or prosecution of others. *See* USAM §§ 9-27.430, 9-27-300, 9-27.400 (comment). The genesis of this policy, the Ashcroft Memo, specifically requires federal prosecutors to charge and pursue all readily provable charges that would yield the most substantial sentence under the Sentencing Guidelines. However, the Ashcroft Memo articulates an important exception: a U.S. Attorney or a "designated supervisory attorney" may authorize a plea that does not comport with this policy.[207] Moreover, the Ashcroft Memo explains that a charge is not "readily provable" if the prosecutor harbors "a good faith doubt," based on either the law or the evidence, as to the government's ability to prove the charge at trial.

By its plain terms, the NPA arguably does not appear to satisfy the "most serious readily provable charge" requirement. The draft indictment prepared by Villafaña proposed charging Epstein with a variety of federal crimes relating to sexual conduct with and trafficking of minors, and Epstein's sentencing exposure under the federal guidelines was in the range of 168 to 210 months' imprisonment. The original "term sheet" presented to the defense proposed a "non-negotiable" requirement that Epstein plead guilty to three state offenses, in addition to the original state indictment, with a joint, binding recommendation for a two-year term of incarceration. Instead, Epstein was permitted to resolve his federal criminal exposure with a plea to the state indictment and only one additional state offense, and an 18-month sentence.

As discussed more fully later in this Report, Acosta, Sloman, Menchel, and Lourie perceived risks to going forward to trial on the federal charges Villafaña outlined in the prosecution memorandum and identified for OPR concerns with both the evidence and legal theories on which a federal prosecution would be premised. On the other hand, Villafaña felt strongly that federal charges should be brought, and the CEOS Chief reviewed the prosecution memorandum and twice opined that the charges were appropriate. OPR found it unnecessary to resolve the question whether federal charges against Epstein were readily provable, however, because Acosta had

---

[207] In addition to specified "Limited Exceptions," this authorization is available in "Other Exceptional Circumstances," as follows:

> Prosecutors may decline to pursue or may dismiss readily provable charges in other exceptional circumstances with the written or otherwise documented approval of an Assistant Attorney General, United States Attorney, or designated supervisory attorney. This exception recognizes that the aims of the Sentencing Reform Act must be sought without ignoring the practical limitations of the federal criminal justice system. For example, a case-specific approval to dismiss charges in a particular case might be given because the United States Attorney's Office is particularly over-burdened, the duration of the trial would be exceptionally long, and proceeding to trial would significantly reduce the total number of cases disposed of by the office. However, such case-by-case exceptions should be rare; otherwise the goals of fairness and equity will be jeopardized.

Ashcroft Memo at § I.B.6. *See also* USAM §§ 9-2.001 and 27.140 (U.S. Attorneys' authority to depart from the USAM).

authority to deviate from the Ashcroft Memo's "most serious readily provable offense" requirement.

Although Acosta could not recall specifically how or by whom the decision was made to allow Epstein to plead to only one of the three charges identified on the original term sheet, or how or by whom the decision was made to reduce the sentencing requirement from two years to 18 months, Acosta was aware of these changes. He reviewed and approved the final NPA before it was signed. Department policy gave him the discretion to approve the agreement, notwithstanding any arguable failure to comply with the "most serious readily provable offense" requirement. Furthermore, the Ashcroft Memo does not appear to preclude a U.S. Attorney from deferring to a state prosecution, so it is not clear that the Memo's terms apply to a situation involving state charges. Accordingly, OPR concludes that the negotiation of an agreement that allowed Epstein to resolve the federal investigation in return for the imposition of an 18-month state sentence did not violate a clear and unambiguous standard and therefore does not constitute professional misconduct.

2. The USAO's Agreement Not to Prosecute Unidentified "Potential Co-Conspirators" Did Not Violate a Clear and Unambiguous Department Policy

Several witnesses told OPR that they believed the government's agreement not to prosecute unidentified "potential co-conspirators" amounted to "transactional immunity," which the witnesses asserted is prohibited by Department policy. Although "use immunity" protects a witness only against the government's use of his or her immunized testimony in a prosecution of the witness, and is frequently used by prosecutors, transactional immunity protects a witness from prosecution altogether and is relatively rare.

OPR found no policy prohibiting a U.S. Attorney from declining to prosecute third parties or providing transactional immunity. One section of the USAM related to immunity but applied only to the exchange of "use immunity" for the testimony of a witness who has asserted a Fifth Amendment privilege. *See* USAM § 9-23.100 *et seq.* Statutory provisions relating to immunity also address the same context. *See* 18 U.S.C. § 6002; 21 U.S.C. § 884. Moreover, apart from voluntariness or enforceability concerns, courts have not suggested that a prosecutor's promise not to prosecute a third party amounts to an inappropriate exercise of prosecutorial discretion. *See, e.g., Marquez*, 909 F.2d at 741-43; *Kemp*, 760 F.2d at 1248; *Stinson*, 839 So. 2d at 909; *Frazier*, 697 So. 2d 945. OPR found no clear and unambiguous standard that was violated by the USAO's agreement not to prosecute "potential co-conspirators," and therefore cannot conclude that negotiating or approving this provision violated a clear and unambiguous standard or constituted professional misconduct.

Notwithstanding this finding, in Section IV of this Part, OPR includes in its criticism of Acosta's decision to approve the NPA his approval of this provision without considering its potential consequences, including to whom it would apply.

3. The NPA Did Not Violate Department Policy Relating to Deportation of Criminal Aliens

During the negotiations, the USAO rejected a defense-offered provision prohibiting the USAO from "request[ing], initiat[ing], or in any way encourag[ing] immigration authorities to institute immigration proceedings" against two female assistants. However, OPR considered whether the April 28, 1995 memorandum imposed any obligation on the USAO to prosecute Epstein's two female assistants who were known to be foreign nationals—as Villafaña urged in her prosecution memorandum—and thus trigger their removal, or conversely, whether it precluded the USAO from agreeing not to prosecute them as part of a negotiated resolution. OPR found nothing in the policy that created a clear and unambiguous standard in either regard.

The Attorney General's April 28, 1995 memorandum regarding "Deportation of Criminal Aliens" directed federal prosecutors to become involved actively and directly in the process of removing criminal aliens from the United States, and, along with USAM § 9-73.520, provided that "[a]ll deportable criminal aliens should be deported unless extraordinary circumstances exist." However, Epstein's two assistants were not "deportable" unless and until convicted of a crime that would have triggered their removal. But neither the policy memorandum nor the USAM imposed an obligation on the USAO to prosecute or secure a conviction against a foreign national nor did either provision preclude the USAO from declining to prosecute an alien using the same broad discretion that otherwise applies to charging decisions.

The policy guidance also requires "prompt and close coordination" with immigration officials in cases involving alien defendants and specifies that prosecutors must notify immigration authorities before engaging in plea negotiations with alien defendants. OPR learned during its investigation that an ICE agent participated in the Epstein investigation in its early stages. Moreover, because the USAO never engaged in plea negotiations with the two female assistants, who, in any event, had not been charged and were therefore not "defendants," no further notification was required.

IV. THE EVIDENCE DOES NOT ESTABLISH THAT THE SUBJECTS WERE INFLUENCED BY IMPROPER MOTIVES TO INCLUDE IN THE NPA TERMS FAVORABLE TO EPSTEIN OR TO OTHERWISE EXTEND BENEFITS TO EPSTEIN

OPR investigated whether any of the subjects—Acosta, Sloman, Menchel, Lourie, or Villafaña—was influenced by corruption, bias, or other improper motive, such as Epstein's wealth, status, or political associations, to include terms in the NPA that were favorable to Epstein, or whether such motives otherwise affected the outcome of the federal investigation. OPR considered the case-specific reasons the subjects identified as the motivation for the USAO's July 31, 2007 "term sheet" and Acosta's approval of the NPA in September 2007. OPR also thoroughly examined various factors forming the basis for allegations that the subjects were motivated by improper influences, including the subjects' preexisting relationships with defense counsel; the subjects' numerous meetings with Epstein's team of nationally known attorneys; emails between the subjects—particularly Villafaña—and defense counsel that appeared friendly, casual, and deferential to defense counsel; and inclusion in the NPA of a broad provision declining

to prosecute all of Epstein's co-conspirators. These factors are analyzed in the following discussions throughout this Section of the Report.

As a threshold matter, OPR's investigation of the subjects' decisions and actions in the Epstein matter uncovered no evidence of corruption such as bribery, gratuity, or illegal political or personal consideration. In addition, OPR examined the extensive contemporaneous documentary record, interviewed witnesses, and questioned the subject attorneys. The evidence shows three sets of issues influenced Acosta's decision to resolve the case through the NPA. The first—of main concern to Acosta—involved considerations of federalism and deference to state authority. The second arose from an assessment by Acosta's senior advisers—Sloman, Menchel, and Lourie—that the case carried substantial litigation risks, including both witness issues and what some viewed as a novel application of certain federal statutes to the facts of the Epstein case.[208] The third was Acosta's aim of obtaining a greater measure of justice for victims of Epstein's conduct and for the community than that proposed by the state.

Although the NPA and the process for reaching it can be criticized, as OPR does, OPR did not find evidence supporting a conclusion that the subjects were motivated by a desire to benefit Epstein for personal gain or because of other improper considerations, such as Epstein's wealth, status, or associations. That is not to say that Epstein received no benefit from his enormous wealth. He was able to hire nationally known attorneys who had prestige, skill, and extensive experience in federal and state criminal law and in conducting negotiations. He had the resources to finance an aggressive approach to the case that included the preparation of multiple written submissions reflecting extensive research and analysis, as well as multiple in-person meetings involving several of his attorneys and USAO personnel. He assembled a defense team well versed in the USAO and the Department, with the knowledge to maneuver through the Department's various levels and offices, a process unknown to many criminal defense attorneys and infrequently used even by those familiar with the Department's hierarchy. Access to highly skilled and prominent attorneys is not unusual in criminal cases involving corporations and their officers or certain other white collar defendants, but it is not so typical for defendants charged with sex crimes or violent offenses. Nonetheless, while recognizing that Epstein's wealth played a role in the outcome because he was able to hire skilled and assertive attorneys, OPR concludes that the subjects were not motivated to resolve the federal investigation to Epstein's benefit by improper factors.

A. OPR Found No Evidence of Criminal Corruption, Such as Bribery, Gratuity, or Illegal Political or Personal Consideration

Some public criticism of the USAO's handling of the Epstein matter implied that the subjects' decisions or actions may have been motivated by criminal corruption, although no specific information substantiating such implications was identified. Throughout its investigation,

---

208 Sloman asserted throughout his OPR interview that he did not participate in substantive discussions about the Epstein investigation before the NPA was signed, and his attorney argued in his comments on OPR's draft report that OPR should not attribute to Sloman any input in Acosta's decisions about how to resolve the case. However, Sloman was included in numerous emails discussing the merits of and issues relating to the investigation, participated in meetings with the defense team, and, according to Acosta, was one of the senior managers whom Acosta consulted in determining how to resolve the Epstein investigation.

OPR was attentive to any evidence that any of the subjects was motivated by bribes, gratuities, or other illegal political or personal considerations, and found no such indication.[209] Witnesses, including law enforcement officials, were specifically asked whether they had any information indicating such corruption, and all—notwithstanding the harsh criticism by some of those same witnesses of the Epstein matter's outcome—stated that they did not. Specifically, the FBI case agent told OPR that she did not believe there had been any illegal influence, and that if she had perceived any, she "would have gone screaming" to the FBI's public corruption unit. The co-case agent and the FBI supervisors up through the Special Agent in Charge likewise told OPR that they were unaware of any indication that a prosecutor acted in the matter because of illegal factors such as a gratuity or bribe or other corrupt influence, and that any such indication would immediately have been referred for criminal investigation by the FBI.

B. Contemporaneous Written Records and Witness and Subject Interviews Did Not Reveal Evidence Establishing That the Subjects Were Improperly Influenced by Epstein's Status, Wealth, or Associations

Although Epstein's name is now nationally recognized, in 2006 and 2007, he was not a familiar national figure or even particularly well known in Florida. All five subjects told OPR that when they first learned of the investigation, they had not heard of Epstein. Similarly, the FBI case agent told OPR that when the investigation began, no one in the FBI appeared to have heard of Epstein, and other witnesses also told OPR that they were initially unfamiliar with Epstein. However, news reports about Epstein's July 2006 arrest on the state indictment, which were contemporaneous with the beginning of the federal investigation, identified him as a wealthy Palm Beach resident with influential contacts, including William Clinton, Donald Trump, Kevin Spacey, and Alan Dershowitz, and other "prominent businessmen, academics and scientists."[210] Villafaña, Lourie, Sloman, and Acosta learned of this press coverage early in the investigation, and thus understood that Epstein was wealthy and associated with notable public figures.[211] The FBI case agent also told OPR that "we knew who had been on his plane, we knew . . . some of his connections."

1. The Contemporaneous Records Did Not Reveal Evidence Establishing That the NPA Resulted from Improper Factors

OPR found no evidence in the extensive contemporaneous documentary record that the terms of the NPA resulted from improper factors, such as Epstein's wealth or influential connections. Epstein's legal team overtly raised Epstein's financial status in arguing for a sentence that did not include a term of imprisonment on the ground that Epstein would be extorted in prison, but the USAO insisted that Epstein serve a term of incarceration. Defense counsel mentioned former President Clinton in one pre-NPA letter, but that reference was made in the context of a

---

209 OPR's jurisdiction does not extend to the investigation of allegations of criminal activity. If OPR had found indication of criminal activity, it would have referred the matter to the appropriate Department investigative agencies.

210 Larry Keller, "Billionaire solicited prostitutes three times, indictment says," *Palm Beach Post*, July 24, 2006; Nicole Janok, "Consultant to the rich indicted, jailed," *Palm Beach Post*, July 24, 2006.

211 Lourie later made Menchel aware of Epstein's prominence in the course of forwarding to Menchel the initial prosecution memorandum.

narrative of Epstein's philanthropic activities, rather than presented as a suggestion that Epstein's association to the former President warranted leniency and, in any case, the USAO rejected the defense argument that the matter should be left entirely to the state's discretion.[212] The defense submission to the Deputy Attorney General contained a direct reference to Epstein's connection to former President Clinton, but that submission was made well after the NPA was negotiated and signed, and in it, counsel contended that the USAO had treated Epstein too harshly because of his association with the former President.[213]

2. The Subjects Asserted That They Were Motivated by Reasonable Strategic and Policy Considerations, Not Improper Influences

In addition to reviewing the documentary evidence, OPR questioned the five subject attorneys, all of whom denied being personally influenced by Epstein's wealth or status in making decisions regarding the investigation, in the decision to resolve the case through an NPA, or in negotiating the NPA. Villafaña, in particular, was concerned from the outset of the federal investigation that Epstein might try to employ against the USAO the same pressure that she understood had been used with the State Attorney's Office, and she proactively took steps to counter Epstein's possible influence by meeting with Acosta and Sloman to sensitize them to Epstein's tactics. Both Acosta and Sloman told OPR that the USAO had handled cases involving wealthy, high-profile defendants before, including the Abramoff case. Acosta told OPR, "[W]e tried to treat [the case] fairly, not looking at . . . how wealthy is he, but also not saying we need to do this because he is so wealthy." Menchel expressed a similar view, telling OPR that he did not believe "it's appropriate to go after somebody because of their status one way or the other." Lourie told OPR that Epstein's status may have generated more "front office" involvement in the case, but it did not affect the outcome, and Sloman "emphatically disagree[d]" with the suggestion that the USAO's handling of the case had been affected by Epstein's wealth or influential connections. Other witnesses corroborated the subjects' testimony on this point, including the FBI case agents, who told OPR that no one ever communicated to them that they should treat Epstein differently because of his wealth. The CEOS Chief told OPR that he did not recall anyone at the USAO expressing either qualms or enthusiasm about proceeding against Epstein because of his wealth and influence.

OPR takes note of but does not consider dispositive the absence of any affirmative evidence that the subjects were acting from improper motivations or their denial of such motivations. Of more significance, and as discussed more fully below, was the fact that contemporaneous records support the subjects' assertions that the decision to pursue a pre-charge resolution was based on various case-specific legal and factual considerations.[214] OPR also

---

212 In the pre-NPA letter to the USAO, counsel recited a litany of Epstein's purported good deeds and charitable works, including a trip Epstein took to Africa with former President Clinton to raise awareness of AIDS, and counsel also noted that the former President had been quoted by *New York Magazine* describing Epstein as "a committed philanthropist."

213 In the letter to the Deputy Attorney General, counsel suggested that the prosecution may have been "politically motivated" due to Epstein's "close personal association with former President Bill Clinton."

214 OPR also considered that all five subjects provided generally consistent explanations regarding the factors that influenced Acosta's decision to resolve the federal investigation through the NPA. Sloman, Menchel, Lourie, and Villafaña all had long careers with the Department, and OPR considers it unlikely that they would all have joined with

considered that the USAO's most pivotal decisions—to resolve the case through an NPA requiring Epstein to serve time in jail, register as a sexual offender, and provide monetary damages to victims—had been made by July 31, 2007, when the USAO presented its "term sheet" to the defense. This was before Acosta had ever met with defense counsel and when he had not indicated any plans to do so. It also was well before Acosta's October 12, 2007 breakfast meeting with defense counsel Lefkowitz, which received strong public and media criticism. OPR also considered significant the fact that although the USAO made numerous concessions in the course of negotiating the final NPA, the USAO did not accede to the defense request that the USAO end federal involvement altogether and return the matter to the state authorities to handle as they saw fit, and the USAO refused to eliminate its requirement that Epstein register as a sexual offender, despite a strong push by the defense that it do so.

3. Subject and Witness Interviews and Contemporaneous Records Identified Case-Specific Considerations Relating to Evidence, Legal Theories, Litigation Risk, and a Trial's Potential Impact on Victims

Acosta, Sloman, Menchel, and Lourie told OPR that they did not recall the specific content of discussions about the challenges presented by a potential federal prosecution or reasons for Acosta's decision to resolve the federal investigation through the NPA, but they and Villafaña identified for OPR several case-specific factors, unrelated to Epstein's wealth or associations, that either did or likely would have been included in those discussions and that OPR concludes likely influenced Acosta's decision-making. These considerations included assessment of the evidentiary risks and the potential impact of a trial on the victims. For the most part, however, these factors appear more aptly to pertain to the decision to resolve the case through a pre-charge disposition, but do not directly explain why Acosta chose to resolve the federal investigation through a guilty plea in state court. That decision appears to have stemmed from Acosta's concerns about intruding into an area he believed was traditionally handled by state law enforcement authorities.

In a declaration submitted to the district court in 2017 in connection with the CVRA litigation, Villafaña explained the USAO's rationale for terminating the federal investigation through the NPA:

> Prior to the Office making its decision to direct me to engage in negotiations with Epstein's counsel, I discussed the strengths and weaknesses of the case with members of the Office's management, and informed them that most of the victims had expressed significant concerns about having their identities disclosed. . . . It is my understanding from these and other discussions that these factors, that is, the various strengths and weaknesses of the case and the various competing interests of the many different victims (including the privacy concerns expressed by many), together with the Office's desire to obtain a guaranteed sentence of incarceration for Epstein, the equivalent of uncontested restitution for the victims,

Acosta to improperly benefit Epstein or would have remained silent if they suspected that Acosta, or any of their colleagues, was motivated by improper influences.

> and guaranteed sexual offender registration by Epstein . . . were among the factors [that led to the NPA].[215]

During her OPR interview, Villafaña similarly described the victims' general reluctance to go forward with a trial:

> [W]hen we would meet with victims, we would ask them how they wanted the case to be resolved. And most of them wanted the case to be resolved via a plea. Some of them wanted him not to be prosecuted at all. Most of them did not want to have to come to court and testify. They were very worried about their privacy rights.[216]

In his written response to OPR, Lourie stated that although he did not specifically recall the issues Villafaña set forth in her declaration, he believed they would have been important to the USAO in 2007. Lourie also told OPR that he generally recalled concerns within the USAO about the charges and a potential trial:

> [M]y vague recollection is that I and others had concerns that there was a substantial chance we would not prevail at both trial and on appeal after a conviction, resulting in no jail time, no criminal

---

215 *Doe v. United States*, No. 9:08-cv-80736 (S.D. Fla.), Declaration of A. Marie Villafaña in Support of Government's Response and Opposition to Petitioners' Motion for Partial Summary Judgment and Cross-Motion for Summary Judgment at 8-9 (June 2, 2017).

216 These concerns are also reflected in a 2017 declaration filed by the FBI case agent in the CVRA litigation, in which she stated, "During interviews conducted from 2006 to 2008, no victims expressed a strong opinion that Epstein be prosecuted." She further described the concerns of some of the victims:

> Throughout the investigation, we interviewed many [of Epstein's] victims . . . . A majority of the victims expressed concern about the possible disclosure of their identities to the public. A number of the victims raised concerns about having to testify and/or their parents finding out about their involvement with Mr. Epstein. Additionally, for some victims, learning of the Epstein investigation and possible exposure of their identities caused them emotional distress. Overall, many of the victims were troubled about the existence of the investigation. They displayed feelings of embarrassment and humiliation and were reluctant to talk to investigators. Some victims who were identified through the investigation refused even to speak to us. Our concerns about the victims' well-being and getting to the truth were always at the forefront of our handling of the investigation.

In addition, during the CVRA litigation, an attorney representing several victims filed a pleading to protect the anonymity of his clients by preventing disclosure of their identities to the CVRA petitioners. *See* Response to Court Order of July 6, 2015 and United States' Notice of Partial Compliance (July 24, 2015). It is noteworthy that in 2020, when OPR attempted to contact victims, through their counsel, for interviews or responses to written questions regarding contacts with the USAO, OPR was informed that most of the victims were still deeply concerned about remaining anonymous. One victim described to OPR how she became distraught when, during the USAO's investigation, the FBI left a business card at her parents' home and, as a result, her parents learned that she was a victim of Epstein. At the time, the victim was a teenager; was "nervous, scared, and ashamed"; and did not want her parents to know about the case.

> record, no restitution, no sex offender status, publication at a trial of the names of certain victims that didn't want their names revealed and the general difficulties of a trial for the victims and their families.

Although his emails showed that, at the time, he advocated for prosecution of Epstein, Lourie told OPR it was also his general recollection that "everybody at the USAO working on the matter had expressed concerns at various times about the long-term viability of a federal prosecution of Epstein due to certain factual and legal hurdles, as well as issues with the cooperation and desires of the victims."

Similarly, Menchel—who had experience prosecuting sexual assault crimes—recalled understanding that many of the victims were unwilling to go forward and would have experienced additional trauma as a result of a trial, and some had made statements exonerating Epstein. Menchel told OPR he believed that if the USAO had filed the proposed charges against Epstein, Epstein would have elected to go to trial. In Menchel's view, the USAO therefore had to weigh the risk of losing at trial, and thereby re-traumatizing the victims, against the benefits gained through a negotiated result, which ensured that Epstein served time in jail, registered as a sexual offender, and made restitution to his victims.

Sloman also recalled witness challenges and concerns about the viability of the government's legal theories. He told OPR:

> [I]t seemed to me you had a tranche of witnesses who were not going to be reliable. You had a tranche [of] witnesses who were going to be severely impeached. People who loved Jeffrey Epstein who thought he was a Svengali . . . who were going to say I told him I was 18 years old.
>
> You had witnesses who were scared to death of the public light being shown on them because their parents didn't even know -- had very vulnerable victims. You had all of these concerns.

Acosta told OPR that he recalled discussions with his senior managers about the victims' general credibility and reluctance to testify and the evidentiary strength of the case, all of which factored into the resolution. He acknowledged that his understanding of the facts was not "granular" and did not encompass a detailed understanding of each victim's expected testimony, but he trusted that his "team" had already "done the diligence necessary" to make recommendations about the evidentiary strength of the case. Acosta recalled discussing the facts with Sloman and Menchel, and possibly Lourie, none of whom had as detailed an understanding of the facts as Villafaña. Nevertheless, OPR credits Acosta's statement that he reasonably believed, based on his conversations with others who expressed this view, that a trial would pose significant evidentiary challenges.

Other witnesses corroborated the subjects' testimony regarding witness challenges, including the FBI co-case agent, who recalled during his OPR interview that some of the victims had expressed concern for their safety and "a lot of them d[id]n't want to take the stand, and

d[id]n't want to have to relive what happened to them."[217] The co-case agent told OPR that one of the "strategies" for dealing with the victims' fear was "to keep them off the stand," and he generally remembered discussions about resolving the Epstein case in a way that protected the victims' identities. In addition, the CEOS Trial Attorney who briefly worked with Villafaña on the case after the NPA was signed told OPR that in her meetings with some of the victims, she formed the impression that they were not interested in the prosecution going forward. The CEOS Trial Attorney told OPR that "[the victims] would have testified," but would have required an extensive amount of "victim management" because they were "deeply embarrassed" about potentially being labeled as prostitutes. The CEOS Trial Attorney also told OPR that "there were obvious weaknesses in the case," from an evidentiary perspective.[218]

The contemporaneous records also reflect discussions of, or references to, various legal and factual issues or other concerns about the case. For example, in an early email to Menchel, Lourie noted that two key issues raised by Villafaña's proposed charges were whether the USAO could prove that Epstein traveled for the purpose of engaging in sex acts, and the fact that some minor victims had told Epstein they were 18. He later opined to Acosta and Menchel that "there is some risk on some of the statutes [proposed in Villafaña's prosecution memorandum] as this is uncharted territory to some degree." In his July 5, 2007 email to Villafaña, Menchel cited Acosta's and Sloman's "concerns about taking this case because of [the P]etit policy and a number of legal issues" and Acosta's concerns about "hurting Project Safe Childhood." Defense counsel raised myriad legal and factual challenges in their voluminous letters to the USAO. Defense submissions attacked the legal theories for a federal prosecution and detailed factors that could have undermined victims' credibility, including victim statements favorable to Epstein and evidence of victim drug and alcohol use, as well as the fact that some victims recruited other victims and purportedly lied to Epstein about their ages.

Acosta also recalled that although his "team" had expressed concern about the "trial issues," his own focus had been on "the legal side of things." Notably, during his prior tenure as the Assistant Attorney General in charge of the Department's Civil Rights Division, Acosta had been involved in efforts to address sex trafficking. He told OPR that one of the "background issues" that the Civil Rights Division addressed under his leadership, and which influenced his view of the Epstein case, was the distinction between sex trafficking and solicitation of prostitution. Specifically, he was concerned about avoiding the creation of potentially unfavorable federal precedent on the point of delineation between prostitution, which was traditionally a matter of state concern, and sex trafficking, which remained a developing area of federal interest in 2007.[219]

---

[217] In an affidavit filed in the CVRA litigation, the co-case agent noted that in early 2007, when he located a victim living outside of the United States, she claimed only to "know Jeffrey Epstein," and stated that she "moved away to distance herself from this situation," and "asked that [the agent] not bother her with this again."

[218] In April 2007, a victim who was represented by an attorney paid by Epstein participated in a video-recorded interview with the FBI, with her attorney and his investigator present. This victim denied being involved in, or being a victim of, criminal activity. Later, the victim obtained new counsel and joined the CVRA litigation as "Jane Doe #2."

[219] In his March 20, 2011 letter, addressed "To whom it may concern," and published online in *The Daily Beast*, Acosta described "a year-long assault on the prosecution and the prosecutors" by "an army of legal superstars." Most of the allegations made against the prosecutors occurred after the NPA was signed and certainly after Acosta approved

The USAO might have been able to surmount the evidentiary, legal, and policy issues presented by a federal prosecution of Epstein. Villafaña, in particular, believed she could have prevailed had she taken the case to trial, and even after the NPA was negotiated, she repeatedly recommended declaring Epstein in breach and proceeding with an indictment, because she continued to have confidence in the case.[220] Oosterbaan and others also believed that the government would succeed at trial. Furthermore, the victims were not a uniform group. Some of them were afraid of testifying or having their identities made public; others wanted Epstein prosecuted, but even among those, it is not clear how many expressed a willingness to testify at a trial; and still others provided information favorable to Epstein. In the end, Acosta assumed responsibility for deciding how to resolve the Epstein investigation and weighing the risks and benefits of a trial versus those of a pre-charge disposition. His determination that a pre-charge disposition was appropriate was not unreasonable under the circumstances.

Although evidentiary and witness issues explain the subject supervisors' concerns about winning a potential trial and why the USAO would have sought some sort of pre-charge disposition, they do not fully explain why Acosta decided to pursue a state-based resolution as opposed to a traditional federal plea agreement. OPR did not find in the contemporaneous records a memorandum or other memorialization of the reasoning underlying Acosta's decision to offer a state-based resolution or the terms offered to the defense on July 31, 2007.

According to Acosta, "In 2006, it would have been extremely unusual for any United States Attorney's Office to become involved in a state solicitation case, even one involving underage teens," because solicitation was "the province of state prosecutors." Acosta told OPR that he developed "a preference for deferring to the state" to "make it clear that [the USAO was] not stepping on something that is a purely local matter, because we [didn't] want bad precedent for the sake of the larger human trafficking issue." Acosta also told OPR that it was his understanding that the PBPD would not have brought the case to federal investigators if the State Attorney's Office had pursued a sanction against Epstein that included jail time and sexual offender registration. Acosta viewed the USAO's role in the case as limited to preventing the "manifest injustice" that, in Acosta's view, would have resulted from the state's original plea proposal. Acosta acknowledged that if the investigation had begun in the federal system, he would not have viewed the terms set out in the NPA as a satisfactory result, but it was adequate to serve as a "backstop" to the state's prosecution, which he described as "a polite way of saying[, ']encouraging the state to do a little bit more.[']" In sum, Acosta told OPR that the Epstein case lay in "uncharted territory," there was no certainty that the USAO would prevail if it went to trial, and a potentially unfavorable outcome had to be "weighed against a certain plea with registration that would make sure that the public knew that this person was a sex offender."

Acosta told OPR that he discussed the case primarily with Sloman and Menchel, and both told OPR that while they did not share Acosta's federalism concerns, they recalled that Acosta had

---

the terms offered to the defense on July 31, 2007. Therefore, any allegations against the prosecutors could not have played a significant role in Acosta's decisions as reflected in the term sheet.

220 Sloman told OPR that Villafaña "always believed in the case."

been concerned about policy and federalism issues.[221] Sloman told OPR that although he did not remember specific conversations, he generally recalled that Acosta had been "sensitive to" Petite policy and federalism concerns, which Sloman described as whether the USAO was "overstepping our bounds by taking what is a traditional state case that was in the State Attorney's Office that was resolved by the State Attorney's Office at some level." During his OPR interview, Menchel remembered that Acosta approached the case from "a broader policy perspective" and was worried about "the impact that taking the case in federally may have on . . . other programs," although Menchel did not recall specifically what those programs were.

C. Other Significant Factors Are Inconsistent with a Conclusion That the Subjects' Actions Were Motivated by Improper Influences

OPR considered additional aspects of the Epstein case that were inconsistent with a suggestion that Acosta's decision to offer the July 31, 2007 terms was driven by corruption, a desire to provide an improper benefit to Epstein, or other improper influences.

First, OPR considered highly significant the fact that if Acosta's primary motivation was to benefit Epstein, he had an option even more favorable to Epstein available to him. The NPA required Epstein to serve time in jail and register as a sexual offender, and provided a mechanism for the victims to seek monetary damages—outcomes unlikely if the matter had been abandoned and sent back to the state for whatever result state authorities deemed appropriate. Epstein's attorneys had vehemently argued to the USAO that there was no federal interest in the investigation and that his conduct was exclusively a matter of state concern. If the USAO had declined to intervene in the case, as Epstein's counsel repeatedly and strongly argued it should, the state would have meted out the sole punishment for his behavior. Under the state's original plan, Epstein likely would have received a sentence of probation. Menchel described such a result as a mere "slap on the wrist," with "no jail time, no felony sex offense, no sexual offender registration, [and] no restitution for the victims." Instead of acceding to Epstein's proposal, however, the USAO devised a resolution of the federal investigation that, although widely criticized as inadequate to address the seriousness of Epstein's conduct, nevertheless penalized Epstein more than a guilty plea to the state's original charge, standing alone, would have done. Acosta's affirmative decision to intervene and to compel a more stringent and just resolution than the state had proposed, rather than exercising his discretion to quietly decline prosecution, is strong circumstantial evidence that he was not acting for the purpose of benefiting Epstein.[222] Similarly, despite defense counsel's repeated requests to eliminate the sexual offender registration requirement, Acosta refused to

---

[221] Sloman stated that although Acosta "was sensitive to [P]etite policy concerns, federalism concerns, . . . I was not." Menchel commented, "I don't think it would have been a concern of mine."

[222] Menchel also pointed out during his OPR interview that Acosta was Republican and "had nothing to gain" by showing favoritism to Epstein, who had been portrayed in the media as "this big Democratic donor." Villafaña recounted for OPR an exchange between the USAO team and a defense attorney who argued in one meeting that—

> we were prosecuting [Epstein] because he was Jewish. We then pointed out that a number of members of [the USAO] chain of command were Jewish. Then he said, well we're prosecuting him because he was a Democrat. And again, we pointed out that a number of us were Democrats. So then it went to, we were prosecuting him because he was wealthy. . . . That one didn't work so well.

reconsider the provision. Acosta could certainly have modified or eliminated the provision entirely if his motivation was to benefit Epstein or Epstein's attorneys.

Second, Epstein himself was not satisfied with the NPA. Immediately after signing the agreement, he sought to have the Department nullify it by declaring federal involvement in the investigation inappropriate. In addition to repeatedly attacking the NPA in his submissions to the Department, Epstein added to his evidentiary challenges and federalism claims allegations of misconduct and improper bias on the part of specific USAO personnel. Epstein's dissatisfaction with the NPA, and his personal attacks on individual prosecutors involved in negotiating the agreement, appear inconsistent with a conclusion that the subjects designed the NPA for Epstein's benefit.

D. OPR Does Not Find That the Subjects' Preexisting Relationships with Defense Counsel, Decisions to Meet with Defense Counsel, and Other Factors Established That the Subjects Acted from Improper Influences or Provided Improper Benefits to Epstein

In evaluating the subjects' conduct, OPR considered various other factors featured in media accounts to show that the subjects provided improper benefits to Epstein or which purportedly suggested that the subjects acted from improper influences. OPR examined these factors but did not find that they supported a finding that the subjects were influenced by favoritism, bias, or other improper motivation.

1. The Evidence Does Not Establish That the Subjects Extended Any Improper Benefit to Epstein because of Their Preexisting Relationships with His Attorneys

Epstein's wealth enabled him to hire multiple attorneys who had preexisting personal connections to some of the government attorneys involved in his case, in the State Attorney's Office, in the USAO, and elsewhere in the Department. Based on the attorneys Epstein selected to represent him, a reasonable inference can be drawn that Epstein believed that hiring attorneys with relationships to the prosecutors would be beneficial to him. One of the first attorneys who contacted the USAO on Epstein's behalf was Guy Lewis, a former AUSA in and U.S. Attorney for the Southern District of Florida. Villafaña and Lourie had worked for Lewis, and Lourie was close friends with one of Lewis's law partners. Epstein also retained Lilly Ann Sanchez, a former AUSA who had been Menchel's deputy and with whom he had socialized. Later, when Epstein was seeking Acosta's personal involvement in the case, Epstein hired Kenneth Starr and Jay Lefkowitz, prominent attorneys from Kirkland & Ellis with whom Acosta was acquainted from his previous employment with that firm.

Villafaña told OPR that she believed Acosta "was influenced by the stature of Epstein's attorneys." Critically, however, other than the information regarding Menchel that is discussed in the following subsection, neither Villafaña nor any of the other individuals OPR interviewed identified any specific evidence suggesting that Acosta, or any of the other subjects, extended an improper favor or benefit to Epstein because of a personal relationship with defense counsel (or for any other improper reason). Villafaña explained how, in her view, the "legal prowess" of Epstein's attorneys had an impact on the case:

> [O]ne of the issues in the case was the . . . defense's ability to describe the case or characterize the case as being legally complex. It was not as legally complex as they made it out to be. But because they were able to convince members of our office that it was somehow extremely novel and legally complex, the issue became who was likely to succeed in arguing these legal issues. And because of that, the legal prowess, if you will, of the attorneys [ ] [became] something to consider.
>
> . . . .
>
> I think that the ability of Alan Dershowitz and Ken Starr and Jay Lefkowitz to convince Alex Acosta that I didn't know what I was talking [about] also, all came into play. So I think there were a number of factors and it all came together.

Although Villafaña was critical of Acosta's consideration of the defense arguments, she conceded that the defense team's tactics demonstrated effective advocacy. Certainly, throughout the case, Epstein's attorneys prepared lengthy memoranda analyzing the evidence and arguing nuanced legal points concerning federalism, the elements of numerous federal criminal statutes, and the evidence relevant to those statutes, but it is not unusual or unreasonable for prosecutors to carefully consider well-crafted legal arguments from defense counsel.

There is little question that Epstein's extensive team of attorneys was able to obtain negotiated benefits for Epstein—although the USAO never wavered from its three core requirements, it did agree to a reduction in prison time from its original offer, and it granted Epstein certain other concessions during the negotiations. Epstein's wealth provided him with skilled, experienced negotiators who continually sought various incremental concessions, and with attorneys who knew how to obtain Department review of a USAO matter, thereby delaying undesired outcomes for as long as possible.[223] Despite Epstein's evident intentions, however, OPR did not find evidence warranting a conclusion that the NPA or its terms resulted from the subjects' relationships with the attorneys he had selected to represent him.

2. The Subjects Asserted That Their Relationships with Defense Counsel Did Not Influence Their Actions

Acosta, Menchel, Sloman, and Lourie each asserted that Epstein's choice of counsel did not affect his handling of the case. Menchel told OPR that once in private practice, former colleagues often became adversaries. In Menchel's view, such preexisting relationships were useful because they afforded a defense attorney initial credibility and an insight into the issues a prosecutor would likely view as areas of concern, which enabled the defense attorney to "tailor" arguments in a way that would maximize their persuasive impact on the USAO. Menchel told OPR, however, that these advantages did not "move the needle in any major way," and he "reject[ed] the notion" that anyone in the USAO had been "swayed" because of preexisting

[223] As Chief Reiter later observed in his deposition testimony, "[T]he Epstein case was an instance of a many million dollars defense and what it can accomplish."

friendships or associations with any of Epstein's attorneys. In fact, Menchel told OPR that he and his USAO colleagues viewed Epstein's attempt to exert influence through his choice of counsel as "ham-fisted" and "clumsy."

Sloman told OPR that although he became aware that Lourie was friends with Guy Lewis and Lewis's law partner, he was unaware of personal relationships between any of his other colleagues and any of Epstein's attorneys, but that in any event his attitude regarding cases involving former colleagues "was that we would give them process, but we didn't pull any punches with them." In Sloman's view, preexisting relationships with defense counsel did not "change the equation" because as AUSAs, he and his colleagues were motivated by what they perceived to be best for the case.

Lourie told OPR that his preexisting associations with Epstein's attorneys "didn't influence anything." Notably, at the outset of the Epstein case, Lourie sought guidance from the USAO's Professional Responsibility Officer about the propriety of his role as a supervisor in the investigation, because of his acquaintance with Lewis and long-time friendship with Lewis's law partner. OPR considered Lourie's caution in seeking and obtaining the Professional Responsibility Officer's advice as an indication that he was alert to his ethical responsibilities regarding relationships with defense counsel, including avoiding the appearance of a conflict of interest.

Acosta said during his OPR interview that he "developed" the three criteria reflected on the term sheet—a sentence of incarceration, sexual offender registration, and monetary damages for the victims—before he engaged directly with any of Epstein's attorneys and before Epstein added Starr and Lefkowitz, the Kirkland & Ellis attorneys, to his team. Acosta pointed out that the USAO continued to insist on a resolution that satisfied all three of those criteria even after Kirkland & Ellis became involved in the case.

Acosta took other actions that appear inconsistent with an intent to benefit Starr and Lefkowitz. On several occasions, when directly appealed to by Lefkowitz or Starr, he directed them to address their communications to Villafaña, Sloman, and other subordinates. After his October 12, 2007 breakfast meeting with Lefkowitz, Acosta immediately communicated with Sloman about their conversation. In late 2008, when Acosta anticipated leaving the USAO and was considering pursuing employment with Kirkland & Ellis, he recognized the conflict of interest and instructed Sloman to stop copying him on emails relating to the Epstein matter. On Acosta's behalf, the USAO's Professional Responsibility Officer sought and obtained formal Department approval of Acosta's recusal from the case based on the fact that he had "begun to discuss possible employment" with Kirkland & Ellis. These actions support Acosta's assertion that he was cognizant of his ethical responsibilities concerning relationships with defense counsel.[224]

[224] In addition, in May 2008, the USAO's Professional Responsibility Officer consulted with the Department's Professional Responsibility Officer about whether Acosta should recuse from the Epstein matter because he was considering seeking a visiting professorship at Harvard Law School in 2009, and Dershowitz—a Harvard Law School professor—was representing Epstein "as a private, paying client, and not as any part of a Harvard Law School clinic or law school teaching program" and "should have no role in deciding whether Mr. Acosta is offered any position as a visiting professor." The Department advised that these facts provided no basis for recusal.

In its review of the documentary record, OPR examined an email written by Villafaña in 2018, more than a decade after the NPA was negotiated, in which she suggested that the two-year sentence requirement in the initial "term sheet" provided to the defense was developed by Menchel as a favor to defense attorney Sanchez. OPR examined the facts surrounding this allegation and determined that there was no merit to it. Specifically, in December 2018, after the *Miami Herald* investigative report renewed public attention to the case, Villafaña recounted in an email to a supervisory AUSA, a conversation she recalled having had with Sloman about the case.[225] In the email, Villafaña stated that she had not been a participant in discussions that led to Acosta's decision to offer a two-year plea deal, but she added the following: "Months (or possibly years) later, I asked former First Assistant Jeff Sloman where the two-year figure came from. He said that Lily [*sic*] Ann Sanchez (attorney for Epstein) asked Mr. Menchel to 'do her a solid' and convince Mr. Acosta to offer two years."

OPR questioned both Villafaña and Sloman about the purported "do her a solid" remark. Villafaña told OPR that she had been aware that Menchel and Sanchez were friends. During her OPR interview, Villafaña explained:

> [A] lot later, I asked Jeff. I said, you know, "Jeff, where did this two years come from?" And he said, "Well, I always figured that . . . Lilly asked Matt to do her a solid," which I thought was such a strange term, . . . "and to get her a good deal so that she would be in Epstein's good graces" and that that's where the two years came from. Although strangely enough, then several years after that, Jeff Sloman asked me where the two years came from, and I had to remind him of that conversation. So Jeff doesn't know where the two years came from.

Because the email had been expressed in more definitive terms, OPR asked Villafaña whether Sloman had affirmatively asserted that the two-year deal was a favor from Menchel to defense counsel, or whether he had stated that he merely "figured" that was the case, but Villafaña could not recall precisely what Sloman had said. At a follow-up interview, Villafaña again said that she was unable to recall whether Sloman's specific statement was "Lilly asked Matt to do her a solid, and he did it," or "I always figured Matt just wanted . . . to do her a solid." Villafaña stated that she was unaware of any information that "expressly [indicated] that there was any sort of exchange of . . . a favor in either direction."

During his OPR interview, Sloman did not recall making such a remark, although he could not rule out the possibility that Villafaña, for whom he repeatedly expressed great respect, "heard that in some fashion." He told OPR that if he did say something to Villafaña about Menchel having done "a solid" for Epstein's counsel, he could not have meant it seriously, and he explained, "[I]t's not something that I would have believed. Him doing her a solid. I mean that's the furthest thing from my recollection or impression even after years later."

---

[225] Villafaña's email stemmed from a congressional inquiry received by the Department concerning the Epstein investigation and the NPA, to which the USAO had been asked to assist in responding. In her email, Villafaña addressed several issues that she perceived to be the "three main questions" raised by the press coverage.

Menchel told OPR that when he and Sanchez were in the USAO, they had a social relationship, which included, in 2003, "a handful of dates over a period of two to three weeks. We decided that . . . this was probably best not to pursue, and we mutually agreed to not do that."[226] Apart from that, he stated they were "close" and "hung out," and he asserted that this was known in the office at the time. Menchel said that his relationship with Sanchez "changed dramatically" when she left the office for private practice, and that by the time he became involved in the Epstein investigation, he had dated and married his wife, and his contact with Sanchez would "most likely" have been at office events and when she attended his wedding.[227] Menchel added, "[T]hat was three and a half years [prior] for a very brief period of time, and I don't think I gave it a moment's thought."

When asked by OPR about the basis for the decision to make an offer of a two-year term of incarceration, Menchel said that he did not recall discussions about the two-year offer and did not recall how the office arrived at that figure. In response to OPR's question, Menchel stated that his relationship with Sanchez did "[n]ot at all" affect his handling of the Epstein case. Moreover, Menchel asserted that the contemporaneous documentary record supports a conclusion that it was Acosta, not Menchel, who made the decision to resolve the case with the two-year term.

OPR carefully considered the documentary record on this point, as well as the statements to OPR from Menchel, Villafaña, Sloman, and Acosta, and concludes that there is no evidence supporting the suggestion that the plea was instigated by Menchel as a favor to defense counsel. The USAO's first plea overture to defense counsel, which took place sometime before June 26, 2007, occurred when Menchel spoke with Sanchez about the possibility of resolving the federal case with a state plea that required jail time and sexual offender registration. According to the email, "[i]t was a non-starter" for the defense. In the lengthy email exchange with Villafaña in early July 2007, Menchel told her that his discussion with Sanchez about a state-based resolution was made with Acosta's "full knowledge." Acosta corroborated this statement, telling OPR that although he did not remember a specific conversation with Menchel concerning a state-based resolution, he was certain Menchel would not have discussed this potential resolution with defense counsel "without having discussed it with me."[228] Moreover, the defense did not immediately

---

[226] Acosta, Sloman, and Lourie each told OPR that in 2007, he was not aware that Menchel had previously dated Sanchez. OPR questioned the USAO's Professional Responsibility Officer regarding whether Menchel had an obligation to inform his supervisors of his dating relationship. The Professional Responsibility Officer said that it would depend on "how long the relationship was and how compromised the individual felt he might appear to be," but he would have expected Menchel to raise the issue with Acosta. The Professional Responsibility Officer told OPR that if he had been approached for advice at the time, he would have asked for more facts, but "[g]iven the sensitivity of the [Epstein] matter, [my advice] would probably have been to tell him to step back and let somebody else take it over." Menchel told OPR that if his relationship with Sanchez had turned into something more than a handful of dates, he would have advised his supervisors. Although OPR does not conclude Menchel's prior relationship with Sanchez influenced the Epstein investigation, OPR assesses that it would have been prudent for Menchel to have informed his supervisors so they could make an independent assessment as to whether his continued involvement in the Epstein investigation might create the appearance of a loss of impartiality.

[227] Menchel's Outlook records also indicate he scheduled lunch with Sanchez on at least one occasion, in early 2006, after she left the USAO.

[228] In addition, Villafaña recalled Menchel stating at the July 26, 2007 meeting that "Alex has decided to offer a two year state deal."

accept the two-year proposal when it was made, but instead continued to press for a sentence of home confinement, suggesting that the defense had not requested the two-year term as a favor and did not view it as such. The defense had previously rejected the state's offer of a sentence of probation, and there is no indication in the contemporaneous records that Epstein viewed any jail sentence favorably and certainly that did not appear to be the view of the defense team in the early stages of the negotiations.

As discussed below, after extensive questioning of the subjects about the basis for the two-year offer, and a thorough review of the documentary record, OPR was unable to determine the reasoning underlying the decision to offer two years as the term of incarceration, as opposed to any other term of years. Nonetheless, OPR concludes from the evidence that Acosta was aware of and approved the initial offer to the defense, which included the two-year term of incarceration. The only evidence suggesting that the offer of two years stemmed from an improper motivation of Menchel's was a single second-hand statement in an email drafted many years later. Sloman, the purported declarant, told OPR that he could not recall whether he made the statement, but he firmly disputed that the email accurately reflected either the reason for the two-year proposal or his understanding of that reason. Villafaña herself could remember little about the critical conversation with Sloman, including whether she had recorded accurately what Sloman had said. Given the lack of any corroborating evidence, and the evidence showing Epstein's vigorous resistance to the proposal, OPR concludes that there is no evidence to support the statement in Villafaña's 2018 email that Menchel had extended a two-year plea deal as a favor to one of Epstein's attorneys.

E. The Evidence Does Not Establish That the Subjects' Meetings with Defense Counsel Were Improper Benefits to Epstein

OPR considered whether decisions by Acosta, Sloman, Menchel, and Lourie to meet with defense counsel while possible charges were under consideration or during the period after the NPA was signed and before Epstein entered his state guilty pleas evidenced improper favoritism toward or the provision of an improper benefit to the Epstein defense team.

1. The Evidence Shows That the Subjects' Decisions to Meet with Epstein's Legal Team Were Warranted by Strategic Considerations

Although pre-indictment negotiations are typical in white-collar criminal cases involving financial crimes, witnesses told OPR that pre-charge meetings with defense counsel are infrequent in sex offense cases. As the lead prosecutor, Villafaña vehemently opposed meeting with Epstein's attorneys and voiced her concerns to her supervisors, but was overruled by them. In Villafaña's view, the significance of the early meetings granted to the defense team was that, but for those meetings, the USAO would not have offered the disposition set forth in the July 31, 2007 "term sheet" and, moreover, "that term sheet would never have been offered to anyone else."

OPR's investigation established that while the defense attorneys persistently contacted the subjects through emails, correspondence, and phone calls, relatively few in-person meetings actually occurred with the USAO personnel involved in the matter. As shown in the chart on the following page, while the case was under federal investigation and before the NPA was signed, the subject supervisors and defense counsel had five substantive meetings about the case—

including one called by the USAO to offer the NPA term sheet resolution—and a sixth meeting together with the State Attorney and the lead state prosecutor to discuss the state plea. Acosta attended only one pre-NPA meeting. After the NPA was signed and before Epstein entered his state guilty pleas, the subject supervisors and the defense team had one substantive meeting, one unscheduled meeting on a procedural matter, and a meeting with one defense attorney in preparation for a conference call; in addition, Acosta had the breakfast meeting with Lefkowitz.[229]

Date	USAO Participants	Defense Participants	Topic/Purpose
Pre-NPA			
Feb. 1, 2007	Lourie / Villafaña	Lefcourt / Sanchez	Defense presents investigation improprieties and federal jurisdiction issues
Feb. 20, 2007	Lourie / Villafaña	Lefcourt / Sanchez	Defense presents witness issues
June 26, 2007	Sloman / Menchel / Lourie / Villafaña	Dershowitz / Black / Lefcourt / Sanchez	Defense presents legal issues, investigation improprieties, and federal jurisdiction issues
July 31, 2007	Sloman / Menchel / Lourie / Villafaña	Black / Lefcourt / Sanchez	USAO presents NPA term sheet
Sept. 7, 2007	Acosta / Oosterbaan / Sloman / Villafaña / Villafaña's co-counsel	Starr / Lefkowitz / Sanchez	Defense presents counteroffer
Sept. 12, 2007	Lourie / Lourie successor / Villafaña	Lefkowitz/ Lefcourt / Goldberger	Joint meeting with Krischer / Belohlavek re state plea provision of NPA
Post-NPA			
Oct. 12, 2007	Acosta	Lefkowitz	Defense discussion of NPA terms and likely appeal to Department
Nov. 21, 2007 (unscheduled)	Sloman (possibly Acosta)	Lefkowitz (possibly Dershowitz)	Defense discussion of victims' attorney representative procedure
Dec. 14, 2007	Acosta / Sloman / Villafaña / another senior AUSA	Starr / Weinberg / Dershowitz / Lefcourt	Defense presents federal jurisdiction issues, legal issues, and request for *de novo* review
Jan. 7, 2008	(1) Acosta / Sloman (2) Acosta / Sloman (conference call)	(1) Sanchez (2) Starr / Lefkowitz/ Sanchez	Defense presents USAO improprieties and "watered-down" resolution

[229] In addition, all of the subjects took phone calls from various defense attorneys, and although numerous documentary records refer to such calls, there may have been others for which OPR located no record.

OPR explored the subject supervisors' reasoning for accommodating the defense requests for in-person meetings and whether such accommodation was unusual. OPR questioned each of the four supervisory subject attorneys about his rationale for engaging in multiple meetings with the defense.

Lourie could not recall his reasoning for meeting with Epstein's defense counsel, but he told OPR that his general practice was to meet with defense counsel when asked to do so. Lourie recognized that some prosecutors—like Villafaña—viewed meeting with the defense as a sign of "weakness," but in Lourie's view, "information is power," and as long as the USAO did not share information with the defense but rather listened to their arguments, meetings were "all power to us." Lourie explained that by meeting with the defense, "[Y]ou're getting the information that they think is important; that they're going to focus on. The witnesses that they think are liars . . . . And so you can form all of that into your strategy." Lourie also told OPR that giving defense counsel the opportunity to argue the defense position is an important "part of the process" that helped ensure procedural fairness, allowing them to "believe that they are getting heard." When asked whether he afforded the same access to all defendants, Lourie responded, "I don't recall ever getting . . . so many requests for meetings . . . and so many appeals and so many audiences that [Epstein's attorneys] got. But this was I think the first time that that's really happened."

Menchel, too, told OPR that his general view was that "ethically it's appropriate" to give a defense attorney "an audience," and there was no real "downside" to doing so. Menchel added, "[W]hat happens a lot of times is the government will carve around those points that are being raised by the defense, and it's good to know" what the defense will be.

During his OPR interview, Acosta rejected the notion that his meeting with defense counsel was unusual or outside the norm. He told OPR that his initial meeting with the defense team, before the NPA was signed, was "not the first and only time that I granted a meeting . . . to defense attorneys" who requested one. Acosta did not believe it was "atypical" for a U.S. Attorney to meet with opposing counsel, particularly as a case was coming to resolution. Sloman corroborated Acosta on this point, telling OPR that Acosta typically met with defense attorneys, and that the USAO handled requests for meetings from Epstein's counsel "in the normal course." Furthermore, Acosta said that notwithstanding that meeting and all the other "process" granted to the defense by the USAO and the Department, "we successfully held firm in our positions" on the key elements of the resolution—that is, the requirements that Epstein be incarcerated, register as a sexual offender, and provide monetary damages to the victims.

OPR examined the circumstances surrounding each subject's decisions to have the individual meetings with defense counsel to determine if those meetings had a neutral, strategic purpose. The first meeting, on February 1, 2007, followed a phone call between Lourie and one of Epstein's attorneys, in which the attorney asked for a chance to "make a pitch" about the victims' lack of credibility and suggested that Epstein might agree to an interview following that pitch. Villafaña objected to meeting with the defense, but she recalled that Lourie told her she was not being a "strategic thinker," and that he believed the meeting could lead to a debriefing of Epstein. The meeting did not result in a debriefing of Epstein, but in advance of the follow-up meeting on February 20, 2007, defense counsel gave the USAO audio recordings of the state's witness interviews. Contemporaneous documents indicate that Lourie was unpersuaded by the defense arguments. After Villafaña circulated the prosecution memorandum, Lourie suggested

preparing a "short" charging document "with only 'clean' victims that they have not dirtied up already."[230] The fact that Lourie apparently used information gleaned from the defense about the victims' credibility to formulate his charging recommendation supported his statements to OPR that such meetings were, in his experience, a useful source of information that could be factored into the government's charging strategy.

The two February 2007 Villafaña/Lourie-level meetings focused on witness issues and claims of misconduct by state investigators, but in late May 2007, defense attorneys requested another meeting—this time with higher-level supervisors Menchel and Sloman—to make a presentation concerning legal deficiencies in a potential federal prosecution. The request was granted after Lourie recommended to Menchel and Sloman that "[i]t would probably be helpful to us . . . to hear their legal arguments in case we have missed something." The requested meeting took place on June 26, 2007. Before the meeting, at Menchel's direction, Villafaña provided to the defense a list of statutes the USAO was considering as the basis for federal charges. Defense counsel used that information to prepare a 19-page letter, submitted to the USAO the day before the June 26 meeting, as "an overview" of the defense position. In an email to his colleagues, Lourie evaluated the defense submission, noting its weaker and stronger arguments. A contemporaneous email indicates that Menchel, Lourie, and Villafaña viewed the meeting itself as primarily a "listening session."[231] After the meeting, Epstein's team submitted a second lengthy letter to the USAO detailing Epstein's "federalism" arguments that the USAO should let the state handle the matter.

Menchel apparently scheduled the next meeting with defense counsel, on July 31, 2007, to facilitate the USAO's presentation to the defense team of the "term sheet" describing the proposed terms of a non-prosecution agreement.

By early August, after the Kirkland & Ellis attorneys—Starr and Lefkowitz—joined the defense team, Acosta believed they would likely "go to DC on the case, on the grounds . . . that I have not met with them." A meeting with the defense team was eventually scheduled for September 7, 2007, when Acosta, Sloman, Villafaña, and Oosterbaan met with Starr, Lefkowitz, and Sanchez. In an email to Sloman, Acosta explained that he intended to meet with the defense, with Oosterbaan participating, "to discuss general legal policy only." In another email to Sloman and Lourie, Acosta explained, "This will end up [in the Department] anyhow, if we don't meet with them. I'd rather keep it here. Bringing [the CEOS Chief] in visibly does so. If our deadline has to slip a bit to do that, it's worth it." Acosta told OPR that the meeting "was not a negotiation," but a chance for the defense to present their federalism arguments. Acosta said that he had already decided how he wanted to resolve the case, and "[t]he September meeting did not alter or shift our position."

---

230 Lourie also recommended that the initial charging document "should contain only the victims they have nothing on at all."

231 During her OPR interview, the FBI case agent recalled that defense counsel asked questions about the government's case, including the number of victims and the type of sexual contact involved, and that during a break in the meeting, she engaged in a "discussion" with Menchel about providing this information to the defense. She did not recall specifics of the discussion, however.

The meeting of USAO representatives and Epstein's defense attorneys, together with the State Attorney and the lead state prosecutor on September 12, 2007, was a necessary part of the NPA negotiation process.

Even after the NPA was signed, the defense continued to request meetings and reviews of the case, both within the USAO and by the Department's Criminal Division and the Deputy Attorney General. Although limited reviews were granted, during this period there was only one substantive meeting with Acosta, on December 14, 2007.[232] This meeting occurred in lieu of the meeting Starr had requested of Assistant Attorney General Fisher, most likely because the defense submissions to the Department's Criminal Division had raised issues not previously raised with the USAO and the Department determined that Acosta should address those in the first instance.[233] Acosta told OPR that he did not ask for the Department review, but he also did not want to appear as if he "fear[ed]" that review. Acosta's nuanced position, however, was not clear to the Department attorneys who responded to Epstein's appeals and who perceived Acosta to be in favor of a Department review, rather than merely tolerant of it. Notably, though, none of those meetings or reviews resulted in the USAO abandoning the NPA, and Epstein gained no substantial advantage from his continued entreaties.

In sum, in evaluating the subjects' conduct, OPR considered the number of meetings, their purpose, the content of the discussions, and decisions made afterwards. OPR cannot say that the number of meetings, particularly those occurring before the NPA was signed, was so far outside the norm—for a high profile case with skilled defense attorneys—that the quantity of meetings alone shows that the subjects were motivated by improper favoritism. In evaluating the subjects' conduct, OPR considered that the meetings were held with different levels of USAO managers and that the explanations for the decisions to participate in the meetings reflected reasonable strategic goals. Although OPR cannot rule out the possibility that because Acosta, Menchel, Lourie, or Sloman knew or knew of the defense attorneys, they may have been willing to meet with them, it is also true that prosecutors routinely meet with defense attorneys, including those who are known to them and those who are not. Furthermore, meetings are more likely to occur in high profile cases involving defendants with the financial resources to hire skilled defense counsel who request meetings at the highest levels of the USAO and the Department. Most significantly, OPR did not find evidence supporting a conclusion that the meetings themselves resulted in any substantial benefit to the defense. At each meeting, defense counsel strongly pressed the USAO—on factual, legal, and policy grounds—to forgo its federal investigation and to return the matter to the state to proceed as it saw fit. The USAO never yielded on that point. Accordingly, OPR did not find evidence supporting a conclusion that Acosta, Sloman, Menchel, Lourie, or Villafaña met with defense counsel for the purpose of benefiting Epstein or that the meetings themselves caused Acosta or the other subjects to provide improper benefits to Epstein.

---

232 Acosta's October 12, 2007 breakfast meeting with Lefkowitz is discussed separately in the following section.

233 Starr and other defense attorneys only obtained one meeting at the Department level, with Deputy Assistant Attorney General Mandelker and CEOS Chief Oosterbaan in March 2008. Although Starr requested a meeting with Assistant Attorney General Fisher and another with Deputy Attorney General Filip, those requests were not granted.

2. The Evidence Does Not Establish That Acosta Negotiated a Deal Favorable to Epstein over Breakfast with Defense Counsel

OPR separately considered the circumstances of one specific meeting that has been the subject of media attention and public criticism. The *Miami Herald*'s November 2018 reporting on the Epstein investigation opened with an account of the October 12, 2007 breakfast meeting that defense counsel Jay Lefkowitz arranged to have with Acosta at the West Palm Beach Marriott hotel. According to the *Miami Herald* article, "a deal was struck" at the meeting to allow Epstein to serve "just 13 months" in the county jail in exchange for the shuttering of the federal investigation, and Acosta also agreed to "conceal" the full extent of Epstein's crimes from the victims and the public.[234] Although public criticism of the meeting has focused on the fact that the meeting occurred in a hotel far from Acosta's Miami office, the evidence shows that Acosta traveled to West Palm Beach on October 11 for a press event and stayed overnight at the hotel, near the USAO's West Palm Beach office, because at midday on October 12 he was to speak at the Palm Beach County Bench Bar Conference. After carefully considering the evidence surrounding the breakfast meeting, including contemporaneous email communications and witness accounts, OPR concludes that Acosta did not negotiate the NPA, or make any significant concessions relating to it, during or as a result of the October breakfast meeting.

Epstein and his attorneys signed the NPA on September 24, 2007—more than two weeks before the October 12 breakfast meeting. The signed NPA contained all of the key provisions resulting from the preceding weeks of negotiations between the parties, and despite a later addendum and ongoing disputes about interpreting the damages provision of the agreement, those key provisions remained in place thereafter. Acosta told OPR that throughout the negotiations with the defense, he sought three goals: (1) Epstein's guilty plea in state court to an offense requiring registration as a sexual offender; (2) a sentence of imprisonment; and 3) a mechanism through which victims could obtain monetary damages from Epstein. As noted previously, the USAO's original plea offer in Menchel's August 3, 2007 letter expressed a "non-negotiable" demand that Epstein agree to a two-year term of imprisonment, and the final NPA required only an 18-month sentence, but the decision to reduce the required term of imprisonment from 24 to 18 months was made well before Acosta's breakfast meeting with counsel. The NPA signed on September 24, 2007, required 18 months' incarceration, sexual offender registration, and a mechanism for the victims to obtain monetary damages from Epstein, and OPR found that these terms were not abandoned or materially altered after the breakfast meeting.

At the time of Acosta's October breakfast meeting with Lefkowitz, two issues involving the NPA were in dispute. Neither of those issues was ultimately resolved in a way that materially changed the key provisions of the NPA. First, at Sloman's instigation, the USAO sought to change the mechanism for appointing an attorney representative for the victims. This USAO-initiated request had prompted discussions about an "addendum" to the NPA. Sloman sent the text of a proposed NPA addendum to Lefkowitz on October 11, 2007.[235] Although OPR found no decisive

---

234 Julie K. Brown, "Perversion of Justice: How a future Trump Cabinet member gave a serial sex abuser the deal of a lifetime," *Miami Herald*, Nov. 28, 2018.

235 In his December 19, 2007, letter to defense attorney Sanchez, Acosta represented that he had proposed the addendum at the breakfast meeting, but it is clear the addendum was being developed before then.

proof that this led to the breakfast meeting, email exchanges between Lefkowitz and Acosta show that it was under discussion at the time they were scheduling the meeting. Shortly after the breakfast meeting, Sloman, in Miami, sent an email to Lefkowitz (copying Acosta and Villafaña), noting that he "just got off the phone with Alex" and offering a slightly revised portion of the addendum relating to the mechanism for selection of the attorney representative. Sloman later clarified for Villafaña that "Jay's suggested revision has been rejected."

A second area of continuing negotiation arose from the defense claim that Epstein's obligation under the NPA to pay the attorney representative's fees did not obligate him to pay the fees and costs of contested litigation filed against him. Although this was at odds with the USAO's interpretation of the provision, the USAO and defense counsel reached agreement and clarified the provision in the NPA addendum that was finalized several weeks after the October breakfast meeting. Although the revised provision was to Epstein's advantage, the revision concerned attorney's fees and did not materially impede the victims' ability to seek damages from Epstein under § 2255. The fact that the negotiations continued after the breakfast meeting indicates that Acosta did not make promises at the meeting that resolved the issue.

OPR found limited contemporaneous evidence concerning the discussion between Acosta and Lefkowitz. In a letter sent to Acosta on October 23, 2007, two weeks after the breakfast meeting, Lefkowitz represented that Acosta made three significant concessions during the meeting. Specifically, Lefkowitz claimed that Acosta had agreed (1) not to intervene with the State Attorney's Office's handling of the case, (2) not to contact any of the victim-witnesses or their counsel, and (3) not to intervene regarding the sentence Epstein received. Acosta told OPR that he did not remember the breakfast meeting and did not recall making the commitments defense counsel attributed to him. Acosta also told OPR that Lefkowitz was not a reliable narrator of events, and on several occasions in written communications had inaccurately and misleadingly characterized conversations he had with Acosta.

Of more significance for OPR's evaluation was a contemporaneous document—an October 25, 2007 draft response to Lefkowitz's letter, which Sloman drafted, and Acosta reviewed and edited for signature by Sloman—that disputed Lefkowitz's claims. The draft letter stated:

> I specifically want to clarify one of the items that I believe was inaccurate in that October 23rd letter. Your letter claimed that this Office
>
> > would not intervene with the State Attorney's Office regarding this matter; or contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter; and neither your Office nor the [FBI] would intervene regarding the sentence Mr. Epstein receives pursuant to a plea with the State, so long as that sentence does not violate state law.
>
> As we discussed and, hopefully, clarified, and as the United States Attorney previously explained in an earlier conference call, such a

promise equates to the imposition of a gag order. Our Office cannot and will not agree to this.

It is the intent of this Office to treat this matter like any other case.

Acosta told OPR that this was a polite way of chastising Lefkowitz for mischaracterizing what Acosta said during the breakfast meeting. Although OPR could not find evidence that the letter was sent to Lefkowitz, OPR nonetheless considers it persuasive evidence that Acosta, shortly after the breakfast meeting, disagreed with Lefkowitz's description of their discussions and had discussed those disagreements with Sloman.

Nevertheless, OPR examined the three specific concessions that Lefkowitz described in the October 23 letter, to determine whether evidence reflected that Acosta had made them during the breakfast meeting. First, Lefkowitz claimed that Acosta agreed during the breakfast meeting that he did not intend to interfere with the state's handling of the case. Contemporaneous documents show that well before the breakfast meeting, Acosta had expressed the view that he did not want to "dictate" actions to the State Attorney or the state court. For example, during the NPA negotiations, Acosta asked Villafaña to "soften" certain language that appeared to require the State Attorney's Office or the state court to take specific actions, such as requiring that Epstein enter his guilty plea or report to begin serving his sentence by a certain date. Although Acosta may have made a statement during the breakfast meeting expressing his disinclination to interfere with the state's proceedings, such a statement would have been a reiteration of his prior position on the subject, rather than any new concession.

Lefkowitz also claimed in his October 23, 2007 letter that Acosta agreed not to contact any of the victims or potential witnesses or their counsel. For the reasons discussed more fully in Chapter Three, OPR concludes that the decision not to notify the victims about the NPA did not stem from the breakfast meeting, but rather reflected an assessment of multiple issues and considerations discussed internally by the subjects who participated in that decision: Acosta, Sloman, and Villafaña.

Finally, Lefkowitz's October 23 letter suggested that Acosta had agreed not to intervene regarding the sentence Epstein received from the state court, and it asserted that Epstein was "entitled to any type of sentence available to him, including but not limited to gain time and work release." Later communications between the USAO and defense counsel, however, show clearly that Acosta did not abandon the NPA's explicit sentencing provision. The NPA required Epstein to make a joint recommendation with the State Attorney's Office for an 18-month jail sentence, although the parties understood that he would receive the same "gain time" benefits available to all state inmates. After the October breakfast meeting, Sloman and Villafaña, on behalf of the USAO, repeatedly made clear that it would hold Epstein to that requirement, and the USAO also subsequently insisted that Epstein was ineligible for work release. For example, in a November 5, 2007 letter, Sloman requested confirmation from defense counsel that "Epstein intends to abide by his agreement to plead guilty to the specified charges and to make a binding recommendation that the Court impose a sentence of *18 months of continuous confinement* in the county jail." Shortly before Epstein entered his plea in June 2008, Villafaña wrote to the State Attorney to remind him that the NPA required Epstein to plead in state court to an offense that required an 18-month

sentence of incarceration, and the USAO would consider a plea that differed from that requirement a breach of the NPA and would "proceed accordingly."

The guilty plea Epstein entered in state court in June 2008 was consistent with the dictates of the NPA, and pursuant to that plea, the court imposed a sentence of 18 months' incarceration. Epstein, however, applied for and was accepted into the work release program, and was able to serve a substantial portion of his sentence outside of the jail. The NPA did not reference work release nor authorize Epstein to receive such benefits during his tenure at the Palm Beach County Stockade. Moreover, Villafaña received assurances from defense counsel that Epstein would serve his entire sentence of confinement "in custody." Responsibility for the decision to afford Epstein work release privileges during his incarceration rested with state officials, who had the sole authority for administering the work release program.

After considering the substantial record documenting the decisions made after Acosta's October 12, 2007 breakfast meeting with Lefkowitz, OPR found nothing in the record to suggest that the meeting resulted in a material change to the NPA, affected the sentence Epstein served pursuant to the NPA, or contributed to state officials' decision to permit him to participate in work release.

F. Villafaña's Emails with Defense Attorney Lefkowitz during the NPA Negotiations Do Not Establish That Villafaña, or Other Subjects, Intended to Give Epstein Preferential Treatment or Were Motivated by Favoritism or Other Improper Influences

During the CVRA litigation, the petitioners obtained from Epstein's attorney, and filed under seal, a redacted series of email exchanges between Epstein attorney Lefkowitz and Villafaña (and others with Acosta and Sloman) during September 2007 when the NPA was being finalized, and thereafter. These emails had been redacted to delete most of Lefkowitz's side of the communications, and consequently they did not reflect the full context of Villafaña's communications to Lefkowitz. The redacted emails were later unsealed and made public over Epstein's objections.[236] Media coverage pointed to the content and tone of Villafaña's emails as proof that Villafaña and the USAO worked in concert with Epstein's attorneys to keep the "sweetheart" deal a secret from the victims and the public. Statements in several emails in particular were cited as evidence of the USAO's improper favoritism towards Epstein. In one example, Villafaña told Lefkowitz that she was willing to include in the NPA a provision agreeing not to prosecute others, but would "prefer not to highlight for the judge all of the other crimes and all of the other persons that we could charge." She also offered to meet with him "'off campus'" to finalize negotiations. She also proposed, "[o]n an 'avoid the press' note," that filing federal charges against Epstein in Miami rather than West Palm Beach would substantially reduce press coverage.

---

[236] The USAO did not object to the unsealing but requested additional redactions of portions that would reveal protected information. United States' Response to Petitioners' Motion to Use Correspondence to Prove Violations of the [CVRA] and to Have Their Unredacted Pleadings Unsealed (Apr. 7, 2011). The court declined to order the additional redactions.

OPR asked Villafaña about these emails and about the tenor of her interactions with Lefkowitz during the NPA negotiations and with other defense attorneys generally. Villafaña acknowledged that their tone was collegial and collaborative, and explained that generally, the tone of these emails reflected her personality and her commitment to complete the task her supervisors had assigned to her:

> [I]f you were to pull all my e-mails on every case, you would find that that is how I communicate with people. I'm a Minnesota girl, and I prefer not to be confrontational until I have to be. And I can be when I need to be. But my instructions from my supervisors were to engage in these negotiations and to complete them. So I felt that given that task, the best way to complete them was to reach the agreement and, keeping in mind the terms that . . . our office had agreed to, and do that in a way that is civil. So . . . although my language in the kind of introductory or prefatory communications with Mr. Lefkowitz was casual and was friendly, when you look at the terms and when he would come back to me asking for changes, my response was always, "No, I will not make that change."

Villafaña denied any intention to keep the victims uninformed about the NPA or to provide an improper benefit for Epstein, and she explained the context of the emails in question. The email in which Villafaña expressed reluctance to "highlight for the judge all of the other crimes and all of the other persons that we could charge" was written in response to a defense proposal to include in the federal plea agreement the parties were then considering a promise by the government not to prosecute Epstein's assistants and other employees. Lefkowitz had proposed that the plea agreement state, "Epstein's fulfilling the terms and conditions of the Agreement also precludes the initiation of any and all criminal charges which might otherwise in the future be brought against [four named female assistants] or any employee of [a specific Epstein-owned corporate entity] for any criminal charge that arises out of the ongoing federal investigation." Villafaña told OPR that the USAO was not intending to charge Epstein's assistants and was not aware of anyone else who could be charged, and thus did not oppose the request not to prosecute third parties. However, Villafaña was concerned that an overly detailed federal plea agreement would prompt the court to require the government to provide further information about the uncharged conduct, which might lead Epstein to claim the government breached the agreement by providing information to the court not directly connected to the charges to which he was pleading guilty. Villafaña was not the only one to express concern about how deeply a federal court might probe the facts, and whether such probing would interfere with the viability of a plea agreement. In an earlier email, Lourie had suggested charging Epstein by complaint to allow the USAO more flexibility in plea negotiations and avoid the problem that a court might not accept a plea to a conspiracy charge that required dismissal of numerous substantive counts.

As to Villafaña's offer to meet with Lefkowitz "off campus" to resolve outstanding issues in the NPA negotiation, she explained to OPR that she believed a face-to-face meeting at a "neutral" location—with "all the necessary decision makers present or 'on call'"— might facilitate completion of the negotiations, which had dragged on for some time.

With regard to her comment about "avoid[ing] the press," Villafaña told OPR that her goal was to protect the anonymity of the victims. She said that the case was far more likely to be covered by the Palm Beach press, which had already written articles about Epstein, than in Miami, and "if [the victims] wanted to attend [the plea hearing], I wanted them to be able to go into the courthouse without their faces being splashed all over the newspaper."

In evaluating the emails, OPR reviewed all the email exchanges between Villafaña, as well as Sloman and Acosta, and Lefkowitz and other defense counsel, including the portions redacted from the publicly released emails (except for a few to or from Acosta, copies of which OPR did not locate in the USAO records). OPR also considered the emails in the broader context of Villafaña's overall conduct during the federal investigation of Epstein. The documentary record, as well as witness and subject interviews, establishes that Villafaña consistently advocated in favor of prosecuting Epstein and worked for months toward that goal. She repeatedly pressed her supervisors for permission to indict Epstein and made numerous efforts to expand the scope of the case. She opposed meetings with the defense team, and nearly withdrew from the case because her supervisors agreed to those meetings. Villafaña objected to the decision to resolve the case through a guilty plea in state court, and she engaged in a lengthy and heated email exchange with Menchel about that subject. When she was assigned the task of creating an agreement to effect that resolution, Villafaña fought hard during the ensuing negotiations to hold the USAO's position despite defense counsel's aggressive tactics.

OPR also considered statements of her supervisors regarding her interactions with defense counsel. Sloman, in particular, told OPR that reports that Villafaña "was soft on Epstein . . . couldn't have been further from the truth." Sloman added that Villafaña "did her best to implement the decisions that were made and to hold Epstein accountable." Lourie similarly told OPR that when he read the district court's February 2019 opinion in the CVRA litigation and the emails from Villafaña cited in that opinion, he was "surprised to see how nice she was to them. And she winds up taking it on the chin for being so nice to them. When I know the whole time she was the one who wanted to go after him the most." The AUSA who assisted Villafaña on the investigation told OPR "everything that [Villafaña] did . . . was, as far as I could tell, [ ] completely pro prosecution."

Because the emails in question were publicly disclosed without context and without other information showing Villafaña's consistent efforts to prosecute Epstein and to assist victims, a public narrative developed that Villafaña colluded with defense counsel to benefit Epstein at the expense of the victims. After thoroughly reviewing all of the available evidence, OPR finds that narrative to be inaccurate. The USAO's and Villafaña's interactions with the victims can be criticized, as OPR does in several respects in this Report, but the evidence is clear that any missteps Villafaña may have made in her interactions with victims or their attorneys were not made for the purpose of silencing victims. Rather, the evidence shows that Villafaña, in particular, cared deeply about Epstein's victims. Before the NPA was signed, she raised to her supervisors the issue of consulting with victims, and after the NPA was signed, she drafted letters to notify victims identified in the federal investigation of the pending state plea proceeding and inviting them to appear. The draft letters led defense counsel to argue to Department management that Villafaña and Sloman committed professional misconduct by "threaten[ing] to send a highly improper and unusual 'victim notification letter' to all" of the listed victims. Given the full context of Villafaña's conduct throughout her tenure on the case, OPR concludes that her explanations for her emails are

entitled to significant weight, and OPR credits them. OPR finds, therefore, that the emails in question do not themselves establish that Villafaña (or any other subject) acted to improperly benefit Epstein, was motivated by favoritism or other improper influences, or sought to silence victims.

G. The Evidence Does Not Establish That Acosta, Lourie, or Villafaña Agreed to the NPA's Provision Promising Not to Prosecute "Potential Co-conspirators" in Order to Protect Any of Epstein's Political, Celebrity, or Other Influential Associates

OPR examined the decision by the subjects who negotiated the NPA—Villafaña, Lourie, and Acosta—to include in the agreement a provision in which the USAO agreed not to prosecute "any potential co-conspirators of Epstein," in addition to four named individuals, to determine whether that provision resulted from the subjects' improper favoritism towards Epstein or an improper effort to shield from prosecution any of Epstein's known associates. Other than various drafts of the NPA and of a federal plea agreement, OPR found little in the contemporaneous records mentioning the provision and nothing indicating that the subjects discussed or debated it—or even gave it much consideration. Drafts of the NPA and of the federal plea agreement show that the final broad language promising not to prosecute "any potential co-conspirators of Epstein" evolved from a more narrow provision sought by the defense. The provision expanded as Villafaña and defense counsel exchanged drafts of, first, a proposed federal plea agreement and, then, of the NPA, with apparently little analysis and no substantive discussion within the USAO about the provision.[237]

As the NPA drafting process concluded, Villafaña circulated to Lourie and another supervisor a draft that contained the non-prosecution provision, telling Lourie it was "some of [defense counsel's] requested language regarding promises not to prosecute other people," and commenting only, "I don't think it hurts us." In a reply email, Lourie responded to another issue

---

[237] As set forth in OPR's factual discussion, early in the negotiations over a federal plea agreement, the defense sought a non-prosecution provision applicable to only four female named assistants of Epstein and to unnamed employees of one of his companies. Villafaña initially countered with "standard language" referring to unnamed "co-conspirators" so as to avoid "highlight[ing] for the judge all of the other crimes and all of the other persons that we could charge." Nonetheless, drafts of the NPA sent by Lefkowitz after Villafaña's email continued to include language referring to the four named assistants and unnamed employees. Villafaña, however, internally circulated drafts of a federal plea agreement that included language stating, "This agreement resolves the federal criminal liability of the defendant and any co-conspirators in the Southern District of Florida growing out of any criminal conduct by those persons known to the [USAO] as of the date of this plea agreement." The federal plea agreement draft revised by Lourie and Acosta on September 20, 2007, included that language. When the defense team reverted to negotiation of state charges, Villafaña advised them, "In the context of a non-prosecution agreement, the [USAO] may be more willing to be specific about not pursuing charges against others." The next day, Lefkowitz sent a revised draft NPA referring to the four named assistants, "any employee" of the named company, and "any unnamed co-conspirators for any criminal charge that arises out of the ongoing federal investigation." The language was finally revised by Villafaña to prohibit prosecution of "any potential co-conspirators of Epstein, including but not limited to [the four named assistants]."

In commenting on OPR's draft report, Villafaña's counsel and Lourie both noted that the non-prosecution provision could bind only the USAO, and Lourie further opined that it was limited to certain specified federal charges and a time-limited scope of conduct. Although the non-prosecution provision in the NPA did not explicitly contain such limitations, those limitations were included in other parts of the agreement.

Villafaña had raised (defense counsel's attempt to insert an immigration waiver into the agreement), but Lourie did not comment on the provision promising not to prosecute co-conspirators or ask Villafaña to explain why she believed the provision did not harm the government's interests. In a subsequent email about the draft NPA, Villafaña asked Lourie for "[a]ny other thoughts," but there is no indication that he provided further input. OPR found no document that suggested Villafaña and Lourie discussed the provision further, or that the other individuals who were copied on Villafaña's email referencing the provision—her immediate supervisor, the supervisor designated to succeed Lourie as manager of the West Palm Beach office, and Villafaña's co-counsel—commented on or had substantive discussions about it. Villafaña told OPR that because none of the three supervisors responded to her observation that the non-prosecution provision "doesn't hurt us," Villafaña assumed that they agreed with her assessment.

Villafaña told OPR that she could not recall a conversation specifically about the provision agreeing not to prosecute "any potential co-conspirators," but she remembered generally that defense counsel told her Epstein wanted "to make sure that he's the only one who takes the blame for what happened." Villafaña told OPR that she and her colleagues believed Epstein's conduct was his own "dirty little secret." Villafaña said that press coverage at the time of Epstein's 2006 arrest did not allege that any of his famous contacts participated in Epstein's illicit activity and that none of the victims interviewed by the case agents before the NPA was signed told the investigators about sexual activity with any of Epstein's well-known contacts about whom allegations arose many years later.[238] Villafaña acknowledged that investigators were aware of Epstein's longtime relationship with a close female friend who was a well-known socialite, but, according to Villafaña, in 2007, they "didn't have any specific evidence against her."[239] Accordingly, Villafaña believed that the only "co-conspirators" of Epstein who would benefit from the provision were the four female assistants identified by name.[240] Villafaña also told OPR that the focus of the USAO's investigation was Epstein, and the office was not inclined to prosecute his four assistants if he entered a plea.[241] Because Villafaña was unaware of anyone else who could or would be charged, she perceived no reason to object to a provision promising not to prosecute other, unspecified "co-conspirators." Villafaña told OPR that given her understanding of the facts at that time, it did not occur to her that the reference to other "potential co-conspirators" might be used to protect any of Epstein's influential associates.

Lourie, who was transitioning to his detail at the Department's Criminal Division at the time Villafaña forwarded to him the draft NPA containing the non-prosecution provision, told OPR that he did not know how the provision developed and did not recall any discussions about it.

---

238 Villafaña told OPR that "none of . . . the victims that we spoke with ever talked about any other men being involved in abusing them. It was only Jeffrey Epstein."

239 The FBI had interviewed one victim who implicated the female friend in Epstein's conduct, but the conduct involving the then minor did not occur in Florida.

240 The FBI had learned that one of Epstein's female assistants had engaged in sexual activity with at least one girl in Epstein's presence; this assistant was one of the named individuals for whom the defense sought the government's agreement not to prosecute from the outset. Villafaña explained to OPR that this individual was herself believed to also have been at one time a victim.

241 Villafaña told OPR that the USAO had decided that girls who recruited other girls would not be prosecuted.

Lourie described the promise not to prosecute "potential co-conspirators" as "unusual," and told OPR that he did not know why it was included in the agreement, but added that it would be "unlike me if I read that language to just leave it in there unless I thought it was somehow helpful." Lourie posited that victims who recruited other underage girls to provide massages for Epstein "theoretically" could have been charged as co-conspirators. He told OPR that when he saw the provision, he may have understood the reference to unnamed "co-conspirators" as "a message to any victims that had recruited other victims that there was no intent to charge them."

Acosta did not recall any discussions about the non-prosecution provision. But he told OPR that Epstein was always "the focus" of the federal investigation, and he would have viewed the federal interests as vindicated as long as Epstein was required to face "meaningful consequences" for his actions. Acosta told OPR that when he reviewed the draft NPA, "[t]o the extent I reviewed this co-conspirator provision, I can speculate that my thinking would have been the focus is on Epstein[ ] . . . going to jail. Whether some of his employees go to jail, or other, lesser involved [individuals], is not the focus of this." Acosta also told OPR that he assumed Villafaña and Lourie had considered the provision and decided that it was appropriate. Finally, Sloman, who was not involved in negotiating the NPA, told OPR that in retrospect, he understood the non-prosecution provision was designed to protect Epstein's four assistants, and it "never dawned" on him that it was intended to shield anyone else.

This broad provision promising not to prosecute "any potential co-conspirators" is troubling and, as discussed more fully later in this Report, OPR did not find evidence showing that the subjects gave careful consideration to the potential scope of the provision or whether it was warranted given that the investigation had been curtailed and the USAO lacked complete information regarding possible co-conspirators. Villafaña precipitously revised a more narrow provision sought by the defense. Given its evolution from a provision sought by the defense, it appears unlikely to have been designed to protect the victims, and there is no indication that at the time, the subjects believed that was the purpose. However, the USAO had not indicated interest in prosecuting anyone other than the four named female assistants, and OPR found no record indicating that Epstein had expressed concern about the prosecutive fate of anyone other than the four assistants and unnamed employees of a specific Epstein company. Accordingly, OPR concludes that the evidence does not show that Acosta, Lourie, or Villafaña agreed to the non-prosecution provision to protect any of Epstein's political, celebrity, or other influential associates.[242]

H. OPR's Investigation Did Not Reveal Evidence Establishing That Epstein Cooperated in Other Federal Investigations or Received Special Treatment on That Basis

One final issue OPR explored stemmed from media reports suggesting that Epstein may have received special treatment from the USAO in return for his cooperation in another federal

[242] As previously stated, Sloman was on vacation when Villafaña included the provision in draft plea agreements and did not monitor the case or comment on the various iterations of the NPA that were circulated during his absence. Menchel left the USAO on August 3, 2007, before the parties drafted the NPA.

investigation.[243] Media reports in mid-2009 suggested Epstein was released from his state incarceration "early" because he was assisting in a financial crimes investigation in the Eastern District of New York involving Epstein's former employer, Bear Stearns. At the time, Villafaña was notified by the AUSAs handling the matter that they "had never heard of" Epstein and he was providing "absolutely no cooperation" to the government. In 2011, Villafaña reported to senior colleagues that "this is urban myth. The FBI and I looked into this and do not believe that any of it is true." Villafaña told OPR that the rumor that Epstein had cooperated with the case in New York was "completely false." Acosta told OPR that he did not have any information about Epstein cooperating in a financial investigation or relating to media reports that Epstein had been an "intelligence asset."[244]

In addition to the contemporaneous record attesting that Epstein was not a cooperating witness in a federal matter, OPR found no evidence suggesting that Epstein was such a cooperating witness or "intelligence asset," or that anyone—including any of the subjects of OPR's investigation—believed that to be the case, or that Epstein was afforded any benefit on such a basis. OPR did not find any reference to Epstein's purported cooperation, or even a suggestion that he had assisted in a different matter, in any of the numerous communications sent by defense counsel to the USAO and the Department. It is highly unlikely that defense counsel would have omitted any reason warranting leniency for Epstein if it had existed.

Accordingly, OPR concludes that none of the subjects of OPR's investigation provided Epstein with any benefits on the basis that he was a cooperating witness in an unrelated federal investigation, and OPR found no evidence establishing that Epstein had received benefits for cooperation in any matter.

V. ACOSTA EXERCISED POOR JUDGMENT BY RESOLVING THE FEDERAL INVESTIGATION THROUGH THE NPA

Although OPR finds that none of the subjects committed professional misconduct in this matter, OPR concludes that Acosta exercised poor judgment when he agreed to end the federal investigation through the NPA. Acosta's flawed application of Petite policy principles to this case and his concerns with overstepping the boundaries of federalism led to a decision to resolve the federal investigation through an NPA that was too difficult to administer, leaving Epstein free to manipulate the conditions of his sentence to his own advantage. The NPA relied on state authorities to implement its key terms, leading to an absence of control by federal authorities over the process. Although the prosecutors considered certain events that they addressed in the NPA, such as gain time and community control, many other key issues were not, such as work release and mechanisms for implementing the § 2255 provision. Important provisions, such as promising not to prosecute all "potential co-conspirators," were added with little discussion or consideration by the prosecutors. In addition, although there were evidentiary and legal challenges to a

---

243 *See, e.g.*, Julie K. Brown, "Perversion of Justice: How a future Trump Cabinet member gave a serial sex abuser the deal of a lifetime," *Miami Herald*, Nov. 28, 2018.

244 When OPR asked Acosta about his apparent equivocation during his 2019 press conference, in answering a media question about whether he had knowledge of Epstein being an "intelligence asset," Acosta stated to OPR that "the answer is no." Acosta was made aware that OPR could use a classified setting to discuss intelligence information.

successful federal prosecution, Acosta prematurely decided to resolve the case without adequately addressing ways in which a federal case potentially could have been strengthened, such as by obtaining Epstein's missing computer equipment. Finally, a lack of coordination within the USAO compounded Acosta's flawed reasoning and resulted in insufficient oversight over the process of drafting the NPA, a unique document that required more detailed attention and review than it received. These problems were, moreover, entirely avoidable because federal prosecution, and potentially a federal plea agreement, existed as viable alternatives to the NPA resolution.

In evaluating Acosta's conduct, OPR has considered and taken into account the fact that some of Epstein's conduct known today was not known in 2007 and that other circumstances have changed in the interim, including some victims' willingness to testify. OPR has also evaluated Acosta's decisions in a framework that recognizes and allows for decisions that are made in good faith, even if the decision in question may not have led to the "best" result that potentially could have been obtained. Nonetheless, after considering all of the available evidence and the totality of the then-existing circumstances, OPR concludes that Acosta exercised poor judgment in that he chose an action or course of action that was in marked contrast to that which the Department would reasonably expect of an attorney exercising good judgment.

A. Acosta's Decision to Resolve the Federal Investigation through a State Plea under Terms Incorporated into the NPA Was Based on a Flawed Application of the Petite Policy and Federalism Concerns, and Failed to Consider the Significant Disadvantages of a State-Based Resolution

The Department formulated the Petite policy in response to a series of Supreme Court opinions holding that the Constitution does not deny state and federal governments the power to prosecute for the same act. Responding to the Court's concerns about the "potential for abuse in a rule permitting duplicate prosecutions," the Department voluntarily adopted a policy of declining to bring a federal prosecution following a completed state prosecution for the same conduct, except when necessary to advance a compelling federal interest. *See Rinaldi v. United States*, 434 U.S. at 28. On its face, the Petite policy applies to federal prosecutions that follow completed state prosecutions. USAM § 9-2.031 ("This policy applies whenever there has been a prior state . . . prosecution resulting in an acquittal, a conviction, including one resulting from a plea agreement, or a dismissal or other termination of the case on the merits after jeopardy has attached."). When a state investigation or prosecution is still pending, the policy does not apply. Indeed, even when a state prosecution has resulted in a decision on the merits, the policy permits a subsequent federal prosecution when three substantive prerequisites are satisfied: a "substantial federal interest" exists, "the result in the prior state prosecution was manifestly inadequate in light of the federal interest involved," and there is sufficient admissible evidence to obtain and sustain a conviction on federal charges. The policy also does not apply when "the prior prosecution involved only a minor part of the contemplated federal charges."

No one with whom OPR spoke disputed that the federal government had a substantial interest in prosecuting Epstein. In her prosecution memorandum, Villafaña identified five federal statutes that Epstein had potentially violated. The CEOS Chief described Villafaña's assessment of these statutes as "exhaustive," and he concurred with her analysis of their applicability to the facts of the case. Epstein's crimes involved the sexual exploitation of children, interstate travel, and the use of a facility of interstate commerce, all of which were areas of federal concern.

Notably, in the early 2000s, the Department had begun pursuing specific initiatives to combat child sex trafficking, including Project Safe Childhood, and Congress had then recently passed the PROTECT Act. Acosta himself told OPR that the exploitation of minors was "an important federal interest," which in Epstein's case was compounded by the "sordidness" of the acts involved and the number of victims.

It is also clear that because the state case against Epstein was still pending and had not reached a conviction, acquittal, or other decision on the merits, the Petite policy did not apply and certainly did not preclude a federal prosecution of Epstein. He had been charged with one state charge of solicitation to prostitution on three occasions, involving one or more other persons without regard to age—a charge that would have addressed only a scant portion of the conduct under federal investigation. Acosta acknowledged to OPR that the Petite policy "on its face" did not apply. Moreover, the State Attorney did not challenge the federal government's assumption of prosecutorial responsibility, and despite having obtained an indictment, held back on proceeding with the state prosecution in deference to the federal government's involvement. In these circumstances, the USAO was free to proceed with a prosecution sufficient to ensure vindication of the federal interest in prosecuting a man who traveled interstate repeatedly to prey upon minors. The federal government was uniquely positioned to fully investigate the conduct of an individual who engaged in repeated criminal conduct in Florida but who also traveled extensively and had residences outside of Florida. Even if the Petite policy had applied, OPR has little doubt that the USAO could have obtained authorization from the Department to proceed with a prosecution under the circumstances of this case.[245]

Despite the undeniable federal interest in prosecuting Epstein, the fact that the Petite policy did not apply, and the State Attorney's willingness to hold the state prosecution in abeyance pending the federal government's assumption of the case, Acosta viewed the federal government's role in prosecuting Epstein as limited by principles of federalism.[246] In essence, Acosta believed that a federal prosecution would have interfered improperly with the state's authority. He explained his reasoning to OPR:

---

[245] In 2008, the Office of Enforcement Operations, the office charged with reviewing Petite policy waiver requests, opined that even if the Petite policy applied with respect to the victims of the indicted state charges, it would not apply to federal prosecution of charges relating to any other victim. The office also noted that if other factors existed, such as use of the internet to contact victims, those factors might warrant a waiver of the policy, if it did apply.

[246] In commenting on OPR's draft report, Acosta's counsel argued that OPR inappropriately bifurcated Acosta's concerns from those of the other subjects. However, OPR's investigation made clear that, although Acosta shared his subordinates' concerns about the strength of the case, victim-witness credibility, and the novelty of some legal theories, he alone focused on federalism issues. Acosta's counsel also asserted that OPR "misunderstands and devalues Secretary Acosta's very real and legitimate interest in the development of human trafficking laws," and counsel further noted Acosta's concerns that "bringing a case with serious evidentiary challenges pressing novel legal issues could result in an outcome that set back the development of trafficking laws and resulted in an aggregate greater harm to trafficking victims." Although OPR carefully considered counsel's arguments and agrees that it was appropriate to consider any implications the proposed prosecution of Epstein might have for the Department's anti-trafficking efforts, OPR does not believe that those concerns warranted resolving the matter through the NPA, which, for the reasons discussed in this Section, failed to satisfy the federal interest and allowed Epstein to manipulate the state system to his benefit.

> [The prosecution] was going forward on the part of the state, and so here is the big bad federal government stepping on a sovereign . . . state, saying you're not doing enough, [when] to my mind . . . the whole idea of the [P]etite policy is to recognize that the []state . . . is an independent entity, and that we should presume that what they're doing is correct, even if we don't like the outcome, except in the most unusual of circumstances.

Acosta told OPR that "absent USAO intervention," the state's prosecution of Epstein would have become final, and accordingly, it was "prudent" to employ Petite policy analysis. In Acosta's view, "the federal responsibility" in this unique situation was merely to serve as a "back-stop [to] state authorities to ensure that there [was] no miscarriage of justice."[247] Acosta told OPR that he understood the PBPD would not have brought Epstein to the FBI's attention if the State Attorney had pursued charges that required Epstein's incarceration. Acosta therefore decided that the USAO could avert a "manifest injustice" by forcing the state to do more and require Epstein to serve time in jail and register as a sexual offender.

Acosta's reasoning was flawed and unduly constricted. Acosta's repeated references to a "miscarriage of justice" or "manifest injustice" echoes the "manifestly inadequate" language used in the Petite policy to define the circumstances in which the federal government may proceed with a criminal case *after* a completed state prosecution. Nothing in the Petite policy, however, requires similar restraint when the federal government pursues a case in the absence of a completed state prosecution, even if the state is already investigating the same offense. The goal of the Petite policy is to prevent multiple prosecutions for the same offense, not to compel the federal government to defer to a parallel state interest in a case, particularly one in which state officials involved in the state prosecution expressed significant concerns about it, and there were questions regarding the state prosecutor's commitment to the case. Acosta told OPR that "there are any number of instances where the federal government or the state government can proceed, and state charges are substantially less and different, and . . . the federal government . . . stands aside and lets the state proceed." The fact that the federal government can allow the state to proceed with a prosecution, however, does not mean the federal government is compelled to do so, particularly in a matter in which a distinct and important federal interest exists. Indeed, the State Attorney told OPR that the federal government regularly takes over cases initiated by state investigators, typically because federal charges result in "the best sentence."

Epstein was facing a substantial sentence under the federal sentencing guidelines.[248] Despite the Ashcroft Memo's directive that federal prosecutors pursue "the most serious readily provable offense," Acosta's decision to push "the state to do a little bit more" does not approach that standard. In fact, Acosta conceded during his OPR interview that the NPA did not represent an "appropriate punishment" in the federal system, nor even "the best outcome in the state system," and that if the investigation of Epstein had originated with the FBI, rather than as a referral from the PBPD, the outcome might have been different. As U.S. Attorney, Acosta had the authority to

---

[247] Letter from R. Alexander Acosta "To whom it may concern" at 1 (Mar. 20, 2011), published online in *The Daily Beast*.

[248] Villafaña estimated that the applicable sentencing guidelines range was 168 to 210 months' imprisonment.

depart from the Ashcroft Memo. He told OPR, however, that he did not recall discussing the Ashcroft Memo with his colleagues and nothing in the contemporaneous documentary record suggests that he made a conscious decision to depart from it when he decided to resolve the federal investigation through the NPA. Instead, it appears that Acosta simply failed to consider the tension between federal charging policy and the strong federal interest in this case, on the one hand, and his broad reading of the Petite policy and his general concerns about "federalism," on the other hand. OPR concludes that Acosta viewed the federal government's role in prosecuting Epstein too narrowly and through the wrong prism.

Furthermore, Acosta's federalism concerns about intruding on the state's autonomy resulted in an outcome—the NPA—that intruded far more on the state's autonomy than a decision to pursue a federal prosecution would have.[249] By means of the NPA, the federal government dictated to the state the charges, the sentence, the timing, and certain conditions that the state had to obtain during the state's own prosecution. Acosta acknowledged during his OPR interview that his "attempt to backstop the state here[] rebounded, because in the process, it . . . ended up being arguably more intrusive."

Acosta's concern about invading the state's authority led to additional negative consequences. Acosta revised the draft NPA in several respects to "soften" its tone, by substituting provisions requiring Epstein to make his "best efforts" for language that appeared to dictate certain actions to the state. In so doing, however, Acosta undermined the enforceability of the agreement, making it difficult later to declare Epstein in breach when he failed to comply.

OPR found no indication that when deciding to resolve the federal prosecution through a mechanism that relied completely on state action, Acosta considered the numerous disadvantages of having Epstein plead guilty in the state court system, a system in which none of the subjects had practiced and with which they were unfamiliar. Villafaña recognized that there were "a lot of ways to manipulate state sentences," and she told OPR that she was concerned from the outset of negotiations about entering into the NPA, because by sending the case back to the state the USAO was "giving up all control over what was going on." Villafaña also told OPR that defense counsel "had a lot of experience with the state system. We did not." Epstein's ability to obtain work release, a provision directly contrary to the USAO's intent with respect to Epstein's sentence, is a clear example of the problem faced by the prosecutors when trying to craft a plea that depended on a judicial system with which they were unfamiliar and over which they had no control. Although the issue of gain time was considered and addressed in the NPA, none of the subject attorneys negotiating the NPA realized until *after* the NPA was signed that Epstein might be eligible for work release. Acosta, in particular, told OPR that "if it was typical to provide that kind of work release in these cases, that would have been news to me." Because work release was not anticipated, the NPA did not specifically address it, and the USAO was unable to foreclose Epstein from applying for admission to the program.

---

[249] The Petite policy only applies to the Department of Justice and federal prosecutions. It does not prevent state authorities from pursuing state charges after a federal prosecution. *See, e.g., United States v. Nichols* and *State v. Nichols* (dual prosecution for acts committed in the bombing of the Oklahoma City federal building). However, in practice and to use their resources most efficiently, state authorities often choose not to pursue state charges if the federal prosecution results in a conviction.

The sexual offender registration provision is yet another example of how Acosta's decision to create an unorthodox mechanism that relied on state procedures to resolve the federal investigation led to unanticipated consequences benefitting Epstein. Acosta told OPR that one of the core aspects of the NPA was the requirement that Epstein plead guilty to a state charge requiring registration as a sexual offender. He cited it as a provision that he insisted on from the beginning and from which he never wavered. However, the USAO failed to anticipate certain factors that affected the sexual offender registration requirement in other states where Epstein had a residence. In selecting the conduct for the factual basis for the crime requiring sexual offender registration, the state chose conduct involving a victim who was at least 16 at the time of her interactions with Epstein, even though Epstein also had sexual contact with a 14-year old victim. The victim's age made a difference, as the age of consent in New Mexico, where Epstein had a residence, was 16; therefore, Epstein was not required to register in that state. As a 2006 letter from defense counsel Lefcourt to the State Attorney's Office made clear, the defense team had thoroughly researched the details and ramifications of Florida's sexual offender registration requirement; OPR did not find evidence indicating similar research and consideration by the USAO.

Finally, Acosta was well aware that the PBPD brought the case to the FBI's attention because of a concern that the State Attorney's Office had succumbed to "pressure" from defense counsel. Villafaña told OPR that she informed both Acosta and Sloman of this when she met with them at the start of the federal investigation. Although Acosta did not remember the meeting with Villafaña, he repeatedly told OPR during his interview that he was aware that the PBPD was dissatisfied with the State Attorney's Office's handling of the case. Shortly before the NPA was signed, moreover, additional information came to light that suggested the State Attorney's Office was predisposed to manipulating the process in Epstein's favor. Specifically, during the September 12, 2007 meeting, at the state prosecutor's suggestion, the USAO team agreed, with Acosta's subsequent approval, to permit Epstein to plead guilty to one state charge of solicitation of minors to engage in prostitution, rather than the three charges the USAO had originally specified. The state prosecutor assured Lourie that the selected charge would require Epstein to register as a sexual offender. Shortly thereafter, the USAO was told by defense counsel that despite the assurances made to Lourie, the state prosecutor had advised Epstein—incorrectly, it turned out—that a plea to that particular offense would *not* require him to register as a sexual offender. Yet, despite this evidence, which at least suggested that the state authorities should not have been considered to be a reliable partner in enforcing the NPA, Acosta did not alter his decision about proceeding with a process that depended completely on state authorities for its successful execution.

OPR finds that Acosta was reasonably aware of the facts and circumstances presented by this case. He stated that he engaged in discussions about various aspects of the case with Sloman and Menchel, and relied upon them for their evaluation of the legal and evidentiary issues and for their assessment of trial issues. Acosta was copied on many substantive emails, reviewed and revised drafts of the NPA, and approved the final agreement. Yet, rather than focusing on whether the state's prosecution was sufficient to satisfy the federal interest in prosecuting Epstein, Acosta focused on achieving the minimum outcome necessary to satisfy the *state's* interest, as defined in part by the state's indictment, by using the threat of a federal prosecution to dictate the terms of

Epstein's state guilty plea.[250] As U.S. Attorney, Acosta had the authority to resolve the case in this manner, but OPR concludes that in light of all the surrounding circumstances, his decision to do so reflected poor judgment. Acosta's application of Petite policy principles was too expansive, his view of the federal interest in prosecuting Epstein was too narrow, and his understanding of the state system was too imperfect to justify the decision to use the NPA.[251]

B. The Assessment of the Merits of a Potential Federal Prosecution Was Undermined by the Failure to Obtain Evidence or Take Other Investigative Steps That Could Have Changed the Complexion of the Case

The leniency resulting from Acosta's decision to resolve the case through the NPA is also troubling because the USAO reached agreement on the terms of the NPA without fully pursuing evidence that could have changed the complexion of the case or afforded the USAO significant leverage in negotiating with Epstein. Acosta told OPR that his decision to resolve the federal investigation through the NPA was, in part, due to concerns about the merits of the case and concerns about whether the government could win at trial. Yet, Acosta made the decision to resolve the case through a state-based resolution and extended that proposal to Epstein's defense attorneys before the investigation was completed. As the investigation progressed, the FBI continued to locate additional victims, and many had not been interviewed by the FBI by the time of the initial offer. In other words, at the time of Acosta's decision, the USAO did not know the full scope of Epstein's conduct; whether, given Epstein's other domestic and foreign residences, his criminal conduct had occurred in other locations; or whether the additional victims might implicate other offenders. In addition, Villafaña planned to approach the female assistants to attempt to obtain cooperation, but that step had not been taken.[252] Most importantly, Acosta ended the investigation without the USAO having obtained an important category of potentially significant evidence: the computers removed from Epstein's home prior to the PBPD's execution of a search warrant.

The PBPD knew that Epstein had surveillance cameras stationed in and around his home, which potentially captured video evidence of people visiting his residence, and that before the state

---

250 Acosta told OPR that he understood that if Epstein had pled to the original charges contemplated by the state, he would have received a two-year sentence, and in that circumstance, the PBPD would not have brought the case to the FBI. OPR was unable to verify that charges originally contemplated by the state would have resulted in a two-year sentence. OPR's investigation confirmed, however, that the PBPD brought the case to the FBI because the PBPD Chief was dissatisfied with the state's handling of the matter.

251 In commenting on OPR's draft report, Acosta's attorney stated that Acosta "accept[ed] OPR's conclusion that deferring prosecution of Jeffrey Epstein to the State Attorney rather than proceeding with a federal indictment or a federal plea was, in hindsight, poor judgment." Acosta also acknowledged that the USAO's handling of the matter "would have benefited from more consistent staffing and attention. No one foresaw the additional challenges that the chosen resolution would cause. And the [NPA] relied too much on state authorities, who gave Epstein and his counsel too much wiggle-room." Acosta's counsel also noted that Acosta welcomed the public release of the Report, "did not challenge OPR's authority, welcomed the review, and cooperated fully."

252 Although the FBI interviewed numerous employees of Epstein and Villafaña identified three of his female assistants as potential co-conspirators, at the time that the USAO extended the terms of its offer, there had been no significant effort to obtain these individuals' cooperation against Epstein. The FBI attempted unsuccessfully to make contact with two female assistants on August 27, 2007, as Epstein's private plane was departing for the Virgin Islands, but agents were unable to locate them on board the plane.

search warrant was executed on that property, the computer equipment associated with those cameras had been removed. Villafaña knew who had possession of the computer equipment. Surveillance images might have shown the victims' visits, and photographic evidence of their appearance at the time of their encounters with Epstein could have countered the anticipated argument that Epstein was unaware these girls were minors. The surveillance video might have shown additional victims the investigators had not yet identified. Such images could have been powerful visual evidence of the large number of girls Epstein victimized and the frequency of their visits to his home, potentially persuasive proof to a jury that this was not a simple "solicitation" case.

Epstein's personal computers possibly contained even more damning evidence. Villafaña told OPR that the FBI had information that Epstein used hidden cameras in his New York residence to record his sexual encounters, and one victim told agents that Epstein's assistant photographed her in the nude. Based on this evidence, and experience in other sex cases involving minors, Villafaña and several other witnesses opined to OPR that the computers might have contained child pornography. Moreover, Epstein lived a multi-state lifestyle; it was reasonable to assume that he may have transmitted still images or videos taken at his Florida residence over the internet to be accessed while at one of his other homes or while traveling. The interstate transmission of child pornography was a separate, and serious, federal crime that could have changed the entire complexion of the case against Epstein.[253] Villafaña told OPR, "[I]f the evidence had been what we suspected it was . . . [i]t would have put this case completely to bed. It also would have completely defeated all of these arguments about interstate nexus."

Because she recognized the potential significance of this evidence, Villafaña attempted to obtain the missing computers. After Villafaña learned that an individual associated with one of Epstein's attorneys had possession of the computer equipment that was removed from Epstein's home, she consulted with Department subject matter experts to determine how best to obtain the evidence. Following the advice she received and after notifying her supervisors, Villafaña took legal steps to obtain the computer equipment.

Epstein's team sought to postpone compliance with the USAO's demand for the equipment. In late June 2007, defense attorney Sanchez requested an extension of time to comply; in informing Sloman, Menchel, and Lourie of the request, Villafaña stressed that "we want to get the computer equipment that was removed from Epstein's home prior to the state search warrant as soon as possible." She agreed to extend the date for producing the computer equipment by one week until July 17, 2007. On that day, Epstein initiated litigation regarding the computer equipment. That litigation was still pending at the end of July, when Acosta decided to resolve

---

253 18 U.S.C. § 2251(a) provides, in pertinent part:

> Any person who . . . induces . . . any minor to engage in . . . any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished . . . if such person knows or has reason to know that such visual depiction will be . . . transmitted using any means or facility of interstate . . . commerce or in or affecting interstate . . . commerce . . . [or] if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or . . . commerce by any means, including by computer.

the federal investigation in exchange for a plea in state court to a charge that carried a two-year sentence. The FBI co-case agent told OPR that, in a meeting to discuss the resolution, at which the FBI was present, the co-case agent specifically suggested that the USAO wait to pursue a resolution until after the litigation was resolved, but this suggestion was "pushed under the rug" without comment. Although the co-case agent could not recall who was present, the case agent recalled that Menchel led the meeting, which occurred while the litigation was still pending.

Even after the NPA two-year state plea resolution was presented to the defense, Villafaña continued to press ahead to have the court resolve the issue concerning the defense production of the computer equipment. On August 10, 2007, she asked Lourie for authorization to oppose Epstein's efforts to stay the litigation until after an anticipated meeting between the USAO and the defense, informing Lourie that a victim interviewed that week claimed she started seeing Epstein at age 14 and had been photographed in the nude. A few days later, Villafaña told defense counsel that she had "conferred with the appropriate people, and we are not willing to agree to a stay." Defense counsel then contacted Lourie, who agreed to postpone the hearing until after the upcoming meeting with Acosta. After the meeting, and when the court sought to reschedule the hearing, Villafaña emailed Sloman to ask if she should "put it off"; he replied, "Yes," and the hearing was re-set for September 18, 2007. As negotiations towards the NPA progressed, however, the hearing was postponed indefinitely. Ultimately the NPA itself put the issue to rest by specifying that all legal process would be held in abeyance unless and until Epstein breached the agreement.

Villafaña told OPR that she had learned through law enforcement channels that the defense team had reviewed the contents of Epstein's computers. She told OPR that, in her view, "the fact that the defense was trying desperately to put off the hearing . . . was further evidence of the importance of the evidence."

OPR questioned Acosta about the decisions to initiate, and continue with, the NPA negotiations while the litigation concerning the computers was still pending, and to agree to postpone the litigation rather than exhausting all efforts to obtain and review the computer evidence. Acosta told OPR that he had no recollection of Villafaña's efforts to obtain the missing computers, but he believed that "there was a desire to move quickly as opposed to slowly" regarding the plea.

Menchel, Sloman, and Lourie also all told OPR that they did not remember Villafaña's efforts to obtain the computers or recalled the issue only "vaguely." Menchel expressed surprise to OPR that a prosecutor could obtain "an entire computer" through the method utilized by Villafaña, telling OPR, "I had not heard of that." However, the contemporaneous records show that Sloman, Menchel, and Lourie had each been aware in 2007 of Villafaña's efforts to obtain Epstein's missing computer equipment.

Villafaña kept Menchel, in particular, well informed of her efforts to obtain the computer equipment. She sent to Menchel, or copied him on, several emails about her plan to obtain the computer equipment; specifically, her emails on May 18, 2007, July 3, 2007, and July 16, 2007, all discussed her proposed steps. Villafaña told OPR that Lourie was involved in early discussions about her proposal to obtain the evidence. Lourie also received Villafaña's July 16, 2007 email discussing the computer equipment and the plan to obtain it, and on one occasion he spoke directly

with one of Epstein's defense attorneys about it. Sloman told OPR during his interview that he "vaguely" remembered the computer issue. The documentary evidence confirms that he had at least some contemporaneous knowledge of the issue—when asked by Villafaña whether to put off a September 12, 2007 hearing on the litigation, he told her to do so. Finally, as noted previously, the FBI co-case agent proposed at a meeting with USAO personnel that the USAO wait until the litigation was resolved before pursuing plea negotiations.

Contemporaneous records show that Acosta was likely aware before the NPA was signed of the USAO's efforts to obtain custody of Epstein's computers and that after the NPA was signed, he was informed about the use of legal process for obtaining the computer equipment. The NPA itself provides that "the federal . . . investigation will be suspended, and all pending [legal process] will be held in abeyance," that Epstein will withdraw his "motion to intervene and to quash certain [legal process]," and, further, that the parties would "maintain . . . evidence subject to [legal process] that have been issued, and *including certain computer equipment,* inviolate" until the NPA's terms had been fully satisfied, at which point the legal process would be "deemed withdrawn." (Emphasis added.) Acosta's numerous edits on the NPA's final draft suggest that he gave it a close read, and OPR expects that Acosta would not have approved the agreement without understanding what legal process his office was agreeing to withdraw, or why the only type of evidence specified was "certain computer equipment." In addition, Acosta told OPR that he worked closely with Sloman and Menchel, consulted with them, and relied on their counsel about the case. Among other things, Acosta said he discussed with them concerns about the law and the evidentiary issues presented by a federal criminal trial. Therefore, although it is possible that Sloman made the decision to postpone the hearing concerning the USAO's efforts to obtain the computer equipment without consulting Acosta, once Acosta reviewed the draft NPA, Acosta was on notice of the existence of and the ongoing litigation concerning Epstein's missing computer equipment.

Villafaña knew where the computers were; litigation over the demand for the equipment was already underway; there was good reason to believe the computers contained relevant—and potentially critical—information; and it was clear Epstein did not want the contents of his computers disclosed. Nothing in the available record reveals that the USAO benefitted from abandoning pursuit of this evidence when they did, or that there was any significant consideration of the costs and benefits of forgoing the litigation to obtain production of the computers.[254] Instead, the USAO agreed to postpone and ultimately to abandon its efforts to obtain evidence that could have significantly changed Acosta's decision to resolve the federal investigation with a state guilty plea or led to additional significant federal charges. By agreeing to postpone the litigation, the USAO gave away leverage that might have caused the defense to come to an agreement much earlier and on terms more favorable to the government. The USAO ultimately agreed to a term in the NPA that permanently ended the government's ability to obtain possible evidence of significant crimes and did so with apparently little serious consideration of the potential cost.

---

[254] If the USAO had significant concerns about its likelihood of prevailing, postponing the litigation to use it as leverage in the negotiations might have been strategically reasonable. Lourie suggested in his response to his interview transcript that the court might have precluded production of the computers. However, OPR saw no evidence indicating that Villafaña or her supervisors were concerned that the court would do so, and Villafaña had consulted with the Department's subject matter experts before initiating her action to obtain the equipment.

To be clear, OPR is not suggesting that prosecutors must obtain all available evidence before reaching plea agreements or that prosecutors cannot reasonably determine that reaching a resolution is more beneficial than continuing to litigate evidentiary issues. Every case is different and must be judged on its own facts. In this case, however, given the unorthodox nature of the state-based resolution, the fact that Acosta's decision to pursue it set the case on a wholly different track than what had been originally contemplated by his experienced staff, the nature and scope of Epstein's criminal conduct, the circumstances surrounding the removal of the computers from Epstein's residence, and the potential for obtaining evidence revealing serious additional criminal conduct, Acosta had a responsibility to ensure that he was fully informed about the consequences of pursing the course of action that he proposed and particularly about the consequences flowing from the express terms of the NPA. In deciding to resolve the case pre-charge, Acosta lost sight of the bigger picture that the investigation was not completed and viable leads remained to be pursued. The decision to forgo the government's efforts to obtain the computer evidence and to pursue significant investigative steps should have been made only after careful consideration of all the costs and benefits of the proposed action. OPR did not find evidence that Acosta fully considered the costs of ending the investigation prematurely.[255]

C. OPR Was Unable to Determine the Basis for the Two-Year Term of Incarceration, That It Was Tied to Traditional Sentencing Goals, or That It Satisfied the Federal Interest in the Prosecution

The heart of the controversy surrounding the Epstein case is the apparent undue leniency afforded him concerning his sentence. After offering a deal that required a "non-negotiable" 24-month term of incarceration, Acosta agreed to resolve it for an 18-month term of incarceration, knowing that gain time would reduce it further, and indeed, Epstein served only 13 months. Epstein ultimately did not serve even that minimal sentence incarcerated on a full-time basis because the state allowed Epstein into its work release program within the first four months of his sentence. As Lourie told OPR, "[E]verything else that happened to [Epstein] is exactly what should have happened to him. . . . He had to pay a lot of money. He had to register as a sex offender," but "in the perfect world, [Epstein] would have served more time in jail."

Due to the passage of time and the subjects' inability to recall many details of the relevant events, OPR was unable to develop a clear understanding of how the original two-year sentence requirement was developed or by whom. Two possibilities were articulated during OPR's subject interviews: (1) the two years represented the sentence Epstein would have received had he pled guilty to an unspecified charge originally contemplated by the state; or (2) the two years represented the sentence the USAO determined Epstein would be willing to accept, thus avoiding the need for a trial. As to the former possibility, Acosta told OPR that his "best understanding" of the two-year proposal was that it correlated to "one of the original state charges." He elaborated,

---

255 In commenting on OPR's draft report, Acosta's attorney objected to OPR's conclusion that Acosta knew or should have known about the litigation regarding the computers and that he should have given greater consideration to pursuing the computers before the NPA was signed. Acosta's attorney asserted that Acosta was not involved in that level of "granularity"; that his "'small thoughts' edits" on the NPA were limited and focused on policy; and that it was appropriate for him to rely on his staff to raise any issues of concern to him. For the reasons stated above, OPR nonetheless concludes that having developed a unique resolution to a federal investigation, Acosta had a greater obligation to understand and consider what the USAO was giving up and the appropriateness of doing so.

"I'm reconstructing memories of . . . 12 years ago. I can speculate that at some point, the matter came up, and I or someone else said . . . what would the original charges have likely brought? And someone said this amount." Acosta told OPR that he could not recall who initially proposed this method, but he believed that it likely did not result from a single specific discussion but rather from conversations over a course of time. Acosta could not recall specifically with whom he had these discussions, other than that it would have been Lourie, Menchel, or Sloman. Villafaña was not asked for her views on a two-year sentence, and she had no input into the decision before it was made. Villafaña told OPR that she examined the state statutes and could not validate that a state charge would have resulted in a 24-month sentence. OPR also examined applicable state statutes and the Florida sentencing guidelines, but could not confirm that Epstein was, in fact, facing a potential two-year sentence under charges contemplated by the PBPD.

On the other hand, during his OPR interview, Lourie "guess[ed]" that "somehow the defense conveyed . . . we're going to trial if it's more than two years." Menchel similarly told OPR that he did not know how the two year sentence was derived, but "obviously it was a number that the office felt was palatable enough that [Epstein] would take" it. Sloman told OPR that he had no idea how the two-year sentence proposal was reached.

The contemporaneous documentary record, however, provides no indication that Epstein's team proposed a two-year sentence of incarceration or initially suggested, before the USAO made its offer, that Epstein would accept a two-year term of incarceration. As late as July 25, 2007—only days before the USAO provided the term sheet to defense counsel—Epstein's counsel submitted a letter to the USAO arguing that the federal government should not prosecute Epstein at all. Furthermore, after the initial "term sheet" was presented and negotiations for the NPA progressed, Epstein's team continued to strongly press for less or no time in jail.

The USAO had other charging and sentencing options available to it. The most obvious alternative to the two-year sentence proposal was to offer Epstein a plea to a federal offense that carried a harsher sentence. If federally charged, Epstein was facing a substantial sentence under the federal sentencing guidelines, 168 to 210 months' imprisonment. However, it is unlikely that he would have agreed to a plea that required a guidelines sentence, even one at the lower end of the guidelines. Menchel told OPR that he and his colleagues had been concerned that Epstein would opt to go to trial if charged and presented with the option of pleading to a guidelines sentence, and as previously discussed, there were both evidentiary and legal risks attendant upon a trial in this case. If federally charged, Epstein's sentencing exposure could have been managed by offering him a plea under Federal Rule of Criminal Procedure 11(c) for a stipulated sentence, which requires judicial approval. Acosta rejected this idea, however, apparently because of a perception that the federal district courts in the Southern District of Florida did not view Rule 11(c) pleas favorably and might refuse to accept such a plea and thus limit the USAO's options.

Another alternative was to offer Epstein a plea to conspiracy, a federal charge that carried a maximum five-year sentence. Shortly after Villafaña circulated the prosecution memorandum to her supervisors, Lourie recommended to Acosta charging Epstein by criminal complaint and offering a plea to conspiracy "to make a plea attractive." Similarly, before learning that Menchel had already discussed a state-based resolution with Epstein's counsel, Villafaña had considered offering Epstein a plea to one count of conspiracy and a substantive charge, to be served concurrently with any sentence he might receive separately as a result of the state's outstanding

indictment. Given Epstein's continued insistence that federal charges were not appropriate and defense counsel's efforts to minimize the amount of time Epstein would spend in jail, it is questionable whether Epstein would have accepted such a plea offer, but the USAO did not even extend the offer to determine what his response to it would be.

Weighed against possible loss at trial were some clear advantages to a negotiated resolution that ensured a conviction, including sexual offender registration and the opportunity to establish a mechanism for the victims to recover damages. These advantages, added to Acosta's concern about intruding on the state's authority, led him to the conclusion that a two-year state plea would be sufficient to prevent manifest injustice. Menchel told OPR, "I don't believe anybody at the time that this resolution was entered into was looking at the two years as a fair result in terms of the conduct. I think that was not the issue. The issue was whether or not if we took this case to trial, would we risk losing everything?"

During the course of negotiations over a potential federal plea, the USAO agreed to accept a plea for an 18-month sentence, a reduction of six months from the original "non-negotiable" two-year term. The subjects did not have a clear memory of why this reduction was made. Villafaña attributed it to a conversation between Acosta and Lefkowitz, but Acosta attributed it to a decision made during the negotiating process by Villafaña and Lourie, telling OPR that he understood his attorneys needed flexibility to reach a final deal with Epstein.

OPR found no contemporaneous documents showing the basis for the two-year term. Despite extensive subject interviews and review of thousands of contemporaneous records, OPR was unable to determine who initially proposed the two-year term of incarceration or why that term, as opposed to other possible and lengthier terms, was settled on for the initial offer. The term was not tied to statutory or guidelines sentences for potential federal charges or, as far as OPR could determine, possible state charges. Furthermore, while the USAO initially informed the defense that the two-year term was "non-negotiable," Acosta failed to enforce that position and rather than a "floor" for negotiations, it became a "ceiling" that was further reduced during the negotiations. OPR was unable to find any evidence indicating that the term of incarceration was tied either to the federal interest in seeking a just sentence for a serial sexual offender, or to other traditional sentencing factors such as deterrence, either of Epstein or other offenders of similar crimes. Instead, as previously noted, it appears that Acosta primarily considered only a punishment that was somewhat more than that to which the state had agreed. As a result, the USAO had little room to maneuver during the negotiations and because Acosta was unwilling to enforce the "non-negotiable" initial offer, the government ended up with a term of incarceration that was not much more than what the state had initially sought and which was significantly disproportionate to the seriousness of Epstein's conduct.

In sum, it is evident that Acosta's desire to resolve the federal case against Epstein led him to arrive at a target term of incarceration that met his own goal of serving as a "backstop" to the state, but that otherwise was untethered to any articulable, reasonable basis. In assessing the case only through the lens of providing a "backstop" to the state, Acosta failed to consider the need for a punishment commensurate with the seriousness of Epstein's conduct and the federal interest in addressing it.

D. Acosta's Decisions Led to Difficulties Enforcing the NPA

After the agreement was reached, the collateral attacks and continued appeals raised the specter that the defense had negotiated in bad faith. At various points, individual members of the USAO team became frustrated by defense tactics, and in some instances, consideration was given to whether the USAO should declare a unilateral breach. Indeed, on November 24, 2008, the USAO gave notice that it deemed Epstein's participation in work release to be a breach of the agreement but ultimately took no further action. Acosta told OPR: "I was personally very frustrated with the failure to report on October 20, and had I envisioned that entire collateral attack, I think I would have looked at this very differently."

Once the NPA was signed, Acosta could have ignored Epstein's requests for further review by the Department and, if Epstein failed to fulfill his obligations under the NPA to enter his state guilty plea, declared Epstein to be in breach and proceeded to charge him federally. When questioned about this issue, Acosta explained that he believed the Department had the "right" to address Epstein's concerns. He told OPR that because the USAO is part of the Department of Justice, if a defendant asks for Departmental review, it would be "unseemly" to object. During his OPR interview, Sloman described Acosta as very process-oriented, which he attributed to Acosta's prior Department experience. Sloman, however, believed the USAO gave Epstein "[t]oo much process," a result of the USAO's desire to "do the right thing" and to the defense team's ability to keep pressing for more process without triggering a breach of the NPA. Furthermore, Epstein's defense counsel repeatedly and carefully made clear they were not repudiating the agreement. Acosta told OPR that the USAO would have had to declare Epstein in breach of the NPA in order to proceed to file federal charges, and Epstein would undoubtedly have litigated whether his effort to obtain Departmental review constituted a breach. Acosta recalled that he was concerned, as was Sloman, that a unilateral decision to rescind the non-prosecution agreement would result in collateral litigation that would further delay matters and make what was likely a difficult trial even harder.

Acosta's and Sloman's concerns about declaring a breach were not unreasonable. A court would have been unlikely to have determined that defense counsel's appeal of the NPA to the Department and unwillingness to set a state plea date while that appeal was ongoing was sufficient to negate the agreement. However, some of the difficulty the USAO faced in declaring a breach was caused by decisions Acosta made before and shortly after the NPA was signed. For example, and significantly, it was Acosta who changed the language, "Epstein shall enter his guilty plea and be sentenced not later than October 26, 2007" to "Epstein shall use [his] *best efforts* to enter his guilty plea and be sentenced not later than October 26, 2007." (Emphasis added.) Acosta also agreed not to enforce the NPA's October 26, 2007 deadline for entry of Epstein's plea, and he told defense counsel that he had no objection if they decided to pursue an appeal to the Department. Following these decisions, the USAO would have had significant difficulty trying to prove that Epstein was not using his "best efforts" to comply with the NPA and was intentionally failing to comply, as opposed to pursuing a course to which the U.S. Attorney had at least implicitly agreed.

E. Acosta Did Not Exercise Sufficient Supervisory Review over the Process

The question at the center of much of the public controversy concerning the USAO's handling of its criminal investigation of Epstein is why the USAO agreed to resolve a case in which

the defendant faced decades in prison for sexual crimes against minors with such an insignificant term of incarceration, and made numerous other concessions to the defense. As OPR has set forth in substantial detail in this Report, OPR did not find evidence to support allegations that the prosecutors sought to benefit Epstein at the expense of the victims. Instead, the result can more appropriately be tied to Acosta's misplaced concerns about interfering with a traditionally state crime and intruding on state authority. Acosta was also unwilling to abandon the path that he had set, even when Villafaña and Lourie advocated to end the negotiations and even though Acosta himself had learned that the state authorities may not have been a reliable partner.

Many of the problems that developed might have been avoided had Acosta engaged in greater consultation with his staff before making key decisions. The contemporaneous records revealed problems with communication and coordination among the five key participants. Acosta was involved to a greater extent and made more decisions than he did in a typical case. Lourie told OPR that it was "unusual to have a U.S. Attorney get involved with this level of detail." Menchel told OPR, "I know we would have spoken about this case a lot, okay? And I'm sure with Jeff as well, and there were conversations -- a meeting that I had with Marie and Andy as well." Lourie similarly told OPR:

> Well, . . . he would have been talking to Jeff and Matt, talking to me to the extent that he did, he would have been looking at the Pros Memo and . . . the guidance from CEOS, he would have been reading the defense attorney's letters, maybe talking to the State Attorney, I don't know, just . . . all these different sources of information he was -- I'm comfortable that he knew the case, you know, that he was, he was reading everything. Apparently, he, you know, read the Pros Memo, he read all the stuff . . . .

At the same time, Acosta was significantly removed, both in physical distance and in levels in the supervisory chain, from the individuals with the most knowledge of the facts of the case—Villafaña and, to a lesser extent, Lourie. Lourie normally would have signed off on the prosecution memorandum on his own, but as he told OPR, he recognized that the case was going to go through the front office "[b]ecause there was front office involvement from the get go." Yet, although Acosta became involved at certain points in order to make decisions, he did not view himself as overseeing the investigation or the details of implementing his decisions. OPR observed that as a consequence, management of the case suffered from both an absence of ownership of the investigation and failures in communication that affected critical decisions.

On occasion, Villafaña included Acosta directly in emails, but often, information upon which Acosta relied for his decisions and information about the decisions Acosta had made traveled through multiple layers between Acosta and Villafaña. Villafaña did draft a detailed, analytical prosecution memorandum, but it is not clear that Acosta read it and instead may have relied on conversations primarily with Menchel and later with Sloman after Menchel's departure. Despite these discussions, though, it is not clear that Acosta was aware of certain information, such as Oosterbaan's strong opinion from the outset in favor of the prosecution or of Villafaña's concerns and objections to a state-based resolution or the final NPA. Acosta interpreted the state indictment on only one charge as a sign that the case was weak evidentially, but it is not clear that when making his decision to resolve the matter though a state-based plea, he knew the extent to

which Villafaña and Lourie believed that the state had intentionally failed to aggressively pursue a broader state indictment.

One example illustrates this communication gap. In a September 20, 2007 email to Lourie asking him to read the latest version of the proposed "hybrid" federal plea agreement (calling for Epstein to plead to both state and federal charges), Acosta noted, "I don't typically sign plea agreements. *We should only go forward if the trial team supports and signs this agreement.* I didn't even sign the public corruption or [C]ali cartel agreements, so this should not be the first." (Emphasis added.) In his email to Villafaña, Lourie attached Acosta's email and instructed Villafaña to "*change the signature block to your name* and send as final to Jay [Lefkowitz]." (Emphasis added.) Villafaña raised no objection to signing the agreement. Acosta told OPR that he wanted to give the "trial team" a chance to "speak up and let him know" if they did not feel comfortable with the agreement. Villafaña, however, told OPR that she did not understand that she was being given an opportunity to object to the agreement; rather, she believed Acosta wanted her to sign it because he was taking an "arm's length" approach and signaling this "was not his deal." The fact that the top decision maker believed he was giving the line AUSA an opportunity to reflect and stop the process if she believed the deal was inappropriate, but the line AUSA believed she was being ordered to sign the agreement because her boss wanted to distance himself from the decision, reflects a serious communication gap.

As another example, at one point, Villafaña, frustrated and concerned about the decisions being made concerning a possible resolution, requested a meeting with Acosta; in a sternly worded rebuke, Menchel rejected the request. Although Menchel told OPR that he was not prohibiting Villafaña from speaking to Acosta, Villafaña interpreted Menchel's email to mean that she could not seek a meeting with Acosta. As a consequence, Acosta made his decision about a state resolution and the term of incarceration without any direct input from Villafaña. Acosta told OPR that he was unaware that Villafaña had sought a meeting with him and he would have met with her if she had asked him directly. OPR did not find any written evidence of a meeting involving both Acosta—the final decision maker—and Villafaña—the person most knowledgeable about the facts and the law—before Acosta made his decision to resolve the case through state charges or to offer the two-year term, and Villafaña said she did not have any input into the decision. Although a U.S. Attorney is certainly not required to have such direct input, and it may be that Menchel presented what he believed to be Villafaña's views, OPR found no evidence that Acosta was aware of Villafaña's strong views about, and objections to, the proposed resolution.[256]

Two logistical problems hindered effective communication. First, the senior managers involved in the case—Acosta, Sloman, and Menchel—had offices located in Miami, while the offices of the individuals most familiar with facts of the case—Villafaña and, to a lesser extent, Lourie—were located in West Palm Beach. Consequently, Villafaña's discussions with her senior

[256] In her 2017 Declaration in the CVRA litigation, Villafaña stated that, given the challenges of obtaining victims' cooperation with a federal prosecution, "I believed and still believe that a negotiated resolution of the matter was in the best interests of the [USAO] and the victims as a whole. The [USAO] had also reached that same conclusion." Several subjects pointed to this statement as indicating that Villafaña in fact supported the NPA. In her OPR interview, however, Villafaña drew a distinction between resolving the investigation through negotiations that led to what in her view was a reasonable outcome, which she would have supported, and "this negotiated resolution"—that is, the NPA—which she did not support.

managers required more effort than in other offices, where a line AUSA can more easily just stop by a supervisor's office to discuss a case.[257]

Second, key personnel were absent at varying times. Menchel's last day in the office was August 3, 2007, the day he sent to the defense his letter making the initial offer, and presumably in the immediate period before his departure date, Menchel would have been trying to wrap up his outstanding work. Yet, this was also the time when Acosta was deciding how to resolve the matter. Similarly, in the critical month of September, the NPA and plea negotiations intensified and the NPA evolved significantly, with the USAO having to consider multiple different options as key provisions were continuously added or modified while Villafaña pressed to meet her late-September deadline. Although Lourie was involved with the negotiations during this period, he was at the same time transitioning not only to a new job but to one in Washington, D.C., and was traveling between the two locations. Sloman was on vacation in the week preceding the signing, when many significant changes were made to the agreement, and he did not participate in drafting or reviewing the NPA before it was signed. Accordingly, during the key negotiation period for a significant case involving a unique resolution, no one involved had both a thorough understanding of the case and full ownership of the decisions that were being made. Villafaña certainly felt that during the negotiations, she was only implementing decisions made by Acosta. Acosta, however, told OPR that when reviewing the NPA, "I would have reviewed this for the policy concerns. Did it do the . . . bullet points, and my assumption, rightly or wrongly, would have been that Andy and Marie would have looked at this, and that this was . . . appropriate."

The consequences flowing from the lack of ownership and effective communication can be seen in the NPA itself. As demonstrated by the contemporaneous communications, the negotiations were at times confusing as the parties considered multiple options and even revisited proposals previously rejected. Meanwhile, Villafaña sought to keep to a deadline that would allow her to charge Epstein when she had planned to, if the parties did not reach agreement. In the end, Acosta accepted several terms with little apparent discussion or consideration of the ramifications.

The USAO's agreement not to prosecute "any potential co-conspirators" is a notable example. As previously noted, the only written discussion about the term that OPR found was Villafaña's email to Lourie and the incoming West Palm Beach manager, with copies to her co-counsel and direct supervisor, stating that she did not believe the provision "hurts us," and neither Acosta, Lourie, nor Villafaña recalled any further discussion about the provision. Although OPR did not find evidence showing that Acosta, Lourie, or Villafaña intended the scope of the provision to protect anyone other than Epstein's four assistants, the plain language of the provision precluded the USAO from prosecuting anyone who engaged with Epstein in his criminal conduct, within the limitations set by the overall agreement. This broad prosecution declination would likely be unwise in most cases but in this case in particular, the USAO did not have a sufficient investigative basis from which it could conclude with any reasonable certitude that there were no other individuals who should be held accountable along with Epstein or that evidence might not be developed implicating others. Prosecutors rarely promise not to prosecute unidentified third

[257] In his OPR interview, Acosta commented that although Menchel's office was on the same floor as Acosta's, he was in a different suite, which "affects interaction."

parties.[258] The rush to reach a resolution should not have led the USAO to agree to such a significant provision without a full consideration of the potential consequences and justification for the provision. It is highly doubtful that the USAO's refusal to agree to that term would have itself caused the negotiations to fail; the USAO's rejection of the defense proposal concerning immigration consequences did not affect Epstein's willingness to sign the agreement. The possibility that individuals other than Epstein's four female assistants could have criminal culpability for their involvement in his scheme could have been anticipated and should have caused more careful consideration of the provision.

Similarly, the confidentiality provision was also accepted with little apparent consideration of the implications of the provision for the victims, and it eventually became clear that the defense interpreted the provision as precluding the USAO from informing the victims about the status of the investigation. Agreeing to a provision that restricted the USAO's ability to disclose or release information as it deemed appropriate mired the USAO in disputes about whether it was or would be violating the terms of the NPA by disclosing information to victims or the special master. Decisions about disclosure of information should have remained within the authority and province of the USAO to decide as it saw fit.

There is nothing improper about a U.S. Attorney not having a meeting with the line AUSA or other involved members of the prosecution team before he or she makes a decision in a given case; indeed, U.S. Attorneys often make decisions without having direct input from line AUSAs. And Acosta did have discussions with Menchel, and possibly Sloman, before making the critical decision to resolve the matter through a state plea, although the specifics of those discussions could not be recalled by the participants due to the passage of time. This case, however, was different from the norm, and Acosta was considering a resolution that was significantly different from the usual plea agreement. Contemporaneous records show that Acosta believed the case should be handled like any other, but Acosta's decision to fashion an unorthodox resolution made the case unlike any other, and it therefore required appropriate and commensurate oversight. Acosta may well have decided to proceed in the same fashion even if he had sought and received a full briefing

---

[258] CEOS Chief Oosterbaan told OPR this provision was "very unusual." Principal Associate Deputy Attorney General John Roth commented, "I don't know how it is that you give immunity to somebody who's not identified. I just don't know how that works." Villafaña's co-counsel told OPR:

> [I]t's effectively transactional immunity which I didn't think we were supposed to do at the Department of Justice. . . . I've never heard of anything of the sort. . . . [W]e go to great lengths in most plea agreements to go and not give immunity for example, for crimes of violence, . . . for anything beyond the specific offense which was being investigated during the specific time periods and for you and nobody else. I mean on rare occasion I've seen cases where say someone was dealing drugs and their wife was involved. . . . And they've got kids. . . . [and] it's understood that the wife probably could be prosecuted and sent to jail too, but you know the husband's willing to go and take the weight . . . . This is not one of those.

Deputy Attorney General Filip called the provision "pretty weird." Menchel's successor as Criminal Chief told OPR that he had never heard of such a thing in his 33 years of experience as a prosecutor. A senior AUSA with substantial experience prosecuting sex crimes against children commented that it was "horrendous" to provide immunity for participants in such conduct.

from Villafaña and others, but given the highly unusual procedure being considered, his decision should have been made only after a full consideration of all of the possible ramifications and consequences of pushing the matter into the state court system, with which neither Villafaña nor the other subjects had experience, along with consideration of the legal and evidentiary issues and possible means of overcoming those issues. OPR did not find evidence indicating that such a meeting or discussion with the full team was held before the decision was made to pursue the state-based resolution, before the decision was made to offer a two-year term of incarceration, or before the NPA, with its unusual terms, was signed. As Acosta later recognized and told OPR, "And a question that I think is a valid one in my mind is, did the focus on, let's just get this done and get a jail term, mean that we didn't take a step back and say, let's evaluate how this train is moving?"

Many features of the NPA were given inadequate consideration, including core provisions like the term of incarceration and sexual offender registration, with the result that Epstein was able to manipulate the process to his benefit. Members of his senior staff held differing opinions about some of the issues that Acosta felt were important and that factored into his decision-making. There does not seem to be a point, however, at which those differing opinions were considered when forming a strategy; rather, Acosta seems to have made a decision that everyone beneath him followed and attempted to implement but without a considered strategy beyond attaining the three core elements. As the U.S. Attorney, Acosta had authority to proceed in this manner, but many of the problems that developed with the NPA might have been avoided with a more thoughtful approach. As Acosta belatedly recognized, "[I]f I was advising a fellow U.S. Attorney today, I would say, think it through."[259]

No one of the individual problems discussed above necessarily demonstrates poor judgment by itself. However, in combination, the evidence shows that the state-based resolution was ill conceived from the start and that the NPA resulted from a flawed decision-making process. From the time the USAO opened its investigation, Acosta recognized the federal interest in prosecuting Epstein, yet after that investigation had run for more than a year, he set the investigation on a path not originally contemplated. Having done so, he had responsibility for ensuring that he received and considered all of the necessary information before putting an end to a federal investigation into serious criminal conduct. Acosta's failure to adequately consider the full ramifications of the NPA contributed to a process and ultimately a result that left not only the line AUSA and the FBI case agents dissatisfied but also caused victims and the public to question the motives of the prosecutors and whether any reasonable measure of justice was achieved. Accordingly, OPR concludes that Acosta exercised poor judgment in that he chose a course of action that was in marked contrast to the action that the Department would reasonably expect an attorney exercising good judgment to take.

[259] In commenting on OPR's draft report, Acosta's attorney acknowledged that "[t]he matter would have benefited from more consistent staffing and attention."

[Page Intentionally Left Blank]

CHAPTER THREE

ISSUES RELATING TO THE GOVERNMENT'S INTERACTIONS AND COMMUNICATIONS WITH VICTIMS

PART ONE: FACTUAL BACKGROUND

I. OVERVIEW

Chapter Three describes the events pertaining to the federal government's interactions and communications with victims in the Epstein case, and should be read in conjunction with the factual background set forth in Chapter Two, Part One. This chapter sets forth the pertinent legal authorities and Department policies and practices regarding victim notification and consultation, as well as OPR's analysis and conclusions. OPR discusses key events relating to the USAO's and the FBI's interactions with victims before and after the signing of the NPA, beginning with the FBI's initial contact with victims through letters informing them that the FBI had initiated an investigation. A timeline of key events is provided on the following page.

II. THE CVRA, 18 U.S.C. § 3771

A. History

In December 1982, the President's Task Force on Victims of Crime issued a final report outlining recommendations for the three branches of government to improve the treatment of crime victims. The Task Force concluded that victims have been "overlooked, their pleas for justice have gone unheeded, and their wounds—personal, emotional and financial—have gone unattended."[260] Thereafter, the government enacted various laws addressing victims' roles in the criminal justice system: the Victim and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Victims' Rights and Restitution Act of 1990 (VRRA), the Violent Crime Control and Law Enforcement Act of 1994, the Antiterrorism and Effective Death Penalty Act of 1996, the Victim Rights Clarification Act of 1997, and the Justice for All Act of 2004.[261]

The CVRA, enacted on October 30, 2004, as part of the Justice for All Act, was designed to protect crime victims and to make them "full participants in the criminal justice system."[262] The CVRA resulted from a multi-year bipartisan effort to approve a proposal for a constitutional amendment guaranteeing victims' rights, some of which had previously been codified as a victims'

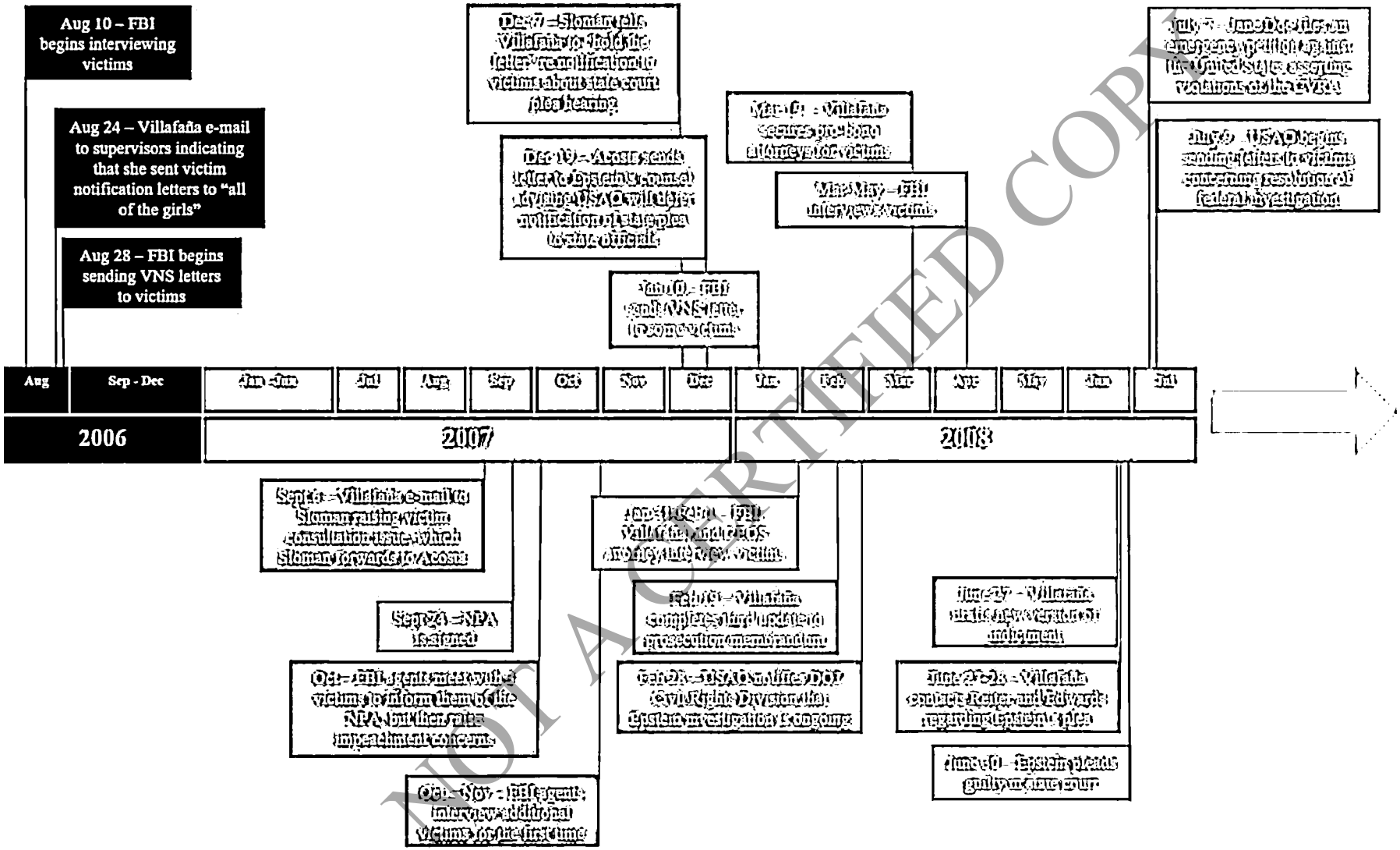
---

260 President's Task Force on Victims of Crime Final Report at ii (Dec. 1982).

261 *See* Pub. L. No. 97-291 (Victim and Witness Protection Act) (1982); Pub. L. No. 98-473 (Victims of Crime Act) (1984); Pub. L. No. 101-647 (Victims' Rights and Restitution Act) (1990); Pub. L. No. 103-322 (Violent Crime Control and Law Enforcement Act) (1994); Pub. L. No. 104-132 (Antiterrorism and Effective Death Penalty Act) (1996); Pub. L. No. 105-6 (Victim Rights Clarification Act) (1997); and Pub. L. No. 108-405 (Justice for All Act) (2004).

262 *Kenna v. U.S. Dist. Court*, 435 F.3d 1011, 1016 (9th Cir. 2006); *United States v. Moussaoui*, 483 F.3d 220, 234 (4th Cir. 2007); and Justice for All Act.

Timeline of Key Events for Crime Victims' Rights Act Analysis



Bill of Rights in the VRRA.[263] Following multiple Senate Judiciary Committee subcommittee hearings and various revisions of the proposed amendment, the Senators determined that such an amendment was unlikely to be approved and, instead, they presented the CVRA as a compromise measure.[264]

B. Enumerated Rights

The CVRA defines the term "crime victim" as "a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia."[265] Initially, and at the time relevant to the federal Epstein investigation, the CVRA afforded crime victims the following eight rights:

> (1) The right to be reasonably protected from the accused.
>
> (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
>
> (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
>
> (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
>
> (5) The reasonable right to confer with the attorney for the Government in the case.

---

263 *See* 150 Cong. Rec. S4260-01 at 1, 5 (2004). The VRRA identified victims' rights to (1) be treated with fairness and with respect for the victim's dignity and privacy; (2) be reasonably protected from the accused offender; (3) be notified of court proceedings; (4) be present at all public court proceedings that relate to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial; (5) confer with an attorney for the Government in the case; (6) restitution; and (7) information about the conviction, sentencing, imprisonment, and release of the offender. 42 U.S.C. § 10606(b) (1990). The relevant text of the VRRA is set forth in Chapter Three, Part Two, Section 1.B of this Report.

264 150 Cong. Rec. S4260-01 at 1, 5 (2004). Although nine congressional hearings were held between 1996 and 2003 concerning amending the Constitution to address victims' rights, neither chamber of Congress voted on legislation proposing an amendment. United States Government Accountability Office (GAO), GAO-09-54, *Report to Congressional Committees: Crime Victims' Rights Act – Increasing Awareness, Modifying the Complaint Process and Enhancing Compliance Monitoring Will Improve Implementation of the Act* at 16 (Dec. 2008) (GAO *CVRA Awareness Report*).

265 The relevant text of the CVRA is set forth in Chapter Three, Part Two, Section I.A of this Report.

(6) The right to full and timely restitution as provided in law.

(7) The right to proceedings free from unreasonable delay.

(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Although many of the rights included in the CVRA already existed in federal law as part of the VRRA, the CVRA afforded crime victims standing to assert their rights in federal court or by administrative complaint to the Department, and obligated the court to ensure that such rights were afforded. The passage of the CVRA repealed the rights portion of the VRRA (42 U.S.C. § 10606), but kept intact the portion of the VRRA directing federal law enforcement agencies to provide certain victim services, such as counseling and medical care referrals (42 U.S.C. § 10607(c)). Department training emphasizes that the VRRA obligates the Department to provide victim services, which attach upon the detection of a crime, while the CVRA contains court-enforceable rights that attach upon the filing of a charging instrument.

In 2015, Congress amended the CVRA and added the following two rights:[266]

(9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.

(10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.

III. THE DEPARTMENT'S INTERPRETATION OF THE CVRA'S DEFINITION OF "CRIME VICTIM" AT THE TIME OF THE EPSTEIN INVESTIGATION

A. April 1, 2005 Office of Legal Counsel "Preliminary Review"

In 2005, Department management requested informal guidance from the Department's Office of Legal Counsel (OLC) regarding interpretation of the CVRA's definition of "crime victim."[267] On April 1, 2005, OLC provided "preliminary and informal" guidance by email, concluding that "the status of a 'crime victim' may be reasonably understood to commence upon the filing of a complaint, and that the status ends if there is a subsequent decision not to indict or prosecute the Federal offense that directly caused the victim's harm."[268]

---

266 H. Rep. No. 114-7 (Jan. 27, 2015).

267 OLC is responsible for providing legal advice to the President, Department components, and other executive branch agencies.

268 The OLC 2005 Informal Guidance is summarized in a Memorandum Opinion to the Acting Deputy Attorney General from Deputy Assistant Attorney General John E. Bies (Dec. 17, 2010), published as Office of Legal Counsel,

OLC concluded that because the CVRA defines "'crime victim' as a 'person directly and proximately harmed by the commission of a Federal offense,' . . . the definition of victim is thus tethered to the identification of a 'Federal offense,' an event that occurs with the filing of a complaint." OLC further concluded that because the House Report stated that the CVRA codifies the "'rights of crime victims in the Federal judicial system'" and a complaint "commences the 'judicial process' and places an offense within the 'judicial system,'" the legislature must have intended for CVRA rights to commence upon the filing of a complaint.

OLC also found that the language of the CVRA rights supported its interpretation. For example, the first right grants a victim protection from "the accused," not a suspect. Additionally, the second, third, and fourth rights refer to "victim notification, and access to, public proceedings involving release, plea, sentencing or parole—none of which commence prior to the filing of a complaint."

B. 2005 Attorney General Guidelines for Victim and Witness Assistance

In May 2005, the Department updated its Attorney General Guidelines for Victim and Witness Assistance (2005 Guidelines) to include the CVRA.[269] The 2005 Guidelines specifically cited the CVRA requirement that agencies "engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded" their CVRA rights, which in 2005 encompassed the initial eight CVRA rights.

The 2005 Guidelines provided detail regarding implementation of the Department's CVRA duties and divided criminal cases into an "investigation stage," a "prosecution stage," and a "corrections stage." The individuals responsible for notifying crime victims of their CVRA rights varied depending on the stage of the proceedings.

During the "investigation stage" of cases in which the FBI was the investigating agency, the Special Agent in Charge was responsible for identifying the victims "[a]t the earliest opportunity after the detection of a crime" and notifying them of their rights under the CVRA and services available under the VRRA and other federal statutes.

> [D]uring the investigative stage, [the Department] mandates compliance with the Victims' Rights and Restitution Act, 42 U.S.C § 10607, which requires federal officials to, among other things, identify victims, protect victims, arrange for victims to receive reasonable protection from suspected offenders, and provide

The Availability of Crime Victims' Rights Under the Crime Victims' Rights Act of 2004 (Dec. 17, 2010) ("OLC *Availability of Crime Victims' Rights* (2010)") and available at https://www.justice.gov/sites/default/files/olc/opinions/2010/12/31/availability-crime-victims-rights.pdf. "That [2005] informal guidance did not foreclose the possibility that other definitions would also be reasonable." OLC *Availability of Crime Victims' Rights* (2010) at 1.

269 The 2005 Guidelines are set forth in relevant part in Chapter Three, Part Two, Section II of this Report. The Department promulgated the guidelines in response to a congressional directive in a predecessor statute to the CVRA, which instructed the Attorney General to develop and implement such guidelines. Victim and Witness Protection Act, Pub. L. No. 97-291, § 6, 96 Stat. 1248 (1982). The 2005 Guidelines were superseded in October 2011, as explained below.

> information about available services for victims. Therefore, even though [the Department] may not afford CVRA rights to victims if charges have not been filed in their cases, the [D]epartment may provide certain services to victims that may serve the same function as some CVRA rights.[270]

The 2005 Guidelines stated that the "prosecution stage" of the case began when "charges are filed and continue[d] through postsentencing legal proceedings." The "U.S. Attorney in whose district the prosecution is pending" was responsible for making "best efforts to see that crime victims are notified" of their rights under the CVRA.

During the prosecution stage, the 2005 Guidelines required the U.S. Attorney, or a designee, to notify crime victims of case events, such as the filing of charges; the release of an offender; the schedule of court proceedings; the acceptance of a guilty plea or nolo contendere or rendering of a verdict; and any sentence imposed. The 2005 Guidelines required the responsible official to "provide the victim with reasonable, accurate, and timely notice of any public court proceeding . . . that involves the crime against the victim."

The 2005 Guidelines specifically required federal prosecutors to "be available to consult with victims about [their] major case decisions," such as dismissals, release of the accused, plea negotiations, and pretrial diversion. In particular, the 2005 Guidelines required the responsible official to make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations. Nevertheless, the 2005 Guidelines cautioned prosecutors to "consider factors relevant to the wisdom and practicality of giving notice and considering [the victim's] views" in light of various factors such as "[w]hether the proposed plea involves confidential information or conditions" and "[w]hether the victim is a possible witness in the case and the effect that relaying any information may have on the defendant's right to a fair trial." Lastly, the 2005 Guidelines stated that "[a] strong presumption exists in favor of providing rather than withholding assistance and services to victims and witnesses of crime."

The "corrections stage" involved both pretrial detention of the defendant and incarceration following a conviction. Depending on the agency having custody of the defendant, the U.S. Attorney or other agencies were responsible for victim notifications during this stage.

IV. USAO AND FBI VICTIM/WITNESS NOTIFICATION PRACTICE AT THE TIME OF THE EPSTEIN INVESTIGATION

A. USAO Training

As U.S. Attorney, Acosta disseminated the May 2005 updated Guidelines to USAO personnel with a transmittal memorandum dated February 27, 2006, stating that he expected each recipient "to read and become familiar with the [2005] Guidelines." Acosta noted in the memorandum that the USAO had recently held an "all office training" addressing the 2005 Guidelines and that new USAO attorneys who missed the training were required to view a videotaped version of the training "immediately." Acosta further noted that the USAO's

---

270 GAO *CVRA Awareness Report* at 66.

victim/witness staff were "ready to assist you with the details of victim notification, and other areas for which United States Attorney[']s Offices are now explicitly responsible under the act." The USAO's Victim Witness Program Coordinator told OPR that the USAO provided annual mandatory office-wide training on victim/witness issues and training for new employees.

B. The Automated Victim Notification System

Both the FBI and the USAO manage contacts with crime victims through the Victim Notification System (VNS), an automated system maintained by the Executive Office for United States Attorneys. The 2005 Guidelines mandated that "victim contact information and notice to victims of events . . . shall, absent exceptional circumstances (such as cases involving juvenile or foreign victims), be conducted and maintained using VNS." The VNS is separate from agency case management systems maintained by the FBI and the USAO. Both the FBI and the USAO use the VNS to generate form letters to victims at various points in the investigation and the prosecution of a criminal case. Although each form letter can be augmented to add some limited individual matter-specific content, the letters contain specific language concerning the purpose of the contact that cannot be removed (such as the arrest of the defendant or the scheduling of a sentencing hearing).[271]

In the usual course of a criminal case, the FBI collects victim contact information during the investigation stage, which it stores in its case management system. The FBI's Victim Specialist exports the victim information data from the FBI's case management system into the VNS database. Victim information stored in the VNS is linked to the investigation's VNS case number. At the time of the Epstein investigation, the FBI's Victim Specialist could use the VNS to generate seven different form notification letters: (1) initial notification; (2) case is under investigation; (3) arrest of the defendant; (4) declination of prosecution; (5) other; (6) advice of victim rights; and (7) investigation closed.

After a charging document has been filed and the "prosecution stage" begins, the USAO's Victim Witness Specialist assumes responsibility for victim notification.[272] The USAO imports data from its case management system into the VNS and links to the previously loaded FBI VNS data. The USAO's Victim Witness Specialist uses the VNS to generate form letters providing notice of case events, such as charges filed; an arraignment; a proposed plea agreement; change of plea hearings; sentencing hearings; and the result of sentencing hearings.

---

271 U.S. Dept. of Justice Office of the Inspector General Audit Division Audit Report 08-04, *The Department of Justice's Victim Notification System* at 29 (Jan. 2008), available at https://oig.justice.gov/reports/EOUSA/a0804/final.pdf. The 2008 audit identified concerns with the VNS templates, including that "VNS users . . . cannot alter the format to ensure that it fits with the specific case for which it is being sent," and many users had noted that "information in notifications became confusing and sometimes contradictory when various types of notifications were combined in the same letter."

272 The FBI and the USAO have different titles for the individual who maintains victim contact: the FBI title is "Victim Specialist," and the USAO title is "Victim Witness Specialist."

C. FBI Victim Notification Pamphlets

The 2005 Guidelines recommended that "victims be given a printed brochure or card that briefly describes their rights and available services . . . and [contact information for] the victim-witness coordinator or specialist . . . ." At the time of the Epstein investigation, FBI agents nationwide routinely followed a practice of providing victims with pamphlets entitled, "Help for Victims of Crime" and "The Department of Justice Victim Notification System." The "Help for Victims of Crime" pamphlet contained a listing of the eight CVRA rights. The pamphlet stated: "Most of these rights pertain to events occurring after the indictment of an individual for the crime, and it will be the responsibility of the prosecuting United States Attorney's Office to ensure you are afforded those rights." The case agent in the Epstein investigation told OPR that she provided victims with the FBI pamphlet upon the conclusion of an interview. The pamphlet entitled "The Department of Justice Victim Notification System" provided an overview of the VNS and instructions on how to access the system.

V. THE INTRODUCTORY USAO AND FBI LETTERS TO VICTIMS

A. August 2006: The FBI Victim Notification Letters

On August 8, 2006, shortly after the FBI opened its investigation into Epstein, the Victim Specialist for the West Palm Beach FBI office, under the case agent's direction, prepared a "Victim Notification Form" naming 30 victims in the Epstein investigation and stating that "additional pertinent information" about them was available in the VNS.[273] Thereafter, the Victim Specialist entered individual victim contact information she received from the case agent into the VNS whenever the case agent directed the Victim Specialist to generate an initial letter to a particular victim. The FBI case agent told OPR that formal victim notification was "always handled by the [FBI's Victim Specialist]."[274]

According to the VNS records, beginning on August 28, 2006, the FBI Victim Specialist used the VNS to generate FBI letters to be sent to the victims, over her signature, identifying the eight CVRA rights and inviting victims to provide updated contact information in order to receive current status information about the matter. The FBI letters described the case as "currently under investigation" and noted that "[t]his can be a lengthy process and we request your continued patience while we conduct a thorough investigation." The letters also stated that some of the CVRA rights did not take effect until after an arrest or indictment: "We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights." A sample letter follows.

---

[273] These 30 were drawn from the PBPD investigative file and included individuals that the PBPD had not designated as victims and individuals the PBPD had identified but not interviewed.

[274] The case agent told OPR, "[O]nce we identify a victim, then we bring [the FBI Victim Specialist] in, and as far as anything pertaining to victim rights . . . and any resources, federal resources these victims may need comes from [her], the Victim Specialist."

U.S. Department of Justice
Federal Bureau of Investigation
FBI – West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970

August 28, 2006

[redacted]

[redacted]

Re: Case Number: [redacted]

Dear [redacted]

Your name was referred to the FBI's Victim Assistance Program as being a possible victim of a federal crime. We appreciate your assistance and cooperation while we are investigating this case. We would like to make you aware of the victim services that may be available to you and to answer any questions you may have regarding the criminal justice process throughout the investigation. Our program is part of the FBI's effort to ensure the victims are treated with respect and are provided information about their rights under federal law. These rights include notification of the status of the case. The enclosed brochures provide information about the FBI's Victim Assistance Program, resources and instructions for accessing the Victim Notification System (VNS). VNS is designed to provide you with information regarding the status of your case.

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at [redacted]. In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [redacted] and Personal Identification Number (PIN) [redacted] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or [redacted] business name) as currently contained in VNS. The name you should enter is [redacted]

[redacted]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,

[redacted]

Victim Specialist

VNS data logs, correspondence maintained in the FBI's case management system, and FBI interview reports for the Epstein investigation reflect that, during the Epstein investigation, the FBI generally issued its victim notification letters after the victim had been interviewed by FBI case agents, but its practice was not uniform.[275]

B. August 2006: The USAO's Letters to Victims

During the time that the FBI Victim Specialist was preparing and sending FBI victim notification letters, Villafaña was also preparing her own introductory letter in anticipation of meeting with each victim receiving the letter. Villafaña told OPR that she was "generally aware that the FBI sends letters" but believed the FBI's "process didn't . . . have anything to do with my process." Villafaña told OPR the "FBI had their own victim notification system and their own guidelines for when information had to be provided and what information had to be provided." Moreover, Villafaña "didn't know when [FBI] letters went out" or "what they said."[276] Nevertheless, Villafaña told OPR that she did not intend for the letters she drafted to interfere with the FBI's notification responsibilities.

In August 2006, Villafaña drafted her letters to victims who had been initially identified by the FBI based on the PBPD investigative file. Villafaña told OPR that she "made the decision to make contact with victims early," and she composed the introductory letter and determined to whom they would be sent. Although these letters contained CVRA rights information, Villafaña mainly intended to use them as a vehicle to "introduce" herself and let the victims know the federal investigation "would be a different process" from the State Attorney's Office investigation in which "the victims felt they had not been particularly well-treated." Villafaña told OPR that in a case in which she "needed to be talking to young girls frequently and asking them really intimate

[275] OPR found no uniformity in the time lapse between the FBI's interview of a victim and the issuance of an FBI letter to that particular victim, as the span of time between the two events varied from a few days to months. Furthermore, not every victim interviewed by the FBI received an FBI letter subsequent to her interview, and some FBI letters were sent to victims who had not been interviewed by the case agents. Finally, OPR's review of FBI VNS data revealed some letters that appeared to have been generated in the VNS and not included in the FBI case file. OPR could not confirm whether such letters were mailed or delivered.

[276] Villafaña, who did not have supervisory authority over the FBI's Victim Specialist, told OPR that she did not review the FBI notification letters and did not see them until she gathered them for production in the CVRA litigation, which was initiated after Epstein pled guilty on June 30, 2008.

questions," she wanted to "make sure that they . . . feel like they can trust me." Villafaña directed the FBI case agents to hand deliver the letters "as they were conducting interviews." Villafaña told OPR that the USAO had "no standardized way to do any victim notifications prior to" the filing of federal charges, and therefore Villafaña did not use a template or VNS-generated letter for content, but instead used a letter she "had created and crafted [herself] for another case."[277]

The letters contained contact information for Villafaña, the FBI case agent, and the Department's Office for Victims of Crime in Washington, D.C., and itemized the CVRA rights. The USAO letters described the case as "under investigation" and stated that the victim would be notified "[i]f anyone is charged in connection with the investigation." The letters stated that, in addition to their rights under the CVRA, victims were entitled to counseling, medical services, and potential restitution from the perpetrator, and that, upon request, the government would provide a list of counseling and medical services.[278] Lastly, the letters advised that investigators for the defense might contact the victims and those who felt threatened or harassed should contact Villafaña or the FBI case agent.

Although the USAO letters did not contain any language limiting CVRA rights to the post-arrest or indictment stage, Villafaña told OPR that she did not intend for the letters to activate the USAO's CVRA obligations, which she believed attached only after the filing of a criminal charge. Villafaña told OPR that she did not think that victims potentially receiving both an FBI letter and a USAO letter would be confused about their CVRA rights because the USAO letter "was coming with an introduction from the agents [who were hand delivering them]." Later, in the course of the CVRA litigation, Villafaña stated that she and the investigative team "adopted an approach of providing more notice and assistance to potential victims than the CVRA may have required, even before the circumstances of those individuals had been fully investigated and before any charging decisions had been made."[279]

Villafaña informed Lourie and Sloman about the letters, but the letters were not reviewed by any of Villafaña's supervisors, who considered such correspondence to be a non-management task. Acosta told OPR, "I've had no other case where I'm even aware of victims being notified, because I assume it all operates without it rising to management level." Similarly, Menchel told OPR,

---

277 Villafaña told OPR that she thought that "at one point," she showed the letter to the USAO's Victim Witness Specialist who "said it was fine." The USAO's Victim Witness Specialist told OPR that because the USAO did not file a charging document in the Epstein matter, the USAO did not obtain VNS information from the FBI and did not assume responsibility for victim contact. The USAO's Victim Witness Specialist had no contact with Epstein's victims, and OPR's examination of VNS data revealed no USAO case number linked to the FBI's VNS data concerning the Epstein investigation. OPR did locate some victim contact information in the VNS relating to the USAO's case number associated with the Epstein-related CVRA litigation filed in July 2008.

278 Through its administration of the Crime Victims Fund, the Department's Office for Victims of Crime supports programs and services to help victims of crime.

279 Villafaña informed OPR that, as the USAO Project Safe Childhood Coordinator [focusing on prosecutions of individuals who exploit children through the internet], she "treated the [Guidelines] as a floor and tried to provide a higher standard of contact."

> [A]s Chief of the Criminal Division of the USAO, I did not consider it to be within my purview to ensure that appropriate victim notifications occurred in every matter investigated or brought by the Office. I also recall that the USAO employed one or more victim-witness coordinators to work with line prosecutors to ensure that appropriate victim notifications occurred in every matter investigated or brought by the Office.

C. USAO and FBI Letters Are Hand Delivered

The FBI case agent told OPR that the FBI made its notifications "at the time that we met [with] the girls." The case agent recalled that she hand delivered the USAO letters and FBI letters to some victims following in-person interviews, and in the instances when she did not provide a victim with a letter, she provided an FBI pamphlet containing CVRA rights information similar to that set forth in the FBI letters.[280] The co-case agent also recalled that he may have delivered "a few" letters to victims. The FBI Victim Specialist told OPR that she mailed some FBI letters to victims and she provided some FBI letters to the case agent for hand delivery.

Nevertheless, the case agent told OPR that she "did not sit there and go through every right" with the victims. She stated, however, "[I]n the beginning whether it was through [the FBI Victim Specialist] giving the letter, me giving a letter, the pamphlet, I believed that the girls knew that they were victims and had rights, and they had a resource, [the FBI Victim Specialist], that they could call for that." The FBI case agent further explained that once the case agents connected the FBI Victim Specialist with each victim, the Victim Specialist handled the victims' "rights and resources."

VI. AUGUST 2006 – SEPTEMBER 2007: FBI AND USAO CONTACTS WITH VICTIMS BEFORE THE NPA IS SIGNED

Early in the investigation, Villafaña informed her supervisors that, up to that point, "everyone whom the agents have spoken with so far has been willing to tell her story. Getting them to tell their stories in front of a jury at trial may be much harder." Between August 2006 and September 24, 2007, when the NPA was signed, the FBI case agents interviewed 22 victims. On a few occasions, Villafaña met with victims together with the FBI. Villafaña's May 1, 2007 draft indictment included substantive crimes against multiple victims, and Villafaña described the circumstances of each of their encounters with Epstein in her prosecution memorandum.

There is some evidence indicating that during interviews, some of the victims expressed to the FBI case agents and Villafaña concerns about participating in a federal trial of Epstein, and those discussions touched upon, in broad terms, the victims' views regarding the desired outcome of the investigation. Before the USAO entered into the NPA, however, no one from the

[280] The case agent told OPR, "I remember giving letters to the girls when we would talk to them at . . . the conclusion, or . . . if I didn't have the file on me[,] I had pamphlets in my car, or I made sure [the victims had contact information for the FBI's Victim Specialist]."

government informed any victim about the potential for resolving the federal investigation through a state plea.

A. The Case Agents and Villafaña Solicit Some Victims' Opinions about Resolving the Federal Investigation

Villafaña told OPR that when she and the case agents met with victims, "we would ask them how they wanted the case to be resolved."[281]

> And most of them wanted the case to be resolved via a plea. Some of them wanted him not to be prosecuted at all. Most of them did not want to have to come to court and testify. They were very worried about their privacy rights. Some of them wanted him to go to jail. But . . . [s]ome of them talked about bad experiences with the State Attorney's Office. And so, I felt like sending them back to the State Attorney's Office was not something that they would have supported.

Villafaña told OPR that she also recalled that some victims "expressed . . . concern about their safety," and were worried that Epstein would find out about their participation in the investigation. In her 2017 declaration submitted in the CVRA litigation, Villafaña stated that the two CVRA petitioners "never communicated [their] desires to me or the FBI case agents and my role was to evaluate the entire situation, consider the input received from all of the victims, and allow the Office to exercise its prosecutorial discretion accordingly."[282] She also noted that some victims "fear[ed] having their involvement with Epstein revealed and the negative impact it would have on their relationships with family members, boyfriends, and others."

In the FBI case agent's 2017 declaration filed in the CVRA litigation, she stated, "During interviews conducted from 2006 to 2008, no victims expressed a strong opinion that Epstein be prosecuted." She further described the concerns of some of the victims:

> Throughout the investigation, we interviewed many [of Epstein's] victims . . . . A majority of the victims expressed concern about the possible disclosure of their identities to the public. A number of the victims raised concerns about having to testify and/or their parents finding out about their involvement with Mr. Epstein. Additionally,

---

[281] Villafaña created for OPR a chart listing victims identified in the state and federal investigations, with notations indicating several with whom Villafaña recalled discussing their opinions about resolving the case. The chart, however, does not indicate what the victims said, and Villafaña told OPR that the information contained in the chart was based on her memory of her interactions with each victim. OPR was unable to determine the details or extent of any such discussions occurring before September 24, 2007, because Villafaña did not have contemporaneous notes of the interviews, and the FBI reports and corresponding notes of the interviews did not contain information about the victims' desired outcomes. The victims who provided information to OPR did not recall discussing potential resolution of the federal investigation with anyone from the government.

[282] In the declaration, Villafaña stated, "Jane Doe 2 specifically told me that she did not want Epstein prosecuted."

> for some victims, learning of the Epstein investigation and possible exposure of their identities caused them emotional distress. Overall, many of the victims were troubled about the existence of the investigation. They displayed feelings of embarrassment and humiliation and were reluctant to talk to investigators. Some victims who were identified through the investigation refused even to speak to us. Our concerns about the victims' well-being and getting to the truth were always at the forefront of our handling of the investigation.

The case agent told OPR that although she encountered victims who were "strong" and "believable," she did not encounter any who vigorously advocated for the prosecution of Epstein. Rather, "they were embarrassed," "didn't want their parents to know," and "wanted to forget."[283]

As of September 24, 2007, the date the NPA was signed, Villafaña informed Epstein attorney Lefkowitz that she had compiled a preliminary list of victims including "34 confirmed minors" and 6 other potential minor victims who had not yet been interviewed by the FBI.[284] Although the government had contacted many victims before the NPA was signed, Villafaña acknowledged during the CVRA litigation that "individual victims were not consulted regarding the agreement."

B. Before the NPA Is Signed, Villafaña Expresses Concern That Victims Have Not Been Consulted

Before the NPA was signed, Villafaña articulated to her supervisors concerns about the government's failure to consult with victims.

1. July 2007: Villafaña's Email Exchanges with Menchel

In July 2007, Villafaña learned that Menchel had discussed with defense counsel Sanchez a possible state resolution to the federal investigation of Epstein. Villafaña was upset by this information, and sent a strongly worded email to Menchel voicing her concerns. (A full account of their email exchange is set forth at Chapter Two, Part One, Section IV.A.2.) In that email, she told him that it was "inappropriate [for you] to make a plea offer that you know is completely unacceptable to the FBI, ICE, the victims, and me. These plea negotiations violate . . . all of the

---

283 The case agent also noted that the victim who became CVRA petitioner Jane Doe #2 had expressed in her April 2007 video-recorded FBI interview her opinion that "nothing should happen to Epstein."

284 The "victims' list" for purposes of the NPA was intended to include the names of all individuals whom the government was prepared to name in a charging document "as victims of an offense enumerated in 18 U.S.C. § 2255." Although the charges Villafaña proposed on May 1, 2007, were based on crimes against 13 victims, thereafter, as explained in Chapter Two of this Report, she continued to revise the proposed charges, adding and removing victims as the federal investigation developed further evidence. At the time the NPA was signed, the proposed charges were based on crimes against 19 victims, but others had been identified for potential inclusion.

various iterations of the victims' rights legislation."[285] Villafaña explained to OPR her reference to the victims:

> [M]y concern was that [Menchel] was violating the CVRA which requires the attorneys for the government, which[] includes me[,] to confer with the victims, and the [VRRA], which requires the agents to keep the victims apprised of what's happening with the case. So in essence, I felt like he was exposing both myself and the agents to allegations of not abiding by our obligations by engaging in these plea negotiations without letting us know about it.[286]

In his reply to Villafaña's email, and after noting that he found her email "totally inappropriate," Menchel denied that he had violated any Departmental policy, and he noted that "[a]s Chief of the Criminal Division, I am the person designated by the U.S. Attorney to exercise appropriate discretion in deciding whether certain pleas are appropriate and consistent with" Departmental policy. Perceiving Menchel's rebuke as a criticism of her judgment, Villafaña responded, "[R]aising concerns about the forgotten voices of victims in this case should not be classified as a lapse in judgment" and that her "first and only concern in this case . . . is the victims."

Menchel told OPR that he did not view his conversation with Sanchez as a plea offer, asserted that he was not obligated to consult with victims during preliminary settlement negotiations, and noted that he left the USAO before the NPA was fully negotiated or signed. Menchel told OPR that "you have discussions . . . with [the] defense all the time, and the notion that even just having a general discussion is something that must be vetted with victims . . . is not even . . . in the same universe as to how I think about this." Menchel also observed that on the very day that Villafaña criticized him for engaging in settlement negotiations without consulting her, the FBI, or the victims, Villafaña had herself sent an email to Sanchez offering "to discuss the possibility of a federal resolution of Mr. Epstein's case that could run concurrently with any state resolution," without having spoken to the victims about her proposal.[287]

---

[285] Villafaña told OPR that "some victims, I felt strongly, would have objected to [a state-only disposition]." Villafaña stated to OPR that at the time Menchel engaged in such negotiations, he would only have been aware of the victim information contained in her prosecution memorandum, which included information about the "effects on the victims" but did not likely contain information as to "how they would like the case resolved." Villafaña asserted that Menchel "never reached out to any of the victims to find out what their position would be." Menchel told OPR that the allegations in Villafaña's email that he violated the Ashcroft Memo, USAM, and the CVRA were "way out of line in terms of what the law is and the policies are."

[286] As discussed, the Department's position at the time was that the CVRA did not apply before charges were filed against a defendant.

[287] In commenting on OPR's draft report, Villafaña's counsel asserted that her email to Sanchez was intended only to determine whether Epstein was interested in opening plea negotiations.

2. Villafaña Asserts That Her Supervisors Gave Instructions Not to Consult Victims about the Plea Discussions, but Her Supervisors Do Not Currently Recall Such Instructions

Villafaña told OPR that during an "early" meeting with Acosta, Sloman, and Menchel, which took place when "we were probably just entering into plea negotiations," she raised the government's obligation to confer with victims.[288] Initially, Villafaña told OPR she was instructed, "Don't talk to [the victims]. Don't tell them what's happening," but she was not told why she should not speak to the victims, and she could not recall who gave her this instruction. In a subsequent OPR interview, Villafaña recalled that when she raised the issue of notification during the meeting, she was told, "Plea negotiations are confidential. You can't disclose them."[289] Villafaña remained uncertain who gave her this instruction, but believed it may have been Acosta.

Neither Acosta, Sloman, nor Menchel recalled a meeting at which Villafaña was directed not to notify the victims. Acosta told OPR that the decision whether to solicit the victims' view "is something [that] I think was the focus of the trial team and not something that I was focused on at least at this time," and he did not "recall discussions about victim notification until after the NPA was signed." Sloman also told OPR that he did not recall a meeting at which victim notification was discussed. Menchel wrote in his response to OPR, "I have no recollection of any discussions or decisions regarding whether the USAO should notify victims of its intention to enter into a pre-charge disposition of the Epstein matter." Furthermore, Menchel told OPR he could not think of a reason why the issue of victim notification would have arisen before he left the USAO, because "we were way off from finalizing or having anything even close to a deal," and it would have been "premature" to consider notification.[290]

3. September 6, 2007: Villafaña Informs Sloman, Who Informs Acosta, of Oosterbaan's Opinion That Consultation with Victims Was Required

On September 6, 2007, in a lengthy email to Sloman responding to his question about the government's then-pending offer to the defense, Villafaña raised the victim consultation issue, advising that, "the agents and I have not reached out to the victims to get their approval, which as [CEOS Chief Oosterbaan] politely reminded me, is required under the law" and that "the [PBPD]

---

288 Villafaña could not recall the specific date of the meeting, but Menchel left the USAO on August 3, 2007.

289 Villafaña also recalled Menchel raising a concern that "telling them about the negotiations could cause victims to exaggerate their stories because of their desire to obtain damages from Epstein."

290 In commenting on OPR's draft report, Menchel's counsel reiterated his contention that Villafaña's claim about a meeting involving Menchel in which she was instructed not to consult with victims was inaccurate and inconsistent with other evidence. OPR carefully considered the comments but did not conclude that the evidence to which Menchel's attorney pointed necessarily refuted Villafaña's assertion that she had received an instruction from a supervisor not to inform victims about the plea negotiations. However, it is also true that OPR did not find any reference in the emails and other documents dated before the NPA was signed to a meeting at which victim consultation was discussed or to a specific instruction not to consult with the victims. This is one of several events about which Menchel and Villafaña disagreed, but given OPR's conclusion that the Department did not require prosecutors to consult with victims before charges were brought, OPR does not reach a conclusion regarding the alleged meeting and instruction.

Chief wanted to know if the victims had been consulted about the deal."[291] Sloman forwarded this email to Acosta. Villafaña recalled that Sloman responded to her email by telephone, possibly after he had spoken to Acosta, and stated, "[Y]ou can't do that now." Villafaña did not recall Sloman explaining at the time the reason for that instruction.

Villafaña told OPR that shortly before the NPA was signed, Sloman told her, "[W]e've been advised that . . . pre-charge resolutions do not require victim notification." Sloman did not recall any discussions, before the NPA was signed, about contacting the victims or conferring with them regarding the potential resolution of the case. Sloman told OPR that he "did not think that we had to consult with victims prior to entering into the NPA," and "we did not have to seek approval from victims to resolve a case. We did have an obligation to notify them of the resolution in . . . filed cases." Sloman said that no one other than Villafaña raised the notification issue, and because the USAO envisioned a state court resolution of the matter, Sloman "did not think that we had to consult with victims prior to entering into the NPA." Lourie told OPR that he had no memory of Villafaña being directed not to speak to the victims about the NPA.[292] Similarly, the attorney who assumed Lourie's supervisory duties after Lourie transitioned to his detail in the Department told OPR that he did not recall any discussions regarding victim notification and he "assumed that was being handled."[293]

Acosta did not recall the September 6, 2007 email, but told OPR that "there is no requirement to notify [the victims], because it's not a plea, it's deferring in favor of a state prosecution." Acosta told OPR that he could not recall any "pre-NPA discussions" regarding victim notification or any particular concern that factored into the decision not to consult with the victims before entering into the NPA.[294] Ultimately, Acosta acknowledged to OPR, "[C]learly, given the way it's played out, it may have been much better if we had [consulted with the victims]."

CEOS Chief Oosterbaan told OPR that he disagreed with the USAO's stance that the CVRA did not require pre-charge victim consultation, but in his view the USAO "posture" was not "an abuse of discretion" or "an ethical issue," but rather reflected a "serious and legitimate

---

291 Villafaña told OPR that she referred to Oosterbaan in the email because "he was the head of CEOS and because I think they were tired of hearing me nag them [to notify the victims]." As previously noted, Villafaña's statement that victim approval had to be obtained was incorrect. Even when applicable, the CVRA only requires consultation with victims, not their approval of a plea agreement. Moreover, Villafaña's comments concerning the pre-charge application of the USAO's CVRA obligation to consult with the victims appear at odds with her statement to OPR that the CVRA applied to the USAO only after a defendant was charged and that she did not intend to activate the USAO's CVRA obligations when she sent letters to victims in August 2006.

292 Lourie noted that during this period, he had left Florida and was no longer the supervising AUSA in the office, but was "help[ing] [] out" from offsite because he had "historical knowledge" of the case.

293 The AUSA who for a time served as Villafaña's co-counsel on the Epstein investigation similarly did not "know anything about" discussions in the USAO regarding the need to inform victims of the likely disposition of the case. The AUSA stated that he stopped working on the case "months earlier" and that he "didn't have anything to do with the [NPA] negotiations."

294 Villafaña told OPR that she was not aware of any "improper pressure or promise made to [Acosta] in order to . . . instruct [her] not to make disclosures to the victim[s]."

disagreement" regarding the CVRA's requirements.[295] Oosterbaan's disagreement was based on policy considerations, and he told OPR that "from a policy perspective," CEOS would not "take a position that you wouldn't consult with [the victims]." Oosterbaan also told OPR that whether or not the law required it, the victims should have been given an opportunity "to weigh in directly," but he did not fault the USAO's motivations for failing to provide that opportunity:

> The people I know, Andy [Lourie], Jeff [Sloman], . . . were trying to do the right thing. . . . [T]hey weren't acting unethically. I just disagree with the outcome . . . but the point is they weren't trying . . . to do anything improper . . . it was more of this question of . . . you can let the victims weigh in on this, you can get their input on this and maybe it doesn't sway you. You still do what you're going to do but . . . it's hard to say it was a complete, completely clean exercise of . . . prosecutorial discretion when [the USAO] didn't really know what [the victims] would say.

Sloman told OPR, "I don't think we had a concern about entering into the NPA at that point in terms of notifying victims. . . . I was under the perception that once the NPA was entered into and [Epstein] was going to enter a guilty plea in state court that we were going to notify the victims."

VII. SEPTEMBER 24, 2007 – JUNE 30, 2008: AFTER THE NPA IS SIGNED, THE USAO MAKES VARIOUS VICTIM NOTIFICATION DECISIONS

The contemporaneous emails make clear that once the NPA was signed, Villafaña and the case agents planned to inform the victims about the resolution of the federal investigation. However, the emails also show that the USAO was unclear about how much information could be given to the victims in light of the NPA's nondisclosure provision and consulted with Epstein's defense counsel regarding victim notifications.[296] As a result, although the expectation in the USAO was that the victims would be informed about the NPA, the monetary damages provision, and the state plea, the USAO became entangled in more negotiations with the defense attorneys, who strongly objected to the government's notification plan. In addition, Villafaña and the case agents grew concerned that notifying the victims about the NPA monetary damages provision would damage the victims' credibility if Epstein breached the NPA and the case went to trial. In the end, Acosta decided to defer to the State Attorney's discretion whether to notify the victims about the state plea, and information about the NPA and the monetary damages provision was not provided to victims until after Epstein pled guilty in June 2008.

---

295 Oosterbaan stated that, in retrospect, "maybe I should have been more aggressive with how . . . I dealt with [the USAO]."

296 The NPA nondisclosure provision stated: "The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure."

A. September – October 2007: The Case Agents Notify Some Victims about the NPA, but Stop When the Case Agent Becomes Concerned about Potential Impeachment

In transmitting the signed NPA to Villafaña on September 24, 2007, defense attorney Lefkowitz asked Villafaña to "do whatever you can to prevent [the NPA] from becoming public."[297] Villafaña forwarded this email to Acosta, Lourie, and the new West Palm Beach manager noting that, "I don't intend to do anything with it except put it in the case file." Acosta responded that he "thought the [NPA] already binds us not to make [it] public except as required by law or [FOIA]" and noted that because the USAO would not proactively inform the media about the NPA, "this is the State Attorney[']s show."[298] Acosta added, "In other words, what more does he want?" Villafaña responded, "My guess is that if we tell anyone else (like the police chief or FBI or the girls), that we ask them not to disclose." Lourie agreed, noting that "there really is no reason to tell anyone all the details of the non pros or provide a copy. The [PBPD] Chief was only concerned that he not get surprised by all this."[299] Acosta responded that he would set up a call on September 26, 2007, to talk "about who we can tell and how much."[300]

Also on September 24, 2007, Villafaña emailed the new West Palm Beach manager to inform him that once the attorney representative was appointed for the victims, she planned to "meet with the girls myself to explain how the system [for obtaining relief under 18 U.S.C. § 2255] will work." Villafaña also emailed Lefkowitz stating that she planned to discuss with him "what I can tell [the attorney representative] and the girls about the agreement," and she assured Lefkowitz that her office "is telling Chief Reiter not to disclose the outcome to anyone." Villafaña also provided Lefkowitz with a list of potential candidates for the attorney representative position and advocated for an attorney representative who would minimize press coverage of the matter.

On September 26, 2007, Villafaña emailed Lefkowitz to request guidance on informing the victims about the NPA: "Can you give me a call . . . I am meeting with the agents and want to give them their marching orders regarding what they can tell the girls." Villafaña told OPR that because the government and the defense had not agreed on the attorney representative for the victims, she reached out to the defense at the direction of either Acosta or Sloman in order to coordinate how to inform the victims about the resolution of the case and the fact that there would be an attorney to assist them in recovering monetary damages from Epstein. Villafaña told OPR that the defense responded to her email by complaining to her supervisors that she should not be

---

297 Villafaña had assured Lefkowitz that the NPA "would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA request, but it is not something that we would distribute without compulsory process."

298 Acosta told OPR that he believed that the NPA "would see the light of day" because the victims would have to "hear about [their § 2255 rights] from somewhere" and "given the press interest, eventually this would be FOIA'd."

299 Lourie told OPR that the § 2255 provisions of the NPA "that benefitted the victims were there for the victims to take advantage of. . . . and they did. How . . . they were going to receive that information and when they were going to receive it is a different question, but there's no . . . issue with the fact that they were going to get that information."

300 OPR was unable to determine whether the call took place.

involved in such notifications. According to Villafaña, Sloman then directed her to have the case agents make the victim notifications.

Accordingly, Villafaña directed the case agents to "meet with the victims to provide them with information regarding the terms of the [NPA] and the conclusion of the federal investigation." The case agent told OPR, "[T]here was a discussion that Marie and I had as to . . . how we would tell them, and what we would tell them, and what that was I don't recall, but it was the terms of the agreement." Villafaña believed that if "victims were properly notified of the terms [of the NPA] that applied to them, regarding their right to seek damages from [Epstein], and he paid those damages, that the rest of the [NPA] doesn't need to be disclosed." Villafaña "anticipated that [the case agents] would be able to inform the victims of the date of the state court change of plea [hearing], but that date had not yet been set by state authorities at the time the first victims were notified [by the FBI]." Villafaña told OPR that it was her belief that because the USAO had agreed to a confidentiality clause, the government could not disclose the NPA to the general public, but victims could be informed "because by its terms they needed to be told what the agreement was about." Villafaña told OPR that no one in her supervisory chain expressed a concern that if victims learned of the NPA, they would try to prevent Epstein from entering a plea.

Within a week after the NPA was signed, news media began reporting that the parties had reached a deal to resolve the Epstein case. For example, on October 1, 2007, the *New York Post* reported that Epstein "has agreed to plead guilty to soliciting underage prostitutes at his Florida mansion in a deal that will send him to prison for about 18 months," and noted that Epstein would plead guilty in state court and that "the feds have agreed to drop their probe into possible federal criminal violations in exchange for the guilty plea to the new state charge."[301]

The case agent recalled informing some victims that "there was an agreement reached" and "we would not be pursuing this federally." In October 2007, for example, the case agents met with victim Courtney Wild, "to advise her of the main terms of the Non-Prosecution Agreement." According to the case agent, during that meeting, the case agents told Wild "that an agreement had been reached, Mr. Epstein was going to plead guilty to two state charges, and there would not be a federal prosecution."[302] However, in a declaration filed in 2015 in the CVRA litigation, Wild described the conversation differently:

> [T]he agents explained that Epstein was also being charged in State court and may plea [*sic*] to state charges related to some of his other victims. I knew that State charges had nothing to do with me.

---

301 Dan Mangan, "'Unhappy Ending' Plea Deal—Moneyman to Get Jail For Teen Sex Massages," *New York Post*, Oct. 1, 2007. *See also* "Model Shop Denies Epstein Tie," *New York Post*, Oct. 6, 2007; "Andrew Pal Faces Sex List Shame," *Mail on Sunday*, Oct. 14, 2007; "Epstein Eyes Sex-Rap Relief," *New York Post*, Oct. 9, 2007; "Sex Case 'Victims' Lining Up," *New York Post "Page Six,"* Oct. 15, 2007; Dareh Gregorian and Mathew Nestel, "I Was Teen Prey of Pervert Tycoon," *New York Post*, Oct. 18, 2007. The following month, the Palm Beach Post reported the end of the federal investigation as well. *See* "Epstein Has One Less Worry These Days," *Palm Beach Post*, Nov. 9, 2007; "How Will System Judge Palm Beach Predator?," *Palm Beach Post* "Opinion," Nov. 16, 2007.

302 The co-case agent recalled meeting with the victims about the resolution of the case, but could not recall the specifics of the discussions.

> During this meeting, the Agents did not explain that an agreement had already been signed that precluded any prosecution of Epstein for federal charges against me. I did not get the opportunity to meet or confer with the prosecuting attorneys about any potential federal deal that related to me or the crimes committed against me.
>
> My understanding of the agents' explanation was that the federal investigation would continue. I also understood that my own case would move forward towards prosecution of Epstein.

In addition, the case agent spoke to two other victims and relayed their reactions to Villafaña in an email:

> Jane Doe #14 asked me why [Epstein] was receiving such a lite [*sic*] jail sentence and Jane Doe #13 has asked for our Victim Witness coordinator to get in touch with her so she can receive some much needed [p]rofessional counseling. Other than that, their response was filled with emotion and grateful to the Federal authorities for pursuing justice and not giving up.[303]

The case agent told OPR that when she informed one of these victims, that individual cried and expressed "a sense of relief." Counsel for "Jane Doe #13" told OPR that while his client recalled meeting with the FBI on a number of occasions, she did not recall receiving any information about Epstein's guilty plea. In a letter to OPR, "Jane Doe #14's" attorney stated that although her client recalled speaking with an FBI agent, she was not told about the NPA or informed that Epstein would not face federal charges in exchange for his state court plea.

After meeting with these three victims, the FBI case agent became concerned that, if Epstein breached the NPA and the case went to federal trial, the defense could use the victims' knowledge of the NPA's monetary damages provision as a basis to impeach the victims.[304] The case agent explained to OPR that she became "uncomfortable" talking to the victims about the damages provision, and that as the lead investigator, "if we did end up going to trial . . . [if] Mr. Epstein breached this that I would be on the stand" testifying that "I told every one of these girls that they could sue Mr. Epstein for money, and I was not comfortable with that, I didn't think it was right."

Similarly, the co-case agent told OPR, "[T]hat's why we went back to Marie [Villafaña] and said we're not comfortable now putting this out there . . . because . . . it's likely that [the case agent] and I are going to have to take the stand if it went to trial, and this could be a problem." Villafaña told OPR that the case agents were concerned they would be accused of "offering a bribe

---

303 The case agent did not record any of the victim notifications in interview reports, because "it wasn't an interview of them, it was a notification. . . . [I]f there was something . . . relevant [that] came up pertaining to the investigation, or something that I thought was noteworthy . . . I might have [recorded it in an interview report]."

304 Within limitations set by the Federal Rules of Evidence, a defendant may attack the credibility of a witness through evidence of bias, which may include the witness having received money, or expecting to receive money, from the government, the defendant, or other sources as a result of the witness's allegations or testimony.

for [victims] to enhance their stories" and that the defense would try to have Villafaña or the case agents removed from the case.

Both the lead case agent and Villafaña told OPR that after the FBI raised with Villafaña the concern that notifying the victims would create potential impeachment material in the event of a breach and subsequent trial, they contacted the USAO's Professional Responsibility Officer for advice. Villafaña recalled that during a brief telephone consultation, the Professional Responsibility Officer advised her and the case agent that "it's not really that big a concern, but if you're concerned about it then you should stop making the notification."[305] In her 2017 CVRA declaration, the case agent stated that after conferring with the USAO, the case agents stopped notifying victims about the NPA.

B. October 2007: Defense Attorneys Object to Government Victim Notifications

While the case agents and Villafaña considered the impact that notifying the victims about the resolution of the case might have on a potential trial, defense counsel also raised concerns about what the victims could be told about the NPA. As discussed in Chapter Two, after the NPA was signed on September 24, 2007, the USAO proposed using a special master to select the attorney representative for the victims, which led to further discussions about the § 2255 provision. On October 5, 2007, when defense attorney Lefkowitz sent Villafaña a letter responding to the USAO's proposal to use a special master, he cautioned that "neither federal agents nor anyone from your Office should contact the identified individuals to inform them of the resolution of the case" because such communications would "violate the confidentiality of the agreement" and would prevent Epstein from having control over "what is communicated to the identified individuals at this most critical stage." Lefkowitz followed this communication with an October 10, 2007 letter to Acosta, arguing that "[n]either federal agents nor anyone from your Office should contact the identified individuals to inform them of the resolution of the case."[306] Rather, Lefkowitz wanted to "participate in crafting a mutually acceptable communication to the identified individuals."

On October 23, 2007, Villafaña raised the issue of victim notification with Sloman, stating:

> We also have to contact the victims to tell [them] about the outcome of the case and to advise them that an attorney will be contacting them regarding possible claims against Mr. Epstein. If we don't do that, it may be a violation of the Florida Bar Rules for the selected attorney to 'cold call' the girls.

As discussed in greater detail in Chapter Two, on October 23, 2007, Lefkowitz sent Acosta a letter stating that Epstein expected to enter a guilty plea in state court on November 20, 2007,

---

305 The Professional Responsibility Officer told OPR that he did not recall the case agent contacting him about victim notification, nor did he recall being involved in the Epstein matter before the CVRA litigation was instituted in July 2008 and he was assigned to handle the litigation. Villafaña told OPR that they consulted the Professional Responsibility Officer over the telephone, the call took no more than "five minutes," and the Professional Responsibility Officer had no other exposure to the case and thus "wouldn't have [any] context for it."

306 Lefkowitz also argued that direct contact with the victims could violate grand jury secrecy rules.

and thanking Acosta for agreeing on October 12, 2007, not to "contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter."[307] Shortly thereafter, Sloman drafted a response to Lefkowitz's letter, which Acosta revised to clarify the "inaccurate" representations made by Lefkowitz, in particular noting that Acosta did not agree to a "gag order" with regard to victim contact. The draft response, as revised by Acosta, stated:

> You should understand, however, that there are some communications that are typical in these matters. As an example, our Office has an obligation to contact the victims to inform them that either [the Special Master], or his designee, will be contact[ing] them. Rest assured that we will continue to treat this matter as we would any similarly situated case.[308]

In a November 5, 2007 letter, Sloman complained to Lefkowitz that private investigators working for Epstein had been contacting victims and asking whether government agents had discussed financial settlement with them. Sloman noted that the private investigators' "actions are troublesome because the FBI agents legally are required to advise the victims of the resolution of the matter, which includes informing them that, as part of the resolution, Mr. Epstein has agreed to pay damages in some circumstances." The same day, Villafaña emailed Sloman expressing her concern that "if we [file charges] now, cross-examination will consist of- 'and the government told you that if Mr. Epstein is convicted, you are entitled to a large amount of damages, right?'"[309]

C. October – November 2007: The FBI and the USAO Continue to Investigate, and the FBI Sends a Notice Letter to One Victim Stating That the Case is "Under Investigation"

Although Villafaña and the FBI case agents decided to stop informing victims about the NPA, the FBI continued its investigation of the case, which included locating and interviewing potential victims. In October and November 2007, the FBI interviewed 12 potential new victims, 8 of whom had been identified in a "preliminary" victim list in use at the time Epstein signed the

---

307 Villafaña later emailed Sloman stating that she planned to meet with the case agents to have a "general discussion about staying out of the civil litigation."

308 Sloman's draft also stated that Acosta had informed the defense in a previous conference call that the USAO would not accept a "gag order." OPR recovered only a draft version of the communication and was unable to find any evidence that the draft letter was finalized or sent to defense counsel.

309 Subsequent records also referred to the prosecutors' concerns about creating impeachment evidence and that such concerns played a role in their decision not to notify victims of the NPA until after Epstein pled guilty. In August 2008, the AUSA handling the CVRA litigation emailed Villafaña, Acosta, and Sloman expressing his understanding that the "victims were not consulted [concerning the NPA] . . . because [the USAO] did not believe the [CVRA] applied." Acosta responded: "As I recall, we also believed that contacting the victims would compromise them as potential witnesses. Epstein argued very forcefully that they were doing this for the money and we did not want to discuss liability with them, which was [a] key part of [the] agree[ment]."

NPA.[310] The FBI reports of the victim interviews do not mention the NPA or indicate that the victims were asked for their input regarding the resolution of the case. Villafaña acknowledged that she and the case agents did not tell any of the "new" post-NPA-signing victims about the agreement because "at that point we believed that the NPA was never going to be performed and that we were in fact going to be [charging] Mr. Epstein."

On October 12, 2007, the FBI Victim Specialist sent a VNS form notice letter to a victim the case agents had interviewed two days earlier. This letter was identical to the VNS form notice letter the FBI Victim Specialist sent to other victims before the NPA was signed, describing the case as "under investigation" and requesting the victim's "patience." The letter listed the eight CVRA rights, but made no mention of the NPA or the § 2255 provision. Villafaña told OPR she was unaware the FBI sent the letter, but she knew "there were efforts to make sure that we had identified all victims of the crimes under investigation." In response to OPR's questions about the accuracy of the FBI letter's characterization of the case as "under investigation," Villafaña told OPR that the NPA required Epstein to enter a plea by October 26, 2008, and "at this point we weren't actively looking for additional charges," but "the investigation wasn't technically suspended until he completed all the terms of the NPA."

D. The USAO Informs the Defense That It Intends to Notify Victims by Letter about Epstein's State Plea Hearing and the Resolution of the Federal Investigation, but the Defense Strongly Objects to the Notification Plan

In anticipation of Epstein's state court plea, Villafaña reported on November 16, 2007, to Acosta, Sloman, and other supervisors that she had learned, from FBI agents who met with Assistant State Attorney Belohlavek, that the State Attorney's Office wanted the USAO to notify victims of the state plea hearing.

> [Belohlavek] would still like us to do the victim notifications. The State does not have a procedure (like we do federally) where the Court has to provide a separate room for victims who want to attend judicial proceedings, so I do not know how many victims will actually want to be present.[311]

Belohlavek told OPR that she did not recall the conversation referenced by the FBI nor any coordination between her office and federal officials to contact or notify victims about Epstein's state plea hearing.

On November 19, 2007, Villafaña decided that to avoid any misconduct accusations from the defense about the information given to victims, she "would put the victim notification in writing." She provided Sloman with a draft victim notification letter, in which among other things,

---

[310] Not all the individuals interviewed qualified for inclusion on the victim list. For example, one would not cooperate with investigators; a second claimed to have simply massaged Epstein with no sexual activity; and a third claimed she had no contact with Epstein.

[311] Villafaña told OPR that she understood the state took the position that because "there was either only one or two victims involved in their case," they "could not do victim notifications to all of the victims."

she would inform victims of the terms of the resolution of the federal case, including Epstein's agreement to plead guilty to state charges and serve 18 months in county jail, and the victims' ability to seek monetary damages against Epstein. The letter also would invite victims to appear at the state court hearing and make a statement under oath or provide a written statement to be filed by the State Attorney's Office. Sloman and Villafaña exchanged edits on the draft victim notification letter, and Villafaña also informed Sloman that "[t]here are a few girls who didn't receive the original letters, so I will need to modify the introductory portion of the letter for those."[312]

Sloman informed Lefkowitz of the government's need to meet its "statutory obligation (Justice for All Act of 2004) to notify the victims of the anticipated upcoming events and their rights associated with the agreement" and his intent to "notify the victims by letter after COB Thursday, November 29." Lefkowitz objected to the proposal to notify the victims, asserting that it was "incendiary and inappropriate" and not warranted under the Justice for All Act of 2004. He argued that the defense "should have a right to review and make objections to that submission prior to it being sent to any alleged victims." He also insisted that if any notification letters were sent to "victims, who still have not been identified to us, it should happen only after Mr. Epstein has entered his plea" and that the letter should come from the attorney representative rather than the government. On November 28, 2007, at Sloman's instruction, Villafaña provided Lefkowitz with the draft victim notification letter, which would advise victims that the state court plea was to occur on December 14, 2007.[313]

In a November 29, 2007 letter to Acosta, Lefkowitz strongly objected to the proposed draft notification letter, arguing that the government was not obligated to send any letter to victims until after Epstein's plea and sentencing. Lefkowitz also contended that the victims had no right to appear at Epstein's state plea hearing and sentencing or to provide a written statement for such a proceeding. In a November 30, 2007 reply letter to Lefkowitz, Acosta did not address the substance of Lefkowitz's arguments, but accused the defense team of "in essence presenting collateral challenges" delaying effectuation of the NPA, and asserted that if Epstein was dissatisfied with the NPA, "we stand ready to unwind the Agreement" and proceed to trial. Shortly thereafter, Acosta informed defense counsel Starr by letter that he had directed prosecutors "not to issue victim notification letters until this Friday [December 7] at 5 p.m., to provide you with time to review these options with your client." In the letter, Acosta also refuted defense allegations that Villafaña had acted improperly by informing the victims of the potential for receiving monetary damages, stating that "the victims were not told of the availability of Section 2255 relief during the investigation phase of this matter."

On December 5, 2007, Starr and Lefkowitz sent a letter to Acosta, with copies to Sloman and Assistant Attorney General Fisher, "reaffirm[ing]" the NPA, but taking "serious issue" with

---

312 On November 28, 2007, two months after the NPA was signed, the lead case agent informed Villafaña that only 15 of the then-known victims had received victim notification letters from either the FBI or the USAO. On December 6, 2007, the lead case agent reported to Villafaña that she was "still holding many of the original V/W letters addressed to victims from the USAO."

313 Villafaña understood the state prosecutors had set the December 14, 2007 date, and emailed them for confirmation, stating, "[I]f the matter is set for the 14th, please let me know so I can include that in my victim notifications."

the USAO's interpretation of the agreement and "the use of Section 2255." The Starr and Lefkowitz letter asserted it was "wholly inappropriate" for the USAO to send the proposed victim notification letter "under any circumstances," and "strongly urg[ed]" Acosta to withhold the notification letter until after the defense was able "to discuss this matter with Assistant Attorney General Fisher."

The following day, Sloman sent a letter to Lefkowitz, with copies to Acosta and Villafaña, asserting that the VRRA obligated the government to notify victims of the 18 U.S.C. § 2255 proceedings as "other relief" to which they were entitled. Sloman also stated that the VRRA obligated the government to provide the victims with information concerning restitution to which they may be entitled and "*the earliest possible*" notice of the status of the investigation, the filing of charges, and the acceptance of a plea.[314] (Emphasis in original). Sloman added:

> Just as in 18 U.S.C. § 3771 [the CVRA], these sections are not limited to proceedings in a *federal* district court. Our Non-Prosecution Agreement resolves the federal investigation by allowing Mr. Epstein to plead to a state offense. The victims identified through the federal investigation should be appropriately informed, and our Non-Prosecution Agreement does not require the U.S. Attorney's Office to forego [*sic*] its legal obligations.[315]

Sloman also addressed the defense objection to advising the victims to contact Villafaña or the FBI case agent with questions or concerns: "Again, federal law requires that victims have the 'reasonable right to confer with the attorney for the Government in this case.'" Sloman advised the defense: "The three victims who were notified prior to your objection had questions directed to Mr. Epstein's punishment, not the civil litigation. Those questions are appropriately directed to law enforcement."

Along with this letter, Sloman forwarded to Lefkowitz for comment a revised draft victim notification letter that was substantially similar to the prior draft provided to the defense. The letter stated that "the federal investigation of Jeffrey Epstein has been completed," Epstein would plead guilty in state court, the parties would recommend 18 months of imprisonment at sentencing, and Epstein would compensate victims for damage claims brought under 18 U.S.C. § 2255. The letter provided specific information concerning the upcoming change of plea hearing:

> As I mentioned above, as part of the resolution of the federal investigation, Mr. Epstein has agreed to plead guilty to state charges. Mr. Epstein's change of plea and sentencing will occur on December 14, 2007, at ___ a.m., before Judge Sandra K. McSorley,

---

314 *See* 42 U.S.C. § 10607(c)(1)(B) and (c)(3).

315 Emphasis in original. Sloman also stated that the USAO did not seek to "federalize" a state plea, but "is simply informing the victims of their rights." Villafaña informed OPR that Sloman approved and signed the letter, but she was the primary author of the document. OPR notes that Villafaña was the principal author of most correspondence in the Epstein case, and that following the signing of the NPA, regardless of whether the letter went out with her, Sloman's, or Acosta's signature, the three attorneys reviewed and edited drafts of most correspondence before a final version was sent to the defense.

> in Courtroom 11F at the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida. Pursuant to Florida Statutes Sections 960.001(1)(k) and 921.143(1), you are entitled to be present and to make a statement under oath. If you choose, you can submit a written statement under oath, which may be filed by the State Attorney's Office on your behalf. If you elect to prepare a written statement, it should address the following:
>
> > the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence. Fl[a]. Stat. [§] 921.143(2).

Sloman told OPR that he was "proceeding under the belief that we were going to notify [the victims], even though it wasn't a federal case. Whether we were required or not." Sloman also told OPR that while "we didn't think that we had an obligation to send them victim notification letters . . . I think . . . Marie and . . . the agents . . . were keeping the victims apprised at some level."

On December 7, 2007, Villafaña prepared letters containing the above information to be sent to multiple victims and emailed Acosta and Sloman, requesting permission to send them.[316] Sloman, however, had that day received a letter from Sanchez, advising that Epstein's plea hearing was scheduled for January 4, 2008, and requesting that the USAO "hold off" sending the victim notification letters until "we can further discuss the contents." Also that day, Starr and Lefkowitz submitted to Acosta the two lengthy "independent ethics opinions" supporting the defense arguments against the federal investigation and the NPA's use of 18 U.S.C. § 2255. Sloman responded to Villafaña's request with an email instructing her to "Hold the letter."[317] Sloman told OPR that he "wanted to push the [victim notification] letter out," but his instruction to Villafaña was "the product of me speaking to somebody," although he could not be definitive as to whom. Sloman further told OPR that once the NPA "looked like it was going to fall apart," the USAO "had concerns that if we g[a]ve them the victim notification letter . . . and the deal fell apart, then the victims would be instantly impeached by the provision that you're entitled to monetary compensation."

On December 10, 2007, Villafaña contacted the attorney who at the time represented the victim who later became CVRA petitioner "Jane Doe #2" to inform him that she "was preparing victim notification letters." In her 2017 declaration filed in the CVRA litigation, Villafaña noted that she reached out to Jane Doe #2's counsel, despite the fact that the USAO no longer considered

---

316 The FBI case agent had emailed Villafaña the day before stating, "The letter that is currently being revised needs to take into account that several victims have never been notified by your office or mine." The case agent also stated, "I do not feel that [the defense] should have anything to do with the drafting or issuing of this letter. My primary concern is that we meet our federal obligations to the victims in accordance with federal law."

317 Villafaña told OPR that she did not recall asking Sloman for an explanation for not sending the letters; rather, she "just remember[ed] putting them all in the Redweld and putting them in a drawer and being disgusted."

her a victim for purposes of the federal charges, and continued to treat her as a victim because she wanted "to go above and beyond in terms of caring for the victims."[318]

E. December 19, 2007: Acosta Advises the Defense That the USAO Will Defer to the State Attorney the Decision Whether to Notify Victims of the State Plea Hearing, but the USAO Would Notify Them of the Federal Resolution, "as Required by Law"

On December 11, 2007, Starr transmitted to Acosta two lengthy submissions authored by Lefkowitz presenting substantive challenges to the NPA and to "the background and conduct of the investigation" into Epstein. Regarding issues relevant to victim notification, in his transmittal letter, Starr asserted that the "latest episodes involving [§] 2255 notification to the alleged victims put illustratively in bold relief our concerns that the ends of justice, time and time again, are not being served." By way of example, Starr complained the government had recently inappropriately provided "oral notification of the victim notification letter" to one girl's attorney, even though it was clear from the girl's recorded FBI interview that she "did not in any manner view herself as a victim."

In his submissions, Lefkowitz argued that the government was not required to notify victims of the § 2255 provision:

> Villafaña's decision to utilize a civil remedy statute in the place of a restitution fund for the alleged victims eliminates the notification requirement under the Justice for All Act of 2004, a federal law that requires federal authorities to notify victims as to any available restitution, not of any potential civil remedies. Despite this fact, [she] proposed a Victims Notification letter to be sent to the alleged federal victims.

Lefkowitz also argued that a victim trust fund would provide a more appropriate mechanism for compensating the victims than the government's proposed use of 18 U.S.C. § 2255, and a trust fund would not violate Epstein's due process rights. Lefkowitz took issue with the government's "assertion" that the USAO was obligated to send a victim notification letter to the alleged victims, or even that it was appropriate for the USAO to do so. Lefkowitz further argued that the government misinterpreted both the CVRA and the VRRA, because neither applied to a public, state court proceeding involving the entry of a plea on state charges.

In a letter from Villafaña to Lefkowitz, responding to his allegations that she had committed misconduct, she specifically addressed the "false" allegations that the government had

---

[318] As noted previously, in April 2007, this victim gave a video-recorded interview to the FBI that was favorable to Epstein. Villafaña told OPR she was instructed by either Sloman or Acosta "not to consider [this individual] as a victim for purposes of the NPA because she was not someone whom the Office was prepare[d] to include in" a federal charging document. Accordingly, the victim who became "Jane Doe #2" was not included on the victim list ultimately furnished to the defense. The attorney who was representing this victim at the time of her FBI interview was paid by Epstein, and she subsequently obtained different counsel.

informed victims "of their right to collect damages prior to a thorough investigation of their allegations against Mr. Epstein":

> None of the victims were informed of the right to sue under Section 2255 prior to the investigation of the claims. Three victims were notified shortly after the signing of the [NPA] of the general terms of that Agreement. You raised objections to any victim notification, and no further notifications were done. Throughout this process you have seen that I have prepared this case as though it would proceed to trial. Notifying the witnesses of the possibility of damages claims prior to concluding the matter by plea or trial would only undermine my case. If my reassurances are insufficient the fact that not a single victim has threatened to sue Mr. Epstein should assure you of the integrity of the investigation.

On December 14, 2007, Villafaña forwarded to Acosta the draft victim notification letter previously sent to the defense, along with two draft letters addressed to State Attorney Krischer; Villafaña's transmittal email to Acosta had the subject line, "The letters you requested." One of the draft letters to Krischer, to be signed by Villafaña, was to advise that the USAO had sent an enclosed victim notification letter to specified identified victims and referred to an enclosed "list of the identified victims and their contact information, in case you are required to provide them with any further notification regarding their rights under Florida law."[319] The second draft letter to Krischer, for Acosta's signature, requested that Krischer respond to defense counsel's allegations that the State Attorney's Office was not comfortable with the proposed plea and sentence because it believed that the case should be resolved with probation and no sexual offender registration. OPR found no evidence that these letters were sent to Krischer.[320]

A few days later, in an apparent effort to move forward with victim notifications, Villafaña emailed Sloman, stating, "[Is there] anything that I or the agents should be doing?" Villafaña told Sloman that "[the FBI case agent] is all worked up because another agent and [a named AUSA] are the subject of an OPR investigation for failing to properly confer with and notify victims [in an unrelated matter]. We seem to be in a Catch 22."[321] OPR did not find a response to Villafaña's email.

In their December 14, 2007 meeting with Acosta and other USAO personnel and in their lengthy follow-up letter to Acosta on December 17, 2007, Starr and Lefkowitz continued to press their objections to the USAO's involvement in the Epstein matter. They requested that Acosta

---

[319] The draft victim notification letter was identical to the draft victim notification letter sent to the defense on December 6, 2007, except that it contained a new plea date of January 4, 2008.

[320] Moreover, the letters were not included in the publicly released State Attorney's file, which included other correspondence from the USAO. *See* Palm Beach State Attorney's Office Public Records/Jeffrey Epstein, available at http://sa15.org/stateattorney/NewsRoom/indexPR htm.

[321] OPR was unable to locate any records indicating that such allegations had ever been referred to OPR. Villafaña told OPR that "Catch 22" was a reference to instructions from supervisors "[t]hat we can't go forward on" filing federal charges and "I was told not to do victim notifications and confer at the time."

review the appropriateness of the potential federal charges and the government's "unprecedentedly expansive interpretation" of 18 U.S.C. § 2255.

In a December 19, 2007 response to the defense team, Acosta offered to revise two paragraphs in the NPA to resolve "disagreements" with the defense and to clarify that the parties intended Epstein's § 2255 liability to "place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less." Acosta also advised that although the USAO intended to notify the victims of the resolution of the federal investigation, the USAO would leave to the State Attorney the decision whether to notify victims about the state proceedings:

> I understand that the defense objects to the victims being given notice of [the] time and place of Mr. Epstein's state court sentencing hearing. I have reviewed the proposed victim notification letter and the statute. I would note that the United States provided the draft letter to the defense as a courtesy. In addition, First Assistant United States Attorney Sloman already incorporated in the letter several edits that had been requested by defense counsel. I agree that [the CVRA] applies to notice of proceedings and results of investigations of federal crimes as opposed to the state crime. We intend to provide victims with notice of the federal resolution, as required by law. We will defer to the discretion of the State Attorney regarding whether he wishes to provide victims with notice of the state proceedings, although we will provide him with the information necessary to do so if he wishes.

Acosta told OPR that he "would not have sent this letter without running it by [Sloman], if not other individuals in the office," and records show he sent a draft to Sloman and Villafaña. Acosta explained to OPR that he was not concerned about deferring to Krischer on the issue of whether to notify the victims of the state proceedings because he did not view it as his role, or the role of the USAO, "to direct the State Attorney's Office on its obligations with respect to the state outcome."[322] Acosta further explained to OPR that despite the USAO's initial concerns about the State Attorney's Office's handling of the Epstein case, he did not believe it was appropriate to question that office's ability to "fulfill whatever obligation they have," and he added, "Let's not assume . . . that the State Attorney's Office is full of bad actors." Acosta told OPR that it was his understanding "that the victims would be aware of what was happening in the state court and have an opportunity to speak up at the state court hearing." Acosta also told OPR that the state would

---

322 Sloman's handwritten notes from a December 21, 2007 telephone conference indicate that Acosta asked the defense, "Are there concerns re: 3771 lang[uage]," to which Lefkowitz replied, "The state should have their own mechanism." At the time of the Epstein matter, under the Florida Constitution, upon request, victims were afforded the "right to reasonable, accurate, and timely notice of, and to be present at" a defendant's plea and sentencing. Fla. Const. art. I, § 16(b)(6). Similarly, pursuant to state statute, "Law enforcement personnel shall ensure" that victims are given information about "[t]he stages in the criminal or juvenile justice process which are of significance to the victim[.]" Fla. Stat. § 960.001(1)(a) (2007). Victims were also entitled to submit an oral or written impact statement. Fla. Stat. § 960.001(1)(k) (2007). Moreover, "in a case in which the victim is a minor child," the guardian or family of the victim must be consulted by the state attorney "in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case" including plea agreements. Fla. Stat. § 960.001(1)(g) (2007).

have "notified [the victims] that that was an all-encompassing plea, that that state court sentence would also mean that the federal government was not proceeding."

Sloman told OPR that he thought Acosta and Criminal Division Deputy Assistant Attorney General Sigal Mandelker had agreed that the decision whether to notify the victims of the state court proceedings should be "left to the state."[323] Mandelker, however, had no memory of advising Acosta to defer the decision to make notifications to the State Attorney, and she noted that the "correspondence [OPR] provided to me from that time period" discussing such a decision "demonstrates that all of the referenced language came from Mr. Acosta and/or his team, and that I did not provide, suggest, or edit the language." Sloman told OPR that he initially believed that "the victims were going to be notified at some level, especially because they had restitution rights under § 2255"; but, his expectations changed after "there was an agreement made that we were going to allow the state, since it was going to be a state case, to decide how the victims were going to be notified."

Assistant State Attorney Belohlavek told OPR that she did not at any time receive a victim list from the USAO. She further said she did not receive any request from the USAO with regard to contacting the victims.

In response to Acosta's December 19, 2007 letter, Lefkowitz asserted that the FBI should not communicate with the victims, and that the state, not the USAO, should determine who can be heard at the sentencing hearing:

> [Y]our letter also suggests that our objection to your Office's proposed victims notification letter was that the women identified as victims of federal crimes should not be notified of the state proceedings. That is not true, as our previous letter clearly states. Putting aside our threshold contention that many of those to whom [CVRA] notification letters are intended are in fact not victims as defined in the Attorney General's 2000 Victim Witness Guidelines—a status requiring physical, emotional or pecuniary injury of the [victim]—it was and remains our position that these women may be notified of such proceedings but since they are neither witnesses nor victims to the state prosecution of this matter, they should not be informed of fictitious "rights" or invited to make sworn written or in-court testimonial statements against Mr. Epstein at such proceedings, as Ms. Villafaña repeatedly maintained they had the right to do. Additionally, it was and remains our position that any notification should be by mail and that all proactive efforts by the FBI to have communications with the witnesses after the execution of the Agreement should finally come to an end. We agree, however, with your December 19 modification of the previously drafted federal notification letter and agree that the

[323] In his June 3, 2008 letter to Deputy Attorney General Mark Filip, Sloman wrote, "Acosta again consulted with DAAG Mandelker who advised him to make the following proposal [to defer notification to the State Attorney's Office]." OPR found no other documentation relating to Mandelker's purported involvement in the decision.

> decision as to who can be heard at a state sentencing is, amongst many other issues, properly within the aegis of state decision making.[324]

Following a conversation between Acosta and Lefkowitz, in which Acosta asked that the defense clarify its positions on the USAO proposals regarding, among other things, notifications to the victims, Lefkowitz responded with a December 26, 2007 letter to Acosta, objecting again to notification of the victims. Lefkowitz argued that CVRA notification was not appropriate because the Attorney General Guidelines defined "crime victim" as a person harmed as a result of an offense charged in federal district court, and Epstein had not been charged in federal court. Nevertheless, Lefkowitz added that, despite their objection to CVRA notification, "[W]e do not object (as we made clear in our letter last week) that some form of notice be given to the alleged victims." Lefkowitz requested both that the defense be given an opportunity to review any notice sent by the USAO, and that "any and all notices with respect to the alleged victims of state offenses should be sent by the State Attorney rather than [the USAO]," and he agreed that the USAO "should defer to the discretion of the State Attorney regarding all matters with regard to those victims and the state proceedings."

Months later, in April 2008, Epstein's attorneys complained in a letter to Mandelker that Sloman and Villafaña committed professional misconduct by threatening to send a "highly improper and unusual 'victim notification letter' to all" victims.

F. January – June 2008: While the Defense Presses Its Appeal to the Department in an Effort to Undo the NPA, the FBI and the USAO Continue Investigating Epstein

As described in Chapter Two of this Report, from the time the NPA was signed through the end of June 2008, the defense employed various measures to delay, or avoid entirely, implementation of the NPA. Ultimately, defense counsel's advocacy resulted in the USAO's decision to have the federal case reviewed afresh. A review of the evidence was undertaken first by USAO Criminal Chief Robert Senior and then, briefly, by an experienced CEOS trial attorney. A review of the case in light of the defense challenges was then conducted by CEOS Chief Oosterbaan, in consultation with his staff and with Deputy Assistant Attorney General Sigal Mandelker and Assistant Attorney General Alice Fisher, and then by the Office of the Deputy Attorney General. Each review took weeks and delayed Epstein's entry of his state guilty plea.

As set forth below, during that time, Villafaña and the FBI continued investigating and working toward potential federal charges.

1. Villafaña Prepares to Contact Victims in Anticipation That Epstein Will Breach the NPA

On January 3, 2008, the local newspaper reported that Epstein's plea conference in state court, at that point set for early January, had been rescheduled to March 2008, at which time he would plead guilty to felony solicitation of prostitution, and that "in exchange" for the guilty plea,

---

324 The 2000 Guidelines were superseded by the 2005 Guidelines.

"federal authorities are expected to drop their probe into whether Epstein broke any federal laws."[325]

Nevertheless, as Epstein's team continued to argue to higher levels of the Department that there was no appropriate federal interest in prosecuting Epstein and thus no basis for the NPA, and with his attorneys asserting that "the facts had gotten better for Epstein," Villafaña came to believe that Epstein would likely breach the NPA.[326] In January 2008, Villafaña informed her supervisors that the FBI "had very tight contact with the victims several months ago when we were prepared to [file charges], but all the shenanigans over the past few months have resulted in no contact with the vast majority of the victims." Villafaña then proposed that the FBI "re-establish contact with all the victims so that we know we can rely on them at trial."[327] Villafaña told OPR that at this point, "[w]hile the case was being investigat[ed] and prepared for indictment, I did not prepare or send any victim notification letters—there simply was nothing to update. I did not receive any victim calls during this time."

2. The FBI Uses VNS Form Letters to Re-Establish Contact with Victims

On January 10, 2008, the FBI Victim Specialist mailed VNS generated victim notification letters to 14 victims articulating the eight CVRA rights and inviting recipients to update their contact information with the FBI in order to obtain current information about the matter.[328] The case agent informed Villafaña in an email that the Victim Specialist sent a "standard form [FBI] letter to all the remaining identified victims." These 2008 letters were identical to the FBI form letters the Victim Specialist had sent to victims between August 28, 2006, and October 12, 2007. Like those previous letters, most of which were sent before the NPA was signed on September 24, 2007, the 2008 letters described the case as "currently under investigation" and noted that "[t]his can be a lengthy process and we request your continued patience while we conduct a thorough investigation." The letters also stated:

---

325 Michele Dargan, "Jeffrey Epstein Plea Hearing Moved to March," *Palm Beach Daily News* "The Shiny Sheet," Jan. 3, 2008.

326 Epstein's attorneys used discovery proceedings in the state case to depose federal victims, and as they learned unflattering details or potential impeachment information concerning likely federal victims, they argued for the exclusion of those victims from the federal case. For example, defense attorneys questioned one victim as to whether the federal prosecutors or FBI agents told her that she was entitled to receive money from Epstein. *See* Exhibit 9 to Villafaña June 2, 2017 Declaration: Deposition of [REDACTED], *State v. Epstein,* Case No. 2006-CF-9454, at 44, 50, 51 (Feb. 20, 2008). One victim's attorney told OPR that the defense attorneys tried to "smear" victims by asking highly personal sexual questions about "terminations of pregnancies . . . sexual encounters . . . masturbation." Epstein's attorney used similar tactics in questioning victims who filed civil cases against their client. For example, the *Miami Herald* reported that, "One girl was asked about her abortions, and her parents, who were Catholic and knew nothing about the abortions, were also deposed and questioned." *See* Julie Brown, "Perversion of Justice: Cops Worked to Put a Serial Sex Abuser in Prison. Prosecutors Worked to Cut Him a Break," *Miami Herald*, Nov. 28, 2018.

327 Villafaña also told her supervisors that she wanted the FBI to interview two specific victims.

328 The Victim Specialist later generated an additional letter dated May 30, 2008. After Epstein's June 30, 2008 state court pleas, she sent out substantially similar notification letters to two victims who resided outside of the United States.

> We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The FBI case agent informed Villafaña that the Victim Specialist sent the letters and would follow up with a phone call "to offer assistance and ensure that [the victims] have received their letter." A sample letter is shown on the following pages.

Villafaña told OPR that she did not recall discussing the content of the letters at the time they were sent to the victims, or reviewing the letters until they were collected for the CVRA litigation, sometime after July 2008. Rather, according to Villafaña, "The decision to issue the letter and the wording of those letters were exclusively FBI decisions." Nevertheless, Villafaña asserted to OPR that from her perspective, the language regarding the ongoing investigation "was absolutely true and, despite being fully advised of our ongoing investigative activities, no one in my supervisory chain ever told me that the case was not under investigation." Villafaña identified various investigative activities in which she engaged from "September 2007 until the end of June 2008," such as collecting and reviewing evidence; interviewing new victims; re-interviewing victims; identifying new charges; developing new charging strategies; drafting supplemental prosecution memoranda; revising the charging package; and preparing to file charges. Similarly, the FBI case agent told OPR that at the time the letters were sent the "case was never closed and the investigation was continuing." The co-case agent stated that the "the case was open . . . it's never been shut down."

Victim Courtney Wild received one of the January 10, 2008 FBI letters; much later, in the course of the CVRA litigation, she stated that her "understanding of this letter was that [her] case was still being investigated and the FBI and prosecutors were moving forward on the Federal prosecution of Epstein for his crimes against [her]."[329]

[329] CVRA petitioner Jane Doe #2 also received a January 10, 2008 FBI letter that was sent to her counsel.

U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: (561) 833-7517
Fax: (561) 833-7970

January 10, 2008

[redacted]

Re: Case Number: [redacted]

Dear [redacted]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at [redacted] In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) [redacted] and Personal Identification Number (PIN) [redacted] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is [redacted]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,

[redacted]

Victim Specialist

3. Villafaña, the FBI, and the CEOS Trial Attorney Interview Victims

As Villafaña resumed organizing the case for charging and trial, the FBI case agent provided Villafaña with a list of "the 19 identified victims we are planning on using in" the federal charges and noted that she and her co-case agent wanted to further evaluate some additional victims.[330] In Washington, D.C., CEOS assigned a Trial Attorney to the Epstein case in order to bring expertise and "a national perspective" to the matter.[331]

On January 18, 2008, one attorney representing a victim and her family contacted Sloman by telephone, stating that he planned to file civil litigation against Epstein on behalf of his clients, who were "frustrated with the lack of progress in the state's investigation" of Epstein. The attorney asked Sloman if the USAO "could file criminal charges even though the state was looking into the matter," but Sloman declined to answer his questions concerning the investigation.[332] In late January, the *New York Post* reported that the attorney's clients had filed a $50 million civil suit against Epstein in Florida and that "Epstein is expected to be sentenced to 18 months in prison when he pleads guilty in March to a single charge of soliciting an underage prostitute."[333]

Between January 31, 2008, and May 28, 2008, the FBI, with the prosecutors, interviewed additional victims and reinterviewed several who had been interviewed before the NPA was signed.[334] In late January 2008, as Villafaña and the CEOS Trial Attorney prepared to participate

330 The case agent also informed Villafaña that she expected to ask for legal process soon in order to obtain additional information.

331 The CEOS Trial Attorney told OPR that she was under the impression that she was brought in to help prepare for the trial because the "plea had fallen through."

332 Because Sloman and the attorney were former legal practice partners, Sloman reported the interaction to Acosta, and the USAO reported the incident to OPR shortly thereafter. OPR reviewed the matter as an inquiry and determined that no further action was warranted.

333 Dareh Gregorian, "Tycoon Perved Me at 14 - $50M Suit Hits NY Creep Over Mansion Massage," *New York Post*, Jan. 25, 2008.

334 An FBI interview report from May 28, 2008, indicates that one victim "believes Epstein should be prosecuted for his actions."

in FBI interviews of Wild and other victims, Villafaña informed CEOS Chief Oosterbaan that she anticipated the victims "would be concerned about the status of the case."

On January 31, 2008, Villafaña, the CEOS Trial Attorney, and the FBI interviewed three victims, including Wild. Prior to the interview, Wild had received the FBI's January 10, 2008 letter stating that the case was under investigation; however, according to the case agent, Wild and two other victims had also been told by the FBI, in October 2007, that the case had been resolved. In her 2015 CVRA-case declaration, Wild stated that after receiving the FBI letter, she believed that the FBI was investigating the case, and she was not told "about any [NPA] or any potential resolution of the federal criminal investigation I was cooperating in. If I had been told of a[n NPA], I would have objected." In Villafaña's 2017 declaration in the CVRA litigation, Villafaña recalled interviewing Wild on January 31, 2008, along with FBI agents, and Villafaña told OPR she "asked [Wild] whether she would be willing to testify if there were a trial." Villafaña recalled Wild responding that she "hoped Epstein would be prosecuted and that she was willing to testify."[335]

After the first three victim interviews on January 31, 2008, Villafaña described for Acosta and Sloman the toll that the case had taken on two of the victims:

> One girl broke down sobbing so that we had to stop the interview twice . . . she said she was having nightmares about Epstein coming after her and she started to break down again so we stopped the interview.
>
> The second girl . . . was very upset about the 18 month deal she had read about in the paper.[336] She said that 18 months was nothing and that she had heard that the girls could get restitution, but she would rather not get any money and have Epstein spend a significant time in jail.[337]

Villafaña closed the email by requesting that Acosta and Sloman attend the interviews with victims scheduled for the following day, but neither did so.[338] Acosta told OPR that it "wasn't typical"

---

335 The FBI report of the interview did not reflect a discussion of Wild's intentions.

336 *See* Dareh Gregorian, "Tycoon Perved Me at 14 - $50M Suit Hits NY Creep Over Mansion Massage," *New York Post*, Jan. 25, 2008. As early as October 2007, the New York Post reported the 18-month sentence and that "[t]he feds have agreed to drop their probe into possible federal criminal violations in exchange for the guilty plea to the new state charge." Dan Mangan, "'Unhappy Ending' Plea Deal – Moneyman to Get Jail For Teen Sex Massages," *New York Post*, Oct. 1, 2007.

337 Acosta told OPR, "The United States can't unwind an agreement just because . . . some victim indicates that they don't like it." The CEOS Trial Attorney recalled that she did not "think that any one of these girls was interested in this prosecution going forward." Furthermore, as previously noted, the CEOS Trial Attorney also opined that "[the victims] would have testified for us," but the case would have required an extensive amount of "victim management," as the girls were "deeply embarrassed" that they "were going to be called prostitutes."

338 OPR located FBI interview reports relating to only one February 1, 2008 victim interview. Although Villafaña's emails indicated that two additional victims were scheduled to be interviewed on February 1, 2008, OPR located no corresponding reports for those victim interviews. OPR located undated handwritten notes Villafaña

for him, as U.S. Attorney, to attend witness interviews, and further, that no one in the USAO "was questioning the pain or the suffering of the victims." Sloman told OPR that he himself had "never gone to a line assistant's victim or witness interview."

Villafaña told OPR that although three of the victims interviewed during this period had been notified by the FBI in October 2007 about the resolution of the case, at this point Villafaña did not specifically tell these victims that "there was a signed non-prosecution agreement that had these terms." Villafaña also told OPR she "didn't talk about money" because she "didn't want there to be an allegation at the time of trial . . . that [the victims] were either exaggerating their claims or completely making up claims in order to increase their damages amount." Rather, according to Villafaña, she told the three victims that "an agreement had been reached where [Epstein] was going to be entering a guilty plea, but it doesn't look like he intends to actually perform . . . [and] now it looks like this may have to be charged, and may have to go to trial." Villafaña recalled "explaining that the case was under investigation," that they "were preparing the case [for charging] again," and "expressing our hope that charges would be brought." Villafaña recalled one victim "making a comment about the amount of [imprisonment] time and why was it so low" and Villafaña answered, "that was the agreement that the office had reached."[339]

With regard to the victims Villafaña interviewed who had not received an FBI notification in October 2007, Villafaña recalled discussing one victim's safety concerns but not whether they discussed the agreement. She recalled telling another victim that "we thought we had reached an agreement with [Epstein] and then we didn't," but was "pretty sure" that she did not mention the agreement during the interview of the third victim. Villafaña explained that she likely did not discuss the agreement because

> at that point I just felt . . . like it was nonexistent. [The victim] didn't know anything about it beforehand, and as far as I could tell it was going to end up being thrown on the heap, and I didn't want to -- . . . if you tell people, oh, look, he's already admitted that he's guilty, like, I didn't want that to color her statement. I just wanted to get the facts of the case.

The CEOS Trial Attorney told OPR that she did not recall any discussion with the victims about the NPA or the status of the case.[340] She did remember explaining the significance of the prosecution to one victim who "did not think anything should happen" to Epstein. The FBI case agent told OPR that she did not recall the January 2008 interviews. OPR located notes to an FBI interview report, stating that one of the victims wanted another victim to be prosecuted. Attorneys for the two victims other than Wild who had been notified by the FBI in October 2007 about the resolution of the case informed OPR that as of 2020, their clients had no memory of meeting with

---

authored concerning one of the two victims that contained no information regarding a discussion of the status of the investigation or the resolution of the case. Through her attorney, this victim told OPR that she did not recall having contact with anyone from the USAO.

339 Villafaña did not recall any other specific questions from victims.

340 The CEOS Trial Attorney noted that CEOS did not issue victim notifications; rather, such notifications were generally handled by a Victim Witness Specialist in the assigned USAO.

prosecutors and did not recall learning any information about Epstein's guilty plea until after the plea was entered on June 30, 2008.

When asked whether she was concerned that her statements would mislead the victims, Villafaña told OPR:

> From my perspective we were conducting an investigation and it was an investigation that was going to lead to an indictment. You know, I was interviewing witnesses, I was issuing [legal process], . . . I was doing all [these] things to take the case to a federal indictment and a federal trial. So to me, saying to a victim the case is now back under investigation is perfectly accurate.

4. February – March 2008: Villafaña Takes Additional Steps to Prepare for a Prosecution of Epstein, Arranges for *Pro Bono* Attorneys for Victims, and Cautions about Continued Delay

In February 2008, Villafaña revised the prosecution memorandum and supplemental memorandum. Villafaña removed some victims known to Epstein from the PBPD investigation and others subject to impeachment as a result of civil suits they filed against Epstein, added newly discovered victims, and made changes to the proposed indictment.

While the defense appealed the USAO's decision to prosecute Epstein to higher levels of the Department, Villafaña sought help for victims whom defense investigators were harassing and attempting to subpoena for depositions as part of Epstein's defense in civil lawsuits that some victims had brought against him, as well as purportedly in connection with the state criminal case. Villafaña reported to her supervisors that she was able to locate a "national crime victims service organization" to provide attorneys for the victims, and the FBI Victim Specialist contacted some victims to provide contact information for the attorneys.[341] During this period, an attorney from the victims service organization was able to help Courtney Wild avoid an improper deposition. Villafaña also informed her supervisors, including Sloman, that "one of the victims tried to commit suicide last week," and advocated aggressively for a resolution to the case: "I just can't stress enough how important it is for these girls to have a resolution in this case. The 'please be patient' answer is really wearing thin, especially when Epstein's group is still on the attack while we are forced to wait on the sidelines."

5. March – April 2008: Villafaña Continues to Prepare for Filing Federal Charges

Villafaña continued to revise the proposed charges by adding new victims and by removing others who had filed civil suits against Epstein. Villafaña also prepared search warrants for digital

[341] The FBI Victim Specialist informed Villafaña that she spoke "directly to seven victims" and informed them of the *pro bono* counsel and explained that her "job as a Victim Specialist is to ensure that victims[] of a Federal crime are afforded their rights, information and resource referral."

camera memory cards seized by the PBPD in order to have them forensically examined for deleted images that could contain child pornography.[342]

By early April 2008, as the defense pursued its appeal to the Department's Criminal Division, Acosta predicted in an email to Villafaña and Sloman that federal charges against Epstein were "more and more likely." Villafaña asked Oosterbaan for help to "move this [Criminal Division review] process along," noting that the defense continued to undermine the government's case by deposing the victims "under the guise of 'trial prep' for the state case" and that the "agents and the victims" were "losing their patience."

On April 24, 2008, Villafaña emailed Sloman and USAO Criminal Division Chief Senior asking whether she had the "green light" to file charges and raising the same concerns she had expressed to Oosterbaan. Villafaña further cautioned that, although she was planning to file charges on May 6, if that was not going to happen, "then we all need to meet with the victims, the agents, and the police officers to decide how the case will be resolved and to provide them with an explanation for the delay." Because the Department's Criminal Division did not conclude its review of Epstein's appeal by May 6, however, Villafaña did not file charges that day.

VIII. USAO SUPERVISORS CONSIDER CVRA OBLIGATIONS IN AN UNRELATED MATTER AND IN LIGHT OF A NEW FIFTH CIRCUIT OPINION

During the period after the NPA was signed, and before Epstein complied with the NPA by entering his state guilty pleas, the USAO supervisors were explicitly made aware of a conflict between the Department's position that CVRA's victims' rights attached upon the filing of a criminal charge and a new federal appellate ruling to the contrary. The contemporaneous communications confirm that in 2008, Acosta and Sloman were aware of the Department's policy regarding the issue.

Unrelated to the Epstein investigation, on April 18, 2008, Acosta and Sloman received a citizen complaint from an attorney who requested to meet with them regarding his belief that the Florida Bar had violated his First Amendment rights. The attorney asserted that the CVRA guaranteed him "an absolute right to meet" with USAO officials because he believed that he was the victim of a federal crime. Acosta forwarded the message to the USAO Appellate Division Chief, who informed Acosta and Sloman that, according to the 2005 Guidelines, "our obligations under [the CVRA] are not triggered until charges are filed." On April 24, 2008, the Appellate Division Chief emailed Acosta and Sloman, stating that she had "confirmed with DOJ that [her] reading of [the 2005 Guidelines] is correct and that our obligations under [the CVRA] are not triggered until a case is filed."[343]

On May 7, 2008, the Appellate Division Chief sent Acosta and Sloman a copy of a U.S. Court of Appeals for the Fifth Circuit opinion issued that day, *In re Dean*, holding that a victim's

---

342 The forensic examination did not locate useful evidence on the memory cards.

343 The Appellate Division Chief advised Acosta that Acosta could inform the complainant that, prior to the initiation of charges, the investigating agency was responsible for carrying out the Department's statutory obligations to the victim.

CVRA rights attach prior to the filing of criminal charges.[344] The Appellate Division Chief noted that, although the holding conflicted with the 2005 Guidelines, the "court's opinion makes sense."

Dean involved a federal prosecution arising from a 2005 explosion at an oil refinery operated by BP Products North America, Inc. (BP) that killed 15 people and injured more than 170. Before bringing criminal charges, the government negotiated a guilty plea with BP without notifying the victims. The government filed a sealed motion, alerting the district court to the potential plea and claiming that consultation with all the victims was impractical and that such notification could result in media coverage that would undermine the plea negotiations. The court then entered an order prohibiting the government from notifying the victims of the pending plea agreement until after it had been signed by the parties. Thereafter, the government filed a criminal information, the government and BP signed the plea agreement, and the government mailed notices of the plea hearing to the victims informing them of their right to be heard. One month later, 12 victims asked the court to reject the plea because it was entered into in violation of their rights under the CVRA. The district court denied their motion, but concluded that the CVRA rights to confer with the prosecutor in the case and to be treated with fairness and respect for the victim's dignity and privacy vested prior to the initiation of charges.[345] The district court noted that the legislative history reflected a view that "the right to confer was intended to be broad," as well as being a "mechanism[]" to ensure that victims were treated with fairness.

In denying the victims relief, the Fifth Circuit nevertheless concluded that the district court "failed to accord the victims the rights conferred by the CVRA."[346] In particular, the Fifth Circuit cited the district court's acknowledgement that "[t]here are clearly rights under the CVRA that apply before any prosecution is underway." The Fifth Circuit also noted that such consultation was not "an infringement" on the government's independent prosecutorial discretion, but "it is only a requirement that the government confer in some reasonable way with the victims before ultimately exercising its broad discretion." In the wake of the *Dean* opinion, two Department components wrote separate memoranda to the Solicitor General with opposing views concerning whether the CVRA right to confer with the prosecution vests prior to the initiation of a prosecution.

IX. JUNE 2008: VILLAFAÑA'S PRE-PLEA CONTACTS WITH THE ATTORNEY REPRESENTING THE VICTIMS WHO LATER BECAME THE CVRA PETITIONERS

According to an affidavit filed in the CVRA litigation by her attorney, Bradley Edwards, Wild retained Edwards in June 2008 to represent her "because she was unable to get anyone from the [USAO] to tell her what was actually going on with the federal criminal case against Jeffrey Epstein."[347] Villafaña told OPR that Wild did not contact her directly and she was not aware of

---

344 *In re Dean*, 527 F.3d 391 (5th Cir. 2008). The Fifth Circuit opinion was not binding precedent in Florida, which is within the Eleventh Circuit.

345 *United States v. BP Products North America, Inc.*, 2008 WL 501321, at *11 (S.D. Tex. 2008). Victims who wished to be heard were permitted to speak at the plea hearing.

346 *Dean*, 527 F.3d at 394.

347 Before Epstein's state court plea hearing, Edwards also began representing the victim who became Jane Doe #2. Although OPR focuses on Villafaña's communications with Edwards in this section, OPR notes that Villafaña

an instance in which Wild "asked a question that wasn't answered" of anyone in the USAO or of the FBI case agents.

Edwards contacted Villafaña by email and telephone in mid-June, stating that he had "information and concerns that [he] would like to share."[348] In his affidavit, Edwards alleged that during multiple telephone calls with Villafaña, he "asked very specific questions about what stage the investigation was in," and Villafaña replied that she could not answer his questions because the matter "was an on-going active investigation[.]" Edwards attested that Villafaña gave him "the impression that the Federal investigation was on-going, very expansive, and continuously growing, both in the number of identified victims and [in] complexity."[349]

In her written response to OPR, Villafaña said that she "listened more than [she] spoke" during these interactions with Edwards, which occurred before the state court plea:

> Given the uncertainty of the situation – Epstein was still challenging our ability to prosecute him federally, pressing allegations of prosecutorial misconduct, and trying to negotiate better plea terms, while the agents, my supervisors, and I were all moving towards [filing charges] – I did not feel comfortable sharing any information about the case. It is also my practice not to talk about status before the grand jury.

In her 2017 declaration in the CVRA litigation, Villafaña explained that during these exchanges, Villafaña did not inform Edwards of the existence of the NPA because she "did not know whether the NPA remained viable at that time or whether Epstein would enter the state court guilty plea that would trigger the NPA."[350] Villafaña told OPR that she did not inform Edwards

---

also had interactions with other victims' attorneys. For example, another attorney informed OPR that he spoke to Villafaña two to five times concerning the status of the case and each time was told that the case was under investigation. The attorney noted, "[W]e never got any information out of [Villafaña]. We were never told what was happening or going on to any extent." Villafaña's counsel told OPR that Villafaña did not have any interaction with the attorney or his law partner until after Epstein's state court plea hearing, and that in her written communications responding to the attorney's inquiries, she provided information to the extent possible. OPR found no documentation that Villafaña's communications with the attorney occurred prior to June 30, 2008. Villafaña also had more ministerial interactions with other victims' counsel, as well as contact regarding their ongoing civil cases. For example, in March 2008, one victim's attorney informed Villafaña of his representation of a victim and requested that the government provide him with photographs of the victim and information concerning the tail registration number for Epstein's airplane. Villafaña responded that she was unable to provide the requested information, but asked that counsel keep her updated about the civil litigation.

348 Villafaña later stated in a July 9, 2008 declaration filed in the CVRA litigation that, although she invited Edwards to provide her with information, "[n]othing was provided."

349 Edwards did not respond to OPR's request to interview him, although he did assist OPR in locating other attorneys who were representing victims.

350 The government later admitted in court filings that Villafaña and Edwards "discussed the possibility of federal charges being filed in the future and that the NPA was not mentioned." *Doe*, Government's Response to Petitioners' Statement of Undisputed Material Facts in Support of Petitioners' Motion for Partial Summary Judgment at 14, ¶101 (June 6, 2017).

about the NPA because it was "confidential" and because the case was under "investigation and leading towards" the filing of charges. Villafaña recalled mentioning the conversation to her supervisors and the case agents because she "thought he was somebody who could be of assistance to us and . . . could perhaps persuade Alex Acosta that this was a case that was meritorious and should be prosecuted."

Nevertheless, when OPR asked Villafaña why she did not inform Edwards of the same information that the FBI and she had provided to Wild in October 2007 and January 2008, Villafaña explained that she felt "prohibited":

> At the time that I spoke with him, you know, there had been all of this . . . letter writing or all of these concerns and instructions that I had been given by Alex [Acosta] and Jeff [Sloman] not to disclose things further and not to have any involvement in victim notification, and so I felt like that prohibited me from telling him about the existence of the NPA.

X. JUNE 2008: EFFORTS TO NOTIFY VICTIMS ABOUT THE JUNE 30, 2008 PLEA HEARING

The Epstein team's appeals through the Department ended on June 23, 2008, when the Deputy Attorney General determined that "federal prosecution of this case is appropriate" and Epstein's allegations of prosecutorial misconduct did not rise to a level that would undermine such a decision. Immediately thereafter, at Sloman's instruction, Villafaña notified Lefkowitz that Epstein had until "the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement . . . including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment." That same day, Villafaña made plans to file charges on July 1, 2008, if Epstein did not enter his guilty plea by the June 30 deadline.

On Friday, June 27, 2008, Villafaña received a copy of the proposed state plea agreement and learned that the plea hearing was scheduled for 8:30 a.m. on Monday, June 30, 2008. Also on that Friday, Villafaña submitted to Sloman and Criminal Division Chief Senior a "final final" proposed federal indictment of Epstein.

Villafaña and the FBI finalized the government's victim list that they intended to disclose, for § 2255 purposes, to Epstein after the plea and, at Sloman's instruction, Villafaña contacted PBPD Chief Reiter to ask him to notify the victims of the plea hearing. Villafaña told OPR that Sloman said, "Chief Reiter could contact the victims from the state case, and tell them about the plea."[351] On Saturday, June 28, 2008, Villafaña emailed Sloman to inform him that PBPD Chief Reiter "is going to notify victims about the plea."[352]

---

351 Villafaña further stated, "I requested permission to make oral notifications to the victims regarding the upcoming change of plea, but the Office decided that victim notification could only come from a state investigator, and Jeff Sloman asked PBPD Chief Reiter to assist."

352 Sloman replied, "Good."

Villafaña told OPR that before the state plea hearing, she sent Reiter a list of the victims, including their telephone numbers, to notify and asked him to destroy the list. Villafaña recalled that Reiter told her that he would "try to contact as many as he could" and that he would destroy the list afterwards. Villafaña did not recall being "asked [to] provide a list of all our victims to the State Attorney's Office."

In his 2009 deposition, Reiter stated that Villafaña sent him a letter "around the time of sentencing," listing the victims in the federal investigation, and that she asked him to destroy the letter after he reviewed it. Reiter recalled that he requested the list because he was aware that the state grand jury's indictment of Epstein did not include all of the victims that the PBPD had identified and he "wanted to make sure that some prosecution body had considered all of our victims."[353]

In her 2017 declaration in the CVRA litigation, Villafaña stated that she and the PBPD "attempted to notify the victims about [the June 30] hearing in the short time available to us."[354] In her 2008 declaration, however, Villafaña conceded that "all known victims were not notified."

Villafaña told OPR that Edwards was the only victim attorney she was authorized to contact—she thought probably by Sloman—about the June 30, 2008 plea hearing because Edwards "had expressed a specific interest in the outcome." Villafaña recalled, "I was told that I could inform [Edwards] of [the plea date], but I still couldn't inform him of the NPA."[355] In her 2008 declaration in the CVRA litigation, Villafaña stated that she called Edwards and informed him of the plea hearing scheduled for Monday; Villafaña stated that Edwards told her that he could not attend the hearing but "someone" would be present. In a later filing in the CVRA litigation, however, Edwards asserted that Villafaña told him only that "Epstein was pleading guilty to state solicitation of prostitution charges involving other victims—not Mr. Edwards' clients nor any of the federally-identified victims."[356] Edwards further claimed that because Villafaña failed to inform him that the "guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement," his clients did not attend the hearing. Villafaña told OPR that her expectation was that the state plea proceeding would allow Edwards and his clients the ability to comment on the resolution:

---

353 Reiter showed the letter to the lead Detective so he could "confirm that all of the victims that we had for the state case were included on that." The Detective "looked at it and he said they're all there and then [Reiter] destroyed it." The Detective recalled viewing the list in Reiter's office, but he could not recall when Reiter showed it to him.

354 The FBI co-case agent told OPR that "I don't think the [FBI] reached out to anyone."

355 Villafaña told OPR that she thought that it was Sloman who gave her the instructions, but she could not "remember the specifics of the conversation."

356 Villafaña stated that she "never told Attorney Edwards that the state charges involved 'other victims,' and neither the state court charging instrument nor the factual proffer limited the procurement of prostitution charge to a specific victim." Although Edwards criticized Villafaña's conduct in his CVRA filings, in his recently published book, Edwards described Villafaña as a "kindhearted prosecutor who tried to do right," noting that she "believ[ed] in the victims and tr[ied] . . . to bring down Jeffrey Epstein." Bradley J. Edwards with Brittany Henderson, *Relentless Pursuit* at 380 (Gallery Books 2020).

> [M]y expectation of what was going [to] happen at the plea was that it would be like a federal plea where there would be a factual proffer that was read, and where the judge would ask if there were any victims present who wanted to be heard, and that at that point if Brad Edwards wanted to address the court or if his clients wanted to address the court, they would be given the opportunity to do so.[357]

Sloman told OPR that he did not recall directing Villafaña to contact anyone about the plea hearing or directing her specifically not to contact anyone about it. Acosta told OPR that he believed the state would notify the victims of the "all-encompassing plea" resolving the federal case "and [the victims would] have an opportunity to speak up at the state court hearing." Nevertheless, Acosta did not know whether the state victims overlapped with the federal victims or whether the USAO "shared that list with them." Villafaña told OPR that she and Acosta "understood that the state would notify the state victims" but that neither of them were aware "that the state only believed they had one victim."[358] Villafaña told OPR that there was "very little" communication between the USAO and the State Attorney's Office, and although she discussed a factual proffer with the State Attorney's Office and "the fact that . . . the federal investigation had identified additional victims," she did not recall discussing "who the specific people were that they considered victims in the state case."[359]

Sloman told OPR that the "public perception . . . that we tried to hide the fact of the results of this resolution from the victims" was incorrect. He explained:

> [E]ven though we didn't have a legal obligation, I felt that the victims were going to be notified and the state was going . . . to fulfill that obligation, and even as another failsafe, [the victims] would be notified of . . . the restitution mechanism that we had set up on their behalf.

Sloman acknowledged that although neither the NPA terms nor the CVRA prevented the USAO from exercising its discretion to notify the victims,

> it was [of] concern that this was going to break down and . . . result in us prosecuting Epstein and that the victims were going to be witnesses and if we provided a victim notification indicating, hey, you're going to get $150,000, that's . . . going to be instant impeachment for the defense.

---

357 Assistant State Attorney Belohlavek told OPR that federal victims who were not a party to the state case would not have been able to simply appear at the state plea hearing and participate in the proceedings. Rather, such a presentation would have required coordination between the USAO and the State Attorney's Office and additional investigation of the victims' allegations and proposed statements by the State Attorney's Office.

358 In an email a few months earlier, Villafaña noted, "The state indictment [for solicitation of adult prostitution] is related to two girls. One of those girls is included in the federal [charging document], the other is not."

359 As noted in Chapter Two, Villafaña had stopped communicating with the State Attorney's Office regarding the state case following Epstein's defense team's objections to those communications.

When asked why the USAO did not simply notify the victims of the change of plea hearing, Sloman responded that he "was more focused on the restitution provisions. I didn't get the sense that the victims were overly interested in showing up . . . at the change of plea."

Also, in late June, Villafaña drafted a victim notification letter concerning the June 30, 2008 plea.[360] Villafaña told OPR that, because "Mr. Acosta had agreed in December 2007 that we would not provide written notice of the state change of plea, the written victim notifications were prepared to be sent immediately following Epstein's guilty plea."[361] As she did with prior draft victim notification letters, Villafaña provided the draft to the defense for comments.[362]

Although Epstein's plea hearing was set for June 30, 2008, Villafaña took steps to facilitate the filing of federal charges on July 1, 2008, in the event he did not plead guilty in state court.

OPR reviewed voluminous Epstein-related files that the State Attorney's Office made available online, but OPR was unable to locate any document establishing that before the hearing date, the state informed victims of the June 30, 2008 plea. On March 12, 2008, the State Attorney's Office issued trial subpoenas to three victims and one non-law enforcement witness commanding the individuals to "remain on call" during the week of July 8, 2008. However, the Palm Beach County Sheriff was unable to serve one of the victims in person because the victim was "away [at] college."

XI. JUNE 30, 2008: EPSTEIN ENTERS HIS GUILTY PLEAS IN A STATE COURT HEARING AT WHICH NO VICTIMS ARE PRESENT

On June 30, 2008, Epstein appeared in state court in West Palm Beach, with his attorney Jack Goldberger, and pled guilty to an information charging him with procuring a person under 18 for prostitution, as well as the indictment charging him with felony solicitation of prostitution. The information charged that between August 1, 2004, and October 9, 2005, Epstein "did knowingly and unlawfully procure for prostitution, or caused to be prostituted, [REDACTED], a person under the age of 18 years," and referred to no other victims. The indictment did not identify any victims and alleged only that Epstein engaged in the charged conduct on three occasions between August 1, 2004, and October 31, 2005. Although the charges did not indicate whether they applied to multiple victims, during the hearing, Assistant State Attorney Belohlavek informed the court that "[t]here's several" victims. When the court asked Belohlavek whether "the victims in both these cases [were] in agreement with the terms of this plea," Belohlavek replied, "I have spoken to several myself and I have spoken to counsel, through counsel as to the other victim, and I believe,

---

360 Sloman forwarded the draft victim notification letter to Acosta, who responded with his own edited version stating, "What do you think?" Villafaña edited it further.

361 The letter began with the statement, "On June 30, 2008, Jeffrey Epstein . . . entered a plea of guilty." A week after Epstein's state guilty plea, Villafaña notified Acosta, Sloman, and other supervisors that "[Epstein's local attorney] Jack Goldberger is back in town today, so I am hoping that we will finalize the last piece of our agreement—the victim list and Notification. If I face resistance on that front, I will let you know."

362 According to Villafaña, either Acosta or Sloman made the decision to send the notifications following the state plea and to share the draft notification letters with the defense.

yes." The court also asked Belohlavek if the juvenile victim's parents or guardian agreed with the plea, and Belohlavek stated that because the victim was no longer under age 18, Belohlavek spoke with the victim's counsel, who agreed with the plea agreement.[363]

Both Villafaña and the FBI case agent were present in the courtroom gallery to observe the plea hearing. Later that day, Villafaña met with Goldberger and gave him the list of 31 individuals the government was prepared to name as victims and to whom the § 2255 provision applied.

In her 2015 CVRA case declaration, Wild stated that, "I did not have any reason to attend that hearing because no one had told me that this guilty plea was related to the FBI's investigation of Epstein's abuse of me." She stated that she "would have attended and tried to object to the judge and prevent that plea from going forward," had she known that the state plea "had some connection to blocking the prosecution of my case." Similarly, CVRA petitioner Jane Doe #2 stated that "no one notified me that [Epstein's] plea had anything to do with my case against him."

An attorney who represented several victims, including one whom the state had subpoenaed for the potential July trial, told OPR that he was present in court on June 30, 2008, in order to serve a complaint upon Epstein in connection with a civil lawsuit brought on behalf of one of his clients. The USAO had not informed him about the plea hearing.[364] Moreover, the attorney informed OPR that, although one of the victims he represented had been interviewed in the PBPD's investigation and had been deposed by Epstein's attorneys in the state case (with the Assistant State Attorney present), he did not recall receiving any notice of the June 30, 2008 plea hearing from the State Attorney's Office.[365] Similarly, another of the victims the state had subpoenaed for the July trial told OPR through her attorney that she received subpoenas from the State Attorney's Office, but she was not invited to or aware of the state plea hearing. Belohlavek told OPR that she did not recall whether she contacted any of the girls to appear at the hearing, and she noted that given the charge of solicitation of prostitution, they may not have "technically" been victims for purposes of notice under Florida law but, rather, witnesses. On July 24, 2008, the State Attorney's Office sent letters to two victims stating that the case was closed on June 26, 2008 (although the plea occurred on June 30, 2008) and listed Epstein's sentence. The letters did not mention the NPA or the federal investigation.

XII. SIGNIFICANT POST-PLEA DEVELOPMENTS

A. Immediately After Epstein's State Guilty Pleas, Villafaña Notifies Some Victims' Attorneys

Villafaña's contemporaneous notes show that immediately after Epstein's June 30, 2008 guilty pleas, she attempted to reach by telephone five attorneys representing various victims in

363 Villafaña, who was present in court and heard Belohlavek's representation, told OPR that she had no information as to whether or how the state had notified the victims about the plea hearing.

364 Villafaña did contact this attorney's law partner later that day.

365 When interviewed by OPR in 2020, this same attorney indicated that he was surprised to learn that despite the fact that his client was a minor at the time Epstein victimized her, she was not the minor victim that the state identified in the information charging Epstein.

civil suits that were pending against Epstein.[366] Villafaña also emailed one of the *pro bono* attorneys she had engaged to help victims avoid defense harassment, informing him that the federal investigation had been resolved through a state plea and that Epstein had an "agreement" with the USAO "requir[ing] him to make certain concessions regarding possible civil suits brought by the victims." Villafaña advised Goldberger: "The FBI has received several calls regarding the [NPA]. I do not know whether the title of the document was disclosed when the [NPA] was filed under seal, but the FBI and our Office are declining comment if asked."

B. July 7, 2008: The CVRA Litigation Is Initiated

On July 3, 2008, victims' attorney Edwards spoke to Villafaña by telephone about the resolution of the state case against Epstein "and the next stage of the federal prosecution."[367] In his 2017 affidavit filed in the CVRA litigation, Edwards asserted that during this conversation, Villafaña did not inform him of the NPA, but that during the call, he sensed that the USAO "was beginning to negotiate with Epstein concerning the federally identified crimes." However, in an email Villafaña sent after the call, she informed Sloman that during the call, Edwards stated that "his clients can name many more victims and wanted to know if we can get out of the deal." Villafaña told Sloman that after she told Edwards that the government was bound by the agreement, assuming Epstein completed it, Edwards asked that "if there is the slightest bit of hesitation on Epstein's part of completing his performance, that he and his [three] clients be allowed to consult with [the USAO] before making a decision."[368]

That same day, Edwards wrote a letter to Villafaña, complaining that Epstein's state court sentence was "grossly inadequate for a predator of this magnitude" and urged Villafaña to "move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed."

On July 7, 2008, Edwards filed his emergency petition in the U.S. District Court for the Southern District of Florida on behalf of Courtney Wild, who was then identified only as "Jane Doe." She was soon joined by a second petitioner, and they were respectively referred to as "Jane Doe 1" and "Jane Doe 2."[369] Edwards claimed that the government had violated his clients' rights under the CVRA by negotiating to resolve the federal investigation of Epstein without consulting with the victims. The petition requested that the court order the United States to comply with the CVRA. The USAO opposed the petition, arguing that the CVRA did not apply because there were

366 According to Villafaña's handwritten notes from June 30, 2008, Villafaña left a message for two of the attorneys.

367 In his 2017 affidavit filed in the CVRA case, Edwards recalled that his telephone conversation occurred on June 30, 2008, but noted that it could possibly have occurred on July 3, 2008.

368 Sloman responded, "Thanks."

369 Later attempts by two additional victims to join the ongoing CVRA litigation were denied by the court.

no federal charges filed against Epstein as a result of the government's agreement in mid-2007 to defer prosecution to the state.[370]

C. July 2008: Villafaña Prepares and Sends a Victim Notification Letter to Listed Victims

On July 8, 2008, Villafaña provided Goldberger with an updated victim list for 18 U.S.C. § 2255 purposes, noting that she had inadvertently left off one individual in her June 30, 2008 letter. Villafaña also informed the defense that, beginning the following day, she would distribute notifications to each of the 32 victims and their counsel informing them that Epstein's attorney would be the contact for any civil litigation, if the victim decided to pursue damages. Finally, the letter informed the defense that the government would consider a denial by Epstein that any "one of these victims is entitled to proceed under 18 U.S.C. § 2255" to be considered a breach of the terms of the NPA.

After exchanging emails and letters with the defense concerning the content of the notice letter, Villafaña drafted a letter she sent, on July 9 and 10, to nine victims who had previously retained counsel. The letter informed the victims and their counsel that, "[i]n light of" Epstein's June 30, 2008 state court plea to felony solicitation of prostitution and procurement of minors to engage in prostitution, and his sentence of a total of 18 months' imprisonment followed by 12 months' community control, "the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions." The letter included a reference to the 18 U.S.C. § 2255 provision of the NPA, and although the defense had never agreed to it, used language from Acosta's December 19, 2007 letter to Epstein defense attorney Sanchez clarifying the damages provision. The paragraph below was described as "[o]ne such condition to which Epstein has agreed":

> Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name . . . as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less.

On July 10, 2008, Villafaña sent Goldberger a "Final Notification of Identified Victims," highlighting the defendant's obligations under the NPA concerning victim lawsuits pursuant to

[370] As described in Section XII.G of this Part, the matter continued in litigation for years and resulted in the district court's February 21, 2019 opinion concluding that the government violated the victims' rights under the CVRA by failing to consult with them before signing the NPA.

18 U.S.C. § 2255 and again listing the 32 "individuals whom the United States was prepared to name as victims of an enumerated offense."[371] The same day, Villafaña sent Goldberger a second letter, noting that the defense would receive copies of all victim notifications on a rolling basis.

Villafaña informed her managers that the FBI case agents would reach out by telephone to the listed victims who were unrepresented, to inform them that the case was resolved and to confirm their addresses for notification by mail. With regard to the content of the telephone calls, Villafaña proposed the following language to the case agents:

> We are calling to inform you about the resolution of the Epstein investigation and to thank you for your help.
>
> Mr. Epstein pled guilty to one child sex offense that will require him to register as a sex offender for life and received a sentence of 18 months imprisonment followed by one year of home confinement. Mr. Epstein also made a concession regarding the payment of restitution.
>
> All of these terms are set out in a letter that AUSA Villafaña is going to send out. Do you have a lawyer? Get name or address. If not[,] where do you want [the] letter sent? If you have questions when you receive the letter, please understand that we cannot provide legal advice but the lawyers at the following victim rights organizations are able to help you at no cost to you. (Provide names and phone numbers)
>
> Also ask about counseling and let them know that counseling is still available even though the investigation is closed.

On July 21, 2008, Villafaña sent the letter to the 11 unrepresented victims whose addresses the FBI had by that time confirmed. Villafaña provided Epstein's defense counsel with a copy of the letter sent to each victim, directly or though counsel (with the mailing addresses redacted).

D. July – August 2008: The FBI Sends the Victim Notification Letter to Victims Residing Outside of the United States

While attempting to locate and contact the unrepresented victims, the FBI obtained contact information for two victims residing outside of the United States. On July 23 and August 8, 2008, respectively, the FBI Victim Specialist transmitted an automated VNS form notification letter to each victim through the FBI representative at the U.S diplomatic mission for each country. This

---

[371] A month later, in an August 18, 2008 letter to the USAO, the defense sought to limit the government's victim list to those victims who were identified before the September 24, 2007 execution of the NPA. Villafaña also raised with Acosta, Sloman, and other supervisors the question whether the USAO had developed sufficient evidence to include new victims it had identified since creation of the July 2008 list and whether Jane Doe #2, who had previously given a statement in support of Epstein, should be added back to the list. Ultimately, Villafaña sent the defense a letter confirming that the government's July 10, 2008 victim list was "the final list."

letter was substantially identical to the previous FBI victim notification letter the FBI had sent to victims (in 2006, 2007, and 2008) in that it identified each recipient as "a possible victim of a federal crime" and listed her eight CVRA rights.

The letter did not indicate that Epstein had pled guilty in state court on June 30, 2008, or that the USAO had resolved its investigation by deferring federal prosecution in favor of the state plea. Rather, like the previous FBI VNS-generated letter, the letter requested the victims' "assistance and cooperation while we are investigating the case."

For each of the two victims residing outside of the United States, Villafaña also drafted a notification letter concerning the June 30, 2008 plea and the 18 U.S.C. § 2255 process, which were to be hand delivered along with the FBI's letters. However, FBI records do not reflect whether the USAO's letter was delivered to the two victims.

E. August – September 2008: The Federal Court Orders the USAO to Disclose the NPA to Victims, and the USAO Sends a Revised Victim Notification Letter

On August 1, 2008, the petitioners in the CVRA litigation filed a motion seeking access to the NPA. The USAO opposed the motion by relying on the confidentiality portion of the NPA.[372] On August 21, 2008, the court ordered the government to provide the petitioners with a copy of the NPA subject to a protective order. In addition, the court ordered the government to produce the NPA to other identified victims upon request:

> (d) If any individuals who have been identified by the USAO as victims of Epstein and/or any attorney(s) for those individuals request the opportunity to review the [NPA], then the USAO shall produce the [NPA] to those individuals, so long as those individuals also agree that they shall not disclose the [NPA] or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard[.][373]

In September 2008, the USAO sent a revised notification letter to victims, and attorneys for represented victims, concerning Epstein's state court guilty plea and his agreement to not contest liability in victim civil suits brought under 18 U.S.C. § 2255.[374] The September letter appeared to address concerns raised by Epstein attorney Lefkowitz that the government's earlier notification letter referenced language concerning 18 U.S.C. § 2255 that the government had proposed in Acosta's December 19, 2007 letter to Epstein attorney Sanchez, but that the defense had not accepted.[375] As a result of the defense objection, Villafaña determined that she was

---

372 Pursuant to paragraph 13 of the NPA, Villafaña made Epstein's attorneys aware of the petitioners' request for the NPA.

373 *Doe*, Order to Compel Production and Protective Order at 1-2 (Aug. 21, 2008).

374 The USAO also sent a notification letter to additional victims who had not received a notification letter in July.

375 This issue is discussed more fully in Chapter Two.

obligated to amend her prior letter to victims to correct the reference to the December letter.[376] Accordingly, the September letter contained no information about the parties' intent in implementing 18 U.S.C. § 2255, but merely referred to the NPA language concerning Epstein's waiver of his right to contest liability under the provision. In addition, the September letter described the appointment of a special master, the special master's selection of an attorney to represent the victims in their 18 U.S.C. § 2255 litigation against Epstein, and Epstein's agreement to pay the attorney representative's fees arising out of such litigation. The letter also clarified that Epstein's agreement to pay for attorneys' fees did not extend to contested litigation against him.

The government also intended for the letter to comply with the court's order concerning providing victims with copies of the NPA. The initial draft included a paragraph advising the victims that they could receive a copy of the NPA:

> In addition, a judge has ordered that the United States make available to any designated victim (and/or her attorney) a copy of the actual agreement between Mr. Epstein and the United States, so long as the victim (and/or her attorney) reviews, signs, and agrees to be bound by a Protective Order entered by the Court. If [the victim] would like to review the Agreement, please let me know, and I will forward a copy of the Protective Order for her signature.

The government shared draft versions of the September letter with Epstein's counsel and responded to criticism of the content of the proposed letter. For example, in response to the above language regarding the August 21, 2008 court order in the CVRA litigation, the defense argued that there was "no court order requiring the government to provide the alleged 'victims' with notice that the [NPA] is available to them upon request and doing so is in conflict with the confidentiality provisions of the [NPA]." In response, and in consultation with USAO management, Villafaña revised the paragraph as follows:

> In addition, there has been litigation between the United States and two other victims regarding the disclosure of the entire agreement between the United States and Mr. Epstein. [The attorney selected by the special master] can provide further guidance on this issue, or if you select another attorney to represent you, that attorney can review the Court's order in the [CVRA litigation].

On September 18, 2009, a state court judge unsealed the copy of the NPA that had been filed in the state case.[377]

---

376 In the letter, Villafaña expressed frustration with defense counsels' claim relative to the December 19, 2007 letter that was included in the July 2008 notification letter, noting that the July 2008 letter had been approved by defense counsel before being sent.

377 *See* Susan Spencer-Wendel, "Epstein's Secret Pact With Fed Reveals 'Highly Unusual' Terms," *Palm Beach Post*, Sept. 19, 2009.

F. 2010 – 2011: Department and Congressional Actions Regarding Interpretation of the CVRA

In connection with the Department's 2010 effort to update its 2005 Guidelines, the Office of the Deputy Attorney General convened a Victim of Crimes Working Group that asked OLC to revisit its 2005 preliminary review concerning the definition of "crime victim" under the CVRA and solicited input concerning the issue from Department components and federal law enforcement agencies. In response, OLC issued a December 17, 2010 opinion entitled, *The Availability of Crime Victims' Rights Under the Crime Victims' Rights Act of 2004*. Based on the CVRA's language, relevant case law, and memoranda opinions from Department components, OLC reaffirmed its 2005 conclusion that CVRA rights do not vest until a criminal charge has been filed (by complaint, information, or indictment) and the rights cease to be available if "all charges are dismissed either voluntarily or on the merits (or if the [g]overnment declines to bring formal charges after the filing of a complaint)."[378]

After OLC issued its opinion, the Department revised the 2005 Guidelines in October 2011 but did not change its fundamental position that the CVRA rights did not vest until after criminal charges were filed. The 2011 revision did, however, add language concerning victim consultation before a defendant is charged: "In circumstances where plea negotiations occur before a case has been brought, Department policy is that this should include reasonable consultation prior to the filing of a charging instrument with the court."[379] The use of the word "should" in the 2011 Guidelines indicates that "personnel are expected to take the action . . . unless there is an appropriate, articulable reason not to do so."[380] Nevertheless, the required consultation "may be general in nature" and "does not have to be specific to a particular plea offer."[381] The revisions also specified that AUSAs were to ensure that victims had a right to be reasonably heard at plea proceedings.[382]

On November 2, 2011, U.S. Senator Jon Kyl, a co-sponsor of the CVRA, sent a letter to Attorney General Eric Holder, arguing that the 2011 Guidelines revisions "conflict[ed] quite clearly with the CVRA's plain language" because the 2011 Guidelines did "not extend any rights to victims until charges have been filed." The Department's response emphasized that the

---

378 OLC "express[ed] no opinion" as to whether it is a matter of "good practice" to inform victims of their CVRA rights prior to the filing of a complaint or after the dismissal of charges.

379 *See* 2011 Guidelines, Art. V, ¶ G.2, available at https://www.justice.gov/sites/default/files/olp/docs/ag_guidelines2012. pdf. In its 2011 online training video regarding the Guidelines, the Department encouraged such consultation when reasonable, but it also continued to maintain that there was no CVRA right to confer for pre-indictment plea negotiations.

380 *See* 2011 Guidelines, Art. I, ¶ B.2.

381 *See* 2011 Guidelines, Art. V, ¶ G.2.

382 The 2005 Guidelines contained no specific provision requiring AUSAs to ensure that victims were able to exercise their right to be reasonably heard at plea proceedings, only at sentencing. *See* 2005 Guidelines, Art. IV, ¶ C.3.b.(2). However, the 2005 Guidelines generally require AUSAs to use their best efforts to comply with the CVRA, and the CVRA specifically affords victims the right to be heard at plea proceedings. The 2011 revision remedied this omission.

Department had made its "best efforts in thousands of federal and District of Columbia cases to assert, support, and defend crime victims' rights." The response also referenced OLC's December 2010 opinion concluding that CVRA rights apply when criminal proceedings are initiated, noting that "the new AG Guidelines go further and provide that Department prosecutors should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations, even prior to the filing of a charging instrument with the court."[383]

In 2015, Congress amended the CVRA, and added the following two rights:

> (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.
>
> (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.

G. The CVRA Litigation Proceedings and Current Status

While the CVRA litigation was pending in the Southern District of Florida, numerous federal civil suits against Epstein, brought in the same district, were transferred to the same judge as "related cases," as a matter of judicial economy pursuant to the Local Rules. As the parties agreed on settlements in those civil cases, they were dismissed.[384] Several of the victims who had settled their civil cases filed a pleading in the CVRA litigation asking the court to "maintain their anonymity" and not "further disseminate[]" their identities to the CVRA petitioners.[385]

In the CVRA case, the petitioners claimed that the government violated their CVRA rights to confer by (1) negotiating and signing the NPA without victim input; (2) sending letters to the victims claiming that the matter was "under investigation" after the NPA was already signed; and (3) not properly informing the victims that the state plea would also resolve the federal investigation. In addition, the petitioners alleged that the government violated their CVRA right to be treated with fairness by concealing the NPA negotiation and also violated their CVRA right to reasonable notice by concealing that the state court proceeding impacted the enforcement of the NPA and resolved the federal investigation.

During the litigation, the USAO argued that (1) the victims had no right to notice or conferral about the NPA because the CVRA rights did not apply pre-charge; (2) the government's

---

383 157 Cong. Rec. S7359-02 (2011) (Kyl letter and Department response).

384 Epstein also resolved some county court civil cases during this time period as well. In addition, numerous other cases were resolved outside of formal litigation. For example, one attorney told OPR that he resolved 16 victim cases, but did not file all cases with the court. Court data indicate that the attorney filed only 3 of the 16 cases he said he resolved.

385 *Doe,* Response to Court Order of July 6, 2015 and United States' Notice of Partial Compliance at 1 (July 24, 2015).

letters to victims sent after the NPA was signed were not misleading in stating that the matter was "under investigation" because the government continued to investigate given its uncertainty that Epstein would plead guilty; and (3) Villafaña contacted the petitioners' attorney prior to Epstein's state plea to advise him of the hearing. Nonetheless, Villafaña told OPR that, while there were valid reasons for the government's position that CVRA rights do not apply pre-charge, "[T]his is a case where I felt we should have done more than what was legally required. I was obviously prepared to spend as much time, energy and effort necessary to meet with each and every [victim]."

Over the course of the litigation, the district court made various rulings interpreting the provisions of the CVRA, including the court's key conclusion that victim CVRA rights "attach before the Government brings formal charges against a defendant." The court also held that (1) "the CVRA authorizes the rescission or 'reopening' of a prosecutorial agreement, including a non-prosecution agreement, reached in violation of a prosecutor's conferral obligations under the statute"; (2) the CVRA authorizes the setting aside of pre-charge prosecutorial agreements"; (3) the CVRA's "reasonable right to confer" "extends to the pre-charge state of criminal investigations and proceedings"; (4) the alleged federal sex crimes committed by Epstein render the *Doe* petitioners "victims" under the CVRA; and (5) "questions pertaining to [the] equitable defense[s] are properly left for resolution after development of a full evidentiary record."

On February 21, 2019, the district court granted the petitioners' Motion for Partial Summary Judgment, ruling that "once the Government failed to advise the victims about its intention to enter into the NPA, a violation of the CVRA occurred." The government did not dispute the fact that it did not confer with the petitioners prior to signing the NPA, and the court concluded that "[a]t a bare minimum, the CVRA required the Government to inform Petitioners that it intended to enter into an agreement not to prosecute Epstein." The court found that the post-NPA letters the government sent to victims describing the investigation as ongoing "misled the victims to believe that federal prosecution was still a possibility" and that "[i]t was a material omission for the Government to suggest to the victims that they have patience relative to an investigation about which it had already bound itself not to prosecute."[386]

The court relied on *Dean* and *BP Products* to support its holding and noted that the government's action with respect to the NPA was especially troubling because, unlike a plea agreement for which the victims could voice objection at a sentencing hearing, "[o]nce an NPA is entered into without notice, the matter is closed and the victims have no opportunity to be heard regarding any aspect of the case." The court also highlighted the inequity of the USAO's failure to communicate with the victims while it simultaneously engaged in "lengthy negotiations" with Epstein's counsel and assured the defense that the NPA would not be "made public or filed with the Court."

Although the USAO defended its actions by citing the 2005 Guidelines for the Department's position that CVRA rights do not attach until after a defendant is charged, the court was "not persuaded that the [G]uidelines were the basis for the Government's decision to withhold information about the NPA from the victims." The court found that the government's reliance on

386 The court did not resolve the factual question as to whether the victims were given adequate notice of Epstein's state court plea hearing.

the 2005 Guidelines was inconsistent with positions the USAO had taken in correspondence with Epstein's attorneys, in which the government acknowledged that "it had obligations to notify the victims." The court ordered the parties to submit additional briefs regarding the appropriate remedies. Accordingly, the petitioners requested multiple specific remedies, including rescission of the NPA; a written apology to all victims from the government; a meeting with Acosta, Villafaña, and her supervisors; access to government records, including grand jury materials; training for USAO employees; and monetary sanctions and attorneys' fees.[387]

Following Epstein's indictment on federal charges in New York and subsequent death while in custody, on September 16, 2019, the district judge presiding over the CVRA case denied the petitioners' motion for remedies and closed the case, stating that Epstein's death "rendered the most significant issue that was pending before the Court, namely, whether the Government's violation of Petitioners' rights under the CVRA invalidated the NPA, moot."[388] The court did not order the government to take corrective measures, but stated that it "fully expects the Government will honor its representation that it will provide training to its employees about the CVRA and the proper treatment of crime victims."[389] The court also denied the petitioners' request for attorneys' fees, finding that the government did not act in bad faith, because, "[a]lthough unsuccessful on the merits of the issue of whether there was a violation of the CVRA, the Government asserted legitimate and legally supportable positions throughout this litigation."

On September 30, 2019, Wild appealed the district court's rejection of the requested remedies, through a Petition for a Writ of Mandamus filed with the U.S. Court of Appeals for the Eleventh Circuit.[390] In its responsive brief, the government expressed sympathy for Wild and "regret[] [for] the manner in which it communicated with her in the past."[391] Nevertheless, the government argued that, "as a matter of law, the legal obligations under the CVRA do not attach prior to the government charging a case" and thus, "the CVRA was not triggered in SDFL because no criminal charges were brought."[392] The government conceded, however, that with regard to the New York prosecution in which Epstein had been indicted, "[p]etitioner and other Epstein

---

387 *Doe*, Jane Doe 1 and Jane Doe 2's Submission on Proposed Remedies (May 23, 2019).

388 *Doe*, Opinion and Order (Sept. 16, 2019). Among other things, the court rejected the petitioners' contention that it did not address whether the government had violated the victims' CVRA right to be treated with fairness and to receive fair notice of the proceedings, noting that "[t]hese rights all flow from the right to confer and were encompassed in the Court's ruling finding a violation of the CVRA."

389 The Department's Office of Legal Programs provided a training entitled Crime Victims' Rights in the Federal System to the USAO on January 10, 2020.

390 *See In re Wild*, No. 19-13843, Petition for a Writ of Mandamus Pursuant to the Crime Victims' Rights Act, 18 U.S.C. § 3771(d)(3) (Sept. 30, 2019).

391 *Wild*, Brief of the United States of America in Response to Petition for Writ of Mandamus Under the Crime Victims Rights Act at 14 (Oct. 31, 2019). As previously noted, at this point, the litigation was being handled by the U.S. Attorney's Office for the Northern District of Georgia.

392 The government also noted that although the CVRA was amended in 2015 to include a victim's right to be notified in a timely manner of plea bargains and deferred prosecution agreements, "the amendment did not extend to non-prosecution agreements" which, unlike plea agreements and deferred prosecution agreements, do not require court involvement.

victims deserve to be treated with fairness and respect, and to be conferred with on the criminal case, not just because the CVRA requires it, but because it's the right thing to do." During oral argument on January 16, 2020, the government apologized for the USAO's treatment of Wild:

> The issue is whether or not the office was fully transparent with Ms. Wild about what it is that was going on with respect to the NPA, and they made a mistake in causing her to believe that the case was ongoing when in fact the NPA had been signed. The government should have communicated in a straightforward and transparent way with Ms. Wild, and for that, we are genuinely sorry.[393]

On April 14, 2020, a divided panel of the Court of Appeals for the Eleventh Circuit denied Wild's petition for a writ of mandamus, concluding that "the CVRA does not apply before the commencement of criminal proceedings—and thus, on the facts of this case, does not provide the petitioner here with any judicially enforceable rights."[394] The court conducted a thorough analysis of the language of the statute, the legislative history, and previous court decisions. The court distinguished *In re Dean* as "dictum" consisting of a "three-sentence discussion . . . devoid of any analysis of the CVRA's text, history, or structural underpinnings." The court noted that its interpretation of the CVRA was consistent with the Department's 2010 OLC opinion concerning victim standing under the CVRA and the Department's efforts in "implementing regulations." Finally, the court raised separation of powers concerns with Wild's (and the dissenting judge's) interpretation of victim standing under the CVRA, noting that such an interpretation would interfere with prosecutorial discretion.

Nevertheless, the court was highly critical of the government's conduct in the underlying case, stating that the government "[s]eemingly . . . defer[red] to Epstein's lawyers" regarding information it provided victims about the NPA and that its "efforts seem to have graduated from passive nondisclosure to (or at least close to) active misrepresentation." The court concluded that although it "seems obvious" that the government "should have consulted with petitioner (and other victims) before negotiating and executing Epstein's NPA," the court could not conclude that the government was obligated to do so. In addition, the dissenting judge filed a lengthy and strongly worded opinion asserting that the majority's statutory interpretation was "contorted" because the "plain and unambiguous text of the CVRA does not include [a] post-indictment temporal restriction."

On May 5, 2020, Wild filed a petition for rehearing *en banc*. On August 7, 2020, the court granted the petition for rehearing *en banc* and vacated the panel's opinion; as of the date of this Report, a briefing schedule has been issued and oral argument is set for December 3, 2020.

393 Audio recording of Oral Argument, *Wild*, No. 19-13843 (Jan. 16, 2020).

394 *In re Wild*, 955 F.3d 1196, 1220 (11th Cir. 2020).

[Page Intentionally Left Blank]

CHAPTER THREE

PART TWO: APPLICABLE STANDARDS

I. STATUTORY PROVISIONS

Pertinent sections of the CVRA and the VRRA, applicable during the relevant time period, are set forth below.

A. The CVRA, 18 U.S.C. § 3771

(a) Rights of Crime Victims. —A crime victim has the following rights:

(1) The right to be reasonably protected from the accused.
(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
(5) The reasonable right to confer with the attorney for the Government in the case.
(6) The right to full and timely restitution as provided in law.
(7) The right to proceedings free from unreasonable delay.
(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

. . . .

(c) Best Efforts To Accord Rights.—

(1) Government.—Officers and employees of the Department of Justice . . . shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

. . . .

(e) Definitions.

. . . .

(2) Crime victim.—

(A) In general. —The term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.

B. The Victims' Rights and Restitution Act of 1990 (VRRA), 34 U.S.C. § 20141, Services to Victims (formerly cited as 42 USCA § 10607)

(b) Identification of victims

At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;
(2) inform the victims of their right to receive, on request, the services described in subsection (c); and
(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) Description of services

(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;
(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;
(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and
(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;
(B) the arrest of a suspected offender;
(C) the filing of charges against a suspected offender;
(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 10606(b)(4) of Title 42, is entitled to attend;
(E) the release or detention status of an offender or suspected offender;
(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and
(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

. . . .

(e) Definitions

. . . .

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime . . . .

II. DEPARTMENT POLICY: THE 2005 ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE (2005 GUIDELINES)

In 2005, the Department revised its guidelines for victim and witness assistance in order to incorporate the provisions of the CVRA. The purpose of the 2005 Guidelines was "to establish guidelines to be followed by officers and employees of Department of Justice investigative, prosecutorial, and correctional components in the treatment of victims of and witnesses to crime." The relevant portions of the 2005 Guidelines are as follows:

Article IV: Services to Victims and Witnesses

A. Investigation Stage

The investigative agency's responsibilities begin with the report of the crime and extend through the prosecution of the case. In some instances, when explicitly stated, the investigative agency's responsibility for a certain task is transferred to the prosecuting agency when charges are filed.

. . . .

2. Identification of Victims. At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, the responsible official of the investigative agency shall identify the victims of the crime.

3. Description of Services.

a. Information, Notice, and Referral

(1) Initial Information and Notice. Responsible officials must advise a victim pursuant to this section at the earliest opportunity after detection of a crime at which it may be done without interfering with an investigation. To comply with this requirement, it is recommended that victims be given a printed brochure or card that briefly describes their rights and the available services, identifies the local

service providers, and lists the names and telephone numbers of the victim-witness coordinator or specialist and other key officials. A victim must be informed of—

(a) His or her rights as enumerated in 18 U.S.C. § 3771(a).

(b) His or her right entitlement, on request, to the services listed in 42 U.S.C. § 10607(c).

(c) The name, title, business address, and telephone number of the responsible official to whom such a request for services should be addressed.

(d) The place where the victim may receive emergency medical or social services.

(e) The availability of any restitution or other relief (including crime victim compensation programs) to which the victim may be entitled under this or any other applicable law and the manner in which such relief may be obtained.

(f) Public and private programs that are available to provide counseling, treatment, and other support to the victim.

. . . .

(i) The availability of services for victims of domestic violence, sexual assault, or stalking.

(j) The option of being included in VNS.

(k) Available protections from intimidation and harassment.

. . . .

(3) Notice during the investigation. During the investigation of a crime, a responsible official shall provide the victim with the earliest possible notice concerning—

(a) The status of the investigation of the crime, to the extent that it is appropriate and will not interfere with the investigation.

(b) The arrest of a suspected offender.

B. Prosecution Stage

The prosecution stage begins when charges are filed and continues through postsentencing legal proceedings, including appeals and collateral attacks.

1. Responsible Officials. For cases in which charges have been instituted, the responsible official is the U.S. Attorney in whose district the prosecution is pending.

2. Services to Crime Victims

. . . .

b. Information, Notice, and Referrals

(1) Notice of Rights. Officers and employees of the Department of Justice shall make their best efforts to see that crime victims are notified of the rights enumerated in 18 U.S.C. § 3771(a).

(2) Notice of Right To Seek Counsel. The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in 18 U.S.C. § 3771(a).

(3) Notice of Right To Attend Trial. The responsible official should inform the crime victim about the victim's right to attend the trial regardless of whether the victim intends to make a statement or present any information about the effect of the crime on the victim during sentencing.

(4) Notice of Case Events. During the prosecution of a crime, a responsible official shall provide the victim, using VNS (where appropriate), with reasonable notice of—

(a) The filing of charges against a suspected offender.

(b) The release or escape of an offender or suspected offender.

(c) The schedule of court proceedings.

(i) The responsible official shall provide the victim with reasonable, accurate, and timely notice of any public court proceeding or parole proceeding that involves the crime against the victim. In the event of an emergency or other last-minute hearing or change in the time or date of a hearing, the responsible official should consider providing notice by telephone or expedited means. This notification requirement relates to postsentencing proceedings as well.

(ii) The responsible official shall also give reasonable notice of the scheduling or rescheduling of any other court proceeding that the victim or witness is required or entitled to attend.

(d) The acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial.

(e) If the offender is convicted, the sentence and conditions of supervised release, if any, that are imposed.

. . . .

(6) Referrals. Once charges are filed, the responsible official shall assist the victim in contacting the persons or offices responsible for providing the services and relief [previously identified].

c. Consultation With a Government Attorney

(1) In General. A victim has the reasonable right to confer with the attorney for the Government in the case. The victim's right to confer, however, shall not be construed to impair prosecutorial discretion. Federal prosecutors should be available to consult with victims about major case decisions, such as dismissals, release of the accused pending judicial proceedings (when such release is for noninvestigative purposes), plea negotiations, and pretrial diversion. Because victims are not clients, may become adverse to the Government, and may disclose whatever they have learned from consulting with prosecutors, such consultations may be limited to gathering information from victims and conveying only nonsensitive data and public information. Consultations should comply with the prosecutor's obligations under applicable rules of professional conduct.

Representatives of the Department should take care to inform victims that neither the Department's advocacy for victims nor any other effort that the Department may make on their behalf constitutes or creates an attorney-client relationship between such victims and the lawyers for the Government.

Department personnel should not provide legal advice to victims.

(2) Prosecutor Availability. Prosecutors should be reasonably available to consult with victims regarding significant adversities they may suffer as a result of delays in the prosecution of the case and should, at the appropriate time, inform the court of the reasonable concerns that have been conveyed to the prosecutor.

(3) Proposed Plea Agreements. Responsible officials should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations. In determining what is reasonable, the responsible official should consider factors relevant to the wisdom and practicality of giving notice and considering views in the context of the particular case, including, but not limited to, the following factors:

(a) The impact on public safety and risks to personal safety.
(b) The number of victims.
(c) Whether time is of the essence in negotiating or entering a proposed plea.

(d) Whether the proposed plea involves confidential information or conditions.
(e) Whether there is another need for confidentiality.
(f) Whether the victim is a possible witness in the case and the effect that relaying any information may have on the defendant's right to a fair trial.

III. FLORIDA RULES OF PROFESSIONAL CONDUCT

A. FRPC 4-4.1 – Candor in Dealing with Others

FRPC 4-4.1 prohibits a lawyer from knowingly making a false statement of material fact or law to a third person during the course of representation of a client. A comment to this rule explains that "[m]isrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements," and "[w]hether a particular statement should be regarded as one of fact can depend on the circumstances."

B. FRPC 4-8.4 – Conduct Prejudicial to the Administration of Justice

FRPC 4-8.4(c) states that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

FRPC 4-8.4(d) prohibits a lawyer from engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice.

As previously noted, courts have determined that FRPC 4-8.4(d) is not limited to conduct that occurs in a judicial proceeding, but can be applied to "conduct in connection with the practice of law." *Frederick*, 756 So. 2d at 87; *see also Shankman*, 41 So. 3d at 172.

[Page Left Intentionally Blank]

CHAPTER THREE

PART THREE: ANALYSIS

I. OVERVIEW

In addition to criticism of Acosta's decision to end the federal investigation by means of the NPA, public and media attention also focused on the government's treatment of victims. In the CVRA litigation and in more recent media reports, victims complained that they were not informed about the government's intention to end its investigation of Epstein because the government did not consult with victims before the NPA was signed; did not inform them of Epstein's state plea hearing and sentencing, thereby denying them the opportunity to attend; and actively misled them through statements that the federal investigation was ongoing. The district court overseeing the CVRA litigation concluded that the government violated the Crime Victims' Rights Act and "misl[ed] the victims to believe that federal prosecution was still a possibility" and that "[i]t was a material omission for the Government to suggest to the victims that they have patience relative to an investigation about which it had already bound itself not to prosecute."[395] The government's conduct, which involved both FBI and USAO actions, led to allegations that the prosecutors had purposefully failed to inform victims of the NPA to prevent victims from complaining publicly or in state court.

OPR examined the government's course of conduct when interacting with the victims, including the lack of consultation with the victims before the NPA was signed; Acosta's decision to defer to state authorities the decision to notify victims of Epstein's state plea; and the decision to delay informing victims about the NPA until after Epstein entered his plea on June 30, 2008. OPR considered whether letters sent to victims by the FBI after the NPA was signed contained false or misleading statements. OPR also evaluated representations Villafaña made to victims in January and February 2008, and to an attorney for a victim in June 2008.

II. THE SUBJECTS DID NOT VIOLATE A CLEAR AND UNAMBIGUOUS STANDARD BY ENTERING INTO THE NPA WITHOUT CONSULTING THE VICTIMS

During the CVRA litigation, the government acknowledged that the USAO did not consult with victims about the government's intention to enter into the NPA. In its February 21, 2019 opinion, the district court concluded that "once the Government failed to advise the victims about its intention to enter into the NPA, a violation of the CVRA occurred." OPR considered this finding as part of its investigation into the USAO's handling of the Epstein case, and examined whether, before the NPA was signed on September 24, 2007, federal prosecutors were obligated to consult with victims under the CVRA, and if so, whether any of the subject attorneys—Acosta, Sloman, Menchel, Lourie, or Villafaña—intentionally violated or recklessly disregarded that obligation.

---

395 *Doe v. United States,* 359 F. Supp. 3d 1201, 1219, 1221 (S.D. Fla. Feb. 21, 2019).

As discussed below, OPR concludes that none of the subject attorneys violated a clear and unambiguous duty under the CVRA because the USAO resolved the Epstein investigation without a federal criminal charge. In September 2007, when the NPA was signed, the Department did not interpret CVRA rights to attach unless and until federal charges had been filed, and the federal courts had not established a clear and unambiguous standard applying the CVRA before criminal charges were brought. Pursuant to OPR's established analytical framework, OPR does not find professional misconduct unless a subject attorney intentionally or recklessly violated a clear and unambiguous standard. Accordingly, OPR finds that the subject attorneys' conduct did not rise to the level of professional misconduct. OPR nevertheless concludes that the lack of consultation was part of a series of government interactions with victims that ultimately led to public and court condemnation of the government's treatment of the victims, reflected poorly on the Department as a whole, and is contradictory to the Department's mission to "minimize the frustration and confusion that victims of a crime endure in its wake."[396]

A. At the Time, No Clear and Unambiguous Standard Required the USAO to Notify Victims Regarding Case-Related Events until after the Filing of Criminal Charges

Although the rights enumerated in the CVRA are clear on their face, the threshold issue of whether an individual qualifies as a victim to whom CVRA rights attach was neither clear nor unambiguous at the time the USAO entered into the NPA with Epstein in September 2007. At that time, the Department interpreted the CVRA in a way that differed markedly from the district court's later interpretation in the CVRA litigation.

The CVRA defines a "crime victim" as "a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia." On April 1, 2005, soon after the CVRA was enacted, OLC concluded that "the status of a 'crime victim' may be reasonably understood to commence upon the filing of a criminal complaint, and that the status ends if there is a subsequent decision not to indict or prosecute the Federal offense that directly caused the victim's harm." Beginning with the 2005 OLC guidance, the Department has consistently taken the position that CVRA rights do not apply until the initiation of criminal charges against a defendant, whether by complaint, indictment, or information. OLC applied its definition to all eight CVRA rights in effect in 2005, but noted that the obligation created by the eighth CVRA right—to "treat[] victims with fairness and respect"—is "always expected of Federal officials, and the Victims' Rights and Restitution Act of 1990 [(VRRA)] indicates that this right applies 'throughout the criminal justice process.'"[397] Consistent with the OLC interpretation, in May 2005, the Department issued the 2005 Guidelines to implement the CVRA.

The 2005 Guidelines assigned CVRA-related obligations to prosecutors only after the initiation of federal charges. Specifically, the 2005 Guidelines stated that during the "prosecution stage," the "responsible official" should make reasonable efforts to notify identified victims of,

---

396 2005 Guidelines, Foreword.

397 Nevertheless, the portion of the VRRA referenced in the OLC 2005 Informal Guidance, 42 U.S.C. § 10606, had been repealed upon passage of the CVRA.

and consider victims' views about, prospective plea negotiations.[398] The "prosecution stage" began when charges were filed and continued through all post-sentencing legal proceedings.[399]

At the time the parties signed the NPA in September 2007, few courts had addressed victim standing under the CVRA. Notably, district courts in New York and South Carolina had ruled that standing attached only upon the filing of federal charges.[400] Two cases relied upon by the court in its February 2019 opinion—*Dean* and its underlying district court opinion, *BP Products*—were decided after the NPA was signed.

The CVRA litigation and proposed federal legislation—both pending as of the date of this Report—show that the interpretation of victim standing under the CVRA continues to be a matter of debate.[401] In a November 21, 2019 letter to Attorney General William Barr, a Congressional Representative stated that she had recently introduced legislation specifically to "[c]larify that victims of federal crimes have the right to confer with the Government and be informed about key pre-charging developments in a case, such as . . . non-prosecution agreements."[402] The CVRA litigation arising from the Epstein case shows the lack of clarity regarding when CVRA rights apply: the district court concluded that CVRA rights applied pre-charge, but a sharply divided panel of the Eleventh Circuit Court of Appeals came to a contrary conclusion, a decision that has now been vacated while the entire court hears the case *en banc*.

Because the Supreme Court had not addressed the issue of when CVRA rights apply, the lower courts had reached divergent conclusions, and the Department had concluded that CVRA rights did not apply pre-charge, OPR concludes that the subjects' failure to consult with victims before signing the NPA did not constitute professional misconduct because at that time, the CVRA did not clearly and unambiguously require prosecutors to consult with victims before the filing of federal criminal charges.[403]

---

398 2005 Guidelines, Art. IV, ¶ B.2.c.(3). Under the 2005 Guidelines, the term "should" means that "the employee is expected to take the action or provide the service described unless there is an appropriate, articulable reason not to do so." *Id.*, Art. II, ¶ C.

399 *Id.*, Art. IV, ¶ B.1.

400 *Searcy v. Paletz*, 2007 WL 1875802, at *5 (D.S.C. June 27, 2007) (an inmate is not considered a crime victim for purposes of the CVRA until the government has filed criminal charges); *United States v. Turner*, 367 F. Supp. 2d 319, 326-27 (E.D.N.Y. 2005) (victims are not entitled to CVRA rights until the government has filed charges, but courts have discretion to take a more inclusive approach); and *United States v. Guevara-Toloso,* 2005 WL 1210982, at *2 (E.D.N.Y. May 23, 2005) (order *sua sponte*) (in case involving a federal charge of illegal entry after a felony conviction, the court determined that victims of the predicate state conviction were not victims under the CVRA).

401 *See Wild*, 955 F.3d at 1220; Courtney Wild Crime Victims' Rights Reform Act of 2019, H.R. 4729, 116th Cong. (2019).

402 165 Cong. Rec. E1495-01 (2019).

403 Violations of an unambiguous obligation concerning victims' rights could result in a violation of the rules of professional responsibility. For example, in *Attorney Griev. Comm'n of Md. v. Smith*, 109 A.3d 1184 (Md. 2015), the Court of Appeals of Maryland concluded that a prosecutor's failure to provide any notice to the minor victim's foster family about the resolution of a sex abuse case during the ten months the prosecutor was responsible for the matter was a "consistent failure" amounting to "gross negligence in the discharge of the prosecutorial function" that deprived the victim of his rights under the Maryland Constitution. The court found violations of Maryland Rules of Professional

In *Wild*, the Eleventh Circuit panel compared the language of the CVRA to the language of the VRRA, noting that the VRRA "clearly extends victim-notice rights into the pre-charge phase" and opining that the government "may well have violated" the VRRA with regards to its investigation of Epstein. As a predecessor to the CVRA, the VRRA afforded victims various rights and services; however, it provided no mechanism for a victim to assert such rights in federal court or by administrative complaint. Like the CVRA, the rights portion of the VRRA established the victims' right to be treated with fairness and respect and the right to confer with an attorney for the government. However, the rights portion of the VRRA was repealed upon passage of the CVRA and was not in effect at the time of the Epstein investigation.

The portion of the VRRA directing federal law enforcement agencies to provide certain victim services such as counseling and medical care referrals remained in effect following passage of the CVRA. Furthermore, two of the VRRA requirements—one requiring a responsible official to "inform a victim of any restitution or other relief to which the victim may be entitled," and another requiring that a responsible official "shall provide a victim the earliest possible notice of the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation"—may have applied to the Epstein investigation. However, the VRRA did not create a clear and unambiguous obligation on the part of the subject attorneys, as the 2005 Guidelines assigned the duty of enforcing the two requirements to the investigative agency rather than to prosecutors. Moreover, the VRRA did not require notice to victims before the NPA was signed because, at that point, the case remained "under investigation," and the victims did not become entitled to pursue monetary damages under the NPA until Epstein entered his guilty pleas in June 2008. Once Epstein did so, and the victims identified by the USAO became entitled to pursue the § 2255 remedy, the USAO furnished the victims with appropriate notification.

B. OPR Did Not Find Evidence Establishing That the Lack of Consultation Was Intended to Silence Victims

During her OPR interviews, Villafaña recalled more than one discussion in which she raised with her supervisors the issue of consulting with the victims before the NPA was signed on September 24, 2007. Acosta, Sloman, Menchel, and Lourie, however, had no recollection of discussions about consulting victims before the NPA was signed, and Menchel disputed Villafaña's assertions. OPR found only one written reference before that date, explicitly raising the issue of consultation. Given the absence of contemporaneous records, OPR was unable to conclusively determine whether the lack of consultation stemmed from an affirmative decision made by one or more of the subjects or whether the subjects discussed consulting the victims about the NPA before it was signed. Villafaña's recollection suggests that Acosta, Menchel, and Sloman may have been concerned with maintaining the confidentiality of plea negotiations and did not believe that the government was obligated to consult with victims about such negotiations. OPR

Conduct 1.3, lack of diligence, and 8.4(d), conduct prejudicial to the administration of justice. The holding in *Smith* was based on Article 47 of the Maryland Constitution and various specific statutes affording victims the right, among others, to receive various notices and an opportunity to be heard concerning "a case originating by indictment or information filed in a circuit court." However, both the underlying statutory provisions and, significantly, the facts are substantially different from the Epstein investigation. In *Smith*, the criminal defendant had been arrested and charged before entering a plea.

did not find evidence showing that the subjects intended to silence victims or to prevent them from having input into the USAO's intent to resolve the federal investigation.

Although the contemporaneous records provide some information about victim notification decisions made after the NPA was signed on September 24, 2007, the records contain little about the subjects' views regarding consultation with victims before the NPA was signed. In a September 6, 2007 email primarily addressing other topics, as the plea negotiations were beginning in earnest and almost three weeks before the NPA was signed, Villafaña raised the topic of victim consultation with Sloman: "The agents and I have not reached out to the victims to get their approval, which as [CEOS Chief Oosterbaan] politely reminded me, is required under the law. . . . [A]nd the [PBPD] Chief wanted to know if the victims had been consulted about the deal."[404] Sloman forwarded the email to Acosta with a note stating, "fyi." Villafaña recalled that after she sent the email, Sloman told her by telephone, "[Y]ou can't do that now."[405] Villafaña also told OPR that shortly before the NPA was signed, Sloman told her, "[W]e've been advised that . . . pre-charge resolutions do not require victim notification." Villafaña also recalled a discussion with Acosta, Menchel, and Sloman, during which she stated that she would need to get victims' input on the terms being proposed to the defense, and she was told, "Plea negotiations are confidential. You can't disclose them."[406]

None of the other subjects recalled a specific discussion before the NPA was signed about the USAO's CVRA obligations. Menchel told OPR he believed the USAO was not required to consult with victims during the preliminary "general discussion" phase of settlement negotiations; moreover, he left the USAO before the terms of the NPA were fully developed.

Sloman told OPR that he "did not think that we had to consult with victims prior to entering into the NPA" and "we did not have to seek approval from victims to resolve a case." Sloman believed the USAO was obligated only to notify victims about resolution of "the cases that we handled, filed cases." Sloman recalled that because the USAO envisioned a state court resolution of the matter, he did not "think that that was a concern of ours at the time to consult with [the victims] prior to entering into . . . the NPA."

Lourie told OPR that he did not recall any discussions about informing the victims about the terms of the NPA or any instructions to Villafaña that she not discuss the NPA with the victims. He stated that everything the USAO did was "to try and get the best result as possible for the victims. . . . [O]nce you step back and look at the whole forest . . ., you will see that. . . . [I]f you look at each tree and say, well, you didn't do this right for the victim, you didn't tell the victim this and that, you're missing the big picture."

---

404 As noted, the Department's position at the time was that the CVRA did not require consultation with victims because no criminal charges had been filed. In addition, Villafaña's reference to victim "approval" was inaccurate because the CVRA, even when applicable, requires only "consultation" with victims about prosecutorial decisions.

405 Villafaña did not recall Sloman explaining the reason for the decision.

406 Villafaña also told OPR that she recalled Menchel raising a concern that "telling them about the negotiations could cause victims to exaggerate their stories because of their desire to obtain damages from Epstein." Villafaña was uncertain of the date of the conversation, but Menchel's presence requires it to have occurred before August 3, 2007.

Acosta told OPR that there was no requirement to notify the victims because the NPA was "not a plea, it's deferring in favor of a state prosecution." Acosta said, "[W]hether or not victims' views were elicited is something I think was the focus of the trial team and not something that I was focused on at least at this time." Acosta could not recall any particular concern that factored into the decision not to consult with the victims before entering into the NPA, but he acknowledged to OPR, "[C]learly, given the way it's played out, it may have been much better if we had [consulted with the victims]."[407]

As indicated, the contemporaneous records reflect little about decisions made regarding victim consultation prior to when the NPA was signed. Villafaña raised the issue in writing to her supervisors in early September, but there is no evidence showing whether her supervisors affirmatively rejected Villafaña's contention that the USAO was obligated to consult with victims, ignored the suggestion, or failed to address it for other reasons, possibly because of the extended uncertainty as to whether Epstein would ever agree to the government's plea proposal. OPR notes that its subject interviews were conducted more than a decade after the NPA was signed, and the passage of time affected the recall of each individual OPR interviewed. Although Villafaña recalled discussions with her supervisors about notifying victims, her supervisors did not, and Menchel contended that Villafaña's recollection is inaccurate. Assuming the discussions occurred, the timing is unclear. Sloman was on vacation before the NPA was signed, so a call with Villafaña about victim notification at that point in time appears unlikely. Any discussion involving Menchel necessarily occurred before August 3, 2007, when it was unclear whether the defense would agree to the government's offer. Supervisors could well have decided that at such an early stage, there was little to discuss with victims.

To the extent that Villafaña's supervisors affirmatively made a decision not to consult victims, Villafaña's recollection suggests that the decision arose from supervisors' concerns about the confidentiality of plea negotiations and a belief that the government was not obligated to consult with victims about a pre-charge disposition. That belief accurately reflected the Department's position at the time about application of the CVRA. Importantly, OPR did not find evidence establishing that the lack of consultation was for the purpose of silencing victims, and Villafaña told OPR that she did not hear any supervisor express concerns about victims objecting to the agreement if they learned of it. Because the subjects did not violate any clear and unambiguous standard in the CVRA by failing to consult with the victims about the NPA, OPR concludes that they did not engage in professional misconduct.

However, OPR includes the lack of consultation in its criticism of a series of government interactions with victims that ultimately led to public and court condemnation of the government's treatment of the victims. Although the government was not obligated to consult with victims, a more straightforward and open approach would have been consistent with the government's goal to treat victims of crime with fairness and respect. This was particularly important in a case in which victims felt excluded and mistreated by the state process. Furthermore, in this case, consulting with the victims about a potential plea would have given the USAO greater insight into the victims' willingness to support a prosecution of Epstein. The consultation provision does not

---

[407] Villafaña told OPR that she was not aware of any "improper pressure or promise made to [Acosta] in order to . . . instruct [her] not to make disclosures to the victim[s]."

require victim approval of the prosecutors' plans, but it allows victims the opportunity to express their views and to be heard before a final decision is made. The lack of consultation in this case denied the victims that opportunity.[408]

III. LETTERS SENT TO VICTIMS BY THE FBI WERE NOT FALSE STATEMENTS BUT RISKED MISLEADING VICTIMS ABOUT THE STATUS OF THE FEDERAL INVESTIGATION

After the NPA was signed on September 24, 2007, Villafaña and the FBI separately communicated with numerous victims and victims' attorneys, both in person and through letters. Apart from three victims who likely were informed in October or November 2007 about a resolution ending the federal investigation, victims were not informed about the NPA or even more generally that the USAO had agreed to end its federal criminal investigation of Epstein if he pled guilty to state charges until after Epstein entered his guilty plea in June 2008. Despite the government's agreement on September 24, 2007, to end its federal investigation upon Epstein's compliance with the terms of the NPA, the FBI sent to victims in October 2007, January 2008, and May 2008, letters stating that the case was "currently under investigation." In its February 21, 2019 opinion in the CVRA case, the district court found those letters "misl[ed] the victims to believe that federal prosecution was still a possibility" and that "[i]t was a material omission for the Government to suggest to the victims that they have patience relative to an investigation about which it had already bound itself not to prosecute."[409]

In the discussions throughout this section, OPR examines the government's course of conduct with victims after the NPA was signed. As set forth in the previous subsection, OPR did not find evidence supporting a finding that Acosta, Sloman, or Villafaña acted with the intent to silence victims. Nonetheless, after examining the full scope and context of the government's interactions with victims, OPR concludes that the government's inconsistent messages concerning the federal investigation led to victims feeling confused and ill-treated by the government.

In this section, OPR examines and discusses letters sent to victims by the FBI that were the subject of the district court's findings. OPR found no evidence that Acosta, Sloman, or Villafaña was aware of the content of the letters until the USAO received them from the FBI for production for the CVRA litigation. OPR determined that the January 10, 2008 and May 30, 2008 letters that the district court determined to be misleading, as well as the October 12, 2007 letter OPR located during its investigation, were "standard form letter[s]" sent by the FBI's Victim Specialist. As noted previously in this Report, after the NPA was signed, Villafaña and the FBI agents continued to conduct their investigation in anticipation that Epstein would breach the NPA; absent such a

---

408 Villafaña told OPR that she recalled speaking to several victims along with FBI agents before the NPA was signed and "ask[ing] them how they wanted the case to be resolved." FBI interview reports indicate that Villafaña was present with FBI agents for some of the interviews occurring well in advance of the NPA negotiations. *See* 2005 Guidelines, Art. IV, ¶ B.2.c (1) (consultations may be limited to gathering information from victims and conveying only nonsensitive data and public information). However, Villafaña did not meet with all of the victims identified in the federal investigation, including the CVRA litigation petitioners, and the government conceded during the CVRA litigation that it entered into the NPA without conferring with the petitioners. *Doe,* 359 F. Supp. 3d at 1218.

409 *Doe,* 359 F. Supp. 3d at 1219, 1221.

breach, however, Epstein would enter his state guilty plea and the federal investigation would end. Thus, the statement that the case was "currently under investigation" was literally true, but the omission of important contextual information about the existence of the NPA deprived the victims of important information about the exact status of the investigation.

A. The USAO Was Not Responsible for Victim Notification Letters Sent by the FBI in October 2007, January 2008, and May 2008 Describing the Status of the Case as "Under Investigation"

The 2005 Guidelines charged the FBI with informing the victims of CVRA rights and available services during the "investigative stage" of a case. During the Epstein investigation, the FBI case agents complied with the agency's notification obligation by hand delivering pamphlets to victims following their interviews and through computer-generated letters sent to the victims by the FBI's Victim Specialist. The FBI's notification process is independent of the USAO's. The USAO has its own Victim Witness Specialist who assumes the responsibility for victim notification after an indictment or complaint moved the case into the "prosecution stage."

The FBI's Victim Specialist used the VNS to prepare the October 2007, January 2008, and May 2008 letters, a system the FBI regularly employs to comply with its obligations under the 2005 Guidelines to inform the victims of their rights and other services during the "investigative stage." The stock language of that letter, however, was generic and failed to communicate the unique case-specific status of the Epstein investigation at that time. The FBI Victim Specialist who sent the letters acted at the case agent's direction and was not aware of the existence of the NPA at the time she created the letters.[410] Neither FBI case agent reviewed any of the letters sent by the FBI's Victim Specialist.[411] According to Villafaña, "The decision to issue the letters and the wording of those letters were exclusively FBI decisions." Although the FBI case agents informed Villafaña after the fact that the FBI's Victim Specialist sent her "standard form letter," Villafaña had never reviewed an FBI-generated victim notification letter and was not aware of its contents.[412] Villafaña told OPR she was unaware of the content of the FBI letters until they were collected for the CVRA litigation, sometime after July 2008.

---

410 The case agent told OPR that she did not recall specifically directing the Victim Specialist to send a letter, but acknowledged that "she would come to us before she would approach a victim."

411 The case agent told OPR that she had no role in drafting the letters and believed them to be "standard form letters." Similarly, the co-case agent told OPR, "I can't think that I've ever reviewed any of them . . . they just go from the victim coordinator."

412 Villafaña's lack of familiarity with the language in the FBI letters led to some inconsistency in the information provided to victims concerning their CVRA rights. Beginning in 2006, the FBI provided to victims standard letters advising victims of their CVRA rights but which also noted that only some of the rights applied pre-charge. During this period, Villafaña also crafted her own introductory letters to the victims to let them know of their CVRA rights and that the federal investigation "would be a different process" from the prior state investigation in which "the victims felt they had not been particularly well-treated by the State Attorney's Office." Villafaña told OPR that in a case in which she "need[ed] to be talking to young girls frequently and asking them really intimate questions," she wanted to "make sure that they . . . feel like they can trust me." Villafaña's letter itemized the CVRA rights, but it did not explain that those rights attached only after a formal charge had been made. The letter was hand

B. Because the Federal Investigation Continued after the NPA Was Signed, the FBI Letters Were Accurate but Risked Misleading Victims regarding the Status of the Federal Investigation

As described previously, given Epstein's appeal to the Department and continued delay entering his guilty plea, Villafaña and other subjects came to believe that Epstein did not intend to comply with the NPA and that the USAO would ultimately file charges against Epstein. By April 2008, Acosta predicted in an email that charging Epstein was "more and more likely." As a result, Villafaña and the case agents continued their efforts to prepare for a likely trial with additional investigative steps. Among other actions, Villafaña, her supervisors, CEOS, and the case agents engaged in the following investigative activities:

- The FBI interviewed victims in October and November 2007 and between January and May 2008, and discovered at least six new victims.
- In January 2008, CEOS assigned a Trial Attorney to bring expertise and "a national perspective" to the matter.
- In January and February 2008, Villafaña and the CEOS Trial Attorney participated in victim interviews.
- Villafaña revised the prosecution memorandum to focus "on victims who are unknown to Epstein's counsel."
- The USAO informed the Department's Civil Rights Division "pursuant to USAM [§] 8-3.120," of the USAO's "ongoing investigation of a child exploitation matter" involving Epstein and others.
- Villafaña secured *pro bono* legal representation for victims whose depositions were being sought by Epstein's attorneys in connection with the Florida criminal case.[413]
- Villafaña prepared a revised draft indictment.
- Villafaña sought and obtained approval to provide immunity to a potential government witness in exchange for that witness's testimony.
- Even after Epstein's state plea hearing was set for June 30, 2008, Villafaña took steps to facilitate the filing of federal charges on July 1, 2008, in the event he did not plead guilty.

Villafaña told OPR that from her perspective, the assertion in the FBI victim letter that the case was "currently under investigation" was "absolutely true." Similarly, the FBI case agent told OPR that at the time the letters were sent the "case was never closed and the investigation was

delivered, along with the FBI's own victim's rights pamphlet and notification letter, to victims following their FBI interviews.

[413] According to the 2017 affidavit filed by Wild's CVRA-case attorney, Edwards, the *pro bono* counsel that Villafaña secured assisted Wild in "avoiding the improper deposition."

continuing." The co-case agent also told OPR that, as of the time of his OPR interview in 2019, the "the case was open . . . it's never been shut down."

OPR found no evidence that the FBI's victim letters were drafted with the intent to mislead the victims about the status of the federal investigation. The "ongoing investigation" language generated by the VNS was generic template language in use nationwide at the time and identical to that contained in standard form notification letters the FBI generated and distributed from August 2006 through the 2007 signing of the NPA.[414] Nevertheless, the FBI's letters omitted important information about the status of the case because they failed to notify the victims that a federal prosecution would go forward *only if* Epstein failed to fulfill his obligations under an agreement he had reached with the USAO. Victims receiving the FBI's letter would logically conclude that the federal government was continuing to gather evidence to support a federal prosecution. CVRA petitioner Wild stated during the CVRA litigation that her "understanding of this letter was that [her] case was still being investigated and the FBI and prosecutors were moving forward on the Federal prosecution of Epstein for his crimes against" her. Furthermore, when the fact that the USAO had agreed to end its federal investigation in September 2007 eventually came to light, the statement in the subsequent letters contributed to victims' and the public's conclusions that the government had purposefully kept victims in the dark.

In sum, OPR concludes that the statement in the FBI victim letters that the matter was "currently under investigation" was not false because the USAO and the FBI did continue to investigate and prepare for a prosecution of Epstein. The letters, however, risked misleading the victims, and contributed to victim frustration and confusion, because the letters did not provide important information that would have advised victims of the actual status of the investigation. Nonetheless, OPR found no evidence that Villafaña or her supervisors participated in drafting those letters or were aware of the content of the FBI's letters until the Department gathered them for production in the CVRA litigation. The use of FBI form letters that gave incomplete information about the status of the investigation demonstrated a lack of coordination between the federal agencies responsible for communicating with Epstein's victims and showed a lack of attention to and oversight regarding communication with victims. Despite the fact that the case was no longer on the typical path for resolving federal investigations, form letters continued to be sent without any review by prosecutors or the case agents to determine whether the information provided to the victims was appropriate under the circumstances.[415]

---

414 The Department of Justice Inspector General's Audit Report of the Department's Victim Notification System indicates that letters the FBI system generated in 2006 contained stock language for the notification events of "Initial (Investigative Agency)" and "Under Investigation" and letters generated in 2008 contained stock language for the notification events of "Advice of Victims Rights (Investigative)" and "Under Investigation."

415 After Epstein entered his guilty pleas, the FBI sent a similar form letter requesting "assistance and cooperation while we are investigating the case" to the two victims living outside the United States.

IV. ACOSTA'S DECISION TO DEFER TO THE STATE ATTORNEY'S DISCRETION WHETHER TO NOTIFY VICTIMS ABOUT EPSTEIN'S STATE COURT PLEA HEARING DID NOT VIOLATE A CLEAR OR UNAMBIGUOUS STANDARD; HOWEVER, ACOSTA EXERCISED POOR JUDGMENT BY FAILING TO ENSURE THAT VICTIMS IDENTIFIED IN THE FEDERAL INVESTIGATION WERE ADVISED OF THE STATE PLEA HEARING

As set forth in the factual discussion, within a few weeks of the NPA's signing, it became clear that the defense team disagreed with, and strongly objected to, the government's plan to inform victims of their ability to recover monetary damages from Epstein, under the 18 U.S.C. § 2255 provision of the NPA, and about Epstein's state court plea hearing. The USAO initially took the position that it was obligated to, and intended to, inform victims of both the NPA, including the § 2255 provision, and Epstein's change of plea hearing and sentencing, so that victims who wanted to attend could do so.

In November and December 2007, Epstein's attorneys challenged the USAO's position regarding victim notification. Ultimately, Acosta made two distinct decisions concerning victim notifications. Consistent with Acosta's concerns about intruding into state actions, Acosta elected to defer to state authorities the decision whether to notify victims about the state's plea hearing pursuant to the state's own victim's rights requirements. Acosta also determined that the USAO would notify victims about their eligibility to obtain monetary damages from Epstein under § 2255, a decision that was implemented by letters sent to victims after Epstein entered his state pleas. This decision, which postponed notification of the NPA until after Epstein entered his guilty pleas, was based, at least in part, on Villafaña's and the case agents' strategic concerns relating to preserving the victims' credibility and is discussed further in Section V, below.

In this section, OPR analyzes Acosta's decision to defer to the state the responsibility for notifying victims of Epstein's plea hearing and sentencing. OPR concludes that neither the CVRA nor the VRRA required the government to notify victims of the state proceeding and therefore Acosta did not violate any statutes or Department policy by deferring to the discretion of the State Attorney whether to notify victims of Epstein's state guilty pleas and sentencing. However, OPR also concludes that Acosta exercised poor judgment because by failing to ensure that the state intended to and would notify victims of the federal investigation, he failed to treat victims forthrightly and with the sensitivity expected by the Department. Through counsel, Acosta "strongly disagree[d]" with OPR's conclusion and argued that OPR unfairly applied a standard "never before expected of any U.S. Attorney." OPR addresses Acosta's criticisms in the discussion below.

A. Acosta's Decision to Defer to the State Attorney's Discretion Whether to Notify Victims about Epstein's State Court Plea Hearing Did Not Violate Any Clear or Unambiguous Standard

In November 2007, Villafaña sought to avoid defense accusations of misconduct concerning her interactions with the victims by preparing a written notice to victims informing them of the resolution of the federal case and of their eligibility for monetary damages, and inviting them to appear at the state plea hearing. Villafaña and Sloman exchanged edits of the draft letter and, at Sloman's instruction, she provided the draft to defense attorney Lefkowitz, who, in turn,

strongly objected to the government's plan to notify victims of the state proceedings, which he described as "highly inappropriate" and an "intrusion into state affairs, when the identified individuals are not even victims of the crime for which Mr. Epstein is being sentenced."

Thereafter—at a time when the USAO believed Epstein's plea to be imminent—Villafaña drafted, and Sloman signed, the December 6, 2007 letter to Lefkowitz rejecting the defense arguments regarding notification and reiterating the USAO's position that the victims identified in the federal investigation be invited to appear at the state plea hearing. The letter took an expansive view of the applicable statutes by contending that both the CVRA and the VRRA required the USAO to notify the victims of the state proceedings:

> [T]hese sections are not limited to proceedings in a *federal* district court. Our Non-Prosecution Agreement resolves the federal investigation by allowing Mr. Epstein to plead to a state offense. The victims identified through the federal investigation should be appropriately informed, and our Non-Prosecution Agreement does not require the U.S. Attorney's Office to forego [*sic*] its legal obligations.[416]

The letter also asserted that the VRRA obligated the USAO to provide the victims with information concerning restitution to which they may be entitled and "the *earliest possible*" notice of the status of the investigation, the filing of charges, and the acceptance of a plea. Along with the letter, Sloman forwarded a revised draft victim notification letter to Lefkowitz for his comments. This draft victim notification letter stated that the federal investigation had been completed, Epstein would plead guilty in state court, the parties would recommend 18 months of imprisonment at sentencing, and Epstein would compensate victims for monetary damages claims brought under 18 U.S.C. § 2255. The draft victim notification letter provided specific information concerning the upcoming change of plea hearing and invited the victims to attend or provide a written statement to the State Attorney's Office. When Lefkowitz asked Sloman to delay sending victim notifications until after a discussion of their contents, Sloman instructed Villafaña, who was preparing letters for transmittal to 30 victims, to "Hold the letter." During his OPR interview, Sloman recalled that he had "wanted to push the letter out," but he "must have had a conversation with somebody" about whether the CVRA applied, and based on that conversation he directed Villafaña to hold the letter.

In his response letter to Acosta, Lefkowitz contended that the government had misinterpreted both the CVRA and VRRA because neither applied to the "public proceeding in this matter [which] will be in state court for the purpose of the entry of a plea on state charges."

---

416 Sloman told Lefkowitz the USAO did not seek to "federalize" a state plea, but "is simply informing the victims of their rights." Sloman also addressed the defense attorneys' objection to advising the victims that they could contact Villafaña or the FBI case agent with questions or concerns by referencing the CVRA, noting, "Again, federal law requires that victims have the 'reasonable right to confer with the attorney for the Government in this case.'"

Thereafter, in his December 19, 2007 letter to defense counsel mainly addressing other matters, Acosta informed the defense that the USAO would defer to the State Attorney's discretion the responsibility for notifying victims about Epstein's state plea hearing:

> I understand that the defense objects to the victims being given notice of [the] time and place of Mr. Epstein's state court [plea and] sentencing hearing. I have reviewed the proposed victim notification letter and the statute. I would note that the United States provided the draft letter to the defense as a courtesy. In addition, First Assistant United States Attorney Sloman already incorporated in the letter several edits that had been requested by defense counsel. I agree that Section 3771 applies to notice of proceedings and results of investigations of federal crimes as opposed to the state crime. We intend to provide victims with notice of the federal resolution, as required by law. *We will defer to the discretion of the State Attorney regarding whether he wishes to provide victims with notice of the state proceedings, although we will provide him with the information necessary to do so if he wishes.*

(Emphasis added.)

Acosta told OPR that he "would not have sent this [letter] without running it by [Sloman], if not other individuals in the office." Acosta explained that it was "not for me to direct the State Attorney, or for our office to direct the State Attorney's Office on its obligations with respect to the state outcome." Acosta acknowledged that the USAO initially had concerns about the state's handling of the case, but he told OPR, "that doesn't mean that they will not fulfill whatever obligation they have. Let's not assume. . . that the State Attorney's office is full of bad actors." Sloman initially believed that "the victims were going to be notified at some level, especially because they had restitution rights under [§] 2255"; but his expectations changed after "there was an agreement made that we were going to allow the state, since it was going to be a state case, to decide how the victims were going to be notified."[417] Sloman told OPR he had been "proceeding under the belief that we were going to notify the victims," even though "this was not a federal case," but once the NPA "looked like it was going to fall apart," the USAO "had concerns that if we g[a]ve them the victim notification letter . . . and the deal fell apart, then the victims would be instantly impeached by the provision that you're entitled to monetary compensation."

OPR could not determine whether the State Attorney's Office notified any victims in advance of the June 30, 2008 state plea hearing. Krischer told OPR that the State Attorney's Office had a robust and effective victim notification process and staff, but he was not aware of whether or how it was used in the Epstein case. Belohlavek told OPR that she could not recall whether victims were notified of the hearing nor whether the state law required notification for the

[417] Sloman stated in his June 3, 2008 letter to Deputy Attorney General Filip that Acosta made the decision together with the Department's Criminal Division Deputy Assistant Attorney General Mandelker. Acosta did consult with Mandelker about the § 2255 civil damages recovery process, but neither Acosta nor Mandelker recalled discussing the issue of victim notification, and OPR found no other documentation indicating that Mandelker played a role in the deferral decision.

particular charges and victims at issue. Once the hearing was scheduled, Sloman told Villafaña to contact PBPD Chief Reiter about notifying the victims, and on June 28, 2008, she reported back to Sloman that Reiter "is going to notify victims about the plea."[418] Villafaña recalled that she sent Reiter a list of the girls identified as victims during the federal investigation, and Reiter said he would "contact as many as he could." The contemporaneous records do not show how many or which victims, if any, Reiter contacted, and no victims were present in the courtroom. No victim who provided information to OPR, either in person or through her attorney, recalled receiving notice of the plea hearing from federal or state officials. At the time Epstein pled guilty in state court, no one in the USAO knew exactly who, if anyone, Reiter or the State Attorney's Office had notified about the proceeding. Accordingly, Villafaña, who was present in the courtroom for the hearing, had no knowledge to whom Belohlavek referred when she told the court that the victims were "in agreement with the terms of this plea."[419]

OPR considered whether Acosta's decision to defer to the State Attorney's Office the decision to notify victims of the scheduled date for Epstein's plea hearing constituted professional misconduct. OPR could not conclude that the CVRA or VRRA provisions in question, requiring notice of any public proceeding involving the crime against the victim or that the victim is entitled to attend, unambiguously required federal prosecutors to notify victims of state court proceedings. Furthermore, as discussed previously, OLC had issued guidance stating that the CVRA did not apply to cases in which no federal charges had been filed.[420] Moreover, the section of the VRRA requiring notice of court proceedings that the victim is "entitled to attend" referred specifically to proceedings under 42 U.S.C. § 10606(b)(4), which, at the time of the Epstein case, had become part of the CVRA (18 U.S.C. § 3771(a)(2)).[421]

Because Acosta had no clear or unambiguous duty to inform victims identified in the federal investigation of the state plea hearing, OPR concludes that his decision to defer to the State Attorney the decision to notify victims of the state's plea hearing and the responsibility for doing so did not constitute professional misconduct.[422]

---

418 Sloman replied, "Good." In her written response to OPR, Villafaña stated, "I requested permission to make oral notifications to the victims regarding the upcoming change of plea, but the Office decided that victim notification could only come from a state investigator, and Jeff Sloman asked PBPD Chief Reiter to assist."

419 Plea Hearing Transcript at 42.

420 OLC 2005 CVRA Informal Guidance; *see also United States v. Guevara-Toloso,* No. 04-1455, 2005 WL 1210982, at *2 (E.D.N.Y. May 23, 2005) (in case involving a federal charge of illegal entry after a felony conviction, the court determined that victims of the predicate state conviction were not victims under the CVRA).

421 In *Wild*, the Eleventh Circuit panel noted that the petitioner argued "only in passing" that the government violated her CVRA right "to reasonable, accurate, and timely notice of any public court proceeding . . . involving the crime"; however, the court concluded this provision "clearly appl[ies] only after the initiation of criminal proceedings." *Wild*, 955 F.3d at 1205 n.7, 1208.

422 The government's letter to victims, following Epstein's guilty pleas, informing them of the resolution of the case by state plea and the availability of § 2255 relief, also appear to satisfy the potentially applicable VRRA requirements to "inform a victim of any restitution or other relief to which the victim may be entitled," and to "provide a victim the earliest possible notice of the status of the investigation of the crime, to the extent it is appropriate to

B. Acosta Exercised Poor Judgment When He Failed to Ensure That Victims Identified in the Federal Investigation Were Informed of the State Plea Hearing

Although Acosta (or the USAO) was not required by law or policy to notify victims of the state's plea hearing, he also was not *prohibited* by law or policy from notifying the victims that the federal investigation had been resolved through an agreement that included pleas to state charges. As the contemporary records indicate, Acosta consistently expressed hesitancy to interfere in the state's processes or to "dictate" actions to the State Attorney. His decision that the USAO refrain from notifying victims about the state plea hearing and defer to the State Attorney's judgment regarding whether and whom to notify was consistent with this view. However, OPR found no evidence that Acosta's decision to defer victim notification "to the discretion of the State Attorney" was ever actually communicated to any state authorities or that Acosta recognized that the state, absent significant coordination with federal authorities, was unlikely to contact all of the victims identified in the state and federal investigations or that the state would inform the victims that it did notify that the state plea hearing was part of an agreement that resolved the federal investigation into their own cases.[423]

Even taking into account Acosta's views on principles of federalism and his reluctance to interfere in state processes, Acosta should have recognized the problems that would likely stem from passing the task of notifying victims to the State Attorney's Office and made appropriate efforts to ensure that those problems were minimized. Appropriate notification would have included advising victims identified in the federal investigation that the USAO had declined to bring charges and that the matter was being handled by the State Attorney, and, at a minimum, provided the victims with Belohlavek's contact information. Acosta could have interacted with the State Attorney, or instructed Villafaña or others to do so, to ensure the state intended to make notifications in a way that reached the most possible victims and that it had the information necessary to accomplish the task. Instead, Acosta deferred the responsibility for victim notification entirely to the State Attorney's discretion without providing that office with the names of individuals the USAO believed were victims and, apparently, without even informing the state prosecutors that he was deferring to them to make the notifications, if they chose to do so.

Epstein was required by the NPA to plead to only two state charges, and even assuming that each charge was premised on a crime against a different victim, and the solicitation charge involved three separate victims, there were thus only at most four victims of the charged state offenses. Without at least inquiring into the state's intentions, Acosta had no way of determining whether the state intended to notify more than those few victims. Moreover, the federal investigation had resulted in the identification of several victims who had not been identified by

---

inform the victim and to the extent that it will not interfere with the investigation." *See* 42 U.S.C. §§ 10607(c)(1)(B) and (c)(3)(A).

[423] Through counsel, Acosta argued that OPR's criticism of him for "electing to 'defer' the notification obligation to the state" was inappropriate and "a *non sequitur*" because "where no federal notification obligation exists, it cannot be deferred." OPR's criticism, as explained further below, is not with the decision itself, but rather with the fact that although Acosta intended for the federal victims to be notified of the state plea hearing, and believed that they should receive such notification, he nonetheless left responsibility for such notification to the state without ensuring that it had the information needed to do so and without determining the state's intended course of action.

the PBPD during its investigation into Epstein's conduct. Absent information from the USAO, the state would not have been in a position to notify those additional victims of the state plea proceeding, even if the State Attorney had decided to include other victims identified during the state investigation. Furthermore, at the time he made his decision, Acosta had already been advised by Villafaña that Belohlavek, in November 2007, had requested that the USAO notify victims, presumably those identified during the federal investigation, about the state plea hearing.

Acosta told OPR that it had been his understanding at the time of Epstein's plea that the victims would be made aware of the proceeding and would have an opportunity to speak. Acosta also told OPR that he expected the state would have "notified [the victims] that that was an all-encompassing plea, that the state court sentence would also mean that the federal government was not proceeding." There is no evidence, however, that he verified this understanding with Sloman or Villafaña, let alone the State Attorney. OPR found no indication that Acosta ever communicated, or directed Sloman or Villafaña to communicate, his decision to the State Attorney or to provide the State Attorney's Office with a complete list of victims identified during the federal investigation. OPR located a draft letter to the State Attorney's Office that Villafaña prepared and forwarded to Acosta in December 2007, which did provide such information, but OPR found no evidence that the letter was ever sent, and it was not among materials publicly released from the State Attorney's Office.[424] OPR also found evidence that both Sloman and Villafaña interacted with the State Attorney's Office in the months leading up to the June 30, 2008 plea hearing, but there is no indication that they discussed victim notification issues with that office, and Villafaña's last minute request to PBPD Chief Reiter to notify victims indicates that the USAO had not coordinated with the State Attorney's Office. Belohlavek told OPR that no one from the USAO provided her with a list of victims or coordinated any notification of victims to appear at the hearing.

Krischer and Belohlavek were thus evidently unaware that Acosta had decided to leave it to them to decide whether to notify victims about the state proceeding. In the absence of some discussion of which or how many victims the state intended to notify, what the state intended to tell them about Epstein's plea, and whether the state intended to let the victims speak at the plea hearing, Acosta had no way to ensure that his assumption about victim notification was accurate. In other words, Acosta failed to plan for how all of the identified victims of Epstein's crimes, both federal and state, "would be aware of what was happening in the state court and have an opportunity to speak up at the state court hearing."

OPR did not find evidence that Acosta acted for the purpose of excluding victims from the plea hearing, and Acosta's assumption that the state would handle victim notification appropriately was not unsupported. State prosecutors are subject to victim notification requirements under the Florida Constitution, and the state prosecution offices have victim witness personnel, resources, and processes to help accomplish notification. However, Acosta was aware—through the prosecution memoranda, the draft indictment, and email communications from Villafaña—that the USAO's investigation had expanded beyond those victims identified in the original PBPD

[424] The text of the letter indicated that Epstein's attorneys asked the USAO not to inform victims of "any rights they may have as victims of the charges filed by the State Attorney's Office" and that the USAO was providing the State Attorney's Office with a list of the 33 identified federal victims "in case you are required to provide them with any further notification regarding their rights under Florida law."

investigation. Because the state indictment and information appeared to pertain to far fewer than the total victims identified in either the state or the federal investigation, and no one at the USAO was certain which victims were covered by the state charges, it should have been apparent to Acosta that without advance planning between the USAO and the State Attorney's Office, there was a substantial risk that most of the victims identified in the federal investigation would not receive notice of the hearing.[425] Notification to the broadest possible number of identified victims could only have been successful if there was appropriate communication between the USAO and the state prosecutors, communication that had previously been lacking regarding other significant issues relating to Epstein. Villafaña and Sloman's hastily arranged effort to enlist in the notification process PBPD Chief Reiter, who likely played little role in complying with the state's victim notification obligations in a typical case, was not an adequate substitute for careful planning and coordination with the State Attorney's Office.[426]

Even if the State Attorney's Office had notified all of the identified victims of the upcoming plea hearing, there was no guarantee that such notification would have included information that the state plea was resolving not just the state's investigation of Epstein, but the federal investigation as well. The State Attorney was not obligated by state statutes to inform the victims of the status of the federal investigation, and there was little reason to assume Krischer, or one of his staff, would voluntarily do so, thereby putting the State Attorney's Office in the position of fielding victim questions and concerns about the outcome. Furthermore, as both the USAO and the defense had differing views as to who could lawfully participate in the state plea hearing, there is no indication that Acosta, Sloman, or Villafaña took steps to confirm that, if victims appeared, they could actually participate in the state court proceeding when they were not victims of the charged crimes.[427]

Through counsel, Acosta asserted to OPR that because Villafaña and Sloman both told OPR that they believed that state officials would notify the victims, "OPR identified no reason why Secretary Acosta should have distrusted his team on these points." Acosta's counsel further

---

425 Krischer told OPR that the state's notification obligation extended to all victims identified in the state investigation. Nonetheless, which victims were encompassed in the state's investigation was unclear. The PBPD's probable cause affidavit included crimes against only 5 victims, not the 19 identified in the state investigation. According to state records made public, the state subpoenaed to the grand jury only 3 victims. After Epstein's guilty plea, the state sent notification letters to only 2 victims. Belohlavek told OPR that because of the nature of the charges, she did not know whether "technically under the law" the girls were "victims" she was required to notify of the plea hearing.

426 The State Attorney's Office had its own procedures and employees who handled victim notification, and Belohlavek told OPR that the Chief of the Police Department would not regularly play a role in the state victim notification process.

427 Although Villafaña's notes indicate that she researched Florida Statutes §§ 960.001 and 921.143 when she drafted unsent letters to victims in November and December 2007 inviting them to participate in the state plea hearing pursuant to those statues, the caselaw was not clear that all federal victims would have been allowed to participate in the state plea hearing. In Lefkowitz's November 29, 2007 letter to Acosta, he argued that the statutes afforded a right to speak at a defendant's sentencing or to submit a statement only to the victims of the crime for which the defendant was being sentenced. In April 2008, a Florida District Court of Appeal ruled against a defendant who argued that Florida Statute § 921.143(l) did not allow the testimony of the victim's relatives at the sentencing hearing. The court ruled that § 921.143(l) "should not be read as limiting the testimony Rule 3.720(b) allows trial courts to consider at sentencing hearings." *Smith v. State*, 982 So. 2d 69, 72 (Fla. Dist. Ct. App. 2008).

argued that Acosta should have been able to rely on his staff to accomplish the victim notification task, and thus had no responsibility to personally confirm that Chief Reiter would notify the victims of the hearing.[428] Acosta is correct that under usual circumstances, USAO management played no role in the victim notification process; however, in this case, the issue of victim notification had been elevated from a rote administrative task to a major area of dispute with the defense. Acosta personally involved himself by resolving the notification dispute with defense counsel in his December 19, 2007 letter. Villafaña provided Acosta with a draft letter to state officials that would have opened a dialogue concerning the notification of all the victims identified in the federal investigation. OPR found no evidence, however, that Acosta sent the letter or any similar communication to the State Attorney's Office or that he provided Villafaña and Sloman with instructions concerning victim notification other than those contained in his December 19, 2007 letter. Having inserted himself into the notification process, Acosta had a responsibility to ensure that his expectation that the victims would be notified could be accomplished through the state process.

Many victims only learned of Epstein's state court pleas when they later received a letter from the USAO informing them that those pleas had resolved the federal investigation, and some victims only learned of the state court pleas and sentencing from the news media. In the end, although Villafaña and Sloman hastily attempted to ensure victim notification through Chief Reiter, their effort was too little and too late to ensure that victims had the opportunity to attend the plea hearing or were given sufficient information about its significance to their own cases.[429] Although Acosta may have conferred with others about the decision to defer the responsibility for notifying victims to the State Attorney, Acosta was responsible for choosing this course of action. OPR concludes that under these unique circumstances, its criticisms are warranted because Acosta personally decided to change the process initiated by his staff, and although he expected that the federal victims would be notified, he did not take the necessary steps to ensure that they would be. Acosta could have authorized disclosure of the plea hearing to victims, even if he did not believe the CVRA required it, to ensure that the victims identified in the federal investigation were aware of the state court proceeding. Because the state pleas ended the federal investigation into Epstein's conduct, ensuring that the victims were notified of the state plea hearing would have been consistent with the Department's overarching commitment to treat victims with fairness, dignity, and sensitivity. Acosta's failure to prioritize notification and coordinate communication about the

[428] As noted, in his comments on OPR's draft report, Acosta's counsel strongly objected to OPR's finding of poor judgment with respect to victim notification, arguing that OPR "unwarrantedly applies a standard never before expected of any US Attorney," and inappropriately criticizes Acosta for "not personally confirming that the State Attorney had the information needed" to notify the victims and for "not personally confirming" that Chief Reiter had actually notified the victims. For the reasons discussed, the issue is not whether Acosta "personally" took certain specific steps but that he stopped his staff from implementing a notification plan they had devised, and instead, shifted responsibility for notification to another entity while failing to consider how or even whether that entity would be able to accomplish the notification that Acosta expected to happen.

[429] OPR notes that Villafaña contacted Reiter soon after the state plea hearing was scheduled, and the resulting window of time for Reiter to make any notifications was short. Had the USAO coordinated with the State Attorney at some point in time closer to Acosta's December 19, 2007 letter and decision, the USAO could have ensured that the State Attorney had an appropriate notification process in place to act quickly when the hearing was scheduled and that issues concerning the victims' appearance at the hearing were appropriately considered by state authorities. Similarly, if the USAO believed that Reiter should make the notifications, it could have coordinated with Reiter in the months that the matter was under review by the Department.

resolution of the case to ensure Epstein's victims were given an opportunity to attend the plea hearing, and to possibly speak about the impact of Epstein's crimes, presented a glaring contrast with Acosta's responsiveness to the demands of Epstein's attorneys, which included the unusual courtesy of allowing them to preview and respond to the USAO's draft victim notifications. This contrast added to the victims' perception that they had been treated unfairly, a view shared by the public.

Nothing in the documentary record suggests that Acosta thought through the issue of determining which victims would be notified by the state, or that he took any steps to ensure that all of the known federal victims received information about the state plea hearing. Instead, as with his decision to resolve the federal investigation through a state-based resolution, Acosta exercised poor judgment when he made critical decisions affecting the federal investigation and the victims, but also failed to consider the full consequences of those decisions or what was needed to implement them. Acosta's failure to consider these issues before simply leaving the responsibility for making notifications entirely to the State Attorney's discretion reflected poorly on the USAO and the Department as a whole. It left victims in the dark about an important proceeding that resolved the federal investigation, an investigation about which the USAO had communicated with victims for months. It also ultimately created the misimpression that the Department intentionally sought to silence the victims by keeping them uninformed about the NPA and the resulting state proceeding. Acosta failed to ensure that victims were afforded an opportunity to attend a hearing that was related to their own cases and thus failed to ensure that victims were treated with forthrightness and dignity.

V. VILLAFAÑA DID NOT COMMIT PROFESSIONAL MISCONDUCT IN HER ORAL COMMUNICATIONS TO VICTIMS AND VICTIMS' ATTORNEYS, IN WHICH SHE DESCRIBED THE CASE AS "UNDER INVESTIGATION" BUT DID NOT DISCLOSE THE EXISTENCE OF THE NPA TO SOME VICTIMS

From September 24, 2007, when the NPA was signed, until after Epstein's June 30, 2008 state court plea, the case agents, acting under Villafaña's direction, directly informed only three victims that the government had signed an NPA and that, if Epstein complied with its terms, the federal investigation would be closed. During this time period, Villafaña and the case agents interacted with several victims and their attorneys, and Villafaña contacted victims' attorney Bradley Edwards to encourage him to attend the state court plea hearing, but she did not inform victims or Edwards of the NPA or the resolution of the federal investigation.

As described in Part One of this chapter, after the NPA was signed, the FBI case agent and co-case agent began notifying victims about the NPA.[430] After speaking to three victims, however, the FBI case agent became concerned that informing the victims about the NPA and the monetary damages provision would create potential impeachment material for the victims and the agent should Epstein breach the NPA and the case proceed to indictment and trial. As the case agent told OPR, "I would . . . have to testify that I told every one of these girls that they could sue Mr. Epstein for money, and I was not comfortable with that, I didn't think it was right." The case

[430] Although Wild disputed that she was informed of the resolution of the federal case, the case agent's email to Villafaña from this time period reflects that at least one victim understood that the federal case was resolved and that she was unhappy with the resolution.

agent and Villafaña consulted with the USAO's Professional Responsibility Officer about the matter, and thereafter stopped notifying the victims about the NPA and their ability to pursue monetary damages according to its terms.

Villafaña advised Sloman by email of her concerns regarding the potential impeachment evidence, telling him, "One thing I am concerned about is that, if we [file charges] now, cross-examination will consist of- 'and the government told you that if Mr. Epstein is convicted, you are entitled to a large amount of damages right?'" Explaining the decision in her later CVRA declaration, Villafaña said that after Epstein's attorneys "complained that the victims were receiving an incentive to overstate their involvement with Mr. Epstein in order to increase their damages claims," she "concluded that informing additional victims could compromise the witnesses' credibility at trial if Epstein reneged on the agreement." Acosta was aware of these concerns as he referred to them in an August 2008 email, "[W]e also believed that contacting the victims would compromise them as potential witnesses. Epstein argued very forcefully that they were doing this for the money, and we did not want to discuss liability with them, which was [a] key part of [the] agree[ment]."

The case agents interviewed victims in October and November 2007, but did not inform them about the NPA.[431] On January 31, 2008, the FBI agents, Villafaña, and the CEOS Trial Attorney interviewed three victims, including Courtney Wild, and they interviewed at least one more victim the next day.[432] Wild and two others had been contacted by the FBI in the fall of 2007 and may have been informed about the resolution of the federal investigation.

Villafaña told OPR that during the January 31, 2008 interviews, she did not specifically tell the victims that "there was a signed non-prosecution agreement that had these terms." She stated that she would not use "terminology" such as "NPA" because "most people don't understand what that means." Instead, with respect to the three victims who, according to Villafaña, had been informed by the FBI about the resolution, she stated that "an agreement had been reached where [Epstein] was going to be entering a guilty plea, but it doesn't look [like] he intends to actually perform . . . [and] now it looks like this may have to be charged . . . and may have to go to trial." Villafaña recalled telling some victims that Epstein "was supposed to enter a plea in state court" that would end the investigation, but she did not recall distinguishing between the "federal investigation versus a state investigation." Villafaña told OPR she explained "the case was under investigation," she and the agents "were preparing . . . again" to file charges, and they hoped "that charges would be brought." An email from Villafaña to Sloman and Acosta during this time period reflects that she had such discussions with at least one victim interviewed on this date: "The second girl . . . was very upset about the 18 month deal she had read about in the paper. . . . [S]he would rather not get any money and have Epstein spend a significant time in jail." Villafaña, however, did not recall telling all of the victims interviewed at this time of the state plea; rather, she likely only told those who knew about the resolution from the FBI. In her own 2015 CVRA-case declaration, Wild stated that she "was not told about any [NPA] or any potential resolution of

---

431 FBI agents also interviewed victims in March and May of 2008, without prosecutors, and did not inform the victims of the NPA.

432 Two additional victims were scheduled to be interviewed on February 1, 2008, but the evidence is unclear as to whether the interviews occurred.

the federal investigation I was cooperating in. If I had been told of a[n NPA], I would have objected." Wild further stated in her declaration that, "Based on what the FBI had been telling me, I thought they were still investigating my case."

Neither the CEOS Trial Attorney nor the FBI case agent recalled the specifics of the victim interviews. The FBI reports memorializing each interview primarily addressed the facts elicited from the victim regarding Epstein's abuse and did not describe any discussion about the status of the case or the victim's view about the prosecution of Epstein.[433]

When asked whether she was concerned that failing to tell victims about the NPA when she was interviewing them would mislead victims, as previously noted, Villafaña told OPR that she believed she and the agents were conducting an investigation because they continued "interviewing witnesses" and "doing all these things" to file charges and prepare for a federal trial. As Villafaña stated, "So to me, saying to a victim the case is now back under investigation is perfectly accurate."

Villafaña was also aware that some victims were represented by counsel in connection with civil lawsuits against Epstein, but did not proactively inform the victims' attorneys about the NPA. In a 2017 affidavit filed in the CVRA litigation, victims' attorney Bradley Edwards alleged that during telephone calls with Villafaña, he "asked very specific questions about what stage the investigation was in," and Villafaña replied that she could not answer his questions because the matter "was an on-going active investigation." Edwards stated that Villafaña gave him "the impression that the Federal investigation was on-going, very expansive, and continuously growing, both in the number of identified victims and complexity." Edwards also stated, "A fair characterization of each call was that I provided information and asked questions and Villafaña listened and expressed that she was unable to say much or answer the questions I was asking."

In her written response to OPR, Villafaña stated that she "listened more than [she] spoke" during her interactions with Edwards and that due to the "uncertainty of the situation" and the possibility of a trial, she "did not feel comfortable sharing any information about the case." Villafaña also told OPR that because of "all of these concerns and instructions that I had been given by Alex [Acosta] and Jeff [Sloman] not to disclose things further and not to have any involvement in victim notification," she felt "prohibited" from providing additional information to Edwards.

Sloman told OPR that although neither the NPA terms nor the CVRA prevented the USAO from exercising its discretion to notify the victims, "[I]t was [of] concern that this was going to break down and . . . result in us prosecuting Epstein and that the victims were going to be witnesses and if we provided a victim notification indicating, hey, you're going to get $150,000, that's . . . going to be instant impeachment for the defense."[434] Acosta told OPR that, because Epstein did

---

433 As noted above, the FBI agent's notes for one victim's interview reported that she wanted another victim to be prosecuted.

434 When asked why the USAO did not simply notify the victims of the change of plea hearing, Sloman responded that he "was more focused on the restitution provisions. I didn't get the sense that the victims were overly interested in showing up . . . at the change of plea."

not plead guilty in October 2007 as the USAO expected, it was a "very open question" whether the case would go to trial, and Acosta thought that "where there is no legal requirement[,] [t]here has to be discretion to judge how much you can tell the victims and when."

Epstein's attorneys' conduct during the period between the signing of the NPA and Epstein's entry of his state guilty pleas illustrated the risk that Acosta, Sloman, and Villafaña all identified. As Epstein's counsel deposed victims related to the state court criminal charges and civil cases against Epstein, counsel suggested that the victims were motivated to testify against Epstein by the government's promises of financial gain. For example, during a February 20, 2008 state deposition of a victim, defense counsel asked her whether the federal prosecutors or FBI agents told her that she was entitled to receive money from Epstein.[435] In her 2017 declaration in the CVRA litigation, Villafaña identified that line of questioning as a motivating factor in the government's decision to stop notifying the victims about the potential for 18 U.S.C. § 2255 recovery.

On June 27, 2008, the Friday before Epstein's Monday, June 30, 2008 state court guilty plea hearing, Villafaña contacted Edwards to inform him about that upcoming hearing. Villafaña told OPR she "was not given authorization to contact" any victim's attorney other than Edwards about the scheduled state plea hearing.[436] In his 2017 affidavit prepared for the CVRA litigation, Edwards stated that Villafaña "gave the impression that she was caught off-guard herself that Epstein was pleading guilty or that this event was happening at all."

Edwards said in a 2016 court filing that Villafaña told him only that "Epstein was pleading guilty to state solicitation of prostitution charges involving other victims—not Mr. Edward's clients nor any of the federally-identified victims." Villafaña stated in her 2017 declaration that she "never told Attorney Edwards that the state charges involved 'other victims,' and neither the state court charging instrument nor the factual proffer limited the procurement of prostitution charge to a specific victim." Villafaña told OPR she "strongly encouraged [Edwards] and his clients to attend" the plea hearing but "could not be more explicit" because she was not "authorized by the Office to disclose the terms of the NPA." In his 2017 affidavit, Edwards acknowledged that "Villafaña did express that this hearing was important, but never told me why she felt that way." Edwards claimed that Villafaña's failure to inform him that the "guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement" resulted in his clients not attending the hearing. Edwards himself was out of town and not able to

---

435 As previously noted, the defense used Florida criminal procedure to depose potential federal victims to learn information concerning the federal investigation even though those individuals were not involved in the state prosecution. For example, in a March 2008 email, Villafaña informed her managers that she spoke to a victim who had received a subpoena "issued in connection with the state criminal case, which, as you know, doesn't involve most of the victims in our case (including the girl who was subpoenaed)." Villafaña further observed that because Epstein is "going to plead to the solicitation of adults for prostitution charge [in state court], [the act of subpoenaing the victim] seems to be a clear effort to find out about our case through the state case."

436 Villafaña's June 30, 2008 handwritten notes reflect that, at the time of Epstein's state court guilty plea, Villafaña was aware of the identities of a least five other attorneys representing Epstein's victims. In her written response to OPR, Villafaña stated, "I requested permission to make oral notifications to the victims regarding the upcoming change of plea, but the Office decided that victim notification could only come from a state investigator, and Jeff Sloman asked PBPD Chief Reiter to assist." On Saturday, June 28, 2008, Villafaña emailed Sloman to inform him that PBPD Chief Reiter "is going to notify victims about the plea." Sloman replied, "Good."

attend the hearing. In his affidavit, Edwards asserted, "[T]here was no possible way I could have believed that this state plea could affect the federal investigation or the rights of my clients in that federal investigation."

In *Wild*, the Eleventh Circuit panel stated that the government "seemingly" deferred to Epstein's attorneys' requests not to notify the victims about the NPA, and that in sending the January and May 2008 FBI letters, the government's efforts "seem to have graduated from passive nondisclosure to (or at least close to) active misrepresentation."[437] Although both the appellate court and district court focused on the FBI's letters for which OPR concludes that neither Villafaña, Sloman, nor Acosta was responsible, OPR considered the courts' analyses in evaluating whether similar representations Villafaña made to the victims whom she interviewed on January 31 and February 1, 2008, and to Edwards, were misleading. Therefore, OPR considered whether Villafaña's statements that the matter was "under investigation" and her failure to inform all of the victims whom she interviewed or Edwards about the NPA violated FRPC 4-4.1(a), 4-8.4(c), or 4-8.4(d).

FRPC 4-4.1(a) prohibits an attorney from "knowingly mak[ing] a false statement of material fact or law to a third person" during the representation of a client. The FRPC defines "knowingly" as "denot[ing] actual knowledge of the fact in question" and states that such knowledge may be "inferred from circumstances."[438] The comment to FRPC 4-4.1 states that "[m]isrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements." The comment references FRPC 4-8.4 "[f]or dishonest conduct that does not amount to a false statement." Like FRPC 4-4.1(a), Rule 4-8.4(c) requires evidence that the attorney knew the statement in question was false. Under FRPC 4-8.4(c), the intent requirement can be satisfied "merely by showing that the conduct was deliberate or knowing" and the "motive underlying the lawyer's conduct is not determinative; instead the issue is whether he or she purposefully acted."[439] In *Feinberg*, the court concluded that the prosecutor violated FRPC 4-4.1 and 4-8.4(c) and (d) by deliberately making untruthful statements to a defense attorney, despite evidence that the prosecutor intended to help the defendant by making the statements.[440] In this case, Villafaña was fully aware of the signed NPA when she interviewed the victims on January 31 and February 1, 2008, and when she spoke to Edwards on the telephone, but she did not inform them specifically of the signed NPA. The question is whether this omission amounted to a knowing false statement or misrepresentation.

One difficulty is determining what Villafaña actually said during conversations that participants were asked to recall many years later. With respect to three of the victims whom she interviewed in January and February 2008, Villafaña contended that she discussed the agreement with them, even if she did not specifically refer to it as the NPA or discuss all of its terms, and as

---

437 *Wild,* 955 F.3d at 1199-1200.

438 *See* R. Regulating Fla. Bar 4-Preamble: A Lawyer's Responsibilities, "Terminology."

439 *Florida Bar v. Schwartz*, 284 So. 3d 393, 396 (Fla. 2019) (citing *Florida Bar v. Berthiaume*, 78 So. 3d 503, 510 n.2 (Fla. 2011); *Florida Bar v. Riggs*, 944 So. 2d 167, 171 (Fla. 2006); *Florida Bar v. Smith*, 866 So. 2d 41, 46 (Fla. 2004)).

440 *Florida Bar v. Feinberg*, 760 So. 2d 933, 937-38 (Fla. 2000).

previously noted, there is some contemporaneous evidence supporting her assertion. Villafaña's mention of the agreement, even if not described in specific terms, would have been sufficient to apprise those victims of the status of the federal investigation.

Nevertheless, Villafaña did not recall discussing the NPA specifically or in general terms with other victims interviewed at that time, nor did she do so with Edwards or any other victim's attorney. OPR therefore considered whether the omission of information about the existence of the NPA during these interactions rose to the level of professional misconduct in violation of FRPC 4-4.1 or 4-8.4.[441]

OPR evaluated Villafaña's conduct in light of the comment to FRPC 4-4.1:

> A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements.

The victims and their attorneys were certainly not "opposing part[ies]" to the USAO, but the comment indicates that the rule recognizes that omissions made during discussions with third parties, even of relevant facts, are not always treated as false statements.

Here, the evidence does not show that Villafaña knowingly made an affirmative false statement to the victims or Edwards or that her omissions were "the equivalent of affirmative false statements" about material facts. First, Villafaña told OPR that she believed the investigation was ongoing and her statement to that effect truthful, and as discussed earlier in this Chapter, the evidence shows that Villafaña and the agents did continue to investigate the case until Epstein entered his guilty plea in state court in June 2008. Villafaña's email correspondence with her supervisors reflects her strong advocacy during that timeframe to declare Epstein in breach and to charge him. The evidence similarly does not show that Villafaña knowingly made any affirmative false statement to Edwards when she informed him of the state court plea, although she declined to provide additional information in response to his questions.[442]

Second, in reaching its conclusion, OPR considered the full context in which Villafaña interacted with the victims and Edwards. Prosecutors routinely make decisions about what information will be disclosed to witnesses, including victims, for a variety of strategic reasons. In many cases, prosecutors must make difficult decisions about providing information to witnesses,

---

441 In *Florida Bar v. Joy,* the court affirmed a referee's conclusion that Joy violated FRPCs 4-4.1(a) and 4-8.4(c) "for making false statements by omission of material facts in his representations [to counsel]." *Florida Bar v. Joy*, 679 So. 2d 1165, 1166-68 (Fla. 1996). *See also Florida Bar re Webster,* 647 So. 2d 816 (Fla. 1994) (petition for reinstatement denied due to "misrepresentation by omission").

442 In *Feinberg*, 760 So. 2d at 938, the court found that an Assistant State Attorney lacked candor and violated ethics rules when, after meeting with a defendant outside his attorney's presence, the prosecutor falsely stated to the defense attorney that he (the prosecutor) had not met with the defendant.

and they often cannot fully reveal either the facts or the status of an investigation, even with victims. The 2005 Guidelines advise that in consulting with a victim, prosecutors may be limited in their disclosures: "Because victims are not clients, may become adverse to the Government, and may disclose whatever they have learned from consulting with prosecutors, such consultations may be limited to gathering information from victims and conveying only nonsensitive data and public information."[443]

Villafaña's concern about generating potential impeachment evidence by informing victims of their potential to recover monetary damages from Epstein was not unreasonable. Indeed, the case agents initially raised the impeachment issue, and after considering the problem, Villafaña agreed with the agents' concerns. Villafaña raised those concerns with the USAO's Professional Responsibility Officer in October 2007 after the agents brought the issue to her attention, and she ultimately raised the issue with Sloman and Acosta as well, neither of whom advised her that those concerns were improper or unsound. OPR also considered that although Villafaña had sought to notify the victims in writing of the NPA soon after it was signed, her supervisor, the U.S. Attorney, had decided otherwise. When authorized to inform Edwards of the scheduled change of plea hearing, she did so. Although she did not inform Edwards that the plea was part of a global resolution that would end the federal investigation, the evidence does not show that Villafaña acted for the purpose of deceiving Edwards or preventing him from attending the hearing. Had she sought to exclude him from the state proceedings, she could have elected not to inform Edwards at all, or she could have discouraged him from attending the state proceedings. Rather, as Edwards confirmed, Villafaña told him the hearing was "important." Villafaña sought to strike a difficult balance of securing Edwards's (and his clients') attendance at the state court plea, while obeying her management's directive that informing victims of the resolution of the federal investigation should not be done until completion of the state plea.

Therefore, after carefully considering all of the circumstances, OPR concludes that the evidence does not establish that Villafaña violated her obligations under FRPC 4-4.1 or 4-8.4(c) or (d).[444] Nonetheless, as discussed below, Villafaña's interactions with victims and victims' attorneys without informing them of the NPA and the potential conclusion of the federal investigation contributed to the likelihood that the victims would feel that the government was

---

443 2005 Guidelines, Art. IV, ¶ B.2.c(1). As noted, some victims continued to express favorable views of Epstein during interviews with the government and they, or their attorneys, could have provided information to Epstein about the government's communications. For example, within a day of Villafaña contacting a victim's attorney about a potential victim notification letter, Starr complained to Acosta that the government had recently inappropriately provided "oral notification of the victim notification letter" to one girl's attorney, even though it was clear from the girl's recorded FBI interview that she "did not in any manner view herself as a victim."

444 The case most directly on point is *Smith*, 109 A.3d 1184, in which the Maryland Court of Appeals affirmed a violation of Maryland Rule of Professional Conduct 8.4(d) based on a prosecutor's failure to notify the victim of the resolution of a sex abuse case. However, as noted previously, in *Smith*, the criminal defendant had been arrested and charged before entering a plea, and various specific statutes afforded victims the right to receive notices and an opportunity to be heard concerning "a case originating by indictment or information in a circuit court." In this case, for the reasons previously discussed, Villafaña did not have a clear and unambiguous obligation to inform the victims or Edwards of the NPA.

intentionally concealing information from them and was part of a series of interactions with victims that led to condemnation of the government's treatment of victims.[445]

VI. THE GOVERNMENT FAILED TO TREAT VICTIMS FORTHRIGHTLY AND WITH SENSITIVITY WHEN IT FAILED TO TIMELY PROVIDE VICTIMS WITH IMPORTANT INFORMATION ABOUT THE RESOLUTION OF THE FEDERAL INVESTIGATION

Although OPR does not conclude that any of the subjects committed professional misconduct, either by failing to consult with the victims before the NPA was signed or in interactions afterwards, OPR's findings are not an endorsement of the government's course of action. The government's interactions with victims confused and frustrated many of the victims, particularly the two CVRA petitioners and the two victims who had unsuccessfully attempted to join in the CVRA litigation. As a result, the victims' and the public's perception of the matter is that the prosecutors worked with Epstein's attorneys to disenfranchise and silence the victims. It is unfortunate, and appears fundamentally unfair to the victims, that Acosta and Sloman (after Menchel and Lourie departed) took the unusual step of deciding to vet the USAO victim notification letters with the defense after the NPA was signed, but failed to go beyond the requirements of the CVRA or the 2005 Guidelines to consult with the victims before the NPA was signed. This result is contrary to the Department's intent, as set forth in the 2005 Guidelines, that Department employees work to "minimize the frustration and confusion that victims of crime endure in its wake." When considering the entirety of the government's interactions with victims, OPR concludes that victims were not treated with the forthrightness and sensitivity expected by the Department.

Wild's criticisms of the government's conduct were based on interactions that are similar to and generally representative of the government's interactions with other Epstein victims and that demonstrate an overall lack of sensitivity to the victims by the government. Wild experienced a series of confusing and inconsistent communications in her interactions with Villafaña and the case agents. Wild received Villafaña's letter in June 2007 stating inaccurately that she was a federal victim entitled to CVRA rights. She was interviewed by the FBI in August 2007 but was not told that a potential outcome was a state plea. Shortly after the September 24, 2007 signing of the NPA, the FBI contacted her to inform her of the resolution of the federal case. Nonetheless, on January 10, 2008, the FBI sent her a victims' rights letter indicating that the case was under investigation and that some of her CVRA rights may not apply until after the defendant was charged. On January 31, 2008, Villafaña re-interviewed Wild, along with a CEOS attorney and the FBI agents, and told Wild that the case was under investigation, but did not specifically mention the NPA, although she may have mentioned a possible resolution. In mid-June 2008, when Edwards contacted Villafaña on Wild's behalf, Villafaña informed him that the case was under investigation but did not mention the NPA. Just before Epstein's June 30, 2008 state court plea,

[445] OPR notes that, similar to Villafaña, Sloman interacted with a victim's attorney during the time period between the signing of the NPA and Epstein's state guilty plea. In January 2008, Sloman received a telephone call from his former law partner, who represented one of the victims and who asked Sloman whether the federal government could bring charges against Epstein. Sloman, concerned about the potential for conflict of interest allegations due to his prior business relations with the attorney, refused to answer any questions regarding Epstein. Because Sloman refused to provide any information, OPR found no basis for finding that Sloman misled the attorney.

Villafaña informed Edwards about the state plea, but did not mention the NPA or the fact that the state pleas would resolve the federal investigation. Edwards then filed the CVRA petition and learned about the NPA signed months earlier and that the federal investigation of Epstein had concluded with Epstein's state guilty pleas. Wild only received access to the NPA when a judge permitted it in August 2008 pursuant to a protective order. After considering this series of interactions, it is not surprising that Wild came away from the experience feeling confused and believing she had been misled.

OPR did not find evidence supporting a conclusion that Villafaña, Acosta, Sloman, Menchel, or Lourie opted not to consult with the victims in order to protect Epstein or shield the NPA from public scrutiny. Although neither Sloman nor Acosta could recall a specific discussion of CVRA obligations before the NPA was signed, both recalled knowing that victim consultation was not required, and Menchel also told OPR that consultation was not required, at least not up to the point when he left the USAO. The evidence is clear that Villafaña sought at various points to consult with and to notify victims about the details of the NPA but was constrained before the NPA was signed by managers who either made a decision to not consult victims or did not address the issue after it was raised, and after the signing by her own concern about creating possible impeachment evidence that would damage the victims' credibility at a possible trial.

Nonetheless, a more open and straightforward approach with the victims, both before and after the signing of the NPA, would have been the better practice. Before the NPA was signed, victims could have been asked for their views about the general terms the USAO was contemplating offering, including that a plea to state charges was one of the options being considered; asked for their views in general about a guilty plea; or, at a minimum, asked to share their views of how the case should be resolved. Even if the USAO ultimately determined to proceed with the NPA, the government would have had the benefit of the victims' thoughts and concerns, particularly on the issue of punishment, and victims would have felt included in the process. OPR found no evidence that the benefits of victim consultation were discussed or considered before the NPA was signed.

After the NPA was signed, no one from the government explained the agreement to the majority of the victims until months later and only after the entry of Epstein's guilty plea. Although the evidence supports Villafaña's assertion that she acted from a good faith belief that Epstein might breach the NPA and a potential trial would be harmed if information about the NPA was divulged to the victims and their counsel, she, Sloman, and Acosta failed to consider how the desire to shield the victims from that potential impeachment might impact the victims' sense of the openness and fairness of the process. As Wild stated during the CVRA litigation, she believed she had been "mistreated in the process." When deciding not to inform the victims of the NPA to avoid creating impeachment evidence, Villafaña, Sloman, and Acosta do not appear to have carefully considered possible alternatives to, or all of the ramifications of, that decision, nor did they revisit the decision before Villafaña met the victims in person to discuss a potential trial or spoke to Edwards or other attorneys representing victims.[446] Furthermore, more attention needed

[446] It is not at all clear whether a court would have permitted impeachment of the victims concerning one provision in a plea agreement that otherwise could not be used as evidence. *See* Fed. R. Crim. P. 11(f) ("The admissibility or inadmissibility of a plea, a plea discussion, and any related statement is governed by Federal Rule of Evidence 410."). In any case, the victims could have been impeached regarding the possibility of their obtaining monetary damages through either a civil suit or through 18 U.S.C. § 2255 (if Epstein were convicted after a trial),

to be paid to the FBI's communications to ensure that the victims were receiving accurate and timely information that was consistent with the status of the case and with the USAO's communications with victims.[447]

The decision not to inform victims and their attorneys about the existence of the NPA gave victims and the public the misimpression that the government had colluded with Epstein's counsel to keep the agreement secret from the victims. Moreover, the lack of openness about the NPA gave the impression that the USAO lacked sensitivity for the victims in resolving the matter and undercut public confidence in the legitimacy of the resulting plea agreement. The overall result of the subjects' anomalous handling of this case left at least some of the victims feeling ignored and frustrated, failed to promote their healing process, and resulted in extensive public criticism. Although OPR credits Villafaña's statements that she wanted to go beyond her obligations in dealing with victims, the end result nonetheless was that communications with victims were not prioritized by the USAO. In part this was due to the fact that interactions with victims are generally handled by staff in the USAO and the FBI who are trained and have expertise in dealing with victims and other witnesses. However, decisions made by Acosta, Sloman, and Villafaña also contributed to the problems. The government, as it ultimately acknowledged in the CVRA litigation, could have, and should have, engaged with the victims in a more transparent and unified fashion.

OPR recognizes that the Epstein investigation occurred soon after the passage of the CVRA. In the years since, the Department's prosecutors and personnel have become more familiar with its provisions. OPR encourages the Department as a whole to take the issues discussed above into account when providing training and direction to its employees regarding victims' rights to ensure that in the future, Department attorneys' actions promote victim inclusion whenever possible.[448] For example, although the division of responsibility between the FBI and the USAO for communicating with victims works efficiently and appropriately in the average case, the USAO failed to consider that in a case involving a pre-charge disposition, the victims were receiving inconsistent and confusing communications from the separate entities. In certain cases, such as the Epstein case, prosecutors may need to provide more oversight when multiple Department components are communicating with victims to avoid providing confusing and contradictory messages.

independent of the NPA provision. OPR also notes that impeachment regarding the NPA provision may have permitted the government to rehabilitate the victims through their prior statements to law enforcement. In other words, while the USAO's view concerning potential impeachment was not unreasonable, more extensive consideration of the case agent's concerns might have led the prosecutors to conclude that the risk of the information being used to significantly damage the credibility of the victims was low.

[447] In addition to the FBI letters previously discussed, another example of the inconsistent communication can be seen in letters that were to be sent after Epstein entered his guilty plea to two victims residing in foreign countries. Although OPR was unable to confirm that the two victims actually received the letters, it appears from the records OPR reviewed that the government intended to provide them with a standard FBI letter stating that the case was under investigation while also providing them with a USAO letter stating that the case had been resolved through Epstein's state guilty plea.

[448] OPR understands that the Department is in the process of revising the 2011 Guidelines.

CONCLUSION

In November 2018, the *Miami Herald* published an extensive investigative report about state and federal criminal investigations initiated more than 12 years earlier into allegations that Jeffrey Epstein, a wealthy financier with residences in Florida, New York, and other United States and foreign locations, had coerced girls into engaging in sexual activity with him at his Palm Beach, Florida estate. The *Miami Herald* reported that in 2007, the U.S. Attorney for the Southern District of Florida, R. Alexander Acosta, entered into an "extraordinary" deal with Epstein that permitted Epstein to avoid federal prosecution and a potentially lengthy prison sentence by pleading guilty in state court to "two prostitution charges," immunized from prosecution Epstein's co-conspirators, and concealed from Epstein's victims the terms of the NPA.

Following the *Miami Herald's* report, and after receiving a Congressional request to investigate, OPR initiated an investigation into the allegations that prosecutors in the USAO improperly resolved the federal investigation into the criminal conduct of Jeffrey Epstein by negotiating and executing the NPA. OPR subsequently included in its investigation allegations stemming from judicial criticism of the government's conduct relating to federal prosecutors' and law enforcement agents' interactions with Epstein's victims. In July 2008, a victim, later joined by a second victim, filed in federal court in the Southern District of Florida an emergency petition for enforcement of her rights under the CVRA. In February 2019, the district court found that the government violated the CVRA by failing to advise victims about its intention to enter into the NPA. The court also found that letters the government sent to victims after the NPA was signed, describing the investigation as ongoing, were misleading.

During the course of its investigation, OPR obtained and reviewed hundreds of thousands of records from the USAO, the FBI, and other Department of Justice components. The records included emails, letters, memoranda, and investigative materials. OPR also collected and reviewed materials relating to the state investigation and prosecution of Epstein, including sealed pleadings, grand jury transcripts, and grand jury audio recordings; examined extensive publicly available information, including depositions, pleadings, orders, and other court records; and reviewed media reports and interviews, articles, podcasts, and books relating to the Epstein case. OPR conducted more than 60 interviews of witnesses, including the FBI case agents, their supervisors, and FBI administrative personnel; current and former USAO staff and attorneys; current and former Department attorneys and senior managers; and the former State Attorney and Assistant State Attorney in charge of the state investigation of Epstein. OPR also interviewed or received written information from several victims and attorneys representing victims concerning victim contacts with the USAO and federal law enforcement.

OPR identified the following five former USAO attorneys as subjects of its investigation based on information indicating that each of them was involved in the decision to resolve the case through the NPA or in the negotiations leading to the agreement: former U.S. Attorney R. Alexander Acosta, and former AUSAs Jeffrey H. Sloman, Matthew I. Menchel, Andrew C. Lourie, and Ann Marie C. Villafaña. Each subject submitted written responses detailing their involvement in the federal investigation of Epstein, the drafting and execution of the NPA, and decisions relating to victim notification and consultation. OPR conducted extensive interviews of all five subjects. The subjects also submitted comments on OPR's draft report.

OPR evaluated the conduct of each subject based on his or her individual role in various decisions and events and assessed that conduct pursuant to OPR's analytical framework. OPR found that Acosta made the pivotal decision to resolve the federal investigation of Epstein through a state-based plea and either developed or approved the terms of the initial offer to the defense that set the beginning point for the subsequent negotiations that led to the NPA. Although Acosta did not sign the NPA, he participated in its drafting and approved it, with knowledge of its terms. Therefore, OPR considers Acosta to be responsible for the NPA and for the actions of the other subjects who implemented his decisions.

Based on its extensive investigation, OPR concludes that the subjects did not commit professional misconduct with respect to the development, negotiation, and approval of the NPA. Under OPR's framework, professional misconduct requires a finding that a subject attorney intentionally or recklessly violated a clear and unambiguous standard governing the conduct at issue. OPR found no clear and unambiguous standard that required Acosta to indict Epstein on federal charges or that prohibited his decision to defer prosecution to the state. Furthermore, none of the individual terms of the NPA violated Department or other applicable standards.

As the U.S. Attorney, Acosta had the "plenary authority" under established federal law and Department policy to resolve the case as he deemed necessary and appropriate, as long as his decision was not motivated or influenced by improper factors. Acosta's decision to decline to initiate a federal prosecution of Epstein was within the scope of his authority, and OPR did not find evidence that his decision was based on corruption or other impermissible considerations, such as Epstein's wealth, status, or associations. Evidence shows that Acosta resisted defense efforts to have the matter returned to the state for whatever result state authorities deemed appropriate, and he refused to eliminate the incarceration and sexual offender registration requirements. OPR did not find evidence establishing that Acosta's "breakfast meeting" with one of Epstein's defense counsel in October 2007 led to the NPA, which had been signed weeks earlier, or to any other significant decision that benefited Epstein. The contemporaneous records show that USAO managers' concerns about legal issues, witness credibility, and the impact of a trial on the victims led them to prefer a pre-charge resolution and that Acosta's concerns about the proper role of the federal government in prosecuting solicitation crimes resulted in his preference for a state-based resolution. Accordingly, OPR does not find that Acosta engaged in professional misconduct by resolving the federal investigation of Epstein in the way he did or that the other subjects committed professional misconduct through their implementation of Acosta's decisions.

Nevertheless, OPR concludes that Acosta's decision to resolve the federal investigation through the NPA constitutes poor judgment. Although this decision was within the scope of Acosta's broad discretion and OPR does not find that it resulted from improper factors, the NPA was a flawed mechanism for satisfying the federal interest that caused the government to open its investigation of Epstein. In Acosta's view, the federal government's role in prosecuting Epstein was limited by principles of federalism, under which the independent authority of the state should be recognized, and the federal responsibility in this situation was to serve as a "backstop" to state authorities by encouraging them to do more. However, Acosta failed to consider the difficulties inherent in a resolution that relied heavily on action by numerous state officials over whom he had no authority; he resolved the federal investigation before significant investigative steps were completed; and he agreed to several unusual and problematic terms in the NPA without the consideration required under the circumstances. In sum, Acosta's application of federalism

principles was too expansive, his view of the federal interest in prosecuting Epstein was too narrow, and his understanding of the state system was too imperfect to justify the decision to use the NPA. Furthermore, because Acosta assumed a significant role in reviewing and drafting the NPA and the other three subjects who were supervisors left the USAO, were transitioning to other jobs, or were absent at critical junctures, Acosta should have ensured more effective coordination and communication during the negotiations and before approving the final NPA. The NPA was a unique resolution, and one that required greater oversight and supervision than Acosta provided.

OPR further concludes that none of the subject attorneys committed professional misconduct with respect to the government's interactions with victims. The subjects did not intentionally or recklessly violate a clear and unambiguous duty under the CVRA by entering into the NPA without consulting with victims, because the USAO resolved the Epstein investigation without a federal criminal charge. Significantly, at the time the NPA was signed, the Department did not interpret CVRA rights to attach unless and until federal charges had been filed, and the federal courts had not established a clear and unambiguous standard applying the CVRA before criminal charges were brought. In addition, OPR did not find evidence that the lack of consultation was for the purpose of silencing victims. Nonetheless, the lack of consultation was part of a series of government interactions with victims that ultimately led to public and court condemnation of the government's treatment of the victims, reflected poorly on the Department as a whole, and is contradictory to the Department's mission to minimize the frustration and confusion that victims of a crime endure.

OPR determined that none of the subjects was responsible for communications sent to certain victims after the NPA was signed that described the case as "under investigation" and that failed to inform them of the NPA. The letters were sent by an FBI administrative employee who was not directly involved in the investigation, incorporated standard form language used by the FBI when communicating with victims, and were not drafted or reviewed by the subjects. Moreover, the statement that the matter was "under investigation" was not false because the government in fact continued to investigate the case in anticipation that Epstein would not fulfill the terms of the NPA. However, the letters risked misleading the victims and contributed to victim frustration and confusion by failing to provide important information about the status of the investigation. The letters also demonstrated a lack of coordination between the federal agencies responsible for communicating with Epstein's victims and showed a lack of attention to and oversight regarding communication with victims.

After the NPA was signed, Acosta elected to defer to the State Attorney the decision whether to notify victims about the state's plea hearing pursuant to the state's own victim's rights requirements. Although Acosta's decision was within his authority and did not constitute professional misconduct, OPR concludes that Acosta exercised poor judgment when he failed to make certain that the state intended to and would notify victims identified through the federal investigation about the state plea hearing. His decision left victims uninformed about an important proceeding that resolved the federal investigation, an investigation about which the USAO had communicated with victims for months. It also ultimately created the misimpression that the Department intentionally sought to silence the victims. Acosta failed to ensure that victims were made aware of a court proceeding that was related to their own cases, and thus he failed to ensure that victims were treated with forthrightness and dignity.

OPR concludes that the decision to postpone notifying victims about the terms of the NPA after it was signed and the omission of information about the NPA during victim interviews and conversations with victims' attorneys in 2008 do not constitute professional misconduct. Contemporaneous records show that these actions were based on strategic concerns about creating impeachment evidence that Epstein's victims had financial motives to make claims against him, evidence that could be used against victims at a trial, and were not for the purpose of silencing victims. Nonetheless, the failure to reevaluate the strategy prior to interviews of victims and discussions with victims' attorneys occurring in 2008 led to interactions that contributed to victims' feelings that the government was intentionally concealing information from them.

After examining the full scope and context of the government's interactions with victims, OPR concludes that the government's lack of transparency and its inconsistent messages led to victims feeling confused and ill-treated by the government; gave victims and the public the misimpression that the government had colluded with Epstein's counsel to keep the NPA secret from the victims; and undercut public confidence in the legitimacy of the resulting agreement. The overall result of the subjects' anomalous handling of this case understandably left many victims feeling ignored and frustrated and resulted in extensive public criticism. In sum, OPR concludes that the victims were not treated with the forthrightness and sensitivity expected by the Department.

METHODOLOGY

A. Document Review

As referenced in the Executive Summary, OPR obtained and reviewed hundreds of thousands of pages of documents from the U.S. Attorney's Office for the Southern District of Florida (USAO), other U.S. Attorney's offices, the FBI, and other Department components, including the Office of the Deputy Attorney General, the Criminal Division, and the Executive Office for U.S. Attorneys (EOUSA). The categories of documents reviewed by OPR, and their sources, are set forth below.

1. USAO Records

The USAO provided OPR with access to all of its records from its handling of the Epstein investigation and the CVRA litigation. The records included, but were not limited to, boxes of material that Villafaña updated and maintained through the course of both actions, which contained pleadings from the Epstein investigation, the CVRA litigation, and other related cases; extensive compilations of internal and external correspondence, including letters and emails; evidence such as telephone records, FBI reports, material received from the state investigation, and other confidential investigative records; court transcripts; investigative transcripts; prosecution team handwritten notes; research material; and draft and final case documents such as the NPA, prosecution memoranda, and federal indictments.

The USAO also provided OPR with access to filings, productions, and privileged material in the CVRA litigation; Outlook data collected to respond to production requests in that case; a set of Epstein case documents maintained by Acosta and Sloman; computer files regarding the Epstein case collected by Sloman; Villafaña's Outlook data; Acosta's hard drive; and the permanently retained official U.S. Attorney records of Acosta held by the Federal Records Center.

2. EOUSA Records

EOUSA provided OPR with Outlook data from all five subjects and six additional witnesses. This information, dating back to 2005, included all inbox, outbox, sent, deleted, and saved emails, and calendar entries that it maintained. EOUSA provided OPR with over 850,000 Outlook records in total (not including email attachments or excluding duplicate records). OPR identified key time periods and fully reviewed those records. OPR applied search terms to the remainder of the records and reviewed any responsive documents.

After reviewing the emails, OPR identified a data gap in Acosta's email records: his inbox contained no emails from May 26, 2007, through November 2, 2008. This gap, however, was not present with respect to Acosta's sent email. OPR requested that EOUSA investigate. During its investigation, EOUSA discovered a data association error that incorrectly associated Acosta's data with an unrelated employee who had a similar name. Once the data was properly associated, EOUSA found and produced 11,248 Acosta emails from April 3, 2008, through the end of his tenure at the USAO. However, with respect to the remaining emails, EOUSA concluded that the emails were not transferred from the USAO when, in 2008 and 2009, Outlook data for all U.S.

Attorney's Offices was migrated to EOUSA's centralized system to be maintained. The USAO's data was migrated between March and June 2008.

EOUSA and OPR separately confirmed with the USAO that it was unable to locate any additional emails. OPR questioned Acosta, as well as numerous administrative staff, about the email gap. Acosta and the witnesses denied having any knowledge of the problem, or that they or, to their knowledge, anyone else made any efforts to intentionally delete the emails. In addition, at OPR's request, EOUSA conducted an analysis of records migrated from four other U.S. Attorney's Offices and found that each office provided data that also contained significant gaps in their U.S. Attorney email records, although the time periods varied for each office. OPR found no evidence indicating that the gap in Acosta's emails was caused by any intentional act or for the purpose of concealing evidence relating to the Epstein investigation and concludes that it was most likely the result of a technological error.

Although a gap in Acosta's email inbox from May 26, 2007, through April 2, 2008, remained, OPR was nonetheless able to examine a significant number of Acosta's emails from this time due to the extensive case files kept by the USAO; the availability of Acosta's sent email, which did not contain a similar gap; and the availability of emails of other USAO subjects and witnesses who were included on emails with Acosta.

3. Federal Bureau of Investigation Records

OPR worked with the FBI's Palm Beach Office, including with two case agents and the Victim Witness Specialist who worked on the Epstein matter, to obtain relevant FBI documents. In addition, the FBI searched its Automated Case Support system and also provided documentation concerning its victim notification system.

4. Criminal Division Records

The Office of the Assistant Attorney General for the Criminal Division provided OPR with Outlook data for the four individuals from that Office who examined issues connected to the USAO's Epstein investigation. The data included the individuals' inbox, outbox, sent, deleted, and saved emails, and calendar entries.

CEOS also provided OPR with Outlook data for the four individuals from that office who worked on, or examined issues connected to, the USAO's Epstein investigation. The data included the individuals' inbox, outbox, sent, deleted, and saved emails. CEOS also conducted a check of its shared hard drive and provided documents that were potentially relevant to OPR's investigation.

5. Office of the Deputy Attorney General Records

OPR obtained Outlook data for the three individuals from the Office of the Deputy Attorney who examined issues connected to the USAO's Epstein investigation, including the former Deputy Attorney General. The data included the individuals' inbox, outbox, sent, deleted, and saved emails, and calendar entries.

6. U.S. Attorney's Office for the Middle District of Florida Records

The U.S. Attorney's Office for the Middle District of Florida provided OPR with records related to its review of evidence against Epstein, after he concluded his Florida state sentence, when the Department recused the USAO in August 2011 from "all matters, to include the investigation and potential prosecution, relating to Jeffrey Epstein's alleged sexual activities with minor females," and assigned the matter to the Middle District of Florida U.S. Attorney's Office for further consideration. The records included a declination of the matter due to the NPA.

7. U.S. Attorney's Office for the Northern District of Georgia Records

The U.S. Attorney's Office for the Northern District of Georgia provided OPR with records related to its work on the CVRA litigation after the recusal of the USAO.

8. Public Records

OPR obtained and reviewed a variety of public records, including publicly released records of the Palm Beach Police Department, the State Attorney's Office for the 15th Judicial Circuit, and the Palm Beach Sheriff's Office; documents pertaining to the CVRA litigation and other court proceedings involving Epstein and related individuals; and books and media reports.

B. Information from Subjects, Witnesses, and Victims

1. Subjects

OPR requested that all five subjects provide written responses detailing their involvement in the federal investigation of Epstein, the drafting and execution of the NPA, and decisions relating to victim notification and consultation. In addition, OPR conducted extensive interviews of each subject under oath and before a court reporter. Each subject was represented by counsel and had access to relevant contemporaneous documents before the subject's OPR interview. The subjects reviewed and provided comments on their interview transcripts and on OPR's draft report.

2. Witnesses

OPR conducted more than 60 interviews of witnesses, including the FBI case agents, their supervisors, and FBI administrative personnel. OPR interviewed current and former USAO staff and attorneys and current and former Department attorneys and senior managers, including former Deputy Attorney General Mark Filip and former Assistant Attorney General for the Criminal Division Alice Fisher. OPR also interviewed former State Attorney Barry Krischer and former Assistant State Attorney Lanna Behlolovick.

3. Communications with Victims and Victims' Attorneys

OPR contacted attorneys known to represent 26 victims among the 30 surviving individuals who were identified in the USAO's July 2008 listing of 32 victims the USAO was prepared to include in federal charges against Epstein and who accordingly were entitled to the benefits of the 18 U.S.C. § 2255 monetary damages provision of the NPA. OPR contacted the attorneys to invite

the victims to provide OPR with information regarding their contacts with, and notification received from, the FBI and USAO, during the period before the NPA was signed or before Epstein's state plea hearing, about the status of the federal investigation, about Epstein's state plea, or about the NPA. OPR received information from or pertaining to 13 victims.

EXHIBIT 1

State Indictment

[Page Intentionally Left Blank]

INDICTMENT

A TRUE BILL 06-9454CF A2

FILED
06 JUL 19 PM 2:47
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA

For Palm Beach County, at the Spring Term thereof, in the year of our Lord Two Thousand and Six, to-wit: The Grand Jurors of the State of Florida, inquiring in and for the body of said County of Palm Beach, upon their oaths do present that JEFFREY E. EPSTEIN in the County of Palm Beach aforesaid, in the Circuit and State aforesaid,

COUNT ONE
FELONY SOLICITATION OF PROSTITUTION

on or about or between the 1st day of August in the year of our Lord Two Thousand and Four and October 31, 2005, did solicit, induce, entice, or procure another to commit prostitution lewdness, or assignation, contrary to Florida Statute 796.07(1) on three or more occasions between August 01, 2004 and October 31, 2005, contrary to Florida Statute 796.07(2)(f) and (4)(c). (3 DEG FEL)(LEVEL 1)

against the form of the statute, to the evil example of all others, and against the peace and dignity of the State of Florida.

I hereby certify that I have advised the Grand Jury returning this indictment as authorized and required by law.

STATE OF FLORIDA, PALM BEACH COUNTY
I hereby certify that the foregoing is a true copy of the record in my office.
THIS 27 DAY OF JUL 2006, 20
SHARON R. BOCK
CLERK & COMPTROLLER
BY: DEPUTY CLERK

Assistant State Attorney of the Fifteenth Judicial Circuit of the State of Florida, prosecuting for the said State

GRAND JURY FOREPERSON

July 19, 2006
DATE

Jeffrey E. Epstein, Race: White, Sex: Male, DOB: [redacted] SS#: [redacted]; Issue Warrant

[Page Intentionally Left Blank]

EXHIBIT 2

September 6, 2007 Draft Non-Prosecution Agreement

[Page Intentionally Left Blank]

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN
_____/

NON-PROSECUTION AGREEMENT

IT APPEARING that Jeffrey Epstein (hereinafter "Epstein") is reported to have committed offenses against the United States from in or around 2001 through in or around October 2005, including:

(1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;

(2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);

(3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;

(4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation of Title 18, United States Code, Section 2423(b); and

(5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein has accepted responsibility for his behavior by his

signature on this Agreement; and

IT APPEARING, after an investigation of the offenses and Epstein's background, that the interest of the United States and Epstein's own interest and the interest of justice will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set out below.

Should Epstein violate any of the conditions of this Agreement, the United States Attorney may at any time initiate prosecution against Epstein for any offense. In this case, the United States Attorney will furnish Epstein with notice specifying the conditions of the Agreement which he has violated.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on page 1 of this Agreement will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Neither this Agreement nor any other document filed with the United States Attorney as part of this Agreement will be used against Epstein, except for impeachment purposes, in connection with any prosecution for the above-described offenses.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to an Information filed by the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") charging violations of the following Florida Statutes:

   (a) lewd and lascivious battery on a child, in violation of Fl. Stat. 800.04(4);

   (b) solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03; and

   (c) engaging in sexual activity with minors at least sixteen years of age, in violation of Fl. Stat. 794.05.

2. Epstein and the State Attorney's Office shall make a joint, binding recommendation that Epstein serve at least two years in prison, without any opportunity for withholding adjudication or sentencing; and without probation or community control in lieu of imprisonment.

3. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence.

4. Epstein agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423.

5. The United States shall provide Epstein's attorneys with a list of the identified victims, which will not exceed forty, after Epstein has signed this agreement and entered his guilty plea. The United States shall make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and Epstein's counsel may contact the identified victims through that counsel.

6. Epstein shall enter his guilty plea and be sentenced not later than September 28, 2007, and shall begin service of his sentence not later than October 15, 2007.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this

agreement. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Civil Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury.

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this non-Prosecution Agreement and agrees to comply with them.

Dated: _____

_____
Jeffrey Epstein

Dated: _____

_____
Roy Black, Esq.
Counsel to Jeffrey Epstein

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. Marie Villafaña
Assistant United States Attorney

EXHIBIT 3

September 24, 2007 Non-Prosecution Agreement

[Page Intentionally Left Blank]

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN
_____/

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

(1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;

(2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);

(3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;

(4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

(5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;

2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:

   (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

   (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.

3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.

4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.

5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.

6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.

8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.

9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.

10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.

11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.

13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to [redacted]. Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

///

///

///

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: 9/24/07 _____
JEFFREY EPSTEIN

Dated: _____ _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____ _____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: 9/27/07

By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____

_____
JEFFREY EPSTEIN

Dated: 9/24/07

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

_____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____
JEFFREY EPSTEIN

Dated: _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

[Page Intentionally Left Blank]

EXHIBIT 4

Addendum to the Non-Prosecution Agreement

[Page Intentionally Left Blank]

IN RE:

INVESTIGATION OF

JEFFREY EPSTEIN

_____/

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.

7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, infra.

7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: 10/30/07

By: Jeffrey H. Sloman FAUSA
for A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: 10/29/07

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: 10/30/07

By: _____ FAUSA
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____

_____
JEFFREY EPSTEIN

Dated: 10/29/07

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

_____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: 10/30/07

By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____

_____
JEFFREY EPSTEIN

Dated: _____

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10-29-07

_____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

EXHIBIT 5

State Information

[Page Intentionally Left Blank]

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION "W" (LB)

08CF9381

STATE OF FLORIDA

ARISES FROM BOOKING NO.:
2006036744

vs.

JEFFREY E EPSTEIN, W/M, [redacted]

FILED
08 JUN 26 PM 3:30
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL

INFORMATION FOR:

1) PROCURING PERSON UNDER 18 FOR PROSTITUION

In the Name and by Authority of the State of Florida:
BARRY E. KRISCHER, State Attorney for the Fifteenth Judicial Circuit, Palm Beach County, Florida, by and through his undersigned Assistant State Attorney, charges that JEFFREY E EPSTEIN on or about or between the 1st day of August in the year of our Lord Two Thousand and Four and October 9, 2005, did knowingly and unlawfully procure for prostitution, or caused to be prostituted, [redacted], a person under the age of 18 years, contrary to Florida Statute 796.03. (2 DEG FEL)

LANNA BELOHLAVEK
FL. BAR NO. 0776726
Assistant State Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

Appeared before me, LANNA BELOHLAVEK Assistant State Attorney for Palm Beach County, Florida, personally known to me, who, being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which, if true, would constitute the offense therein charged, that this prosecution is instituted in good faith, and certifies that testimony under oath has been received from the material witness or witnesses for the offense.

Assistant State Attorney

Sworn to and subscribed to before me this 26th day of June, 2008.

Damaris Pina
NOTARY PUBLIC, State of Florida

Damaris Pina
MY COMMISSION # DD560793 EXPIRES
August 2, 2010
BONDED THRU TROY FAIN INSURANCE, INC.

LB/dp

FCIC REFERENCE NUMBERS:
1) FELONY SOLICITATION OF PROSTITUTION 3699

STATE OF FLORIDA • PALM BEACH COUNTY
I hereby certify that the foregoing is a true copy of the record in my office.
THIS JUL 22 2008 DAY OF _____, 20____
SHARON R. BOCK
CLERK & COMPTROLLER
BY _____ DEPUTY CLERK

CAA JUN 26 2008

[Page Intentionally Left Blank]

Appendix 4

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO.: 502008CA037319 XXXX MB AB

B.B.,
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.
_____/

VOLUME I
VIDEO-TAPED DEPOSITION OF MICHAEL REITER
A WITNESS
TAKEN BY THE PLAINTIFF

DATE: November 23, 2009
TIME: 10:12 a.m. - 7:38 p.m.

I-N-D-E-X

November 23, 2009
MICHAEL REITER

EXHIBITS

Certified Question: Page 160, Line 10

Letter to John Randolph, Esq.
Errata Sheets (to be forwarded upon completion)

The deposition of MICHAEL REITER, a witness in the above-entitled and numbered cause was taken before me, Vanessa G. Archer, Court Reporter, Notary Public for the State of Florida at Large, at 2925 PGA Boulevard, Palm Beach Gardens, Florida, on the 23rd day of November, 2009, pursuant to Notice in said cause for the taking of said deposition on behalf of the Plaintiff.

APPEARING ON BEHALF OF PLAINTIFF B.B.:
SPENCER T. KUVIN, ESQ.
LEOPOLD-KUVIN, P.A.
2925 PGA Boulevard, Suite 200
Palm Beach Gardens, Florida 33410

APPEARING ON BEHALF OF PLAINTIFFS' JANE DOES 2-8:
ADAM HOROWITZ, ESQ.
MERMELSTEIN & HOROWITZ, P.A.
18205 Biscayne Boulevard, Suite 2218
Miami, Florida 33160

APPEARING ON BEHALF OF PLAINTIFF C.A.
JACK HILL, ESQ.
SEARCY, DENNEY, SCAROLA, BARNHART & SHIPLEY, P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, Florida 33409

APPEARING ON BEHALF OF PLAINTIFF:
ISIDRO GARCIA, Esq.
GARCIA LAW FIRM, P.A.
The Harvey Building
224 Datura Street, Suite 900
West Palm Beach, Florida 33401

APPEARING ON BEHALF OF DEFENDANT:
ROBERT D. CRITTON, ESQ.
BURMAN, CRITTON, LUTTIER & COLEMAN, LLP.
515 North Flagler Drive, Suite 400
West Palm Beach, Florida 33401

JACK GOLDBERGER, ESQ.
ATTENBURY, GOLDBERGER, RICHARDSON & WEISS, P.A.
250 South Australian Avenue, Suite 1400
West Palm Beach, Florida 33401

APPEARING ON BEHALF OF WITNESS:
JOANNE O'CONNOR, ESQ.
JOHN RANDOLPH, ESQ.
JONES, FOSTER, JOHNSTON & STUBBS, P.A.
505 South Flagler Drive, Suite 1100
West Palm Beach, Florida 33401

ALSO PRESENT: JEFFREY EPSTEIN

VIDEOGRAPHERS: MICHAEL D. DOWNEY
EDDIE GUERRERO
VISUAL EVIDENCE
601 North Dixie Highway, Suite A
West Palm Beach, Florida 33401

And at what point did you learn that Mr. Epstein, in fact, did become aware of the investigation?

A I think the point that I actually knew that it was, it was reported to me by one of the detectives that one of the victims had been contacted by a private investigator that the department believed was employed by a lawyer of -- employed by Mr. Epstein.

Q On that topic, at some point did you become aware that Mr. Epstein was actually investigating you?

MR. CRITTON: Form.

THE WITNESS: Yes.

BY MR. KUVIN:

Q Tell me about that?

A Well I heard through various individuals that one of his lawyers, Mr. Dershowitz, had been contacting private investigators in the area to perform background investigations on me. I know that there was a public records law demand filed by several private investigators on the Town of Palm Beach for my personnel records. And I actually ran into one of the private investigators very early on -- you asked me when I first became aware --

Q Yeah.

A -- that basically told me that. I also -- I mean I saw surveillance a number of times. I didn't know precisely who had hired those persons, but I mean I had surveillance for a fairly long period of time.

Q There was surveillance you noticed on you?

A Yes.

Q Do you know why?

A No, no, I don't. It would be an assumption. In general sense, you know, there's an attack on the case and if that doesn't work there's an attack on the investigators. I don't know. I don't know. Shouldn't say that.

MR. CRITTON: Form, move to strike.

BY MR. KUVIN:

Q You were working as a police officer for twenty-eight years and then as a chief -- well --

A And two years prior to that actually.

Q Right. During your entire history as a police officer, can you ever recall someone going to that length? In other words, a suspect conducting an investigation on you such as the lengths that occurred in this case which include surveillance on you?

A No.

Q First time ever?

MR. CRITTON: Form.

BY MR. KUVIN:

Q First time you can recall it going to this extent?

A The only time I ever recall anyone ever going to this extent.

Q How long were you aware there was surveillance on you personally?

A Well, you know, I just took the approach that I have nothing to hide, and I just lived my life so I tried not to look around every corner. I felt like it was around three months.

Q At any time during the investigation, did you become aware that investigators were also surveilling and investigating potential victims?

A That had been reported to us by victims. And the lead investigator in the case also felt like he was being surveilled, people were picking up his trash and so on.

Q Is that Detective Recarey?

A Yes.

Q So there was a time that your officers became aware it was being investigated on?

MR. CRITTON: Form.

THE WITNESS: One officer, one detective.

BY MR. KUVIN:

Q To the extent they were picking up his trash?

A Yes.

Q Were you aware of that ever occurring in your career to officers working under you?

A I didn't say it never occurred to this degree.

Q Got you.

A I think if you're asking the question do I know of any other law enforcement officers who know as part of their job somebody investigated them and picked up their trash, not that I can specifically recall.

Q Okay.

A Other than the police department itself, we've had private investigators take trash at the police department itself, we've caught people doing that.

Q Obviously at some point Mr. Epstein was tipped off as to the investigation because of the investigators that you became aware of. Did you ultimately know how he became tipped off?

Q How did you keep that information when you were there?
A It was a letter that I received from the U.S. Attorney.
Q Hang on, back up, you misunderstood my question. I'm talking about the state, your investigation. In other words, what did you match the forty some odd victims in the U.S. Attorney's letter with in your list? I'm looking for your list.
A The incident reports.
Q Okay. How many incident reports did you all generate?
A I don't recall if the latter victim, or victims, generated a new case number or if they're included in this. It seems like it probably generated a new case number but I can't say for sure. But Detective Recarey would know.
Q Okay. All right. Would all of the potential victims that were being investigated by your department prior to let's say July of 2006, have been listed in this incident report we've marked as Exhibit 2? Were there any additional incident reports?
MR. CRITTON: Form.

THE WITNESS: For the time period that that covers --
BY MR. KUVIN:
Q Yeah. For the time period of January 27 of '05 through the last page of this Exhibit 2 is July 12 of '06.
A I think there was only one report.
Q Okay.
A When you mention victims, and that's sort of a subjective word, there were individuals that we felt their activity had constituted a crime but they were not cooperative.
Q Right.
A You know, they're not victims but they're in here and the numbers change if you want to add all them in.
Q Okay. And what I'm just trying to find is, is in this particular report we've marked as Exhibit 2, it has, if I recall, seventeen victims listed and it goes through the date of July of '06. Do you know how many girls approached the department later on, total number?
A Definitely one and possibly more, I'm not sure exactly. But once I realized that they had been considered by the federal investigation, I knew

we had no further involvement. So it wasn't something that I would be completely informed about.
Q Okay. At any point did someone, anyone, come to you and either formally or informally ask you to back off the investigation, stop the investigation, or alter your investigation in any way?
A I had individuals suggest that the department's approach to the investigation and my referral of the investigation to the FBI was more horse power than the investigation deserved. And I had other individuals suggest that -- yeah, the term back off probably fits, yes.
Q Who?
A I think that Barry Krischer would be included in that description.
Q Who else?
A I had people in the community in Palm Beach that either made comments directly to me or to others who relayed them to me that I didn't need to take the tact in the investigation that we did, which is completely investigate it and then refer it to the FBI after the state case was resolved.
Q Do you remember any of those people that mentioned it either to you directly or through your

department?
A Well it wouldn't be, I think, appropriate for me to list individuals that I don't know first-hand said that. I had many people relate conversations of another on the cocktail party circuit that suggested that we approach this in a way that wasn't necessary. I had one individual who actually came to see me a couple of times about this.
Q Who was that?
A Jerry GoldSmith.
Q Okay. What did he say?
A He said that this wasn't necessary, this was a case that really was very minor. The victims had lifestyles that don't make them -- shouldn't make them believable to the police department. And he said that I shouldn't have referred it to the FBI and Palm Beach solves its own problems, why did I do that, why am I after Jeffrey Epstein. A couple of occasions that was the general topic of the discussion.
Q Did you know who Mr. Goldsmith was?
A Yes. I know them all.
Q Lives on the island?
A As far as I know, yes.

MR. CRITTON: Form.
THE WITNESS: That's not my role as Police Chief.
BY MR. KUVIN:
Q How did you ultimately learn what was going to happen with respect to the federal investigation; who told you that for the first time?
A Well it changed so many different times. The final outcome when it had been agreed upon, Assistant U.S. Attorney Marie Villafana shared with me in a general sense that there was a non-prosecution agreement and told me what Mr. Epstein would plea to in state court, and just in a very general sense.
Q What were your thoughts about what occurred with respect to the federal investigation?
MR. CRITTON: Form.
BY MR. KUVIN:
Q In other words, did you respond to her and tell her what you were thinking?
MR. CRITTON: Form.
THE WITNESS: I had been telling her what my thoughts were about the investigation and the prosecution all along. I don't think when she told me what was going to happen -- did I

make a comment about it?
BY MR. KUVIN:
Q Yes.
A If that's what your question is, yes. All along my concern was that he would be classified as a sexual offender and all of the provisions that travel along with that so there wouldn't be opportunity, or be far less opportunity, for additional victims to take place. And I think I shared with her some sense of relief that that was a part of the plea. Beyond that, there really wasn't a need to say anything else.
Q Did you discuss with her the fact that the feds were not going to prosecute; in other words, the federal government weren't going to prosecute the case?
A You know, I guess I have to sort of pose this question that this is part of the, I suppose, the work product of the U.S. Attorney's Office. Is this the kind of thing that I should be talking about? I mean is this privileged from the federal end for me to talk about the conversations I had with the United States Attorney?
MR. RANDOLPH: I think if you have any discomfort at all in regard to whether it is,

that you should not answer that question.
BY MR. KUVIN:
Q I certainly don't think once your investigation is closed that there's any problem with having the discussion if it's a closed investigation, which it is now.
Well let me ask that. Is your investigation closed with respect to Mr. Epstein?
A I'm retired. So as far as I know when I left it was a closed investigation, yes.
Q Okay. So when you left, the investigation with respect to Mr. Epstein was closed?
A Yes. I don't know if the federal investigation is closed.
Q Fair enough.
You didn't though learn of any new investigation with respect to the Town of Palm Beach's duties after you left, did you?
A No.
Q So as far as you know, as you sit here today, the Town of Palm Beach's investigation is over as far as you know?
A Yes.
MR. KUVIN: Then at that point, once the investigation's closed, I certainly don't see

that there's any privilege with respect to those communications that he may have had on a closed investigation.
MR. RANDOLPH: He's not stating a concern in regard to the closed investigation of the town, he's stating his concern in regard to a federal investigation and stated he does not know whether there's any ongoing investigation in that regard, I believe, and he has concerns revealing that.
BY MR. KUVIN:
Q Well with respect to your communications with the U.S. Attorney's Office regarding your now closed investigation, do you recall discussing with them the non-prosecution agreement, let's just start there? Generally, did you discuss that with them?
A Yes, I discussed that with them. And it's different iterations as it went along. They shared some portion of the information. I still today have not seen the non-prosecution agreement but they shared some of the provisions with me.
Q Okay. Based upon what was shared with you, did you at any point discuss your dissatisfaction with that agreement in any regard?
A Yes.

Q. Why?
A. Well I had been told by the U.S. Attorney's Office that typically these kinds of cases with one victim would end up in a ten-year sentence. And they told me early on that they had, I guess in earlier iterations of agreement, tried to get some sort of a fund set up which I understand there are provisions for in federal law to compensate the victims. And I think I remember asking that when they told me that the agreement had been signed, and I think it was changed a time or two and they told me that that was not a part of it. Because I always felt that this case, it was all about the victim, that's reason to do this. And I did -- I think they told me that this fund had not been a part of the final version and I told them that I was disappointed in that. But they didn't really give me the details of it, they gave me an overall explanation and they said it was going to be sealed. And I understand it's been unsealed but I haven't -- I haven't read it. Along the way I gave general comment when they would inform me about parts of it. Because they asked for my input, I would give them general comment about the parts of

it that were important to me. And the part that was important to me is the classification as a sexual offender.

Q Okay. Did you, at any time, learn why they entered into a non-prosecution agreement as opposed to prosecuting the forty some odd cases?

MR. CRITTON: Form.

THE WITNESS: No.

BY MR. KUVIN:

Q Never gave you an explanation on that?

A No.

Q You know the name Ken Starr?

A Yes.

Q Did you learn that name with respect to this investigation at all?

A From the news media. And I think maybe the U.S. Attorney's Office mentioned to me that he either represents or did represent Mr. Epstein.

Q Do you know what discussions were had with Ken Starr regarding the federal investigation at all; did you ever become aware of that?

A No.

Q Do you know what influence Mr. Starr may have exerted on the U.S. Attorney's Office and the DC Office at all regarding this investigation, if

any?

A No.

Q At some point you sent a letter to State Attorney Barry Krischer. Let me show you what we'll mark as Exhibit 3. Let me give you a chance to just read through this letter again to help refresh your recollection.

A I've read it.

Q. At this point, in May of 2006, I'm assuming based on what you told us before, that you had had some conversations with Barry Krischer directly at this point by phone, correct, prior to this letter?

A. I had conversations in person and by phone.

Q. Okay. But nonetheless in May, May 1, 2006, you felt the need to write this letter; is that correct?

A. Yes.

Q. Can you tell us why?

A. Well I felt the handling and just continued to feel that the way the State Attorney's Office handled this case was extremely unusual. I felt that Mr. Krischer's -- I knew that Mr. Krischer was making decisions about this case. I felt that

his objectivity was lacking, and I felt that the appropriate way after reading the statute that governed the assignment of cases to other circuits, I felt that his action met the standard. I used some of the words from the statute in here. And I attempted to call him and he wouldn't return my phone calls.

The detective attempted to contact -- his contact in the State Attorney's Office, Lanna Belohlavek, however you pronounce that, I apologize if I have it wrong, and she wouldn't return his calls. So I wrote the letter in hope that he would think about his situation and realize that his objectivity was insufficient to prosecute the case and ask the governor to appoint someone else. And I felt like that was necessary for a fair prosecution of our case that we submitted to him.

Q Could you tell us, explain to us, why you felt that his objectivity may be lacking in regards to this prosecution?

MR. CRITTON: Form.

BY MR. KUVIN:

Q. In other words, what evidence did you see here uncover that you felt made it potentially non-objective?

MR. CRITTON: Form.
THE WITNESS: Well, early on I had -- when I first told him about the case and I realized that it was a serious case, there were multiple victims, that the suspect was very well known, I told him about it. And we were -- it was in person, I talked to him after a meeting that he and I were both involved in. And I had known him to be a victim advocate and to protect the rights of children. Well I know that he even wrote a portion of the statute that addresses those issues. And when I told him about it originally he said let's go for it, this is an adult male in his fifties who's had sexual contact with children of the ages of the victims. He said this is somebody who we have to stop. And whatever we need, he said, in the State Attorney's Office, we have a unit that's equipped to investigate and prosecute these kinds of cases. I think he probably mentioned Lanna's name to me and anything that you need and, you know, this is basically a case that needs to be prosecuted.
And I didn't have too many facts early on when I talked with him, but I knew that there

were multiple victims and to our detectives they were believable. So when time went on and Mr. Epstein became aware of the investigation and his lawyers contacted the State Attorney's Office, they told me that.
And from that point on, and I believe it was Mr. Dershowitz initially, the tone and tenor of the discussions of this case with Mr. Krischer changed completely. One point he suggested that we write him a notice to appear which would be for a misdemeanor. He just completely changed from not only our first conversation about this and he didn't know the name Jeffrey Epstein, till when he had been informed on Mr. Epstein's reputation and his wealth, and I just thought that very unusual.
I feel like I know him or knew him very well, the State Attorney, and I just felt like he could not objectively make decisions about this case; that is why I wrote it.

BY MR. KUVIN:

Q Was there anything that you learned through discussions with him that led you to believe maybe his objectivity had been altered in some regards; in other words, anything he told you

directly?

MR. CRITTON: Form.

THE WITNESS: He told me that he had conversations with Mr. Dershowitz. I know Roy Black. At least the news media reporter was involved in this and I think that he said that he had a conversation with him. I think Roy Black had another case with that circuit around the same time and maybe even other lawyers that represented Mr. Epstein, and they were obviously discussing the case. And he basically told me that he looked at Facebook pages of some of the victims and that he felt like they were incredible.

And I have never felt like prosecutions, evidence should be weighed outside of the judicial process. I just don't -- we wouldn't cover our ears and eyes when a person under investigation's lawyer would bring forward exculpatory evidence, but on the other hand we're not the weigher of fact in these things. We reach the standard of probable cause and beyond, and that's when a judge, or in this particular case a State Attorney, should make those decisions.

And he had been meeting with them without the presence of our investigators. I don't mean he personally but at least -- probably he personally but definitely members of his office, and he hadn't been sharing that information with us.

He hadn't, you know -- he characterized it with me but he didn't show us the things, at least not exhaustively, that had been given to him by Mr. Epstein's attorneys. I just felt like that was wrong. Those are the reasons.

BY MR. KUVIN:

Q Have we exhausted the reasons why you felt that this case, at least you put in your letter, was the handling of this case was highly unusual? Was there anything else that you felt was highly unusual regarding the investigation?

A Well the Dahlia Weiss being involved in this case with her husband as a lawyer for -- I'm not saying that anything happened there, but there's certainly an appearance of impropriety. I felt like that alone should have been reason enough. First of all for her to be disqualified as soon as she became aware that a law firm that -- not disqualified but removed from the case as soon as she became aware

that her husband's law firm had represented Mr. Epstein. And maybe even done damage to the point that because that happened it should be handled by another circuit.

This was a case that I felt absolutely needed the attention of the State Attorney's Office, that needed to be prosecuted in state court. It's not generally something that's prosecuted in a federal court. And I knew that it didn't really matter what the facts were in this case, it was pretty clear to me that Mr. Krischer did not want to prosecute this case.

Q. Did he, in fact, make that clear to you at some point verbally?

A. Not in those exact words. But the suggestion that multiple victims and some of the crimes, felonies, that he should write a notice to appear for a misdemeanor and the scheduling of a grand jury on an issue like this is extremely rare.

The fact that he and I had an excellent relationship. I was the speaker at his swearing in ceremony. And that he wouldn't return my phone calls, I mean it was clear to me by his actions that he could not objectively look at this case.

Q At some point, did you feel, or did you become aware, that maybe he had been threatened in some regard, either regarding his job or personally in any regard?

A No.

MR. CRITTON: Form.

BY MR. KUVIN:

Q You're aware that obviously his position is an elected position?

A I am aware.

Q Did you know whether or not he had had any discussions with anyone about his political career if this case did not go a certain way; did you ever become aware of that in any regard?

MR. CRITTON: Form.

THE WITNESS: No. He had already publicly announced he wasn't running for re-election.

MR. KUVIN: All right. This is actually a good stopping point for a quick lunch if you want to take a quick one, I just have to eat. I'm hopefully not far from concluding.

THE VIDEOGRAPHER: We're off the record at 12:35. This is the end of tape 2.

(Recess)

THE VIDEOGRAPHER: We're back on the

record at 1:44. This is the beginning of tape 3.

BY MR. KUVIN:

Q Okay. When we left off we were talking about Barry Krischer's office. And before I move on from that subject I just have one other question.

Are you aware of any contact that was made with Mr. Krischer's office from anyone in the democratic party or the DNC at all?

MR. CRITTON: Form.

THE WITNESS: Relative to this case?

BY MR. KUVIN:

Q Yes, relative to the Epstein case?

A No.

Q Are all of the officers that were involved in the investigation listed or contained within the incident report that we've marked as Exhibit 2, and were there any additional officers that were involved that may not be listed in there?

A Typically and generally when you say involved, I mean that could encompass all sorts of different people. It might be -- I don't even know that this was the case but it might ask the patrol officer in the area to collect license tags from a street or something like that. I mean if they

aren't writing a report and they aren't doing something that's probably important later on as a witness, they might not appear in there. But the detectives who conducted the investigation are listed in there from what I recall the last time I read it, and it's been a while, but as far as I know.

Q At any point, did you have to remove for any reason anyone in your department from the investigation for any reason?

A No. It took place over a fairly long period of time so people were transferred and so on, but I didn't personally remove someone for any reason.

Q And it may not have been you personally, but just to make sure that it encompasses all potential iterations of that question, was anyone removed for any reason other than just someone transferring out?

A Do you mean for -- I think you have to explain that.

Q Were any of the investigating police officers removed for any potential conflicts, refusal to follow direction, any reason, other than just a transfer out of the department for some

Q If we look at the bottom of page 67, second paragraph down -- sorry, second paragraph from the bottom, excuse me, it says here letter to Mr. Dershowitz sent advised he was looking into the allegation that one of the private investigators used by the private attorneys of Epstein, attempted to impersonate or state that they were police officers from Palm Beach. Do you recall hearing about that?
A I didn't recall, not till I read this.
Q Okay. Apparently there was a package sent to both ASA Lanna Belohlavek and ASA Dahlia Weiss at the State Attorney's Office. Do you see that?
A I see that sentence, yes.
Q Did you see that package that was sent?
A I don't remember that I did. I wouldn't normally.
Q If we turn to page 73, top of the page it has the name of a Dr. Perry Bard. Do you see that in the first paragraph?
A I do.
Q Did you ever come to learn who Dr. Perry Bard was other than what might be stated in here?
A I read this at one time so I was informed of it, but I had not recalled the name until I read

it again here.
Q No additional information regarding Dr. Bard?
A No.
Q And with respect to the next paragraph it mentions a woman by the name of Johanna Sjoberg, spelled S-J-O-B-E-R-G. Do you see that?
A I see it, yes.
Q Do you recall anything in particular with respect to Ms. Sjoberg?
A No.
Q If we turn to page 74 for a moment, there are, at the bottom of the page, last paragraph, four separate telephone numbers listed for a Cingular wireless, one of which is listed to a Janusz, J-A-N-U-S-Z, Banasiak. Do you know who Janusz Banasiak is?
A No. Only from what it says here.
Q No additional information though?
A No.
Q Christina Venero at the bottom of the page, do you see that name?
A I see it.
Q Any additional information that you're aware of regarding her?

A No.
Q If you turn to page 79, it appears that on the date of February 16, 2006, there's a meeting that takes place between the investigator Joseph Recarey and two women, Joanna Harrison and a Victoria Bean. Do you see that?
MR. CRITTON: Are we at 79?
MR. KUVIN: Yeah.
THE WITNESS: Yes.
BY MR. KUVIN:
Q Okay. Did you learn any additional information regarding those two women other than what might be in here, in the report?
A No, not personally.
Q This may go along with what you discussed at the beginning with respect to not really prosecuting what technically would be a criminal act for prostitution in a home. But it appears from this information here that these two girls were paid for sexual contact with Mr. Epstein, at least according to what Detective Recarey investigated. (Were there any additional investigations ongoing regarding allegations of prostitution at the home?)
(MR. CRITTON: Form.

(THE WITNESS: The only way I can answer that question is I don't consider fifteen-year-olds, sixteen-year-olds who are paid money to engage in sexual contact prostitution, by the legal definition of the law, for purposes of prosecuting them.) I really don't know what you're getting at beyond that. I mean that's -- I don't know how else to answer that.
BY MR. KUVIN:
(Q) (Maybe I phrased it wrong. But these girls, Ms. Bean and Ms. Harrison, were apparently over the age of eighteen. These were girls that were over the age of majority that were apparently paid for sexual contact with Mr. Epstein.) (Were there any ongoing investigations regarding solicitation for prostitution against Mr. Epstein regarding girls over the age of eighteen?)
(A) (No. These kinds of situations are not prosecutable. The State Attorney's Office some years earlier even suggested that we no longer do sting operations for prostitution because they didn't want to prosecute them. This is a case where you have willing participants after the fact and no)

physical evidence.
No, the resources of the department are not dedicated for these kind of semi-victimless crimes in private residences unless it presents some other problem.
Q Okay. If we turn to page 81, bottom of the page dated April 10 of 2006. Second to last paragraph it references --
MR. CRITTON: I'm sorry, Spencer, what page?
MR. KUVIN: 81.
BY MR. KUVIN:
Q Additional subpoenas from the State Attorney's Office requesting information from Dollar Rent a Car and Jet Aviation. Do you see that?
A Yes.
Q Do you recall seeing any of the records that were produced in response to this subpoena to Dollar Rent a Car or Jet Aviation?
A No.
Q Turn to page 84 if you would. Top of page 84 there's discussion -- and this goes back to the initial note as begun on April 14, 2006 and actually begins on page 82 -- regarding grand jury subpoenas and discussions with the State Attorney's Office.

If we go to page 84 though, it talks about the quote, unquote, deal being offered to Mr. Epstein. And if you look at paragraph one here, in the middle of the paragraph it says however, I expressed that was only my opinion and that the final approval would come from the Chief of Police. She explained to have Chief Reiter call Barry Krischer about the deal. Do you see that?
A I do.
Q Did Officer Recarey talk to you about the deal?
A There were so many potential deals, deals being the plea agreement, that had been suggested, I don't know which one they're talking about here.
Q Bottom of page 83, if you read the last paragraph it'll explain it, might help refresh your recollection.
A Well after reading this it refreshed my recollection on one of the different proposed agreements, which --
Q Okay.
A -- I guess some of which they asked for our input. And what this reflects is that in this particular case with all of its unusual twists and turns, I told Detective Recarey that he should not

offer an opinion on behalf of the department of whether we think any deal is appropriate, that I would want to reserve that for myself. So that's what happened here.
Q Okay. All right.
Do you recall having direct conversation with Barry Krischer about this particular deal that's discussed here on pages 83 and 84?
In other words, it looks here on page 83 to be a deal where the offer is one count of aggravated assault with intent to commit a felony, five years probation with adjudication withheld, which was conveyed to Mr. Epstein's attorneys at the time, Guy Fronstin and Mr. Dershowitz.
A I always told Barry Krischer when we had conversations about how this would resolve itself that my biggest concern, really my main concern was that Mr. Epstein be classified as a sexual offender to reduce the likelihood that this would continue in the future. I never formed an opinion or communicated it to him about how many years of this or how many years of that, so on, other than to tell him that I felt like a Notice to Appear was not the appropriate way to resolve this.

Q Okay. All right. Bottom of page 84 there's a documented call with Officer Recarey, Detective Recarey. Says here on May 3rd, 2006 at approximately 2:54 p.m., I, meaning Detective Recarey, received a telephone call from ASA Dahlia Weiss on my cellular telephone. ASA Weiss advised she has been taken off the Jeffrey Epstein case because her husband is employed with Attorney Jack Goldberger. Do you see that?
A Yes.
MR. CRITTON: Is there a date there, Spencer, of reference?
MR. KUVIN: Yes, May 3rd, 2006.
MR. CRITTON: Thank you.
BY MR. KUVIN:
Q Is that the first time that -- or shortly after that call that you became aware of the relationship between ASA Weiss and Mr. Goldberger's office?
A Like I said earlier, I became aware of the relationship prior to learning of her being taken off the case, so I would have known about the relationship before this day.
Q It appears, and I don't want you to guess, so all I want to know is whether you had a

conversation with Detective Recarey about this, whether he said anything directly to you that she was removed as opposed to removing herself voluntarily from the case?

MR. CRITTON: Form. You're asking him to speculate.

MR. KUVIN: No, I'm not, I'm asking for any conversation he had with Detective Recarey.

THE WITNESS: I don't remember.

BY MR. KUVIN:

Q Okay. Page 85, again going down to the date of May 15, 2006, there's a reference to a contractor by the name of David Norr, N-O-R-R, and apparently he was surveilled for a short period of time.

A Let me find that.

Q Sure. Middle of the page.

A Okay.

Q Do you recall whether your department obtained any records regarding the renovations that were going on at Mr. Epstein's home; blue prints, construction diagrams, anything like that, documents from the contractor?

A No.

Q No, you didn't, or no --

A No, I don't recall. It would have been easily available to us from the building department.

Q Right, building and zoning?

A I have no idea if we did.

Q Turn to page 86. Top of the page on May 22nd, 2006, I received several phone calls throughout the day from Mr., and then it's blacked out, who stated he had been followed aggressively by a private investigator. Who was that?

A I don't know.

Q It appears if you go further down that the vehicle that was following this person was traced by Florida tag I35-XGA to a Mr. Zachary Bechard of Candor Investigations. Do you see that?

A Yes.

Q Did you come to learn anything about that particular investigative agency? Independent of what might be in the report.

A No, not that I can recall.

Q Page 87, last page. Middle of the page references Epstein's corporation attorney, a gentleman by the name of Darren Indyke, I-N-D-Y-K-E. Do you see that?

A Not yet. Okay, yes.

Q Do you recall having any conversations

with Mr. Indyke?

A No.

Q There appear to be a number of corporations. El Zorro Ranch Corporation, New York Strategy Group, Ghislaine, G-H-I-S-L-A-I-N-E, Corporation, J. Epstein and Company and the Financial Strategy Group. Do you see those?

A I do.

Q Do you recall anything, seeing any documents or information regarding those companies?

A I've read this report before. And if it's in the report I read it previously, but I don't have anything independent of the report, nor do I recall any more than what you've shown me here.

Q I'm just looking to see whether or not you saw any corporate printouts or corporate documents or anything like that that might have been obtained online or through other sources?

A I did not get involved in this investigation at that level.

Q Okay. Last entry here of July 12, 2006, it says here Belohlavek -- and spelled for the benefit of the court reporter, we've used it before, but just for her sake it's B-E-L-O-H-L-A-V-E-K -- stated State Attorney Barry Krischer made the

determination to go to the Grand Jury to hear the case.

Did you, or do you recall discussing directly with him why he was taking this to a Grand Jury as opposed to just charging Mr. Epstein, his office doing it themselves?

A No.

Q You agree with me that that would be out of the ordinary based on the charges that were brought?

MR. CRITTON: Form.

THE WITNESS: My experience, yes.

BY MR. KUVIN:

Q Do you agree with me that you learned that it was Mr. Krischer that made that decision himself?

MR. CRITTON: Form.

THE WITNESS: That's my understanding.

BY MR. KUVIN:

Q Did you ever get any explanation from anyone, not just him, but anyone, as to why they did that?

MR. CRITTON: Form.

THE WITNESS: Sometime after the fact, the Grand Jury, maybe even possibly long after the fact, he told me that it was a political -- not

a political, but it was a noteworthy investigation, a noteworthy prosecution. And in these kind of controversial situations, an independent body of the Grand Jury, it was appropriate to have them exam him. He called other grand juries for things, I can't say similar, but a homicide that had racial overtones and so on, and he made reference to that, that that was his choice to deal with these kinds of things. That could have been as recent as, you know, within the last year and a half or so.

BY MR. KUVIN:

Q Do you recall your department being involved in any other high profile type of investigations; for example, the investigation that involved a radio personality that lives in Palm Beach and the investigation of a potential boater fraud as a result of another author or radio personality on Palm Beach, or was this the only high profile investigation you can recall working on in your history in the city, or the town?

A Involved in the department and personally been involved in many high profile investigations.

Q Many being more than ten? I'm just trying

to get an idea --

A The standard rules don't really help me. We used to joke about how very small things in Palm Beach would become noteworthy in the news media, that they would be meaningless everywhere else.

Q Right.

A If you mean national political interest, at that level profile, yes, at least ten, probably more than ten.

Q In your experience in dealing with even those high profile investigations, was this one different?

MR. CRITTON: Form.

THE WITNESS: It wasn't different in the amount of, you know, at the level of profile of had we been involved in that before where it gets international news media coverage and all of the things that come with that. It was different in the respect that probably what should have remained a state case had to become a federal case, which they ended it and it all ended in an agreed plea in the state case. It was different for me in that I asked the State Attorney to remove himself from the case, you know. It was different from many different

perspectives but not necessarily the news media coverage.

BY MR. KUVIN:

Q Was it handled any differently than you handled other high profile cases that you may have handled in the past?

MR. CRITTON: Form.

BY MR. KUVIN:

Q From your perspective?

A I don't think it was handled any differently by the Palm Beach Police Department than from any of the other high profile cases.

Q Okay. I appreciate it. That's all the questions I have at this point. I'm going to turn it over to the other plaintiff attorneys who may have a few for you.

MR. HILL: I don't have any. Thank you, sir.

THE WITNESS: You're welcome.

MR. GARCIA: I just have a couple here.

CROSS-EXAMINATION.

BY MR. GARCIA:

Q Chief, my name is Sid Garcia, I represent one of the plaintiffs in the case. I think we met before in another case, another deposition years

ago.

Just want to ask you a few questions beginning with the -- asking basically your opinion as to why Mr. Krischer did not pursue the case with the diligence that you thought he should have pursued it with?

MR. CRITTON: Form.

THE WITNESS: I'm not sure I understand the question.

BY MR. GARCIA:

Q In other words, you talked about that you sent a letter to Mr. Krischer asking him to disqualify his office from the case. Why do you believe that he did not pursue the case with the zeal that you thought he should pursue it with?

A I don't know.

MR. CRITTON: Form.

BY MR. GARCIA:

Q What is your opinion of why he didn't pursue it that way?

MR. CRITTON: Form.

THE WITNESS: That's not my role. I haven't formed an opinion on that, I don't know why.

BY MR. GARCIA:
Q Did you think that -- were you aware or did you become aware at some point that Mr. Epstein was a contributor to the democratic party?
A Yes.
Q Are you aware that Mr. Krischer has ties to the democratic party?
MR. CRITTON: Form.
THE WITNESS: Yes.
BY MR. GARCIA:
Q Did you suspect at any point in time that there was a connection between Mr. Epstein's political connections with the democratic party and Mr. Krischer's refusal or neglect to prosecute in this case with the zeal he should have pursued it with?
MR. CRITTON: Form.
THE WITNESS: I didn't allow myself to explore that.
BY MR. GARCIA:
Q Did you have any discussions with Mr. Krischer about that issue, whether or not Mr. Epstein was receiving favorable treatment from the State Attorney's Office because of Mr. Epstein's political connections?

MR. CRITTON: Form.
THE WITNESS: I asked him why he was treating the case in the way that he did.
BY MR. GARCIA:
Q And what was his response?
A His response was that the victims weren't credible in his mind. I don't know -- I don't mean all the victims weren't credible but some of the victims weren't credible. He didn't believe that -- sixteen and seventeen-year-old victims, he told me, were -- he said it was the policy of the State Attorney's Office not to charge molestation type cases or even a sex type battery case when it was consensual. His answer to that question was about the merits of the case.
Q So he told you it was the policy of the State Attorney's Office not to charge victims of lewd and lascivious who were sixteen and seventeen years old?
A Well when it was a consensual -- I know it's kind of a misnomer because they can't legally consent to it, but he said when it was practically a consensual situation it was their general policy not to prosecute those kinds of cases, yes.
Q But these victims were willing to press

criminal charges against Mr. Epstein, correct?
MR. CRITTON: Form.
THE WITNESS: Yes.
BY MR. GARCIA:
Q This is not a situation where there was maybe a boyfriend/girlfriend situation, an age difference and the victim was not cooperating in the investigation; is that correct?
MR. CRITTON: Form.
THE WITNESS: That's correct.
BY MR. GARCIA:
Q Did you challenge him on that issue?
A Yes.
Q And what was his response?
A He continued to reiterate that the case, that it was his ethical obligation. And he had told me this before about other cases that we had discussed, Palm Beach Police Department cases and other cases, that he has an ethical responsibility to feel -- to be reasonably certain that the case is winnable before he prosecutes it. And he said that because of all of those reasons and others involving some of the reputation and Facebook pages and so on of certain victims, that he couldn't feel that he could be successful in the prosecution.

Q Did he show you any of the Facebook pages that he had considered?
A He did not.
Q You said when he presented this case to the Grand Jury he gave you some explanation as to why he presented it that way. Did your detectives and investigators, were they subpoenaed to appear before the Grand Jury?
A At least one detective was.
Q You know who that was?
A I have to ask my lawyer the question of whether or not I can answer that because Grand Jury material, I know, always remains sealed. I don't know if I do something improper by identifying that person alone without -- I don't know what they said, I wasn't in the Grand Jury.
Q I think the testimony would remain privileged or confidential, but the Grand Jury did return an indictment; is that correct?
A That's my understanding, yes.
Q So I'm not asking you to -- you don't have access to the testimony I'm assuming?
A That's correct.
Q I'm just asking you for the identity of the person who was subpoenaed to appear before the

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO.: 502008CA037319 XXXX MB AB

B.B.,
Plaintiff,
vs.
JEFFREY EPSTEIN,
Defendant.
_____/

VOLUME II
VIDEO-TAPED DEPOSITION OF MICHAEL REITER
A WITNESS
TAKEN BY THE PLAINTIFF

DATE: November 23, 2009
TIME: 10:12 a.m. - 7:38 p.m.

I-N-D-E-X
November 23, 2009
MICHAEL REITER

EXHIBITS

The deposition of MICHAEL REITER, a witness in the above-entitled and numbered cause was taken before me, Vanessa G. Archer, Court Reporter, Notary Public for the State of Florida at Large, at 2925 PGA Boulevard, Palm Beach Gardens, Florida, on the 23rd day of November, 2009, pursuant to Notice in said cause for the taking of said deposition on behalf of the Plaintiff.

APPEARING ON BEHALF OF PLAINTIFF B.B.:
SPENCER T. KUVIN, ESQ.
LEOPOLD-KUVIN, P.A.
2925 PGA Boulevard, Suite 200
Palm Beach Gardens, Florida 33410

APPEARING ON BEHALF OF PLAINTIFFS' JANE DOES 2-8:
ADAM HOROWITZ, ESQ.
MERMELSTEIN & HOROWITZ, P.A.
18205 Biscayne Boulevard, Suite 2218
Miami, Florida 33160

APPEARING ON BEHALF OF PLAINTIFF: C.A.
JACK HILL, ESQ.
SEARCY, DENNEY, SCAROLA, BARNHART & SHIPLEY, P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, Florida 33409

APPEARING ON BEHALF OF PLAINTIFF:
ISIDRO GARCIA, Esq.
GARCIA LAW FIRM, P.A.
The Harvey Building
224 Datura Street, Suite 900
West Palm Beach, Florida 33401

Q You're talking about a little over a year, a dozen or so communications between at least calls to or from Ms. Villafana to you?
A Right.
Q What are we talking about?
A Do you want me to guess about the number?
Q No, I asked for your best estimate and you said approximately a dozen calls.
A The best estimate is a guess in this case.
Q So what did you do, did you call up and say what's going on with regard to the Epstein matter?
A Sometimes when we hadn't heard from them for months or when Detective Recarey would call the FBI and the FBI would say I'm not --
Q Oh, I'm sorry, he has to change the tape.
THE VIDEOGRAPHER: We're off the record at 5:50. This is the end of tape 5.
(Off the record)
THE VIDEOGRAPHER: We're back on the record at 5:58. This is the beginning of tape 6.
BY MR. CRITTON:
Q Mr. Reiter, has there ever been an occasion, another occasion, when you've been the

Chief, when you were Chief of Police, where you went to the FBI and/or the FBI called you about pursuing a prosecution because you felt what the state had done was not adequate or not acceptable to you?
A No.
Q This was the first and only occasion, correct?
A Well that was kind of a complicated set of situation, circumstances. But what you described, this is the first time that I was not -- didn't think that justice was sufficiently served and that the FBI contacted me to initiate an investigation. That unusual thing, yes, that's true.
Q And in fact you were in large part relying on the report that had been done in the investigation that had been done by the Palm Beach Police Department?
A Yes.
Q Had there ever been an occasion where -- let me strike that.
At any time, did you tell the FBI not to discuss the case with the State Attorney's Office?
A No.
Q Did you tell the FBI when you first met

with them that you were disappointed with the manner in which the State Attorney had prosecuted or had handled the Epstein matter?
(MR. HILL: Objection, asked and answered.)
(MR. KUVIN: Twice, join.)
(THE WITNESS: Yeah. I don't know that I used that exact word. I didn't feel as though justice had been sufficiently served.)
BY MR. CRITTON:
Q Had there ever been another instance where the State Attorney had either filed charges, had gone to a Grand Jury, as they did in the Epstein case, and then you subsequently contacted either the FBI or the U.S. Attorney's Office and/or they contacted you?
A I'll try to stay with you better this time. Could you --
Q In this particular instance Mr. Krischer took the Epstein charges, or the allegations, to a Grand Jury, the Grand Jury came back with an indictment and he subsequently was arrested. You subsequently had contact with the FBI and the FBI and the USAO did their own independent investigation, correct?
A Yes.

Q Had you ever had another circumstance like that during the time that you had been the Chief or the Assistant Chief or a police officer for the Town of Palm Beach; that is, where the State Attorney had filed either charges that you didn't agree with or had taken it to a Grand Jury, Grand Jury had come back and had returned an indictment and then you went to the FBI or the FBI contacted you, or was this the first and only occasion?
A This was the first occasion in which I ever had a case go to a State Grand Jury that wasn't a homicide. There have been other instances that the case bogged down in the state prosecution and it was clear that the most appropriate place to be would be a federal prosecution. And the case was eventually investigated by the FBI or the DEA or the Secret Service or somebody being prosecuted by the US Attorney.
Q In that particular situation though, did the state work -- the State Attorney's Office work with the FBI or the U.S. AO's office to bring the federal charges because it got bogged down in the state investigation and/or process?
A Yes, typically that's how it would go.
Q So the state was then actively involved

Appendix 5

TOWN OF PALM BEACH
POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY

May 1, 2006

PERSONAL AND CONFIDENTIAL

Mr. Barry E. Krischer, State Attorney
Office of the State Attorney
Fifteenth Judicial Circuit
401 North Dixie Highway
West Palm Beach, FL 33401

Dear Mr. Krischer,

Please find enclosed the probable cause affidavits and case filing packages thus far resulting from the Palm Beach Police Department's investigation of Jeffrey Epstein, Sarah Kellen and Haley Robson. The submission of these documents are both in response to Assistant State Attorney Lanna Belohlavek's request for them and to serve as the Palm Beach Police Department's presentation for prosecution.

I know that you agree that it is our shared responsibility to seek justice and to serve the public interest by discharging our duties with fairness and accountability. I must renew my prior observation to you that I continue to find your office's treatment of these cases highly unusual. It is regrettable that I am forced to communicate in this manner but my most recent telephone calls to you and those of the lead detective to your assigned attorneys have been unanswered and messages remain unreturned.

After giving this much thought and consideration, I must urge you to examine the unusual course that your office's handling of this matter has taken and consider if good and sufficient reason exists to require your disqualification from the prosecution of these cases.

Sincerely,

Michael S. Reiter

Michael S. Reiter
Chief of Police

MSR:nt

ADMINISTRATIVE

OBTS Number

ARREST / NOTICE TO APPEAR
Juvenile Referral Report

1 Arrest 2 NTA 3 Request for Warrant 4 Request for Capias

3

Juvenile

Agency ORI Number: FL 5 0 0 6 0 0 0

Agency Name: PALM BEACH POLICE DEPARTMENT

Agency Report Number (N.T.A.'s only): 7 6

Charge Type — Check as many as apply: 1. Felony 2. Traffic Felony 3. Misdemeanor 4. Traffic Misdemeanor 5. Ordinance 6. Other

If Weapon Seized — Enter Type

Multiple Clearance Indicator

Location of Arrest (Including Name of Business)

Location of Offenses (Business Name, Address): 358 EL BRILLO WAY PALM BEACH, FL

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle

Name (Last, First, Middle): EPSTEIN, JEFFREY E.

Alias (Name, DOB, Soc. Sec. #, Etc.)

Race (W - White, B - Black, I - American Indian, O - Oriental/Asian)	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
W	M	01 20 53	6 00	175	BLUE	GREY		MED

Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description)

Marital Status

Religion

Indication of: Alcohol Influence Y N Unk; Drug Influence

Local Address (Street, Apt. Number): 358 EL BRILLO WAY (City): PALM BEACH (State): FL (Zip): 33480 Phone: (561) 832-4117 Residence Type: 1. City 2. County 3 Florida 4. Out of State

Permanent Address (Street, Apt. Number): 34 E 64 ST. (City): N.Y (State): NY. (Zip): 10021 Phone: ( ) Address Source

Business Address (Name, Street): 45 E MADISON AVE (City): NY (State): NY (Zip): 10022 Phone: ( ) Occupation: INVESTOR

D/L Number, State	Soc. Sec. #	INS Number	Place of Birth (City, State)	Citizenship
T42004119330 USVI.	[redacted]		NEW YORK	USA

Co-Defendant Name (Last, First, Middle)	Race	Sex	Date of Birth	1. Arrested 2. At Large	3. Felony 4. Misdemeanor 5. Juvenile
Co-Defendant Name (Last, First, Middle)	Race	Sex	Date of Birth	1. Arrested 2. At Large	3. Felony 4. Misdemeanor 5. Juvenile

Parent / Legal Custodian / Other: Name (Last) (First) (Middle) Residence Phone ( )

Address (Street, Apt. Number) (City) (State) (Zip) Business Phone ( )

TOT JAC Date Time

The above address was provided by ☐ defendant and / or ☐ defendant's parents. The child and / or parent was told to keep the Juvenile Court Clerk's Office (Phone 355-2526) informed of any change of address.
☐ Yes, by: (Name) ☐ No: (Reason)

School Attended Grade

Property Crime? ☐ Yes ☐ No

Description of Property

Value of Property

Drug Activity: N. N/A P. Possess S. Sell B. Buy T. Traffic R. Smuggle D. Deliver E. Use K. Dispense/ Distribute M. Manufacture/ Produce/ Cultivate Z. Other

Drug Type: N. N/A A. Amphetamine B. Barbiturate C. Cocaine E. Heroin H. Hallucinogen M. Marijuana O. Opium/Deriv. P. Paraphernalia/ Equipment S. Synthetic U. Unknown Z. Other

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
UNLAWFUL SEX ACTS W/MINOR	4	☐ Y ☒ N	794.05 (1)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond
N	N		05-368		

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
LEWD / LASCIVIOUS MOL	1	☐ Y ☒ N	800.04 (5)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond
N			05 368		

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
		☐ Y ☐ N		

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond

Charge Description	Counts	Domestic Violence	Statute Violation Number	Violation of ORD #
		☐ Y ☐ N		

Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number	Bond

☐ Instruction No. 1 Mandatory Appearance in Court

☐ Instruction No. 2 You need not appear in Court but must comply with instructions on Reverse Side.

Location (Court, Room Number, Address)

Court Date and Time — Month Day Year Time A.M. P.M.

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

Signature of Defendant (or Juvenile and Parent / Custodian) Date Signed

HOLD for other Agency — Time:

☐ Dangerous ☐ Suicidal ☐ Resisted Arrest ☐ Other:

Take Deputy I.D. # Pouch

Signature of Arresting Officer: X

Name of Arresting Officer (Print): DET. JOE - KEARNEY I.D. # 415

Transporting Officer I.D. # Agency

Name Verification (Printed by Arrestee) (PRINT)

Witness here if subject signed with an "X".

PAGE ____ OF ____

DISTRIBUTION: WHITE — COURT COPY GREEN — STATE ATTORNEY YELLOW — AGENCY PINK — JAIL GOLD - DEFENDANT (N.T.A's ONLY)

Probable Cause Affidavit

Palm Beach Police Department

Agency ORI# FLO 500600

Police Case#: 05-368 (1)

Defendant: Jeffrey Epstein
Race/Sex: White Male
DOB: 01-20-1953
Charges: Unlawful Sexual Activity with a Minor (4) counts
Lewd and Lascivious Molestation

From March 15, 2005, through February 2006, the Palm Beach Police Department conducted a sexual battery investigation involving Jeffrey Epstein, Sarah Kellen and Haley Robson. Sworn taped statements were taken from five victims and seventeen witnesses concerning massages and unlawful sexual activity that took place at the residence of Jeffrey Epstein, 358 El Brillo Way, Palm Beach. Several of the victims were recruited by and brought to the residence by Haley Robson to perform massages for Epstein, for which Robson received monetary compensation. During the visit they would be introduced to Sarah Kellen, Epstein's assistant, who in turn would record their telephone numbers and name. The victims would be brought to Epstein's bedroom to provide the massage. Epstein would enter the room and order the victims to remove their clothing to provide the massage. As the victims complied and provided the massages, Epstein would rub his fingers on their vaginas. On occasion, Epstein would introduce a massager/vibrator and rub the victims vaginas as they provided the massage. On three separate occasions, Epstein had intercourse and inserted his penis/fingers in the victims vaginas. At the conclusion of the massages the victims were paid sums of money ranging from $200 - $1,000. The facts, as reported, are as follows:

On 03/15/2005, A fourteen year old white female, hereinafter referred to as [redacted] dob [redacted] and her family reported unlawful sexual activity which occurred at a residence within the Town of Palm Beach. [redacted] reported that a subject known to her as "Jeff" had touched her vaginal area with a vibrator/massager while within his residence. "Jeff" was later identified as Jeffrey Epstein through a photo line up.

During a sworn taped interview, [redacted] stated that Haley Robson, dob 04/09/1986, a cousin of [redacted] boyfriend and classmate at [redacted], worked for a wealthy man and did sexual favors for him. She also admitted that Robson had offered her an opportunity to make money. During the beginning of the month of February 2005, [redacted] explained that she was first approached by Robson to go with her to Epstein's house. [redacted] stated that Robson along with a Hispanic female, later identified at [redacted] pick her up at her father's house on a Sunday. [redacted] was not sure of the exact dates but knew it was a Sunday. [redacted] told her father that they were going shopping but in reality Robson drove them to Palm Beach. During the drive a

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

conversation occurred between Robson and [redacted] whereas Robson reportedly told [redacted] that if Jeff asked her age, she should say she was eighteen. It was later confirmed by the [redacted] father that Robson picked his daughter up on February 6, 2005. According to [redacted] father, Robson drove a pick up truck.

[redacted] described Epstein's house as a two-story pink house with a Cadillac Escalade parked in the driveway. She recalled that Jeff's house was on a dead end street. Upon arriving at the house [redacted] stated that they walked up a driveway, past what appeared to be a small guard/security room. A male approaching them asking what they wanted. Robson stated they were there to see Epstein. The male allowed them to continue walking up to the house. [redacted] stated the man told them that Epstein was not there but was expected back. He allowed them to enter the house, via the kitchen. He offered them something to drink while they waited inside. Shortly thereafter, Epstein and his assistant, described as white female with blond hair and later identified as Sarah Kellen, entered the kitchen. Epstein introduced himself to [redacted] described Epstein as being approximately forty-five years old, having a long face and bushy eyebrows, with graying hair.

Robson and Epstein left the kitchen leaving [redacted] alone in the kitchen. They returned a short time later. They all spoke briefly in the kitchen. [redacted] was instructed to follow Kellen upstairs. [redacted] recalled walking up a flight of stairs, lined with photographs, to a room that had a massage table in it. Upon entering the room there was a large bathroom to the right and a hot pink and green sofa in the room. There was a door on each side of the sofa. [redacted] recalled there being a mural of a naked woman in the room, as well as several photographs of naked women on a shelf. Kellen told the victim that Epstein would be up in a second.

Epstein entered the room wearing only a towel and told [redacted] to take off her clothes. [redacted] stated Epstein was stern when he told her to take off her clothes. [redacted] said she did not know what to do as she was the only one there in the room so she took off her shirt leaving her bra on. Epstein had removed his towel and told the [redacted] to take off everything. [redacted] stated Epstein was nude when he took his towel off, placing it on the floor as he laid down on the table. [redacted] stated she then removed her pants leaving her thong panties on. Epstein then instructed her to give him a massage pointing to a specific lotion for her to use. As [redacted] began to give Epstein the massage, he told her to get on his back. [redacted] stated she straddled herself on Epstein's back whereby her exposed buttocks were touching Epstein's bare buttocks. [redacted] said Epstein was specific in his instruction to her on how to massage him, telling her to go clockwise or counter clockwise. Epstein then turned over and instructed [redacted] to massage his chest. [redacted] was now standing on the ground and resumed massaging Epstein's chest area. [redacted] stated Epstein held onto the small of her back as she massaged his chest and shoulder area. Epstein then turned to his side and started to rub his penis in an up and down motion. Epstein then pulled out a purple vibrator and began to

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

massage [redacted] vaginal area. [redacted] stated there was no penetration as the vibrator was on top of her underwear. [redacted] recalled Epstein ejaculating because he had to use the towel to wipe himself as he got off the table. Epstein then left the room and [redacted] got dressed. She went back downstairs where she met with Robson. [redacted] said she was paid three hundred dollars in cash from Epstein. Before she left, Epstein asked [redacted] to leave her phone number. As [redacted] Robson and [redacted] were leaving the house, Robson told [redacted] she received two hundred dollars that day for bringing her.

During the course of the investigation, parental consent was granted for [redacted] to assist with the investigation. At our direction [redacted] conducted controlled taped phone calls to Robson's cellular telephone 561-308-0282. [redacted] spoke with Robson in an attempt to arrange another meeting with Epstein. [redacted] asked Robson, what did she need to do to make more money. Robson stated, "the more you do, the more you get paid." Robson had subsequently called back [redacted] and left a voice mail message for her indicating that she had set up an appointment for [redacted] to go to Epstein's house at 11:00 am on April 5, 2005. This message was recorded from [redacted] voice mail.

Based on the above, trash pulls were established at Epstein's residence with Supervisor Tony Higgins of the Sanitation Bureau of the Town of Palm Beach. The trash pull from April 5, 2005 revealed a telephone message for Epstein which stated Haley and [redacted] name at 11:00 am. This was the time frame Robson had informed [redacted] to be ready to go work at Epstein's house.

On October 3, 2005, Sgt Frick and I went to Robson's residence and viewed her vehicle parked in the driveway, a red Dodge Neon. Sgt. Frick and I knocked on the door and met with Haley Robson. Robson was told that we were investigating a claim involving Jeffrey Epstein of El Brillo Way, in Palm Beach. Robson was asked if she would accompany us back to the police station for further questioning. She was also told that at the conclusion of the interview she would be returned home. Robson voluntarily came with us back to the Palm Beach Police Department.

Upon our arrival at the police station, Robson was brought to the interview room in the Detective Bureau where I obtained a taped, sworn statement. I began the interview by asking Robson how she became acquainted with Epstein. Robson stated that approximately two years ago, just after she turned 17 years of age, she was approached by a friend named Molly at the Canopy Beach Resort in Rivera Beach. Robson was asked if she wanted to make money. She was told she would have to provide a massage and should make $200.00. Robson thought about the offer and agreed to meet with Jeffrey.

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature Arresting Officer

Date: 05/01/2006

Molly (Unknown last name) and Tony (Unknown last name) picked Robson up and she was taken to Epstein's house. Upon her arrival to the house she was introduced to Epstein in the kitchen of the house. She was also introduced to a white female known to her as Sarah. She was led upstairs to the main bedroom known to her as Jeff Epstein's bedroom. Sarah arranged the massage table and covered the table with a sheet. She brought out the massage oils and laid them next to the massage bed. Sarah, then left the room and informed Robson Jeff would be in, in a minute. Jeff entered the bedroom wearing only a towel. He removed the towel and laid nude on the massage table. He laid on the table onto his stomach and picked a massage oil for Robson to rub on him. During the massage, Robson stated "He tried to touch me and I stopped him." I asked how he tried to touch her. Robson stated that Epstein grabbed her buttocks and she felt uncomfortable. Robson told Epstein, I'll massage you but I don't want to be touched. Robson stated she performed the massage naked. At the conclusion of the massage, Epstein paid Robson $200.

After the massage Epstein stated to Robson that he understood she was not comfortable, but he would pay her if she brought over some girls. He told her the younger the better. Robson stated she once tried to bring a 23 year old female and Epstein stated that the female was too old. Robson stated that in total she only remembers six girls that she brought to see Epstein, each time she was paid $200. Robson stated she had brought the following girls: [redacted] (a16 year old female), [redacted](a 16 year old female) and [redacted]. Robson said that at the time she brought these girls to Epstein's house they were all14 through 16 years of age. I asked Robson which one was the youngest. Robson advised [redacted] was the youngest as she was fourteen when the massage occurred. Robson stated every girl she brought knew what to expect when they arrived. They were told they would provide a massage, possibly naked, and allow some touching. I asked her if [redacted] was aware. She stated every girl she brought knew what to expect. She explained she knew that [redacted] wanted to make money. She approached [redacted] and explained about going to work for Jeff, [redacted] agreed and arrangements were made to bring her to Epstein's house on a weekend. Robson stated that she and [redacted] (Later identified as [redacted]) picked up [redacted] at her house. Robson stated that at that time she was driving a red pickup truck. They traveled to Epstein's house and entered through the kitchen door. They met with the house chef and Epstein's assistant Sarah. [redacted] was introduced to Epstein while they were in the kitchen area. Sarah led [redacted] upstairs and Epstein went upstairs. When the massage was over [redacted] returned to the kitchen area. Robson stated she was paid $200.00 for bringing [redacted] to Epstein's house. Robson stated [redacted] told her she was paid $300.00 for the massage.

Robson stated that [redacted] was the last person she brought to Epstein's house. She had changed her cellular number to avoid being contacted by Sarah. She continued stating that she had no direct contact with Epstein

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

when he was going to travel to Palm Beach. Robson said when Epstein announces to his assistant, Sarah, that he is traveling to Palm Beach, Sarah would then contact Robson to arrange girls to "work" for Epstein. Robson stated that once her parents discovered that she was visiting Epstein, they disapproved of the encounters with him and she stopped. Robson further stated that Sarah still tries to call Robson's house and leaves messages.

Sgt Frick entered the room and explained to Robson that based on her own statements, she had implicated herself by bringing underage girls to Epstein's house. Robson provided cellular telephone numbers for the girls she had mentioned previously. Additionally, she also provided possible addresses and areas in which they lived.

As Robson was being taken home in the vehicle, a tape recorder was placed within the vehicle to record any conversations within the vehicle. During the drive back to her home, Robson made the comment " I'm like a Heidi Fleiss." (Hollywood Madam who sent girls to clients for sexual favors in California). Robson was dropped off at her house without incident.

On October 3, 2005, Sgt Frick and I went to speak with [redacted] a sixteen year-old female who was brought to Epstein's residence by Haley Robson. We met with [redacted] mother at their front door. We explained the ongoing investigation and asked to speak with [redacted] as we had information that she had "worked" for Jeff. Mrs. [redacted] introduced us to her husband and allowed us entry into the home. We sat in the dining room and met with [redacted] Date of Birth [redacted] As she was under the age of eighteen, Mrs [redacted] was advised we would be speaking with her. She expressed if her daughter had information, she wanted to assist. We interviewed [redacted] who denied having any inappropriate encounters with Jeff (Epstein). She stated she had gone to Jeff's house with Haley Robson approximately eight months ago and sat in the kitchen with the house chef, but nothing happened. As the parents were present during the interview, we felt that [redacted] was withholding information from us. She made several comments as to putting the entire incident behind her. I left my telephone number and advised should she wish to speak with me again to telephone me. Sgt Frick and I thanked Mrs. [redacted] for her time and left the area. She stated she would ask [redacted] again after we left as to what happened at Epstein's house. I informed her that [redacted] had my telephone number and hopefully she would call.

On October 4, 2005, Det Dawson and I drove to the [redacted] home and met with [redacted] and [redacted], dob [redacted] During a sworn taped statement, [redacted] stated approximately a year ago when she was seventeen years old, she was taken to a house by Haley Robson. [redacted] stated she knows Robson because they both attend [redacted] She was told she could make money working

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

for Jeff. She was told she would have to provide a massage to Jeff. [redacted] stated upon her arrival to the house she was brought to the kitchen area by Robson. They met with the house chef who was already in the kitchen area. [redacted] stated Haley Robson would wait for her in the kitchen. [redacted] was introduced to Sarah, Jeff's assistant, who brought her upstairs to the master bedroom. Sarah prepared the room and massage table for a massage. Epstein entered the room wearing only a towel and she provided a massage. [redacted] stated she kept her clothes on during the massage. She advised sometime during the massage, Epstein grabbed her buttocks and pulled her close to him. [redacted] said she was uncomfortable by the incident involving Jeff. At the conclusion of the massage, she was paid $200.00 for the massage. I asked [redacted] if she has any formal training in massages to which she replied no. I asked her if Robson received any monies for taking her to perform the massage. [redacted] stated Robson had received money for taking her there but was unsure in the amount. [redacted] stated she returned to Epstein's house on another occasion with Robson and another girl, [redacted]. [redacted] stated she waited in the kitchen with Robson, while [redacted] was taken upstairs by Sarah. [redacted] stated she only did the massage once as she was uncomfortable with the whole experience.

At the conclusion of the interview, the tape was stopped. I was informed that Sarah had attempted to reach [redacted] via cell phone. A voice mail message on October 4, 2005 at 10:59 am, revealed a female voice who identified herself as Sarah who requested [redacted] to call her back reference the police questioning. [redacted] provided the incoming telephone number as [redacted] stated she inadvertently told [redacted] about the police investigation because [redacted] had called her to tell her about how she just received a rental car from Jeff Epstein. [redacted] had called her to tell her that she was given a rental car, a 2005 Silver Nissan Sentra, to utilize to visit family and visit Epstein. [redacted] asked her what was going on at the house that the police would be asking questions. [redacted] stated [redacted] then called Jeff and Sarah and asked what was going on reference the ongoing police investigation. According to [redacted] Sarah has since then been trying to contact her to ask about the police questions. I instructed [redacted] not to contact Sarah and do not provide any more information to [redacted] as she would notify Jeff Epstein and Sarah what was transpiring.

On October4, 2005, I made telephone contact with [redacted] who had left several messages for me to contact her. During the message, she advised she was not completely truthful when we met in person but would like to speak with me to advise what had happened. She further advised she did not want to speak of this incident in front of her mother. At approximately 3:48 pm I made telephone contact with [redacted] During a taped recorded statement [redacted] stated the following: approximately a year ago, when she was sixteen years of age, Robson took her to Epstein's house twice. She knows Robson because they both attend [redacted]. The first time she went, Haley Robson drove to the house. They entered through the kitchen area where she was

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

introduced to Sarah and Epstein. She was taken upstairs to a bedroom by Sarah who set the room up with a massage bed and brought out the oils to use. Epstein then entered the room wearing a towel. He laid on the table and picked out a lotion for [redacted] to rub on him. At one point during the massage he tried to remove her shirt, at which point she became very upset and discontinued the massage. Both [redacted] and Epstein had a verbal disagreement, at which time she left without being paid. She got with Haley Robson who was sitting in the kitchen and told her "let's go." [redacted] advised she received no money for that day. [redacted] also said that Haley Robson had told her if she was uncomfortable with what was going on, to let him know and he'll stop. She knew that the more you do the more you get paid. [redacted] advised that several weeks later she agreed to be taken a second time by Haley Robson. Once they arrived at the residence, Haley Robson sat in the kitchen and Sarah took her upstairs to the master bedroom again. Sarah set the room up with a massage bed and brought out the oils to use. Epstein then entered the room wearing a towel. He laid on the table and picked out a lotion for [redacted] o rub on him. At one point during the massage he tried to touch her buttocks. As [redacted] was wearing tight jeans and had a tight belt on Epstein was unable to touch her buttocks. Epstein then rolled onto his back during the massage and then attempted to touch her breasts [redacted] hen became upset again and told Epstein she didn't want to be touched. [redacted] discontinued the massage and was paid $200.00. [redacted] then went downstairs where Haley Robson was waiting for her. She told Robson she wanted to leave. [redacted] said she never returned to the house. [redacted] stated she is aware that her friend, [redacted] was also at the house and had a problem with Epstein.

I later researched [redacted] dob [redacted] and met with her at her residence. During a sworn taped statement, [redacted] stated the following: on or about November 2004, she was approached at [redacted] by Haley Robson, a fellow student. Robson asked [redacted] if she wanted to make money. She agreed and was told she would provide a massage to wealthy man in Palm Beach. Robson picked her up and drove her to a house in Palm Beach. She was brought into the kitchen area of the house. She further stated that fellow [redacted] students [redacted] and [redacted] ([redacted]) came with them. They were brought into the kitchen where she was introduced to Epstein and other females. [redacted] stated she was introduced to a female helper of Epstein, the female was described as white female (unknown name), with blond hair. She stated that the assistant was familiar with Robson. The assistant brought her upstairs into a master bedroom area. The assistant set up the massage table and put out lotions to be used. She told [redacted] Epstein would be available in a minute. Epstein entered the room wearing only a towel. Epstein removed his towel, and laid naked on the massage table and picked a lotion to rub on his thighs and back. [redacted] further stated during the massage, Epstein asked her to remove her clothes. She complied and removed her pants and blouse. [redacted] didn't remember if she had removed her bra but feels that she did. [redacted] was certain that she stayed in her thong underwear. [redacted] continued the massage and at one point she climbed onto the massage

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

table, straddling Epstein to massage his back. While doing this her buttocks were touching Epsteins. [redacted] was instructed to return to the ground at which time Epstein turned to have his chest rubbed. [redacted] advised she was sure he was masturbating based on his hand movements going up and down on his penis area. [redacted] did not want to look at his penis area because she was uncomfortable. Epstein removed a large white vibrator which was next to the massage table and turned it on. [redacted] stated Epstein began rubbing the vibrator over her thong underwear on her vaginal area. Shortly thereafter, Epstein ejaculated and removed himself from the table. He walked over to where the shower was and opened the glass door. She waited as he was taking a shower in her direct view. When I asked [redacted] how old she was when this occurred, she stated she had just turned seventeen. At the conclusion of the shower [redacted] was paid either $350.00 or $400.00. She stated she wasn't sure, but knows it was close to $400.00. [redacted] stated she never returned to provide a massage for Epstein.

At approximately 2:10 pm, Det Dawson and I met with [redacted] dob [redacted] at her residence. As [redacted] was only seventeen years of age, I had notified her mother, that she would be interviewed reference an ongoing investigation in Palm Beach. I assured her that her daughter was not a suspect. I explained the possibility of her being either a witness or victim. Mrs [redacted] advised she wanted [redacted] to cooperate and consented to the interview.

During a sworn taped statement, [redacted] stated the following: at the age of sixteen, during the month of September 2004, she was approached by Haley Robson for a chance to make money. [redacted] was friends with associates of Robson and knew the same people. [redacted] had been previously told by her friends from [redacted] what Robson did for Epstein. Robson called a person known to [redacted] as Sarah and scheduled the appointment. Robson picked [redacted] up and drove her to Palm Beach to a street called "Brillo Way". They drove to the end of the street and entered a large driveway. They entered the kitchen area of the house and met with Epstein. [redacted] was introduced to Jeff Epstein. Robson led [redacted] upstairs to the main bedroom area and set up the room with a massage table and set out the oils. [redacted] stated that while going up the stairs and into the bedroom she observed numerous photographs of naked young girls. Robson dimmed the lights and turned on soft music. Robson exited the room and Epstein entered the room wearing only a towel. Epstein picked oils and instructed her to rub his legs, under his buttocks, back and chest area. Epstein asked her to get comfortable. [redacted] advised she did not remove her clothes. She was wearing tight jeans and a cropped tank top exposing her belly area. During the massage, Epstein removed his towel and laid on the massage table naked. As [redacted] rubbed Epstein's chest area, he attempted to reach down her pants to touch her buttocks area however was unable to due so due to the tightness of the jeans and a tight belt. [redacted] advised Epstein began to masturbate as she rubbed his chest. Epstein moaned as she rubbed his chest. She observed he was continuing to masturbate and

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

attempted to reach up her tank top and touch her breasts. [redacted] pulled back and Epstein stopped, however he kept masturbating until he climaxed. He cleaned himself with the towel he was previously wearing. [redacted] was paid $200.00 for the massage and left the area. She met with Robson who was waiting in the kitchen area and left the house.

[redacted] then explained she never provided another massage for Epstein. She did however, go to the house with Robson and [redacted] as they took another friend of Robson's. [redacted] advised she was present when [redacted] went to work for Epstein. She advised she rode over and sat in the kitchen area with Robson to wait for [redacted] advised while they waited for [redacted] the house chef prepared lunch for them as it was almost lunchtime when they went. When [redacted] was finished with the massage they left the area. I asked [redacted] if Robson ever told her what would be expected when she provided a massage. [redacted] stated yes, Robson told her that a massage would be expected, possibly naked and possibly some touching involved. [redacted] has no formal training in providing massages. [redacted] spoke about a third and last time she went to Epstein's house. Robson drove another girl, [redacted], (sixteen years of age) who is [redacted] friend, to Epstein's house. [redacted] stated [redacted] knew that [redacted] had made money massaging Epstein and wanted to make money herself. Robson took them in the kitchen area of the house and introduced [redacted] to Sarah. Robson and Sarah took [redacted] upstairs to the main bedroom. [redacted] advised she doesn't know what happened as [redacted] did not speak about what happened in the room. [redacted] received $100.00 from Robson for going with her to Epstein's house and recommending [redacted]

On October 6, 2005, at 11:45 am, I met with [redacted] dob [redacted], at [redacted] and explained to her why we there to interview her. She advised she was aware of the ongoing investigation. [redacted] stated she had previously spoken with [redacted] who told her she was interviewed by detectives. During a sworn taped statement, [redacted] stated she knew that Haley Robson worked for Jeff Epstein in Palm Beach. [redacted] advised she originally had been taken to the Epstein house by Haley Robson, whom she met when they both attended [redacted]. She began going to the house when she was sixteen years of age and stated she had been there a lot of times to provide massages over the past two years. I asked her if she had formal training in providing massages, which [redacted] stated she had not. [redacted] advised she was told what was expected of her by providing massages and she would have to remove clothing but if she felt uncomfortable just to say so and Epstein would stop pushing the issue. [redacted] began providing massages and advised she kept her clothes on. She considered Epstein a pervert and he kept pushing to go further and further. [redacted] explained she would keep telling him she had a boyfriend and would not be right to her boyfriend. It wasn't until recently that [redacted] began removing her clothes and staying in her thong underwear to provide a massage. [redacted] explained

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature Arresting Officer

Date: 05/01/2006

Epstein wanted to be rubbed on his back and recently he began turning over and have her rub his chest as he masturbated. He would try to touch her breasts as she rubbed his chest. [redacted] stated "Jeff would try to get away with more and more on each massage". [redacted] stated Epstein would try to touch her more and on one occasion he attempted to use a massager/vibrator on her. Robson drove [redacted] to the house for the original massage. [redacted] left Sarah her cell phone number and every time Epstein would come into town, Sarah would call her for an appointment to "work". Each time she went, Sarah would meet her at the kitchen door area. She would bring her upstairs and prepare the massage table. [redacted] advised Epstein would ask her questions about herself. Epstein knew she was a soccer player and would be attending [redacted] I asked [redacted] if Epstein knew her real age [redacted] stated Epstein did and didn't care. The most recent massage she provided was on October 1, 2005. During the massage, she asked Epstein if she could borrow one of his vehicles to visit her family and boyfriend in Orlando, Florida. Epstein had told her she could borrow one of his vehicles but later stated he would rent her a car. She continued with the massage as Epstein grabbed her buttocks and caressed the buttocks cheeks. I asked [redacted] if she was wearing undergarments to which she replied her thong underwear. Once he tried to touch her breasts, she would pull away from him and he would stop. [redacted] was asked if he ever used a vibrator on her. [redacted] was aware of the vibrator but advised she never would allow him to use the vibrator on her. She described the vibrator as the large white vibrator with a huge head on the tip of the vibrator. She stated he kept the vibrator in a closet near the massage table.

[redacted] stated that on October 3, 2005, she was contacted by Epstein's assistant, Sarah, who informed her that Jeff Epstein had rented her a new Nissan Sentra and she should come by the house to pick it up. Sarah informed [redacted] she would have the car for a month. [redacted] stated Epstein knew her car was not working properly and that she had missed appointments in the past because of her car being inoperable. [redacted] explained the car is currently parked next to the [redacted] Gym field. I asked her if she ever took any one to the house. [redacted] explained she took [redacted] a friend of hers who attended [redacted], who has relocated to Orlando to attend college. I asked if she ever allowed another female in the room. [redacted] advised no one was brought into the room with her.

At the conclusion of the interview, Det Dawson and I went to the gym area of [redacted] and located the Silver Nissan Sentra bearing Florida tag X98-APM. The vehicle is registered to Dollar Rent a Car out of the Palm Beach International Airport. The vehicle was rented by Janusz Banasiack, later learned to be Epstein's houseman, and paid with Epstein's credit card.

On September 11, 2005, w/f [redacted], dob [redacted], was arrested by the Palm Beach Police Department

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

for misdemeanor possession of marijuana. During the arrest [redacted] told the arresting officer that she had information about sexual activity taking place at the residence of Jeffrey Epstein. Additionally, during the ongoing trash pulls from Epstein's residence, discarded papers were found which contained [redacted] name and cell phone number.

On October, 11, 2005, Det Dawson and I met with [redacted] and obtained a sworn taped statement. [redacted] explained she had been going to Epstein's house since 2002, when she was sixteen years of age. Since then she has gone to the house hundreds of times. [redacted] stated she became his "number one girl." She explained that on her first visit she was brought to the house by fellow [redacted] classmate, [redacted] [redacted] said she was brought through the kitchen area where she met Sarah Kellen. for the first time. [redacted] was led to the master bedroom, Epstein s room. [redacted] explained that as she was walking up the stairs she observed several photographs of naked women along the walls and tables of the house. [redacted] further explained that she was brought into the bedroom, where Sarah prepared the room by setting up the massage table and provided the oils for her to rub on Epstein. [redacted] explained she remembered the steam room area, which contained two large showers. Epstein entered the room from the steam room area and introduced himself. Epstein lay on the table and told her to get comfortable. [redacted] removed her skirt and kept her shirt on. Epstein then instructed her to remove her shirt. [redacted] removed her shirt and remembered she was not wearing a bra. [redacted] stated she provided the massage wearing only her panties. She continued rubbing his legs, thighs and feet. [redacted] advised he turned over onto his back. Epstein touched her breasts and began to masturbate. Epstein ejaculated which meant the massage was over. At the conclusion of the massage, [redacted] was paid $200.00. They walked together downstairs where Sarah Kellen and [redacted] were waiting. [redacted] stated [redacted] received an unknown amount of money for taking her to Epstein. Epstein instructed to leave her cellular telephone number so that he could contact her when he is in town.

[redacted] stated that during her many visits a routine was established between her and Epstein. She would enter the house and get naked in the bedroom. She would then start with a back massage. Epstein would roll on to his back and allow her to massage his chest area. [redacted] stated Epstein would then began to masturbate himself and at the same time would insert his fingers in her vagina and masturbate her with his fingers. [redacted] explained Epstein would continue this process until he ejaculated. He would then utilize a vibrator/massager on her vagina until [redacted] climaxed. [redacted] advised that during her frequent visits, Epstein asked for her real age, [redacted] stated she was sixteen. Epstein advised her not to tell anyone her real age. [redacted] advised that things escalated within the home as Epstein would instruct and pay [redacted] to have intercourse with his female friend, Nada Marcinkova. [redacted] explained the intercourse included using strap on dildos, large rubber penis' and other devices that Epstein had at his disposal. Epstein would watch them have intercourse and masturbate himself . Occasionally, Epstein would then join in

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature/Arresting Officer

Signature of Police Officer (F.S.S. 117.10)

Date: 05/01/2006

during the female on female intercourse and provide oral sex to both [redacted] and Marcinkova. This occurred during the time [redacted] was sixteen years of age.

[redacted] advised this continued to escalate during two years. The routine became familiar to [redacted] Epstein's assistant Sarah would telephone her every time Epstein was in the Town of Palm Beach and would place appointments for her to visit and work for Epstein. Each time something new was introduced, additional monies were produced and offered for [redacted] to allow the acts to happen. [redacted] consented to perform all these acts but was adamant that there was an understanding with Epstein that no vaginal penetration would occur with his penis. [redacted] explained that Epstein's penis was deformed. [redacted] explained that his penis was oval shaped. [redacted] claimed when Epstein's penis was erect, it was thick toward the bottom but was thin and small toward the head portion. [redacted] called Epstein's penis "egg-shaped." [redacted] stated Epstein would photograph Marcinkova and her naked and having sex and proudly display the photographs within the home. [redacted] stated during one visit to Epstein's house in which she provided a massage to Epstein, his female friend, Nada Marcinkova, was also present. [redacted] provided the massage in which Marcinkova and her would fondle each others breasts and kiss for Epstein to enjoy. Towards the end of this massage, Epstein grabbed [redacted] and turned her over onto her stomach on the massage table and forcibly inserted his penis into her vagina. [redacted] stated Epstein began to pump his penis in her vagina. [redacted] became upset over this. She said her head was being held against the table forcibly, as he continued to pump inside her. She screamed "No!" and Epstein stopped. She told him that she did not want to have his penis inside of her. Epstein did not ejaculate inside of her and apologized for his actions and subsequently paid her a thousand dollars for that visit. [redacted] stated she knows he still displays her photographs through out the house.

On October 12, 2005, Det Dawson and I met with [redacted], dob [redacted] who stated during a sworn taped statement, that nothing happened between her and Epstein. [redacted] appeared nervous during the interview. I assured her that I have spoken with other people who advised differently. [redacted] stated on several occasions she provided a massage to Epstein. She stated she was brought to the Epstein house in March of 2005. [redacted] a classmate at [redacted] approached her and asked her if she wanted to "work". [redacted] made the arrangements with Sarah, Epstein's assistant. [redacted] who has no formal training in providing massages, stated she provided a massage, fully clothed for $200.00 . As I sensed hesitancy in her answers, I asked [redacted] if she had been contacted by anyone from Epstein's organizations or his house. [redacted] stated she was interviewed already by a private investigator for Epstein. He identified himself as "Paul" and inquired about the police investigation, and left his telephone number 305-710-5165 for additional contact. [redacted] provided no additional information, as it appeared her responses were almost scripted.

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

Probable Cause Affidavit

Palm Beach Police Department

Agency ORI# FLO 500600

On November 6, 2005, at approximately 3:30 pm, I met with [redacted] dob [redacted], at the Palm Beach Police Department. [redacted] was identified as a potential witness/victim through information obtained during the trash pulls. During the sworn taped statement, [redacted] advised she was at Jeffrey Epstein's house one time, approximately two months ago. She was approached by a girl, [redacted], who was dating [redacted] roommate, for an opportunity to make some quick money. [redacted] advised she needed to make some quick cash to make the rent that month. She agreed to go to the house. She had been told by [redacted] that the massage would have to be done in her underwear. She advised [redacted] drove with her and brought her into the house. They walked into the kitchen area, and took the stairs upstairs. [redacted] further stated she was brought into a master bedroom area. She advised she recalled seeing portraits of naked women throughout the room. A massage table was already out near the sauna/shower area in the master bedroom. Epstein entered the room wearing only a towel and introduced himself as "Jeff." At Epstein's direction, [redacted] and [redacted] removed their clothing down to their panties, Epstein laid on his stomach area and they provided a massage on his legs and feet area. I asked [redacted] if she had any formal massage training and she replied "no." [redacted] advised she was topless and the panties she wore were the boy shorts lace panties. She and [redacted] continued the massage until the last ten minutes of the massage, Epstein, told [redacted] to leave the room so that [redacted] could finish the massage. [redacted] got dressed, and left the room as Epstein turned over onto his back. Epstein then removed the towel and laid naked . Epstein requested that [redacted] rub his chest area. [redacted] stated as she did this, Epstein, began masturbating. [redacted] stated Epstein pulled down her boy short panties, and he produced a large white vibrator with a large head. She stated it was within his reach in a drawer in his master bathroom. He rubbed the vibrator on her vaginal area. [redacted] advised he never penetrated her vagina with the vibrator. He continued to rub her vagina with the vibrator as he continued to masturbate. [redacted] stated she was very uncomfortable during the incident but knew it was almost over. Epstein climaxed and started to remove himself from the table. He wiped himself with the towel he had on previously and went into the shower area. [redacted] got dressed and met with [redacted] in the kitchen area. Epstein came into the kitchen and provided [redacted] $200.00 for bringing [redacted] and paid $200.00 to [redacted] for providing the massage. [redacted] was told to leave her telephone number with Sarah for future contact. [redacted] provided her cellular telephone number. [redacted] was asked if she was recently contacted about this investigation by anyone from the Epstein organization. She replied she was called but it was for work. She stated she was called by Sarah for her to return to "work" for Epstein. [redacted] stated "work" is the term used by Sarah to provide the massages and other things. [redacted] advised she declined as she was not comfortable in providing that type of "work."

On November 7, 2005, Det Sandman and I met with [redacted] dob 0[redacted] During a sworn taped statement, [redacted] stated she met Jeffrey Epstein through Haley Robson when they were still

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

attending [redacted] Robson would approach females who wished to work for Epstein. [redacted] stated she was offered to work for Epstein but declined. [redacted] explained that "work" means give massages. She was asked about any formal training in providing massages which she said "no." [redacted] said she accompanied Robson and other females who were taken to Epstein's house to provide massages. [redacted] further stated she had been to the house approximately 4 or 5 times in the past year. She accompanied Robson with [redacted] and [redacted] Each time the girls were taken over, they were previously told they would have to provide a massage, possibly naked. They were also told that should Epstein require them to do anything extra, and they were not comfortable just to tell him and he would stop. [redacted] stated Robson received $200.00 for each girl she brought over to massage Jeffrey Epstein. When I asked which girl appeared to be the youngest, she replied, [redacted] who was really young, fifteen years old at the most. [redacted] further stated each time she went to the house, she sat in the kitchen and waited with Robson until the massage was over. She further stated that the cook would make lunch or a snack for them as they waited. I asked her if there was anything that caught her attention within the home. [redacted] stated there were a lot of naked girls in photographs throughout the house.

On November 8, 2005, at approximately 2:00pm., I met with [redacted] dob [redacted] at the Palm Beach Police Department. During a sworn taped statement, [redacted] stated she had met Epstein approximately two years ago when she was first approached by Haley Robson, a classmate at [redacted] Robson approached her about working for Epstein and providing a massage to him for $200.00. Robson had made the arrangements however was unable to take her the day the arrangements were made. Robson had [redacted] take [redacted] also attended [redacted] and was familiar with Epstein. [redacted] recalled she was brought there and entered through the back kitchen door. She had met with an assistant Sarah and another assistant Adrianna. Sarah brought her upstairs as she observed several photographs of naked females throughout the house. [redacted] stated Epstein came in the room, wearing only a towel, and laid on the table. [redacted] stated he picked out the oils he wanted her to use and requested she remove her clothing to provide the massage. [redacted] stated that on the first massage she provided she did not remove her clothing. [redacted] stated she had returned several times after that. Each time she returned it was more than a massage. Epstein would walk into the master bedroom/bathroom area wearing only a towel. He would masturbate as she provided a massage. [redacted] stated she was unsure if he climaxed as he masturbated under the towel. Additionally, she never looked below his waist. She claimed that Epstein would convince her to remove her clothes. She eventually removed her clothes and stayed in her thong panties. On occasion, Epstein would use a massager/vibrator, which she described as white in color and a large head. Epstein would rub the vibrator/massager on her vaginal area as he would masturbate. [redacted] stated she had been to the house

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

numerous times. [redacted] added she has no formal training in providing a massage. [redacted] stated she brought two females during her visits to provide massages. [redacted] stated she brought a girl named [redacted] and [redacted] from [redacted] stated she received $200.00 for each girl she brought.

On November 8, 2005, I met with [redacted], W/F, [redacted], at the Palm Beach Police Department. During a sworn taped statement, [redacted] stated she had met Jeffrey Epstein approximately one year ago. She was approached by a subject known to her as [redacted]. [redacted] had asked her if she wanted to make money providing massages to Epstein. [redacted] had heard that several girls from [redacted] were doing this and making money. She agreed and was taken to the house by [redacted]. [redacted] had introduced her to Sarah and Epstein and brought her upstairs to a master bedroom where a massage table was prepared and the proper oils were selected. [redacted] left the room and waited downstairs for her. [redacted] stated Epstein entered the room wearing a towel and laid on his stomach. She provided a massage wearing only her thong panties. [redacted] advised Epstein had masturbated every time she provided a massage. She stated Epstein continued to masturbate until he climaxed. Once that occurred the massage was over. She felt the whole situation was weird but she advised she was paid $200.00 for providing the massage. She also stated [redacted] was paid $200.00 by Epstein for bringing [redacted]. [redacted] stated she had gone a total of 15 times to Epstein's residence to provide a massage and things had escalated from just providing a massage. Epstein began touching her on her buttocks and grabbed her closer to him as he masturbated. Epstein also grabbed her breasts and fondled her breasts with his hands as she provided the massage. [redacted] stated on one occasion, while she was only seventeen years of age, he offered extra monies to have vaginal intercourse. She stated this all occurred on the massage table. [redacted] stated Epstein penetrated her vagina with his penis and began having intercourse with her until he reached the point of climax. Epstein removed his penis from her vagina and climaxed onto the massage table. [redacted] received $350.00 for her massage. I asked her if she had any formal training in providing massages, [redacted] stated she did not. [redacted] continued to state on one other occasion, Epstein introduced his girlfriend, Nadia, into the massage. Nadia was brought into room with [redacted] to provide a massage. Epstein had them kiss and fondle each other around the breasts and buttocks as they provided a massage to Epstein. Epstein, watched and masturbated as this occurred. On other occasions, Epstein, introduced the large white vibrator/massager in the massage. Epstein stroked the vibrator/massager on [redacted] vagina as she provided the massage.

On November 14, 2005, Det Sandman and I met with [redacted], dob [redacted] During a sworn taped statement she advised she started going to the house approximately one year ago and has been there approximately five or six times. [redacted] also stated she was sixteen years old when she first went to Epstein's house. On her first visit she was brought by a fellow student from [redacted] known to her

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

Probable Cause Affidavit

Palm Beach Police Department

Agency ORI# FLO 500600

as [redacted] stated [redacted] brought her into the house and she was introduced to Sarah. Sarah then brought her upstairs into a master bathroom, located within the bedroom. [redacted] stated she met Epstein in the bathroom. He laid on the table and picked the massage oils. She provided the massage as he laid naked on the massage bed. She stated she rubbed his calves and back area. Upon the end of the massage, Epstein removed himself from the massage table and paid her $300.00 for the massage. [redacted] said each subsequent time she went to the house, she was notified by Sarah Kellen that Epstein was in town and would like her to "work". [redacted] stated she returned to the house and was again led upstairs by Sarah. She provided the massage, clothed. [redacted] was asked if she ever removed her clothing to provide a massage. [redacted] stated it was not until the third time that she went that she removed her clothing. [redacted] stated she was notified by Sarah that Epstein wanted her to come to work. She arrived at the house and was led upstairs by Sarah. She started providing the massage when Epstein asked her to remove her clothing. [redacted] removed her pants, shirt and bra. She stayed in her thong panties and continued rubbing Epstein. Epstein turned over onto his back and she rubbed his chest area. [redacted] stated she knew he was masturbating himself as she providing the massage. [redacted] stated she believed he climaxed based on his breathing. She did not want to view either the climax or the fact that he was masturbating. [redacted] stated once the breathing relaxed he got up and told her to get dressed. She was paid $300.00 for her services. [redacted] stated on the last time she went to provide a massage, she was notified by Sarah Kellen to come to the house and "work". [redacted] stated she was now dating her current boyfriend and did not feel comfortable going. She recalled it was approximately January 2005. She said she went, already thinking that this would be the last time. She went upstairs and went into the master bathroom. She met with Epstein, who was wearing only a towel, and laid onto the table. [redacted] stated Epstein caught her looking at the clock on several occasions. Epstein asked her if she was in a hurry. [redacted] stated her boyfriend was in the car waiting for her. [redacted] further stated that Epstein got upset as he wasn't enjoying the massage. She told him that she didn't want to continue and she would not be back. Epstein told her to leave as she was ruining his massage. [redacted] advised she had no formal training in providing any massages. [redacted] stated although she had a falling out with Epstein, she still received a Christmas bonus from Epstein. [redacted] stated she was wired money from Western Union for her Christmas bonus. Subpoena results from Western Union revealed money was sent from Jeffrey Epstein on December 23, 2004. [redacted] received $200.00 from Epstein for her Christmas bonus.

On November 15, 2005, Det. Sandman and I met with [redacted], dob [redacted] During a sworn taped statement, [redacted] stated she met Jeffrey Epstein over a year ago. She was sixteen years of age and was approached by [redacted] a fellow [redacted] student, who informed her that she could make $200.00 providing a massage to Epstein. [redacted] had informed her that she would have to provide this

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

massage topless. [redacted] made the arrangements with Epstein and his assistants and took [redacted] to the house. [redacted] stated [redacted] and she entered through a glass door that led into a kitchen. She was taken upstairs by [redacted], to a master bedroom. She recalled the master bathroom had a large pink couch, sauna and matching shower. Epstein entered into the room wearing only a towel. [redacted] and [redacted] removed their clothing remaining only in thong underwear. She further stated that Epstein laid on his chest on the table. The oils were selected on which ones to use. Both [redacted] and [redacted] provided the massage on his legs, back and feet. Forty minutes into the massage, Epstein turned over onto his back and requested [redacted] wait downstairs in the kitchen area for [redacted]. Epstein instructed [redacted] to finish the massage. As [redacted] got dressed, [redacted] starting rubbing Epstein's chest. [redacted] left the room, and Epstein began masturbating as [redacted] rubbed Epstein's chest. [redacted] stated Epstein continued masturbating until he climaxed on the towel he was wearing. When asked if he had removed the towel she stated he turned the towel around so that the opening would allow him to expose himself. After he cleaned himself off with the towel he instructed [redacted] the massage was done and to get dressed and meet with him downstairs. [redacted] got dressed and met with Epstein in the kitchen area. She was paid $200.00 dollars for providing the massage. [redacted] stated she was aware that [redacted] also received monies for the same thing. The second time she went to the house she was again approached by [redacted] advised if she wanted to return to the house to provide another massage. [redacted] agreed and the arrangements were made by [redacted] for her to return to the house. [redacted] stated [redacted] drove her to the house and knocked on the same glass door which leads to the kitchen area. They were allowed entry into the house by one of the staff members. [redacted] led her upstairs to the master bedroom and master bathroom area. [redacted] left [redacted] this time to do the massage alone. Epstein entered the room again wearing only a towel. [redacted] began removing her clothing as she did the last time she was at the house. Epstein instructed her to get naked. He laid on the table onto his stomach as [redacted] began massaging his legs and back. As [redacted] finished with Epstein's back and legs, Epstein then turned over onto his back. [redacted] started to rub his chest and he began masturbating. As [redacted] rubbed his chest, Epstein leaned over and produced a massager/vibrator. He turned it on and began rubbing [redacted] vagina and masturbating himself at the same time. [redacted] stated she continued to rub his chest as this was occurring. She described the vibrator/massager as large grey with a large head. Epstein rubbed her vagina for approximately two to three minutes with the massager/vibrator. He then removed the vibrator from her vaginal area and concentrated on masturbating himself. [redacted] stated Epstein climaxed onto the towel again and informed her that the massage was done. [redacted] got dressed and met with [redacted] who was waiting in the kitchen area. She received $200.00 for the massage. [redacted] said she never returned to the house and had no desire to return to the house. [redacted] was asked if she received any formal massage training. She advised she had no formal training. [redacted] was asked if Epstein knew her real age. [redacted] stated he knew, as he asked her questions about herself and high school. He was aware she attended, and is still attending [redacted]

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

Probable Cause Affidavit

Palm Beach Police Department

Agency ORI# FLO 500600

During the course of the investigation a search warrant was executed at Jeffrey Epstein's home located at 358 El Brillo Way in Palm Beach. While in the home I observed the pink and green couch within the master bedroom area just as the girls previously mentioned. The stairway, which is located from the kitchen area to the master bedroom area, is lined with photos of naked young girls. Additionally, numerous photographs of naked young females, some of which appeared to be the girls I previously interviewed, were on display throughout the house. Also located in the house were various phone message books. The telephone message books have a duplicate copy (Carbon Copy) which, once a phone message is written into the book, the top copy is then torn on the perforated edge and the carbon copy is left in the book. First names of girls, dates and telephone numbers were on the copy of the messages. I recognized various numbers and names of girls that had already been interviewed. The body of the messages were time of the day that they called for confirmation of "work." Other names and telephone numbers were located in which the body of the messages were, "I have girls for him" or "I have 2 girls for him." These messages were taken by Sarah Kellen, who signed the bottom of the messages. During the execution of the warrant, I located a [redacted] transcript for [redacted] in Epstein's bedroom desk. This desk had stationary marked Jeffrey E Epstein. I located a wood colored armoire beside Epstein's bed that contained a bottle of "Joy Jelly," which is used to provide a warm massage. Several massage tables were located throughout the second floor of the residence, including a massage table found in Epstein's bedroom. On the first floor of the residence I found two covert cameras hidden within clocks. One was located in the garage and the other located in the library area on a shelf behind Epstein's desk. A computer was located which was believed to contain the images from the covert cameras. The computer's hard drive was reviewed which showed several images of Haley Robson and other witnesses that have been interviewed. All of these images appeared to come from the camera positioned behind Epstein's desk.

On December 13, 2005, Det. Dawson and I met with [redacted], dob [redacted] During a sworn taped statement, [redacted] stated that when she was sixteen years old she was taken to Epstein's house to provide a massage for money. [redacted] stated it was before Christmas last year (2004) when an associate, [redacted] approached her and asked if she needed to make money for Christmas. [redacted] made arrangements to take [redacted] to the house and drove [redacted] to the house to "work." They were encountered by a white female with long blond hair. [redacted] was unable to remember the name of the white female with blond hair but knew she was Epstein's assistant. She was led upstairs by the white female who explained that there would be lotions out already and Epstein would choose the lotion he wanted her to use. She was led through a spiral staircase which led to a master bedroom and bathroom. The massage table was already set up in the bathroom. [redacted] described the bathroom as a large spacious bathroom with a steam room and shower beside it. [redacted] was introduced to Epstein who was on the phone when she entered the room. Epstein was wearing a white towel and laid on his stomach so that [redacted] may

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

massage his feet and calves. [redacted] started the massage with the oils Epstein chose and rubbed his feet and calves. Epstein got off the phone and requested she massage his back as well. [redacted] began rubbing his back and got to the small of his back. During the rubbing of his back, Epstein asked her to get comfortable. He requested she remove her pants and shirt. [redacted] removed her shirt and pulled her pants off. [redacted] stayed in her bra and thong panties. As she finished massaging the small of Epstein's back, he then turned onto his back. Epstein instructed [redacted] to rub his chest and pinch his nipples. As she began to rub his chest, Epstein asked her questions about herself. [redacted] remembered telling him she attended [redacted]. Epstein asked her if she was sexually active. Before [redacted] could answer, he also asked what sexual position does she enjoy. [redacted] stated she was shy and didn't like talking about those things. She continued rubbing his chest. Epstein reached up and unsnapped her bra from the front. [redacted] explained the bra she used had a front snapping device. Epstein rubbed her breasts and asked her if she like having her breasts rubbed. [redacted] said "no, I don't like that." Epstein then removed his towel and laid on the bed naked exposing his penis to [redacted] He began touching his penis and masturbated as he touched her breasts. [redacted] explained Epstein then touched her vaginal area by rubbing her vagina with his fingers on the outside of her thong panties. [redacted] tensed up and stated Epstein was aware that she was uncomfortable. [redacted] stated that Epstein said to her, "Relax, I'm not going inside." She further explained Epstein commented to her how beautiful and sexy she was. Epstein then moved her thong panties to one side and began stroking her clitoris. [redacted] said, "He commented how hard my clit was." He then inserted two fingers in her vagina and was stroking her within her vagina. She tried pulling back to pull out his fingers from within her vagina. Epstein removed his fingers from within her vagina and apologized for putting his fingers inside her. During this time, he kept his hand on her vaginal area and continued to rub her vagina. [redacted] stated he rubbed her really hard as he was masturbating. [redacted] said he climaxed onto the towel he had been previously wearing and got up from the table. Epstein told her there was $200.00 dollars for her on the dresser within the master bathroom. Epstein also told her that there was an additional $100.00 that was to be given to [redacted] for bringing her there to massage him. Epstein told her to leave her telephone number with his assistant as he wanted to see her again. Epstein stated his assistant would contact her to work again soon. I asked her if she ever received any formal massage training to which [redacted] stated she did not. [redacted] stated it was the only time she ever went to work for Jeff and knew what happened to her was wrong. She further stated that she had never been contacted for any additional work.

On January 9, 2006, I located and interviewed another victim, [redacted], dob [redacted]. [redacted] was identified as a potential victim/witness from information obtained during trash pulls from Epstein's residence. [redacted] stated she met Epstein when she was fifteen years of age. She was approached by a friend from [redacted] to be taken to Jeffrey Epstein's house to work. She was originally told she would be able

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

to model lingerie for a wealthy Palm Beacher. [redacted] was taken to Epstein's house located on El Brillo Way. [redacted] introduced [redacted] to Jeffrey Epstein. Epstein had his personal chef prepare dinner for [redacted] and [redacted] At the conclusion of dinner, [redacted] and Epstein brought [redacted] upstairs into a master bedroom area. [redacted] observed a large massage table with a sheet on it. Epstein entered through a door and exited wearing only a towel. [redacted] informed [redacted] that they were going to provide a massage on Epstein. [redacted] asked why were they doing this instead of modeling lingerie. [redacted] explained to [redacted] that this was his routine and to rub his calves and feet. Epstein had told [redacted] to get comfortable. [redacted] removed her pants and blouse. [redacted] stated she stayed only in panties as she did not wear a bra that evening. [redacted] stated while rubbing his calves and feet, Epstein turned over onto his back. Epstein told [redacted] to rub his chest and rub his nipples. [redacted] stated that as she started rubbing his chest, Epstein began masturbating himself . Epstein touched her breasts and stroked her vagina with his fingers. Epstein continued to masturbate himself as he stroked her vagina. Epstein ejaculated on his towel and paid [redacted] $200.00 for the massage. Epstein told [redacted] that if she told anyone what happened at his house that bad things could happen. [redacted] and [redacted] were brought home by Epstein's houseman and [redacted] was afraid that Epstein knew where she lived. [redacted] stated that several days later she received a telephone call from Sarah Kellen who coordinated for [redacted] to return to "work." [redacted] returned to the house and was brought to Epstein's bedroom area by Sarah who prepared the room for the massage. Epstein entered the room wearing only a towel. Epstein had [redacted] remove her clothing and provide the massage naked. [redacted] began rubbing his feet and calves and Epstein turned over onto his back. Epstein rubbed her vagina with his fingers. Epstein began to masturbate himself with an upwards and downward motion on his penis. Epstein continued to touch her vagina with one hand and masturbate with the other hand. Once Epstein ejaculated onto the towel he was wearing, the massage was over. [redacted] was paid $200.00 for the massage. Epstein again told [redacted] not to speak of what happened at his house or bad things would happen. [redacted] wanted to notify authorities however she was afraid of what would happen to either her or her family.

During the course of the investigation, several subjects were identified as a potential witness/victim through information obtained during the trash pulls, physical surveillance and telephone message books retrieved from the search warrant. While conducting research on the subjects, I discovered that the females were age eighteen or older. Interviews were conducted on the consenting adults whose statements provided the same massage routine when they went to "work" for Epstein. The females would be notified by Sarah Kellen, and made appointments for the females to "work" for Epstein. The females would come to Epstein's house and were led upstairs, through a stairwell from the kitchen area, by Sarah Kellen to Epstein's bedroom. Epstein would then enter the room wearing only a towel, and ask them to get comfortable. The females would then provide the massage naked as Epstein would either touch their vaginas with his fingers and/or utilize the massager/vibrator on

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

their vaginal area. He would masturbate during the massage and upon his climaxing, the massage would end. The girls were then paid two or three hundred dollars for the massage.

On November 21, 2005 I interviewed Jose Alessi, a former houseman for Jeffrey Epstein. Alessi stated he was employed for eleven years with Mr. Epstein, from approximately 1993 through 2004. Alessi stated he was the house manager, driver and house maintenance person. It was his responsibility to prepare the house for Epstein s arrival. When asked about cooks or assistants, Alessi stated they traveled with Epstein on his private plane. I asked Mr. Alessi about the massages that have occurred at Epstein's home. Alessi stated Epstein receives three massages a day. Each masseuse that visited the house was different. Alessi stated that towards the end of his employment, the masseuses were younger and younger. When asked how young, Mr. Alessi stated they appeared to be sixteen or seventeen years of age at the most. The massages would occur in Epstein's bedroom or bathroom. He knew this because he often set up the massage tables. I asked if there were things going on other than a massage. Alessi stated that there were times towards the end of his employment that he would have to wash off a massager/vibrator and a long rubber penis, which were in the sink after the massage. Additionally, he stated the bed would almost always have to be made after the massage.

On January 4, 2006 I interviewed another former houseman, Mr Alfredo Rodriguez. During a sworn taped statement, Mr. Rodriguez stated he was employed by Jeffrey Epstein for approximately six months, from November 2004 through May of 2005. His responsibilities as house manager included being the butler, chauffeur, chef, houseman, run errands for Epstein and provide for Epstein's guests. I asked Rodriguez about masseuses coming to the house. Rodriguez stated Epstein would have two massages a day. Epstein would have one massage in the morning and one massage in the afternoon everyday he was in residence. Rodriguez stated he would be informed to expect someone and make them comfortable until either Sarah Kellen or Epstein would meet with them. Rodriguez stated once the masseuses would arrive, he would allow them entry into the kitchen area and offer them something to drink or eat. They would then be encountered by either Sarah Kellen or Epstein. They would be taken upstairs to provide the massage. I asked Rodriguez if any of the masseuses appeared young in age. Rodriguez stated the girls that would come appeared to be too young to be masseuses. He stated one time under Epstein's direction, he delivered a dozen roses to [redacted] for one of the girls that came to provide a massage. He knew the girls were still in high school and were of high school age. I asked Rodriguez about the massages. He felt there was a lot more going on than just massages. He would often clean Mr. Epstein's bedroom after the alleged massages and would discover massagers/vibrators and sex toys scattered on the floor. He also said he would wipe down the vibrators and sex toys and put them away in an armoire. He described the armoire as a small wood armoire which was on the wall close to Epstein's

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

bed. On one occasion Epstein ordered Rodriguez to go to the Dollar rent a car and rent a car for the same girl he brought the roses to, so that she could drive her self to Epstein's house without incident. Rodriguez said the girl always needed rides to and from the house.

Rodriguez produced a green folder which contained documents, and a note with Mr. Epstein's stationary with direction to deliver a bucket of roses to [redacted] after [redacted] high school drama performance. Also in that same note was direction to rent a car for [redacted] and direction to extend the rental contract.

During the course of the investigation, subpoenas were obtained for cell phone and home phone records from several victims and witnesses along with the cell phone records of Sarah Kellen. An analysis of these records was conducted which found numerous telephone calls were made between Sarah Kellen and the victims. These records indicate the dates the calls were made are consistent with the dates and times they victims/witnesses stated they were contacted. Specifically, The phone records showed Kellen called Haley Robson during the exact times and dates when victim [redacted] advised the incident occurred. Kellen also coordinated the encounters with [redacted] and [redacted] during the time frame the girls stated they occurred.

Pursuant to a lawful subpoena I obtained Epstein's private plane records for 2005 from Jet Aviation. The plane records show arrival and departure of Epstein's plane at Palm Beach International airport. These records were compared to the cell phone records of Sarah Kellen This comparison found that all the phone calls Kellen made to Robson and the victims were made in the days just prior to their arrival or during the time Epstein was in Palm Beach.

Therefore, as Jeffrey Epstein, who at the time of these incidents was fifty one years of age, did have vaginal intercourse either with his penis or digitally with [redacted], [redacted], [redacted] and [redacted] who were minors at the time this occurred, there is sufficient probable cause to charge Jeffrey Epstein with four counts of Unlawful Sexual Activity with a Minor, in violation of Florida State Statute 794.05(1), a second degree felony. As Epstein, who at the time of the incident was fifty two years of age, did use a vibrator on the external vaginal area of [redacted] a fourteen year old minor, there is sufficient probable cause to charge him with Lewd and Lascivious Molestation, in violation of Florida State Statute 800.04 (5), a second degree felony.

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

ARREST / NOTICE TO APPEAR
Juvenile Referral Report

1 Arrest 2 NTA 3 Request for Warrant 4 Request for Capia: 3

Juvenile:

ADMINISTRATIVE

OBTS Number:

Agency ORI Number: FL0 5 0 0 6 0 0

Agency Name: PALM BEACH POLICE DEPARTMENT

Agency Report Number (N.T.A.'s only): 7 6 - -

Charge Type (Check as many as apply): ☒ 1. Felony ☐ 2. Traffic Felony ☐ 3. Misdemeanor ☐ 4. Traffic Misdemeanor ☐ 5. Ordinance ☐ 6. Other ______

If Weapon Seized, Enter Type: ______

Multiple Clearance Indicator:

Location of Arrest (Including Name of Business):

Location of Offenses (Business Name, Address): 358 El Brillo Way Palm Beach FL

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle

DEFENDANT

Name (Last, First, Middle): Kellen Sarah Lynnelle

Alias (Name, DOB, Soc. Sec. #, Etc.):

Race (W - White, B - Black, I - American Indian, O - Oriental/Asian)	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
W	F	052979	508	120	HAZ	BRO		MED

Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description):

Marital Status: Religion:

Indication of: Alcohol Influence ☐ Y ☐ N ☐ Unk. Drug Influence ☐ Y ☐ N ☐ Unk.

Local Address (Street, Apt. Number) (City) (State) (Zip): Phone: ( )

Residence Type: 1. City 2. County 3. Florida 4. Out of State

Permanent Address (Street, Apt. Number): 1157 Madison Ave (City): NY (State): NY (Zip): 10028 Phone: ( )

Address Source:

Business Address (Name, Street) (City) (State) (Zip): Phone: ( )

Occupation: Assistant

D/L Number, State: 241534676 NY

Soc. Sec. Number: [redacted]

INS Number: Place of Birth (City, State): Citizenship:

CO-DEF.

Co-Defendant Name (Last, First, Middle): Race: Sex: Date of Birth: ☐ 1. Arrested ☐ 2. At Large ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

Co-Defendant Name (Last, First, Middle): Race: Sex: Date of Birth: ☐ 1. Arrested ☐ 2. At Large ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

JUVENILE

☐ Parent ☐ Legal Custodian ☐ Other: Name (Last) (First) (Middle) Residence Phone ( )

Address (Street, Apt. Number) (City) (State) (Zip) Business Phone ( )

TOT JAC: Date: Time:

The above address was provided by ☐ defendant and / or ☐ defendant's parents. The child and / or parent was told to keep the Juvenile Court Clerk's Office (Phone 355-2526) informed of any change of address. ☐ Yes, by: (Name) ☐ No: (Reason)

School Attended: Grade:

Property Crime? ☐ Yes ☐ No Description of Property: Value of Property:

CODE

Drug Activity: N. N/A, P. Possess, S. Sell, B. Buy, T. Traffic, R. Smuggle, D. Deliver, E. Use, K. Dispense/Distribute, M. Manufacture/Produce/Cultivate, Z. Other

Drug Type: N. N/A, A. Amphetamine, B. Barbiturate, C. Cocaine, E. Heroin, H. Hallucinogen, M. Marijuana, O. Opium/Deriv., P. Paraphernalia/Equipment, S. Synthetic, U. Unknown, Z. Other

CHARGE

Charge Description: [illegible] for Unlawful [illegible] Acts — Counts: 4 — Domestic Violence: ☐ Y ☒ N — Statute Violation Number: 796.05 (1) — Violation of ORD #:

Drug Activity: N — Drug Type: N — Amount / Unit: — Offense #: 05-868(2) — Warrant / Capias Number: — Bond:

CHARGE

Charge Description: [illegible] 1st [illegible] Lewd/Lascivious M[illegible] — Counts: 1 — Domestic Violence: ☐ Y ☐ N — Statute Violation Number: 800.04 (5) — Violation of ORD #:

Drug Activity: N — Drug Type: N — Amount / Unit: — Offense #: [illegible] 868(2) — Warrant / Capias Number: — Bond:

CHARGE

Charge Description: — Counts: — Domestic Violence: ☐ Y ☐ N — Statute Violation Number: — Violation of ORD #:

Drug Activity: — Drug Type: — Amount / Unit: — Offense #: — Warrant / Capias Number: — Bond:

CHARGE

Charge Description: — Counts: — Domestic Violence: ☐ Y ☐ N — Statute Violation Number: — Violation of ORD #:

Drug Activity: — Drug Type: — Amount / Unit: — Offense #: — Warrant / Capias Number: — Bond:

☐ Instruction No. 1 Mandatory Appearance in Court

☐ Instruction No. 2 You need not appear in Court but must comply with instructions on Reverse Side.

Location (Court, Room Number, Address):

Court Date and Time: Month Day Year Time A.M. P.M.

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

Signature of Defendant (or Juvenile and Parent / Custodian) ______ Date Signed ______

HOLD for other Agency Name:

Signature of Arresting Officer: x [signature]

Name Verification (Printed by Arrestee): (PRINT)

☐ Dangerous ☐ Resisted Arrest ☐ Suicidal ☐ Other: ______

Name of Arresting Officer (Print): Det. [illegible] Recarey I.D. #: 115

Intake Deputy I.D. # Pouch Transporting Officer I.D. # Agency

Witness here if subject signed with an "X".

PAGE ____ OF ____

DISTRIBUTION: WHITE — COURT COPY GREEN — STATE ATTORNEY YELLOW — AGENCY PINK — JAIL GOLD - DEFENDANT (N.T.A.'s ONLY)

[redacted]

Probable Cause Affidavit

Palm Beach Police Department

Agency ORI# FLO 500600

Police Case#: 05-368 (2)

Defendant: Sarah Kellen
Race/Sex: White Female
DOB: 05-25-1975
Charges: Principal in the 1st Unlawful Sexual Activity with a Minor (4) counts
Principal in the 1st Lewd and Lascivious Molestation (1) count

From March 15, 2005, through February 2006, the Palm Beach Police Department conducted a sexual battery investigation involving Jeffrey Epstein, Sarah Kellen and Haley Robson. Sworn taped statements were taken from five victims and seventeen witnesses concerning massages and unlawful sexual activity that took place at the residence of Jeffrey Epstein, 358 El Brillo Way, Palm Beach. Several of the victims were recruited by and brought to the residence by Haley Robson to perform massages for Epstein, for which Robson received monetary compensation. During the visit they would be introduced to Sarah Kellen, Epstein's assistant, who in turn would record their telephone numbers and name. The victims would be brought to Epstein's bedroom to provide the massage. Epstein would enter the room and order the victims to remove their clothing to provide the massage. As the victims complied and provided the massages, Epstein would rub his fingers on their vaginas. On occasion, Epstein would introduce a massager/vibrator and rub the victims vaginas as they provided the massage. On three separate occasions, Epstein had intercourse and inserted his penis/fingers in the victims vaginas. At the conclusion of the massages the victims were paid sums of money ranging from $200 - $1,000. The facts, as reported, are as follows:

On 03/15/2005, A fourteen year old white female, hereinafter referred to as '[redacted]' dob [redacted], and her family reported unlawful sexual activity which occurred at a residence within the Town of Palm Beach. [redacted] reported that a subject known to her as "Jeff" had touched her vaginal area with a vibrator/massager while within his residence. "Jeff" was later identified as Jeffrey Epstein through a photo line up.

During a sworn taped interview, [redacted] stated that Haley Robson, dob 04/09/1986, a cousin of [redacted] boyfriend and classmate at [redacted] worked for a wealthy man and did sexual favors for him. She also admitted that Robson had offered her an opportunity to make money. During the beginning of the month of February 2005, [redacted] explained that she was first approached by Robson to go with her to Epstein's house. [redacted] stated that Robson along with a Hispanic female, later identified at [redacted] pick her up at her father's house on a Sunday. [redacted] was not sure of the exact dates but knew it was a Sunday. [redacted] told her father that they were going shopping but in reality Robson drove them to Palm Beach. During the drive a

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

conversation occurred between Robson and [redacted] whereas Robson reportedly told [redacted] that if Jeff asked her age, she should say she was eighteen. It was later confirmed by the [redacted] father that Robson picked his daughter up on February 6, 2005. According to [redacted] father, Robson drove a pick up truck.

[redacted] described Epstein's house as a two-story pink house with a Cadillac Escalade parked in the driveway. She recalled that Jeff's house was on a dead end street. Upon arriving at the house [redacted] stated that they walked up a driveway, past what appeared to be a small guard/security room. A male approaching them asking what they wanted. Robson stated they were there to see Epstein. The male allowed them to continue walking up to the house. [redacted] stated the man told them that Epstein was not there but was expected back. He allowed them to enter the house, via the kitchen. He offered them something to drink while they waited inside. Shortly thereafter, Epstein and his assistant, described as white female with blond hair and later identified as Sarah Kellen, entered the kitchen. Epstein introduced himself to [redacted]. [redacted] described Epstein as being approximately forty-five years old, having a long face and bushy eyebrows, with graying hair.

Robson and Epstein left the kitchen leaving [redacted] alone in the kitchen. They returned a short time later. They all spoke briefly in the kitchen. [redacted] was instructed to follow Kellen upstairs. [redacted] recalled walking up a flight of stairs, lined with photographs, to a room that had a massage table in it. Upon entering the room there was a large bathroom to the right and a hot pink and green sofa in the room. There was a door on each side of the sofa. [redacted] recalled there being a mural of a naked woman in the room, as well as several photographs of naked women on a shelf. Kellen told the victim that Epstein would be up in a second.

Epstein entered the room wearing only a towel and told [redacted] to take off her clothes. [redacted] stated Epstein was stern when he told her to take off her clothes. [redacted] said she did not know what to do as she was the only one there in the room so she took off her shirt leaving her bra on. Epstein had removed his towel and told the [redacted] to take off everything. [redacted] stated Epstein was nude when he took his towel off, placing it on the floor as he laid down on the table. [redacted] stated she then removed her pants leaving her thong panties on. Epstein then instructed her to give him a massage pointing to a specific lotion for her to use. As [redacted] began to give Epstein the massage, he told her to get on his back. [redacted] stated she straddled herself on Epstein's back whereby her exposed buttocks were touching Epstein's bare buttocks. [redacted] said Epstein was specific in his instruction to her on how to massage him, telling her to go clockwise or counter clockwise. Epstein then turned over and instructed [redacted] to massage his chest. [redacted] was now standing on the ground and resumed massaging Epstein's chest area. [redacted] stated Epstein held onto the small of her back as she massaged his chest and shoulder area. Epstein then turned to his side and started to rub his penis in an up and down motion. Epstein then pulled out a purple vibrator and began to

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

massage [redacted] vaginal area. [redacted] stated there was no penetration as the vibrator was on top of her underwear. [redacted] recalled Epstein ejaculating because he had to use the towel to wipe himself as he got off the table. Epstein then left the room and [redacted] got dressed. She went back downstairs where she met with Robson. [redacted] said she was paid three hundred dollars in cash from Epstein. Before she left, Epstein asked [redacted] to leave her phone number. As [redacted], Robson and [redacted] were leaving the house, Robson told [redacted] she received two hundred dollars that day for bringing her.

During the course of the investigation, parental consent was granted for [redacted] to assist with the investigation. At our direction [redacted] conducted controlled taped phone calls to Robson's cellular telephone 561-308-0282. [redacted] spoke with Robson in an attempt to arrange another meeting with Epstein. [redacted] asked Robson, what did she need to do to make more money. Robson stated, "the more you do, the more you get paid." Robson had subsequently called back [redacted] and left a voice mail message for her indicating that she had set up an appointment for [redacted] to go to Epstein's house at 11:00 am on April 5, 2005. This message was recorded from [redacted] voice mail.

Based on the above, trash pulls were established at Epstein's residence with Supervisor Tony Higgins of the Sanitation Bureau of the Town of Palm Beach. The trash pull from April 5, 2005 revealed a telephone message for Epstein which stated Haley and [redacted] name at 11:00 am. This was the time frame Robson had informed [redacted] to be ready to go work at Epstein's house.

On October 3, 2005, Sgt Frick and I went to Robson's residence and viewed her vehicle parked in the driveway, a red Dodge Neon. Sgt. Frick and I knocked on the door and met with Haley Robson. Robson was told that we were investigating a claim involving Jeffrey Epstein of El Brillo Way, in Palm Beach. Robson was asked if she would accompany us back to the police station for further questioning. She was also told that at the conclusion of the interview she would be returned home. Robson voluntarily came with us back to the Palm Beach Police Department.

Upon our arrival at the police station, Robson was brought to the interview room in the Detective Bureau where I obtained a taped, sworn statement. I began the interview by asking Robson how she became acquainted with Epstein. Robson stated that approximately two years ago, just after she turned 17 years of age, she was approached by a friend named Molly at the Canopy Beach Resort in Rivera Beach. Robson was asked if she wanted to make money. She was told she would have to provide a massage and should make $200.00. Robson thought about the offer and agreed to meet with Jeffrey.

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

Molly (Unknown last name) and Tony (Unknown last name) picked Robson up and she was taken to Epstein's house. Upon her arrival to the house she was introduced to Epstein in the kitchen of the house. She was also introduced to a white female known to her as Sarah. She was led upstairs to the main bedroom known to her as Jeff Epstein's bedroom. Sarah arranged the massage table and covered the table with a sheet. She brought out the massage oils and laid them next to the massage bed. Sarah, then left the room and informed Robson Jeff would be in, in a minute. Jeff entered the bedroom wearing only a towel. He removed the towel and laid nude on the massage table. He laid on the table onto his stomach and picked a massage oil for Robson to rub on him. During the massage, Robson stated "He tried to touch me and I stopped him." I asked how he tried to touch her. Robson stated that Epstein grabbed her buttocks and she felt uncomfortable. Robson told Epstein, I'll massage you but I don't want to be touched. Robson stated she performed the massage naked. At the conclusion of the massage, Epstein paid Robson $200.

After the massage Epstein stated to Robson that he understood she was not comfortable, but he would pay her if she brought over some girls. He told her the younger the better. Robson stated she once tried to bring a 23 year old female and Epstein stated that the female was too old. Robson stated that in total she only remembers six girls that she brought to see Epstein, each time she was paid $200. Robson stated she had brought the following girls: [redacted], [redacted], [redacted], [redacted], [redacted] (a16 year old female), [redacted] (a 16 year old female) and [redacted] Robson said that at the time she brought these girls to Epstein's house they were all14 through 16 years of age. I asked Robson which one was the youngest. Robson advised [redacted] was the youngest as she was fourteen when the massage occurred. Robson stated every girl she brought knew what to expect when they arrived. They were told they would provide a massage, possibly naked, and allow some touching. I asked her if [redacted] was aware. She stated every girl she brought knew what to expect. She explained she knew that [redacted] wanted to make money. She approached [redacted] and explained about going to work for Jeff, [redacted] agreed and arrangements were made to bring her to Epstein's house on a weekend. Robson stated that she and [redacted] (Later identified as [redacted] picked up [redacted] at her house. Robson stated that at that time she was driving a red pickup truck. They traveled to Epstein's house and entered through the kitchen door. They met with the house chef and Epstein's assistant Sarah. [redacted] was introduced to Epstein while they were in the kitchen area. Sarah led [redacted] upstairs and Epstein went upstairs. When the massage was over [redacted] returned to the kitchen area. Robson stated she was paid $200.00 for bringing [redacted] to Epstein's house. Robson stated [redacted] told her she was paid $300.00 for the massage.

Robson stated that [redacted] was the last person she brought to Epstein's house. She had changed her cellular number to avoid being contacted by Sarah. She continued stating that she had no direct contact with Epstein

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

when he was going to travel to Palm Beach. Robson said when Epstein announces to his assistant, Sarah, that he is traveling to Palm Beach, Sarah would then contact Robson to arrange girls to "work" for Epstein. Robson stated that once her parents discovered that she was visiting Epstein, they disapproved of the encounters with him and she stopped. Robson further stated that Sarah still tries to call Robson's house and leaves messages.

Sgt Frick entered the room and explained to Robson that based on her own statements, she had implicated herself by bringing underage girls to Epstein's house. Robson provided cellular telephone numbers for the girls she had mentioned previously. Additionally, she also provided possible addresses and areas in which they lived.

As Robson was being taken home in the vehicle, a tape recorder was placed within the vehicle to record any conversations within the vehicle. During the drive back to her home, Robson made the comment " I'm like a Heidi Fleiss." (Hollywood Madam who sent girls to clients for sexual favors in California). Robson was dropped off at her house without incident.

On October 3, 2005, Sgt Frick and I went to speak with [redacted] a sixteen year-old female who was brought to Epstein's residence by Haley Robson. We met with [redacted] mother at their front door. We explained the ongoing investigation and asked to speak with [redacted] as we had information that she had "worked" for Jeff. Mrs. [redacted] introduced us to her husband and allowed us entry into the home. We sat in the dining room and met with [redacted], Date of Birth [redacted] As she was under the age of eighteen, Mrs [redacted] was advised we would be speaking with her. She expressed if her daughter had information, she wanted to assist. We interviewed [redacted] who denied having any inappropriate encounters with Jeff (Epstein). She stated she had gone to Jeff's house with Haley Robson approximately eight months ago and sat in the kitchen with the house chef, but nothing happened. As the parents were present during the interview, we felt that [redacted] was withholding information from us. She made several comments as to putting the entire incident behind her. I left my telephone number and advised should she wish to speak with me again to telephone me. Sgt Frick and I thanked Mrs. [redacted] for her time and left the area. She stated she would ask [redacted] again after we left as to what happened at Epstein's house. I informed her that [redacted] had my telephone number and hopefully she would call.

On October 4, 2005, Det Dawson and I drove to the [redacted] home and met with [redacted] and [redacted], dob [redacted]. During a sworn taped statement, [redacted] stated approximately a year ago when she was seventeen years old, she was taken to a house by Haley Robson. [redacted] stated she knows Robson because they both attend [redacted]. She was told she could make money working

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

for Jeff. She was told she would have to provide a massage to Jeff. [redacted] stated upon her arrival to the house she was brought to the kitchen area by Robson. They met with the house chef who was already in the kitchen area. [redacted] stated Haley Robson would wait for her in the kitchen. [redacted] was introduced to Sarah, Jeff's assistant, who brought her upstairs to the master bedroom. Sarah prepared the room and massage table for a massage. Epstein entered the room wearing only a towel and she provided a massage. [redacted] stated she kept her clothes on during the massage. She advised sometime during the massage, Epstein grabbed her buttocks and pulled her close to him. [redacted] said she was uncomfortable by the incident involving Jeff. At the conclusion of the massage, she was paid $200.00 for the massage. I asked [redacted] if she has any formal training in massages to which she replied no. I asked her if Robson received any monies for taking her to perform the massage. [redacted] stated Robson had received money for taking her there but was unsure in the amount. [redacted] stated she returned to Epstein's house on another occasion with Robson and another girl, [redacted] stated she waited in the kitchen with Robson, while [redacted] was taken upstairs by Sarah. [redacted] stated she only did the massage once as she was uncomfortable with the whole experience.

At the conclusion of the interview, the tape was stopped. I was informed that Sarah had attempted to reach [redacted] via cell phone. A voice mail message on October 4, 2005 at 10:59 am, revealed a female voice who identified herself as Sarah who requested [redacted] to call her back reference the police questioning. [redacted] provided the incoming telephone number as 917-855-3363. [redacted] stated she inadvertently told [redacted] about the police investigation because [redacted] had called her to tell her about how she just received a rental car from Jeff Epstein. [redacted] had called her to tell her that she was given a rental car, a 2005 Silver Nissan Sentra, to utilize to visit family and visit Epstein. [redacted] asked her what was going on at the house that the police would be asking questions. [redacted] stated [redacted] then called Jeff and Sarah and asked what was going on reference the ongoing police investigation. According to [redacted] Sarah has since then been trying to contact her to ask about the police questions. I instructed [redacted] not to contact Sarah and do not provide any more information to [redacted] as she would notify Jeff Epstein and Sarah what was transpiring.

On October4, 2005, I made telephone contact with [redacted] who had left several messages for me to contact her. During the message, she advised she was not completely truthful when we met in person but would like to speak with me to advise what had happened. She further advised she did not want to speak of this incident in front of her mother. At approximately 3:48 pm I made telephone contact with [redacted] During a taped recorded statement [redacted] stated the following: approximately a year ago, when she was sixteen years of age, Robson took her to Epstein's house twice. She knows Robson because they both attend [redacted] The first time she went, Haley Robson drove to the house. They entered through the kitchen area where she was

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

introduced to Sarah and Epstein. She was taken upstairs to a bedroom by Sarah who set the room up with a massage bed and brought out the oils to use. Epstein then entered the room wearing a towel. He laid on the table and picked out a lotion for [redacted] to rub on him. At one point during the massage he tried to remove her shirt, at which point she became very upset and discontinued the massage. Both [redacted] and Epstein had a verbal disagreement, at which time she left without being paid. She got with Haley Robson who was sitting in the kitchen and told her "let's go." [redacted] advised she received no money for that day. [redacted] also said that Haley Robson had told her if she was uncomfortable with what was going on, to let him know and he'll stop. She knew that the more you do the more you get paid. [redacted] advised that several weeks later she agreed to be taken a second time by Haley Robson. Once they arrived at the residence, Haley Robson sat in the kitchen and Sarah took her upstairs to the master bedroom again. Sarah set the room up with a massage bed and brought out the oils to use. Epstein then entered the room wearing a towel. He laid on the table and picked out a lotion for [redacted] to rub on him. At one point during the massage he tried to touch her buttocks. As [redacted] was wearing tight jeans and had a tight belt on Epstein was unable to touch her buttocks. Epstein then rolled onto his back during the massage and then attempted to touch her breasts. [redacted] then became upset again and told Epstein she didn't want to be touched. [redacted] discontinued the massage and was paid $200.00. [redacted] then went downstairs where Haley Robson was waiting for her. She told Robson she wanted to leave. [redacted] said she never returned to the house. [redacted] stated she is aware that her friend, [redacted] was also at the house and had a problem with Epstein.

I later researched [redacted] dob [redacted] and met with her at her residence. During a sworn taped statement, [redacted] stated the following: on or about November 2004, she was approached at [redacted] by Haley Robson, a fellow student. Robson asked [redacted] if she wanted to make money. She agreed and was told she would provide a massage to wealthy man in Palm Beach. Robson picked her up and drove her to a house in Palm Beach. She was brought into the kitchen area of the house. She further stated that fellow [redacted] students [redacted] and [redacted] came with them. They were brought into the kitchen where she was introduced to Epstein and other females. [redacted] stated she was introduced to a female helper of Epstein, the female was described as white female (unknown name), with blond hair. She stated that the assistant was familiar with Robson. The assistant brought her upstairs into a master bedroom area. The assistant set up the massage table and put out lotions to be used. She told [redacted] Epstein would be available in a minute. Epstein entered the room wearing only a towel. Epstein removed his towel, and laid naked on the massage table and picked a lotion to rub on his thighs and back. [redacted] further stated during the massage, Epstein asked her to remove her clothes. She complied and removed her pants and blouse. [redacted] didn't remember if she had removed her bra but feels that she did. [redacted] was certain that she stayed in her thong underwear. [redacted] continued the massage and at one point she climbed onto the massage

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

table, straddling Epstein to massage his back. While doing this her buttocks were touching Epsteins. [redacted] was instructed to return to the ground at which time Epstein turned to have his chest rubbed. [redacted] advised she was sure he was masturbating based on his hand movements going up and down on his penis area. [redacted] did not want to look at his penis area because she was uncomfortable. Epstein removed a large white vibrator which was next to the massage table and turned it on. [redacted] stated Epstein began rubbing the vibrator over her thong underwear on her vaginal area. Shortly thereafter, Epstein ejaculated and removed himself from the table. He walked over to where the shower was and opened the glass door. She waited as he was taking a shower in her direct view. When I asked [redacted] how old she was when this occurred, she stated she had just turned seventeen. At the conclusion of the shower, [redacted] was paid either $350.00 or $400.00. She stated she wasn't sure, but knows it was close to $400.00. [redacted] stated she never returned to provide a massage for Epstein.

At approximately 2:10 pm, Det Dawson and I met with [redacted], dob [redacted], at her residence. As [redacted] was only seventeen years of age, I had notified her mother, that she would be interviewed reference an ongoing investigation in Palm Beach. I assured her that her daughter was not a suspect. I explained the possibility of her being either a witness or victim. Mrs [redacted] advised she wanted [redacted] to cooperate and consented to the interview.

During a sworn taped statement, [redacted] stated the following: at the age of sixteen, during the month of September 2004, she was approached by Haley Robson for a chance to make money. [redacted] was friends with associates of Robson and knew the same people. [redacted] had been previously told by her friends from [redacted] what Robson did for Epstein. Robson called a person known to [redacted] as Sarah and scheduled the appointment. Robson picked [redacted] up and drove her to Palm Beach to a street called "Brillo Way". They drove to the end of the street and entered a large driveway. They entered the kitchen area of the house and met with Epstein. [redacted] was introduced to Jeff Epstein. Robson led [redacted] upstairs to the main bedroom area and set up the room with a massage table and set out the oils. [redacted] stated that while going up the stairs and into the bedroom she observed numerous photographs of naked young girls. Robson dimmed the lights and turned on soft music. Robson exited the room and Epstein entered the room wearing only a towel. Epstein picked oils and instructed her to rub his legs, under his buttocks, back and chest area. Epstein asked her to get comfortable. [redacted] advised she did not remove her clothes. She was wearing tight jeans and a cropped tank top exposing her belly area. During the massage, Epstein removed his towel and laid on the massage table naked. As [redacted] rubbed Epstein's chest area, he attempted to reach down her pants to touch her buttocks area however was unable to due so due to the tightness of the jeans and a tight belt. [redacted] advised Epstein began to masturbate as she rubbed his chest. Epstein moaned as she rubbed his chest. She observed he was continuing to masturbate and

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature Arresting Officer

Date: 05/01/2006

attempted to reach up her tank top and touch her breasts. [redacted] pulled back and Epstein stopped, however he kept masturbating until he climaxed. He cleaned himself with the towel he was previously wearing. [redacted] was paid $200.00 for the massage and left the area. She met with Robson who was waiting in the kitchen area and left the house.

[redacted] then explained she never provided another massage for Epstein. She did however, go to the house with Robson and [redacted] ([redacted] as they took another friend of Robson's. [redacted] advised she was present when [redacted] went to work for Epstein. She advised she rode over and sat in the kitchen area with Robson to wait for [redacted] [redacted] advised while they waited for [redacted] the house chef prepared lunch for them as it was almost lunchtime when they went. When [redacted] was finished with the massage they left the area. I asked [redacted] if Robson ever told her what would be expected when she provided a massage. [redacted] stated yes, Robson told her that a massage would be expected, possibly naked and possibly some touching involved. [redacted] has no formal training in providing massages. [redacted] spoke about a third and last time she went to Epstein's house. Robson drove another girl, [redacted] (sixteen years of age) who is [redacted] friend, to Epstein's house. [redacted] stated [redacted] knew that [redacted] had made money massaging Epstein and wanted to make money herself. Robson took them in the kitchen area of the house and introduced [redacted] to Sarah. Robson and Sarah took [redacted] upstairs to the main bedroom. [redacted] advised she doesn't know what happened as [redacted] did not speak about what happened in the room. [redacted] received $100.00 from Robson for going with her to Epstein's house and recommending [redacted]

On October 6, 2005, at 11:45 am, I met with [redacted] dob [redacted], at [redacted] and explained to her why we there to interview her. She advised she was aware of the ongoing investigation. [redacted] stated she had previously spoken with [redacted] who told her she was interviewed by detectives. During a sworn taped statement, [redacted] stated she knew that Haley Robson worked for Jeff Epstein in Palm Beach. [redacted] advised she originally had been taken to the Epstein house by Haley Robson, whom she met when they both attended [redacted] She began going to the house when she was sixteen years of age and stated she had been there a lot of times to provide massages over the past two years. I asked her if she had formal training in providing massages, which [redacted] stated she had not. [redacted] advised she was told what was expected of her by providing massages and she would have to remove clothing but if she felt uncomfortable just to say so and Epstein would stop pushing the issue. [redacted] began providing massages and advised she kept her clothes on. She considered Epstein a pervert and he kept pushing to go further and further. [redacted] explained she would keep telling him she had a boyfriend and would not be right to her boyfriend. It wasn't until recently that [redacted] began removing her clothes and staying in her thong underwear to provide a massage. [redacted] explained

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

Epstein wanted to be rubbed on his back and recently he began turning over and have her rub his chest as he masturbated. He would try to touch her breasts as she rubbed his chest. [redacted] stated "Jeff would try to get away with more and more on each massage". [redacted] stated Epstein would try to touch her more and on one occasion he attempted to use a massager/vibrator on her. Robson drove [redacted] to the house for the original massage. [redacted] left Sarah her cell phone number and every time Epstein would come into town, Sarah would call her for an appointment to "work". Each time she went, Sarah would meet her at the kitchen door area. She would bring her upstairs and prepare the massage table. [redacted] advised Epstein would ask her questions about herself. Epstein knew she was a soccer player and would be attending [redacted]. I asked [redacted] if Epstein knew her real age. [redacted] stated Epstein did and didn't care. The most recent massage she provided was on October 1, 2005. During the massage, she asked Epstein if she could borrow one of his vehicles to visit her family and boyfriend in Orlando, Florida. Epstein had told her she could borrow one of his vehicles but later stated he would rent her a car. She continued with the massage as Epstein grabbed her buttocks and caressed the buttocks cheeks. I asked [redacted] if she was wearing undergarments to which she replied her thong underwear. Once he tried to touch her breasts, she would pull away from him and he would stop. [redacted] was asked if he ever used a vibrator on her. [redacted] was aware of the vibrator but advised she never would allow him to use the vibrator on her. She described the vibrator as the large white vibrator with a huge head on the tip of the vibrator. She stated he kept the vibrator in a closet near the massage table.

[redacted] stated that on October 3, 2005, she was contacted by Epstein's assistant, Sarah, who informed her that Jeff Epstein had rented her a new Nissan Sentra and she should come by the house to pick it up. Sarah informed [redacted] she would have the car for a month. [redacted] stated Epstein knew her car was not working properly and that she had missed appointments in the past because of her car being inoperable. [redacted] explained the car is currently parked next to the [redacted] Gym field. I asked her if she ever took any one to the house. [redacted] explained she took [redacted], a friend of hers who attended [redacted], who has relocated to Orlando to attend college. I asked if she ever allowed another female in the room. [redacted] advised no one was brought into the room with her.

At the conclusion of the interview, Det Dawson and I went to the gym area of [redacted] and located the Silver Nissan Sentra bearing Florida tag X98-APM . The vehicle is registered to Dollar Rent a Car out of the Palm Beach International Airport. The vehicle was rented by Janusz Banasiack, later learned to be Epstein's houseman, and paid with Epstein's credit card.

On September 11, 2005, w/f [redacted], dob [redacted], was arrested by the Palm Beach Police Department

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

for misdemeanor possession of marijuana. During the arrest [redacted] told the arresting officer that she had information about sexual activity taking place at the residence of Jeffrey Epstein. Additionally, during the ongoing trash pulls from Epstein's residence, discarded papers were found which contained [redacted] name and cell phone number.

On October, 11, 2005, Det Dawson and I met with [redacted] and obtained a sworn taped statement. [redacted] explained she had been going to Epstein's house since 2002, when she was sixteen years of age. Since then she has gone to the house hundreds of times. [redacted] stated she became his "number one girl." She explained that on her first visit she was brought to the house by fellow [redacted] classmate, [redacted] said she was brought through the kitchen area where she met Sarah Kellen. for the first time. [redacted] was led to the master bedroom, Epstein s room. [redacted] explained that as she was walking up the stairs she observed several photographs of naked women along the walls and tables of the house. [redacted] further explained that she was brought into the bedroom, where Sarah prepared the room by setting up the massage table and provided the oils for her to rub on Epstein. [redacted] explained she remembered the steam room area, which contained two large showers. Epstein entered the room from the steam room area and introduced himself. Epstein lay on the table and told her to get comfortable. [redacted] removed her skirt and kept her shirt on. Epstein then instructed her to remove her shirt. [redacted] removed her shirt and remembered she was not wearing a bra. [redacted] stated she provided the massage wearing only her panties. She continued rubbing his legs, thighs and feet. [redacted] advised he turned over onto his back. Epstein touched her breasts and began to masturbate. Epstein ejaculated which meant the massage was over. At the conclusion of the massage, [redacted] was paid $200.00. They walked together downstairs where Sarah Kellen and [redacted] were waiting. [redacted] stated [redacted] received an unknown amount of money for taking her to Epstein. Epstein instructed to leave her cellular telephone number so that he could contact her when he is in town.

[redacted] stated that during her many visits a routine was established between her and Epstein. She would enter the house and get naked in the bedroom. She would then start with a back massage. Epstein would roll on to his back and allow her to massage his chest area. [redacted] stated Epstein would then began to masturbate himself and at the same time would insert his fingers in her vagina and masturbate her with his fingers. [redacted] explained Epstein would continue this process until he ejaculated. He would then utilize a vibrator/massager on her vagina until [redacted] climaxed. [redacted] advised that during her frequent visits, Epstein asked for her real age, [redacted] stated she was sixteen. Epstein advised her not to tell anyone her real age. [redacted] advised that things escalated within the home as Epstein would instruct and pay [redacted] to have intercourse with his female friend, Nada Marcinkova. [redacted] explained the intercourse included using strap on dildos, large rubber penis' and other devices that Epstein had at his disposal. Epstein would watch them have intercourse and masturbate himself . Occasionally, Epstein would then join in

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

during the female on female intercourse and provide oral sex to both [redacted] and Marcinkova. This occurred during the time [redacted] was sixteen years of age.

[redacted] advised this continued to escalate during two years. The routine became familiar to [redacted] Epstein's assistant Sarah would telephone her every time Epstein was in the Town of Palm Beach and would place appointments for her to visit and work for Epstein. Each time something new was introduced, additional monies were produced and offered for [redacted] to allow the acts to happen. [redacted] consented to perform all these acts but was adamant that there was an understanding with Epstein that no vaginal penetration would occur with his penis. [redacted] explained that Epstein's penis was deformed. [redacted] explained that his penis was oval shaped. [redacted] claimed when Epstein's penis was erect, it was thick toward the bottom but was thin and small toward the head portion. [redacted] called Epstein's penis "egg-shaped." [redacted] stated Epstein would photograph Marcinkova and her naked and having sex and proudly display the photographs within the home. [redacted] stated during one visit to Epstein's house in which she provided a massage to Epstein, his female friend, Nada Marcinkova, was also present. [redacted] provided the massage in which Marcinkova and her would fondle each others breasts and kiss for Epstein to enjoy. Towards the end of this massage, Epstein grabbed [redacted] and turned her over onto her stomach on the massage table and forcibly inserted his penis into her vagina. [redacted] stated Epstein began to pump his penis in her vagina. [redacted] became upset over this. She said her head was being held against the table forcibly, as he continued to pump inside her. She screamed "No!" and Epstein stopped. She told him that she did not want to have his penis inside of her. Epstein did not ejaculate inside of her and apologized for his actions and subsequently paid her a thousand dollars for that visit. [redacted] stated she knows he still displays her photographs through out the house.

On October 12, 2005, Det Dawson and I met with [redacted], dob [redacted], who stated during a sworn taped statement, that nothing happened between her and Epstein. [redacted] appeared nervous during the interview. I assured her that I have spoken with other people who advised differently. [redacted] stated on several occasions she provided a massage to Epstein. She stated she was brought to the Epstein house in March of 2005. [redacted], a classmate at [redacted], approached her and asked her if she wanted to "work". [redacted] made the arrangements with Sarah, Epstein's assistant. [redacted] who has no formal training in providing massages, stated she provided a massage, fully clothed for $200.00 . As I sensed hesitancy in her answers, I asked [redacted] if she had been contacted by anyone from Epstein's organizations or his house. [redacted] stated she was interviewed already by a private investigator for Epstein. He identified himself as "Paul" and inquired about the police investigation, and left his telephone number 305-710-5165 for additional contact. [redacted] provided no additional information, as it appeared her responses were almost scripted.

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

Probable Cause Affidavit

Palm Beach Police Department

Agency ORI# FLO 500600

On November 6, 2005, at approximately 3:30 pm, I met with [redacted] dob [redacted], at the Palm Beach Police Department. [redacted] was identified as a potential witness/victim through information obtained during the trash pulls. During the sworn taped statement, [redacted] advised she was at Jeffrey Epstein's house one time, approximately two months ago. She was approached by a girl, [redacted], who was dating [redacted] roommate, for an opportunity to make some quick money. [redacted] advised she needed to make some quick cash to make the rent that month. She agreed to go to the house. She had been told by [redacted] that the massage would have to be done in her underwear. She advised [redacted] drove with her and brought her into the house. They walked into the kitchen area, and took the stairs upstairs. [redacted] further stated she was brought into a master bedroom area. She advised she recalled seeing portraits of naked women throughout the room. A massage table was already out near the sauna/shower area in the master bedroom. Epstein entered the room wearing only a towel and introduced himself as "Jeff." At Epstein's direction, [redacted] and [redacted] removed their clothing down to their panties, Epstein laid on his stomach area and they provided a massage on his legs and feet area. I asked [redacted] if she had any formal massage training and she replied "no." [redacted] advised she was topless and the panties she wore were the boy shorts lace panties. She and [redacted] continued the massage until the last ten minutes of the massage, Epstein, told [redacted] to leave the room so that [redacted] could finish the massage. [redacted] got dressed, and left the room as Epstein turned over onto his back. Epstein then removed the towel and laid naked . Epstein requested that [redacted] rub his chest area. [redacted] stated as she did this, Epstein, began masturbating. [redacted] stated Epstein pulled down her boy short panties, and he produced a large white vibrator with a large head. She stated it was within his reach in a drawer in his master bathroom. He rubbed the vibrator on her vaginal area. [redacted] advised he never penetrated her vagina with the vibrator. He continued to rub her vagina with the vibrator as he continued to masturbate. [redacted] stated she was very uncomfortable during the incident but knew it was almost over. Epstein climaxed and started to remove himself from the table. He wiped himself with the towel he had on previously and went into the shower area. [redacted] got dressed and met with [redacted] in the kitchen area. Epstein came into the kitchen and provided [redacted] $200.00 for bringing [redacted] and paid $200.00 to [redacted] for providing the massage. [redacted] was told to leave her telephone number with Sarah for future contact. [redacted] provided her cellular telephone number. [redacted] was asked if she was recently contacted about this investigation by anyone from the Epstein organization. She replied she was called but it was for work. She stated she was called by Sarah for her to return to "work" for Epstein. [redacted] stated "work" is the term used by Sarah to provide the massages and other things. [redacted] advised she declined as she was not comfortable in providing that type of "work."

On November 7, 2005, Det Sandman and I met with [redacted] dob [redacted] During a sworn taped statement, [redacted] stated she met Jeffrey Epstein through Haley Robson when they were still

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

attending [redacted] Robson would approach females who wished to work for Epstein. [redacted] stated she was offered to work for Epstein but declined. [redacted] explained that "work" means give massages. She was asked about any formal training in providing massages which she said "no." [redacted] said she accompanied Robson and other females who were taken to Epstein's house to provide massages. [redacted] further stated she had been to the house approximately 4 or 5 times in the past year. She accompanied Robson with [redacted] and [redacted]. Each time the girls were taken over, they were previously told they would have to provide a massage, possibly naked. They were also told that should Epstein require them to do anything extra, and they were not comfortable just to tell him and he would stop. [redacted] stated Robson received $200.00 for each girl she brought over to massage Jeffrey Epstein. When I asked which girl appeared to be the youngest, she replied, [redacted] who was really young, fifteen years old at the most. [redacted] further stated each time she went to the house, she sat in the kitchen and waited with Robson until the massage was over. She further stated that the cook would make lunch or a snack for them as they waited. I asked her if there was anything that caught her attention within the home. [redacted] stated there were a lot of naked girls in photographs throughout the house.

On November 8, 2005, at approximately 2:00pm , I met with [redacted], dob [redacted] at the Palm Beach Police Department. During a sworn taped statement, [redacted] stated she had met Epstein approximately two years ago when she was first approached by Haley Robson, a classmate at [redacted] Robson approached her about working for Epstein and providing a massage to him for $200.00. Robson had made the arrangements however was unable to take her the day the arrangements were made. Robson had [redacted] take [redacted] also attended [redacted] and was familiar with Epstein. [redacted] recalled she was brought there and entered through the back kitchen door. She had met with an assistant Sarah and another assistant Adrianna. Sarah brought her upstairs as she observed several photographs of naked females throughout the house. [redacted] stated Epstein came in the room, wearing only a towel, and laid on the table. [redacted] stated he picked out the oils he wanted her to use and requested she remove her clothing to provide the massage. [redacted] stated that on the first massage she provided she did not remove her clothing. [redacted] stated she had returned several times after that. Each time she returned it was more than a massage. Epstein would walk into the master bedroom/bathroom area wearing only a towel. He would masturbate as she provided a massage. [redacted] stated she was unsure if he climaxed as he masturbated under the towel. Additionally, she never looked below his waist. She claimed that Epstein would convince her to remove her clothes. She eventually removed her clothes and stayed in her thong panties. On occasion, Epstein would use a massager/vibrator, which she described as white in color and a large head. Epstein would rub the vibrator/massager on her vaginal area as he would masturbate. [redacted] stated she had been to the house

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

numerous times. [redacted] added she has no formal training in providing a massage. [redacted] stated she brought two females during her visits to provide massages. [redacted] stated she brought a girl named [redacted] and [redacted] from [redacted] stated she received $200.00 for each girl she brought.

On November 8, 2005, I met with [redacted] W/F, [redacted] at the Palm Beach Police Department. During a sworn taped statement, [redacted] stated she had met Jeffrey Epstein approximately one year ago. She was approached by a subject known to her as [redacted] had asked her if she wanted to make money providing massages to Epstein. [redacted] had heard that several girls from [redacted] were doing this and making money. She agreed and was taken to the house by [redacted] had introduced her to Sarah and Epstein and brought her upstairs to a master bedroom where a massage table was prepared and the proper oils were selected. [redacted] left the room and waited downstairs for her. [redacted] stated Epstein entered the room wearing a towel and laid on his stomach. She provided a massage wearing only her thong panties. [redacted] advised Epstein had masturbated every time she provided a massage. She stated Epstein continued to masturbate until he climaxed. Once that occurred the massage was over. She felt the whole situation was weird but she advised she was paid $200.00 for providing the massage. She also stated [redacted] was paid $200.00 by Epstein for bringing [redacted] stated she had gone a total of 15 times to Epstein's residence to provide a massage and things had escalated from just providing a massage. Epstein began touching her on her buttocks and grabbed her closer to him as he masturbated. Epstein also grabbed her breasts and fondled her breasts with his hands as she provided the massage. [redacted] stated on one occasion, while she was only seventeen years of age, he offered extra monies to have vaginal intercourse. She stated this all occurred on the massage table. [redacted] stated Epstein penetrated her vagina with his penis and began having intercourse with her until he reached the point of climax. Epstein removed his penis from her vagina and climaxed onto the massage table. [redacted] received $350.00 for her massage. I asked her if she had any formal training in providing massages, [redacted] stated she did not. [redacted] continued to state on one other occasion, Epstein introduced his girlfriend, Nadia, into the massage. Nadia was brought into room with [redacted] to provide a massage. Epstein had them kiss and fondle each other around the breasts and buttocks as they provided a massage to Epstein. Epstein, watched and masturbated as this occurred. On other occasions, Epstein, introduced the large white vibrator/massager in the massage. Epstein stroked the vibrator/massager on [redacted] vagina as she provided the massage.

On November 14, 2005, Det Sandman and I met with [redacted] dob [redacted] During a sworn taped statement she advised she started going to the house approximately one year ago and has been there approximately five or six times. [redacted] also stated she was sixteen years old when she first went to Epstein's house. On her first visit she was brought by a fellow student from [redacted] known to her

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

as [redacted] Esposito stated [redacted] brought her into the house and she was introduced to Sarah. Sarah then brought her upstairs into a master bathroom, located within the bedroom. [redacted] stated she met Epstein in the bathroom. He laid on the table and picked the massage oils. She provided the massage as he laid naked on the massage bed. She stated she rubbed his calves and back area. Upon the end of the massage, Epstein removed himself from the massage table and paid her $300.00 for the massage. [redacted] said each subsequent time she went to the house, she was notified by Sarah Kellen that Epstein was in town and would like her to "work". [redacted] stated she returned to the house and was again led upstairs by Sarah. She provided the massage, clothed. [redacted] was asked if she ever removed her clothing to provide a massage. [redacted] stated it was not until the third time that she went that she removed her clothing. [redacted] stated she was notified by Sarah that Epstein wanted her to come to work. She arrived at the house and was led upstairs by Sarah. She started providing the massage when Epstein asked her to remove her clothing. [redacted] removed her pants, shirt and bra. She stayed in her thong panties and continued rubbing Epstein. Epstein turned over onto his back and she rubbed his chest area. [redacted] stated she knew he was masturbating himself as she providing the massage. [redacted] stated she believed he climaxed based on his breathing. She did not want to view either the climax or the fact that he was masturbating. [redacted] stated once the breathing relaxed he got up and told her to get dressed. She was paid $300.00 for her services. [redacted] stated on the last time she went to provide a massage, she was notified by Sarah Kellen to come to the house and "work". [redacted] stated she was now dating her current boyfriend and did not feel comfortable going. She recalled it was approximately January 2005. She said she went, already thinking that this would be the last time. She went upstairs and went into the master bathroom. She met with Epstein, who was wearing only a towel, and laid onto the table. [redacted] stated Epstein caught her looking at the clock on several occasions. Epstein asked her if she was in a hurry. [redacted] stated her boyfriend was in the car waiting for her. [redacted] further stated that Epstein got upset as he wasn't enjoying the massage. She told him that she didn't want to continue and she would not be back. Epstein told her to leave as she was ruining his massage. [redacted] advised she had no formal training in providing any massages. [redacted] stated although she had a falling out with Epstein, she still received a Christmas bonus from Epstein. [redacted] stated she was wired money from Western Union for her Christmas bonus. Subpoena results from Western Union revealed money was sent from Jeffrey Epstein on December 23, 2004. [redacted] received $200.00 from Epstein for her Christmas bonus.

On November 15, 2005, Det. Sandman and I met with [redacted], dob [redacted] During a sworn taped statement, [redacted] stated she met Jeffrey Epstein over a year ago. She was sixteen years of age and was approached by [redacted] a fellow [redacted] student, who informed her that she could make $200.00 providing a massage to Epstein. [redacted] had informed her that she would have to provide this

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

massage topless. [redacted] made the arrangements with Epstein and his assistants and took [redacted] to the house. [redacted] stated [redacted] and she entered through a glass door that led into a kitchen. She was taken upstairs by [redacted], to a master bedroom. She recalled the master bathroom had a large pink couch, sauna and matching shower. Epstein entered into the room wearing only a towel. [redacted] and [redacted] removed their clothing remaining only in thong underwear. She further stated that Epstein laid on his chest on the table. The oils were selected on which ones to use. Both [redacted] and [redacted] provided the massage on his legs, back and feet. Forty minutes into the massage, Epstein turned over onto his back and requested [redacted] wait downstairs in the kitchen area for [redacted] Epstein instructed [redacted] to finish the massage. As [redacted] got dressed, [redacted] starting rubbing Epstein's chest. [redacted] left the room, and Epstein began masturbating as [redacted] rubbed Epstein's chest. [redacted] stated Epstein continued masturbating until he climaxed on the towel he was wearing. When asked if he had removed the towel she stated he turned the towel around so that the opening would allow him to expose himself. After he cleaned himself off with the towel he instructed [redacted] the massage was done and to get dressed and meet with him downstairs. [redacted] got dressed and met with Epstein in the kitchen area. She was paid $200.00 dollars for providing the massage. [redacted] stated she was aware that [redacted] also received monies for the same thing. The second time she went to the house she was again approached by [redacted] [redacted] advised if she wanted to return to the house to provide another massage. [redacted] agreed and the arrangements were made by [redacted] for her to return to the house. [redacted] stated [redacted] drove her to the house and knocked on the same glass door which leads to the kitchen area. They were allowed entry into the house by one of the staff members. [redacted] led her upstairs to the master bedroom and master bathroom area. [redacted] left [redacted] this time to do the massage alone. Epstein entered the room again wearing only a towel. [redacted] began removing her clothing as she did the last time she was at the house. Epstein instructed her to get naked. He laid on the table onto his stomach as [redacted] began massaging his legs and back. As [redacted] finished with Epstein's back and legs, Epstein then turned over onto his back. [redacted] started to rub his chest and he began masturbating. As [redacted] rubbed his chest, Epstein leaned over and produced a massager/vibrator. He turned it on and began rubbing [redacted] vagina and masturbating himself at the same time. [redacted] stated she continued to rub his chest as this was occurring. She described the vibrator/massager as large grey with a large head. Epstein rubbed her vagina for approximately two to three minutes with the massager/vibrator. He then removed the vibrator from her vaginal area and concentrated on masturbating himself. [redacted] stated Epstein climaxed onto the towel again and informed her that the massage was done. [redacted] got dressed and met with [redacted] who was waiting in the kitchen area. She received $200.00 for the massage. [redacted] said she never returned to the house and had no desire to return to the house. [redacted] was asked if she received any formal massage training. She advised she had no formal training. [redacted] was asked if Epstein knew her real age. [redacted] stated he knew, as he asked her questions about herself and high school. He was aware she attended, and is still attending [redacted]

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature Arresting Officer

Date: 05/01/2006

During the course of the investigation a search warrant was executed at Jeffrey Epstein's home located at 358 El Brillo Way in Palm Beach. While in the home I observed the pink and green couch within the master bedroom area just as the girls previously mentioned. The stairway, which is located from the kitchen area to the master bedroom area, is lined with photos of naked young girls. Additionally, numerous photographs of naked young females, some of which appeared to be the girls I previously interviewed, were on display throughout the house. Also located in the house were various phone message books. The telephone message books have a duplicate copy (Carbon Copy) which, once a phone message is written into the book, the top copy is then torn on the perforated edge and the carbon copy is left in the book. First names of girls, dates and telephone numbers were on the copy of the messages. I recognized various numbers and names of girls that had already been interviewed. The body of the messages were time of the day that they called for confirmation of "work." Other names and telephone numbers were located in which the body of the messages were, "I have girls for him" or "I have 2 girls for him." These messages were taken by Sarah Kellen, who signed the bottom of the messages. During the execution of the warrant, I located a [redacted] transcript for [redacted]n Epstein's bedroom desk. This desk had stationary marked Jeffrey E Epstein. I located a wood colored armoire beside Epstein's bed that contained a bottle of "Joy Jelly," which is used to provide a warm massage. Several massage tables were located throughout the second floor of the residence, including a massage table found in Epstein's bedroom. On the first floor of the residence I found two covert cameras hidden within clocks. One was located in the garage and the other located in the library area on a shelf behind Epstein's desk. A computer was located which was believed to contain the images from the covert cameras. The computer's hard drive was reviewed which showed several images of Haley Robson and other witnesses that have been interviewed. All of these images appeared to come from the camera positioned behind Epstein's desk.

On December 13, 2005, Det. Dawson and I met with [redacted] dob [redacted] During a sworn taped statement, [redacted] stated that when she was sixteen years old she was taken to Epstein's house to provide a massage for money. [redacted] stated it was before Christmas last year (2004) when an associate, [redacted] approached her and asked if she needed to make money for Christmas. [redacted] made arrangements to take [redacted] to the house and drove [redacted] to the house to "work." They were encountered by a white female with long blond hair. [redacted] was unable to remember the name of the white female with blond hair but knew she was Epstein's assistant. She was led upstairs by the white female who explained that there would be lotions out already and Epstein would choose the lotion he wanted her to use. She was led through a spiral staircase which led to a master bedroom and bathroom. The massage table was already set up in the bathroom. [redacted] described the bathroom as a large spacious bathroom with a steam room and shower beside it. [redacted] was introduced to Epstein who was on the phone when she entered the room. Epstein was wearing a white towel and laid on his stomach so that [redacted] may

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

massage his feet and calves. [redacted] started the massage with the oils Epstein chose and rubbed his feet and calves. Epstein got off the phone and requested she massage his back as well. [redacted] began rubbing his back and got to the small of his back. During the rubbing of his back, Epstein asked her to get comfortable. He requested she remove her pants and shirt. [redacted] removed her shirt and pulled her pants off. [redacted] stayed in her bra and thong panties. As she finished massaging the small of Epstein's back, he then turned onto his back. Epstein instructed [redacted] to rub his chest and pinch his nipples. As she began to rub his chest, Epstein asked her questions about herself. [redacted] remembered telling him she attended [redacted]. Epstein asked her if she was sexually active. Before [redacted] could answer, he also asked what sexual position does she enjoy. [redacted] stated she was shy and didn't like talking about those things. She continued rubbing his chest. Epstein reached up and unsnapped her bra from the front. [redacted] explained the bra she used had a front snapping device. Epstein rubbed her breasts and asked her if she like having her breasts rubbed. [redacted] said "no, I don't like that." Epstein then removed his towel and laid on the bed naked exposing his penis to [redacted]. He began touching his penis and masturbated as he touched her breasts. [redacted] explained Epstein then touched her vaginal area by rubbing her vagina with his fingers on the outside of her thong panties. [redacted] tensed up and stated Epstein was aware that she was uncomfortable. [redacted] stated that Epstein said to her, "Relax, I'm not going inside." She further explained Epstein commented to her how beautiful and sexy she was. Epstein then moved her thong panties to one side and began stroking her clitoris. [redacted] said, "He commented how hard my clit was." He then inserted two fingers in her vagina and was stroking her within her vagina. She tried pulling back to pull out his fingers from within her vagina. Epstein removed his fingers from within her vagina and apologized for putting his fingers inside her. During this time, he kept his hand on her vaginal area and continued to rub her vagina. [redacted] stated he rubbed her really hard as he was masturbating. [redacted] said he climaxed onto the towel he had been previously wearing and got up from the table. Epstein told her there was $200.00 dollars for her on the dresser within the master bathroom. Epstein also told her that there was an additional $100.00 that was to be given to [redacted] for bringing her there to massage him. Epstein told her to leave her telephone number with his assistant as he wanted to see her again. Epstein stated his assistant would contact her to work again soon. I asked her if she ever received any formal massage training to which [redacted] stated she did not. [redacted] stated it was the only time she ever went to work for Jeff and knew what happened to her was wrong. She further stated that she had never been contacted for any additional work.

On January 9, 2006, I located and interviewed another victim, [redacted] dob [redacted] was identified as a potential victim/witness from information obtained during trash pulls from Epstein's residence. [redacted] stated she met Epstein when she was fifteen years of age. She was approached by a friend from [redacted], to be taken to Jeffrey Epstein's house to work. She was originally told she would be able

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature of Police Officer (F.S.S. 117.10)

Signature/Arresting Officer

Date: 05/01/2006

to model lingerie for a wealthy Palm Beacher. [redacted] was taken to Epstein's house located on El BrilloWay. [redacted] introduced [redacted] to Jeffrey Epstein. Epstein had his personal chef prepare dinner for [redacted] and [redacted] At the conclusion of dinner, [redacted] and Epstein brought [redacted] upstairs into a master bedroom area. [redacted] observed a large massage table with a sheet on it. Epstein entered through a door and exited wearing only a towel. [redacted] informed [redacted] that they were going to provide a massage on Epstein. [redacted] asked why were they doing this instead of modeling lingerie. [redacted] explained to [redacted] that this was his routine and to rub his calves and feet. Epstein had told [redacted] to get comfortable. [redacted] removed her pants and blouse. [redacted] stated she stayed only in panties as she did not wear a bra that evening. [redacted] stated while rubbing his calves and feet, Epstein turned over onto his back. Epstein told [redacted] to rub his chest and rub his nipples. [redacted] stated that as she started rubbing his chest, Epstein began masturbating himself . Epstein touched her breasts and stroked her vagina with his fingers. Epstein continued to masturbate himself as he stroked her vagina. Epstein ejaculated on his towel and paid [redacted] $200.00 for the massage. Epstein told [redacted] that if she told anyone what happened at his house that bad things could happen. [redacted] and [redacted] were brought home by Epstein's houseman and [redacted] was afraid that Epstein knew where she lived. [redacted] stated that several days later she received a telephone call from Sarah Kellen who coordinated for [redacted] to return to "work." [redacted] returned to the house and was brought to Epstein's bedroom area by Sarah who prepared the room for the massage. Epstein entered the room wearing only a towel. Epstein had [redacted] remove her clothing and provide the massage naked. [redacted] began rubbing his feet and calves and Epstein turned over onto his back. Epstein rubbed her vagina with his fingers. Epstein began to masturbate himself with an upwards and downward motion on his penis. Epstein continued to touch her vagina with one hand and masturbate with the other hand. Once Epstein ejaculated onto the towel he was wearing, the massage was over. [redacted] was paid $200.00 for the massage. Epstein again told [redacted] not to speak of what happened at his house or bad things would happen. [redacted] wanted to notify authorities however she was afraid of what would happen to either her or her family.

During the course of the investigation, several subjects were identified as a potential witness/victim through information obtained during the trash pulls, physical surveillance and telephone message books retrieved from the search warrant. While conducting research on the subjects, I discovered that the females were age eighteen or older. Interviews were conducted on the consenting adults whose statements provided the same massage routine when they went to "work" for Epstein. The females would be notified by Sarah Kellen, and made appointments for the females to "work" for Epstein. The females would come to Epstein's house and were led upstairs, through a stairwell from the kitchen area, by Sarah Kellen to Epstein's bedroom. Epstein would then enter the room wearing only a towel, and ask them to get comfortable. The females would then provide the massage naked as Epstein would either touch their vaginas with his fingers and/or utilize the massager/vibrator on

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

State of Florida
County of Palm Beach

Signature/Arresting Officer

Signature of Police Officer (F.S.S. 117.10)

Date: 05/01/2006

their vaginal area. He would masturbate during the massage and upon his climaxing, the massage would end. The girls were then paid two or three hundred dollars for the massage.

On November 21, 2005 I interviewed Jose Alessi, a former houseman for Jeffrey Epstein. Alessi stated he was employed for eleven years with Mr. Epstein, from approximately 1993 through 2004. Alessi stated he was the house manager, driver and house maintenance person. It was his responsibility to prepare the house for Epstein s arrival. When asked about cooks or assistants, Alessi stated they traveled with Epstein on his private plane. I asked Mr. Alessi about the massages that have occurred at Epstein's home. Alessi stated Epstein receives three massages a day. Each masseuse that visited the house was different. Alessi stated that towards the end of his employment, the masseuses were younger and younger. When asked how young, Mr. Alessi stated they appeared to be sixteen or seventeen years of age at the most. The massages would occur in Epstein's bedroom or bathroom. He knew this because he often set up the massage tables. I asked if there were things going on other than a massage. Alessi stated that there were times towards the end of his employment that he would have to wash off a massager/vibrator and a long rubber penis, which were in the sink after the massage. Additionally, he stated the bed would almost always have to be made after the massage.

On January 4, 2006 I interviewed another former houseman, Mr Alfredo Rodriguez. During a sworn taped statement, Mr. Rodriguez stated he was employed by Jeffrey Epstein for approximately six months, from November 2004 through May of 2005. His responsibilities as house manager included being the butler, chauffeur, chef, houseman, run errands for Epstein and provide for Epstein's guests. I asked Rodriguez about masseuses coming to the house. Rodriguez stated Epstein would have two massages a day. Epstein would have one massage in the morning and one massage in the afternoon everyday he was in residence. Rodriguez stated he would be informed to expect someone and make them comfortable until either Sarah Kellen or Epstein would meet with them. Rodriguez stated once the masseuses would arrive, he would allow them entry into the kitchen area and offer them something to drink or eat. They would then be encountered by either Sarah Kellen or Epstein. They would be taken upstairs to provide the massage. I asked Rodriguez if any of the masseuses appeared young in age. Rodriguez stated the girls that would come appeared to be too young to be masseuses. He stated one time under Epstein's direction, he delivered a dozen roses to [redacted] for one of the girls that came to provide a massage. He knew the girls were still in high school and were of high school age. I asked Rodriguez about the massages. He felt there was a lot more going on than just massages. He would often clean Mr. Epstein's bedroom after the alleged massages and would discover massagers/vibrators and sex toys scattered on the floor. He also said he would wipe down the vibrators and sex toys and put them away in an armoire. He described the armoire as a small wood armoire which was on the wall close to Epstein's

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

bed. On one occasion Epstein ordered Rodriguez to go to the Dollar rent a car and rent a car for the same girl he brought the roses to, so that she could drive her self to Epstein's house without incident. Rodriguez said the girl always needed rides to and from the house. Rodriguez produced a green folder which contained documents, and a note with Mr. Epstein's stationary with direction to deliver a bucket of roses to [redacted] after [redacted] high school drama performance. Also in that same note was direction to rent a car for [redacted] and direction to extend the rental contract.

During the course of the investigation, subpoenas were obtained for cell phone and home phone records from several victims and witnesses along with the cell phone records of Sarah Kellen. An analysis of these records was conducted which found numerous telephone calls were made between Sarah Kellen and the victims. These records indicate the dates the calls were made are consistent with the dates and times they victims/witnesses stated they were contacted. Specifically, The phone records showed Kellen called Haley Robson during the exact times and dates when victim [redacted] advised the incident occurred. Kellen also coordinated the encounters with [redacted] and [redacted] during the time frame the girls stated they occurred.

Pursuant to a lawful subpoena I obtained Epstein's private plane records for 2005 from Jet Aviation. The plane records show arrival and departure of Epstein's plane at Palm Beach International airport. These records were compared to the cell phone records of Sarah Kellen This comparison found that all the phone calls Kellen made to Robson and the victims were made in the days just prior to their arrival or during the time Epstein was in Palm Beach.

Jeffrey Epstein, who at the time of these incidents was fifty one years of age, did have vaginal intercourse either with his penis or digitally with [redacted], [redacted], [redacted] and [redacted], who were minors at the time this occurred, and who at the time of the incident was fifty two years of age, did use a vibrator on the external vaginal area of [redacted] a fourteen year old minor. Therefore, as Sarah Kellen coordinated and aided in the recruitment of minors to frequent Epstein's house so that sexual services were provided to Epstein, scheduled the said minors to return to the work for Epstein, secured their appointments for the purpose of sexual activity and lewd and lascivious acts and arranged the bedroom for said minors, there is sufficient probable cause to charge Sarah Kellen with four counts of Principal in the 1st degree Unlawful Sexual Activity with a Minor, in violation of Florida State Statute 794.05(1) , a second degree felony and there is sufficient probable cause to charge her with Lewd and Lascivious Molestation, in violation of Florida State Statute 800.04 (5), a second degree felony.

The foregoing instrument was sworn to or affirmed before me this 1st day of May, 2006 by Det Joe Recarey, who is personally known to me.

Signature of Police Officer (F.S.S. 117.10)

State of Florida
County of Palm Beach

Signature/Arresting Officer

Date: 05/01/2006

Appendix 6

INDICTMENT

06CF9454 "W"

A TRUE BILL

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA

For Palm Beach County, at the Spring Term thereof, in the year of our Lord Two Thousand and Six, to-wit: The Grand Jurors of the State of Florida, inquiring in and for the body of said County of Palm Beach, upon their oaths do present that JEFFREY E. EPSTEIN in the County of Palm Beach aforesaid, in the Circuit and State aforesaid,

COUNT ONE
FELONY SOLICITATION OF PROSTITUTION

on or about or between the 1st day of August in the year of our Lord Two Thousand and Four and October 31, 2005, did solicit, induce, entice, or procure another to commit prostitution lewdness, or assignation, contrary to Florida Statute 796.07(1) on three or more occasions between August 01, 2004 and October 31, 2005, contrary to Florida Statute 796.07(2)(f) and (4)(c). (3 DEG FEL)(LEVEL 1)

against the form of the statute, to the evil example of all others, and against the peace and dignity of the State of Florida.

I hereby certify that I have advised the Grand Jury returning this indictment as authorized and required by law.

Assistant State Attorney of the
Fifteenth Judicial Circuit of the State
of Florida, prosecuting for the said
State

GRAND JURY FOREPERSON

DATE

Jeffrey E. Epstein, Race: White, Sex: Male, DOB: January 20, 1953, SS#: [redacted]; Issue Warrant

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

COURT CASE NO. 06-9454CFA MB

AGENCY & CASE NO. Palm Beach Police Dept. 05-368

INVESTIGATING OFFICER NAME Reardy I.D. 7915

TO: ALL SHERIFFS OF THE STATE OF FLORIDA YOU ARE COMMANDED TO ARREST

NAME: Jeffrey E. Epstein

ADDRESS: 358 El Brillo Way Palm Beach, FL 33480

BUSINESS ADDRESS:

PHONE: (HOME) (561) 832-4117 (BUSINESS)

RACE: White SEX: Male DOB: 1/20/53 HEIGHT: 6'0" WEIGHT: 180 lbs

HAIR: Gray EYES: Blue SS#:

FOR APPEARANCE BEFORE THIS COURT TO ANSWER A CHARGE OF:

1) Felony Solicitation of Prostitution. F.S. 796.07(2)(f) and (4)(c). (3rd Felony)

2)

3)

4)

5)

FCIC NCIC X

EXTRADITION AUTHORIZATION: YES NO X

FILED
SHARON R. BOCK
CLERK & COMPTROLLER
PALM BEACH COUNTY, FL
2006 JUL 19 PM 2:44

CAPIAS

This capias is issued pursuant to an information filed by the State Attorney, Fifteenth Judicial Circuit, Palm Beach County, Florida.

APPEARANCE BOND set by Court Order per bond schedule.

WITNESS my hand and the seal of this Court on this _____ day of _____, 199__.

(SEAL)

DOROTHY H. WILKEN,
CLERK OF COURT

BY: _____
Deputy Clerk

ARREST WARRANT
BAIL ENDORSEMENT

The defendant is to be admitted to bail in the sum of

☒ PER SCHEDULE

☐ OWN RECOGNIZANCE

☐ OTHER $ _____

returnable to this Court on the third Friday following the date of arrest at 9:00 A.M. before the Judge assigned the case.

GIVEN UNDER my hand and seal on the 19 day of July, 2006, 199__, at Palm Beach County, State of Florida.

(SEAL)

JUDGE, FIFTEENTH JUDICIAL CIRCUIT

Executed on the _____ day of _____, 199__, by arresting the within named.

By: _____ I.D. # _____
Deputy Sheriff - Palm Beach County

SH0338617 · PC 1291

ARREST / NOTICE TO APPEAR
Juvenile Referral Report

1. Arrest · 2. N.T.A. · 3. Request for Warrant · 4. Request for Capias · Juvenile

ADMINISTRATIVE

OBTS Number:

Agency ORI Number: FL0 5 0 0 0 0 0

Agency Name: PALM BEACH COUNTY SHERIFF'S OFFICE

Agency Report Number: 0 6 - ...

Charge Type (Check as many as apply): ☐ 1. Felony ☐ 2. Traffic Felony ☐ 3. Misdemeanor ☐ 4. Traffic Misdemeanor ☐ 5. Ordinance ☐ 6. Other

If Weapon Seized, Enter Type:

Multiple Clearance Indicator:

Location of Arrest (Including Name of Business): 3228 Gun Club RD WPB, FL

Location of Offense (Business Name, Address):

Date of arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle
07 23 06	01 30					

DEFENDANT

Name (Last, First, Middle): Epstein, Jeffrey

Alias (Name, DOB, Soc. Sec. #, Etc.):

Race (W - White, B - Black, I - American Indian, O - Oriental/Asian)	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
W	M	01 20 53	6 00	180	Blue	Gray	Med	Med

Scars, Marks, Tatoos, Unique Physical Features (Location, Type, Description): None Seen

Marital Status: S · Religion: None

Indication of: Alcohol Influence ☐ Y ☐ N ☐ Unk. · Drug Influence ☐ Y ☐ N ☐ Unk.

Local Address (Street, Apt. Number): 358 El Brillo · (City) Palm Beach · (State) FL · (Zip) 33480 · Phone (561) 655-3704

Residence Type: 1. City 2. County 3. Florida 4. Out of State — 1

Permanent Address (Street, Apt. Number): 6100 Red Hook Quarters Suite B3 St Thomas · (Zip) USVI 00802 · Phone ( )

Address Source: Verbal Def

Business Address (Name, Street) · (City) · (State) · (Zip) · Phone ( )

Occupation: Banker

D/L Number, State:

Soc. Sec. Number:

INS Number:

Place of Birth (City, State): New York, NY

Citizenship: USA

CO-DEF.

Co-Defendant Name (Last, First, Middle) · Race · Sex · Date of Birth · ☐ 1. Arrested ☐ 2. At Large · ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

Co-Defendant Name (Last, First, Middle) · Race · Sex · Date of Birth · ☐ 1. Arrested ☐ 2. At Large · ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

JUVENILE

☐ Parent ☐ Legal Custodian ☐ Other: · Name (Last) · (First) · (Middle) · Residence Phone ( )

Address (Street, Apt. Number) · (City) · (State) · (Zip) · Business Phone ( )

Notified by: (Name) · Date · Time · Juvenile Disposition: 1. Handled/Processed within Dept. and Released. 2. TOT HRS/DYS 3. Incarcerated

Released To: (Name) · Relationship · Date · Time

The above address was provided by ☐ defendant and / or ☐ defendant's parents. The child and / or parent was told to keep the Juvenile Court Clerk's Office (Phone 355-2526) informed of any change of address. ☐ Yes, by: (Name) ☐ No: (Reason)

School Attended · Grade

Property Crime? ☐ Yes ☐ No · Description of Property · Value of Property

CODE

Drug Activity: N. N/A, P. Possess, S. Sell, B. Buy, T. Traffic, R. Smuggle, D. Deliver, E. Use, K. Dispense/Distribute, M. Manufacture/Produce/Cultivate, Z. Other

Drug Type: N. N/A, A. Amphetamine, B. Barbiturate, C. Cocaine, E. Heroin, H. Hallucinogen, M. Marijuana, O. Opium/Deriv., P. Paraphernalia/Equipment, S. Synthetic, U. Unknown, Z. Other

CHARGE

Charge Description: Felony Solicitation of Prostitution · Counts: · Domestic Violence ☐ Y ☐ N

Statute Violation Number: 796 07 (2) (f) (4) (c) (3F) · Violation of ORD #:

Drug Activity · Drug Type · Amount / Unit · Offense #:

Warrant / Capias Number: 06009454 CFA99 DIV W · Bond: 3,000

CHARGE

Charge Description · Counts · Domestic Violence ☐ Y ☐ N · Statute Violation Number · Violation of ORD #

Drug Activity · Drug Type · Amount / Unit · Offense # · Warrant / Capias Number · Bond

JUL 23 2006

CHARGE

Charge Description · Counts · Domestic Violence ☐ Y ☐ N · Statute Violation Number · Violation of ORD #

Drug Activity · Drug Type · Amount / Unit · Offense # · Warrant / Capias Number · Bond

CHARGE

Charge Description · Counts · Domestic Violence ☐ Y ☐ N · Statute Violation Number · Violation of ORD #

Drug Activity · Drug Type · Amount / Unit · Offense # · Warrant / Capias Number · Bond

NOTICE TO APPEAR

Location (Court, Room Number, Address)

Court Date and Time: Month · Day · Year · Time · A.M. · P.M.

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

Signature of Defendant (or Juvenile and Parent/ Custodian) · Date Signed

ADMIN.

HOLD for other Agency Name:

☐ Dangerous ☐ Suicidal ☐ Resisted Arrest ☐ Other:

Signature of Arresting Officer: x [signature]

Name of Arresting Officer (Print) · I.D. #

Name Verification (Printed by Arrestee) (PRINT)

Intake Deputy: [signature] · I.D. # · Pouch #

Transporting Officer: Sit Sufficient · I.D. · Agency

Witness here if subject signed with an "X"

PAGE ___ OF ___

DISTRIBUTION: WHITE - COURT COPY GREEN - STATE ATTORNEY YELLOW - AGENCY PINK - AGENCY GOLD - DEFENDANT (N.T.A.'s ONLY)

PBSO #148 REV. 8/97

Appendix 7

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN
_____/

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

(1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;

(2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);

(3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;

(4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

(5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;

2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:

   (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

   (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.

3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.

4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.

5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.

6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.

8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.

9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.

10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.

11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.

13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to Sarah Kellen, Adriana Ross, Lesley Groff, or Nadia Marcinkova. Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

///

///

///

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: 9/24/07 _____
JEFFREY EPSTEIN

Dated: _____ _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____ _____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____ _____
JEFFREY EPSTEIN

Dated: 9/24/07 _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____ _____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____
JEFFREY EPSTEIN

Dated: _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

IN RE:

INVESTIGATION OF

JEFFREY EPSTEIN

_____/

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.

7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, infra.

7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby, states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: 10/29/07

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____
JEFFREY EPSTEIN

Dated: 10/29/07
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. MARIE VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____
JEFFREY EPSTEIN

Dated: _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10-29-07
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

Affirmation

I, Jeffrey E. Epstein do hereby re-affirm the Non-Prosecution Agreement and Addendum to same dated October 30, 2007.

Jeffrey E. Epstein

12/7/07
Date

Appendix 8

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION "W" (LB)

08 CF 9381

STATE OF FLORIDA

ARISES FROM BOOKING NO.:
2006036744

vs.

JEFFREY E EPSTEIN, W/M, 01/20/1953 [redacted]

INFORMATION FOR:

1) PROCURING PERSON UNDER 18 FOR PROSTITUION

In the Name and by Authority of the State of Florida:
BARRY E. KRISCHER, State Attorney for the Fifteenth Judicial Circuit, Palm Beach County, Florida, by and through his undersigned Assistant State Attorney, charges that JEFFREY E EPSTEIN on or about or between the 1st day of August in the year of our Lord Two Thousand and Four and October 9, 2005, did knowingly and unlawfully procure for prostitution, or caused to be prostituted, A.D, a person under the age of 18 years, contrary to Florida Statute 796.03. (2 DEG FEL)

LANNA BELOHLAVEK
FL. BAR NO. 0776726
Assistant State Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

Appeared before me, LANNA BELOHLAVEK Assistant State Attorney for Palm Beach County, Florida, personally known to me, who, being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which, if true, would constitute the offense therein charged, that this prosecution is instituted in good faith, and certifies that testimony under oath has been received from the material witness or witnesses for the offense.

Assistant State Attorney

Sworn to and subscribed to before me this 25th day of June, 2008.

Damaris Pina
NOTARY PUBLIC/State of Florida

LB/dp

Damaris Pina
MY COMMISSION # DD560798 EXPIRES
August 2, 2010
BONDED THRU TROY FAIN INSURANCE, INC.

FCIC REFERENCE NUMBERS:
1) FELONY SOLICITATION OF PROSTITUTION 3699

CLOSE OUT SHEET

Defendant: Jeffrey Epstein Case Number: 08-9381

Date Closed: 6/30/08 ASA LB Division: W

Nolle Prossed: _____

Pled to Lesser Felony: _____ Pled to Lesser Misd: _____

Negotiated Plea: X Pled to Court: _____

Jury Trial: _____ Non- Jury Trial: _____

Acquitted: _____ Dismissed: _____

Guidelines Score

Non DOC: _____

Mandatory DOC: (minimum) _____

Pre October 1998 Discretionary DOC: _____

Adjudicated: _____ Withheld: _____

County Jail: 18 months DOC: _____ Months - Days - Years - Time Served

Probation: _____ Months- Years followed by Community Control: 12 months

Habitual Offender: _____ Youthful Offender: _____ Juvenile: _____

PRR: _____ 10-20-Life: _____

Restitution: _____ Amount: _____

Designated a Sexual Offender

CLOSE OUT SHEET

Defendant: Jeffrey Epstein Case Number: 06-9454

Date Closed: 6/30/08 ASA LB Division: IV

Nolle Prossed: _____

Pled to Lesser Felony: _____ Pled to Lesser Misd: _____

Negotiated Plea: X Pled to Court: _____

Jury Trial: _____ Non- Jury Trial: _____

Acquitted: _____ Dismissed: _____

Guidelines Score

Non DOC: _____

Mandatory DOC: (minimum) _____

Pre October 1998 Discretionary DOC: _____

Adjudicated: _____ Withheld: _____

County Jail: 12 Months DOC: _____ Months - Days - Years - Time Served

Probation: _____ Months - Years Community Control: _____

Habitual Offender: _____ Youthful Offender: _____ Juvenile: _____

PRR: _____ 10-20-Life: _____

Restitution: _____ Amount: _____

DFS

948.101 Terms and conditions of community control and criminal quarantine community control.--

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control.

(a) The court shall require intensive supervision and surveillance for an offender placed into community control, which may include but is not limited to:

1. Specified contact with the parole and probation officer.

2. Confinement to an agreed-upon residence during hours away from employment and public service activities.

3. Mandatory public service.

4. Supervision by the Department of Corrections by means of an electronic monitoring device or system.

5. The standard conditions of probation set forth in s. 948.03.

(b) For an offender placed on criminal quarantine community control, the court shall require:

1. Electronic monitoring 24 hours per day.

2. Confinement to a designated residence during designated hours.

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 364 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

(3) The court may place a defendant who is being sentenced for criminal transmission of HIV in violation of s. 775.0877 on criminal quarantine community control. The Department of Corrections shall develop and administer a criminal quarantine community control program emphasizing intensive supervision with 24-hour-per-day electronic monitoring. Criminal quarantine community control status must include surveillance and may include other measures normally associated with community control, except that specific conditions necessary to monitor this population may be ordered.

943.0435 Sexual offenders required to register with the department; penalty.--

(1) As used in this section, the term:

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.602.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after:

a. Establishing permanent or temporary residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or

control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the sexual offender's permanent or temporary residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after October 1, 2007. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile

Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)(c)2. where the court finds the offense involved unclothed genitals or genital area;

f. For any attempt or conspiracy to commit any such offense; or

g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c)2. where the court finds molestation involving unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Any attempt or conspiracy to commit such offense; or

9. A violation of a similar law of another jurisdiction,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or

instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

STATE OF FLORIDA

vs.

Jeffrey Epstein

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

CASE NUMBER(S): 05-CF-009454-AMB

PLEA IN THE CIRCUIT COURT

1. DEFENDANT: I am the defendant in the above-mentioned matter(s), and I am represented by the attorney indicated below. I understand I have the right to be represented by an attorney at all stages of the proceeding until the case is terminated, and if I cannot afford an attorney, one will be appointed free of charge. [ ]

2. DEFENDANT: I understand I have the right to a speedy and public trial either by jury or by court. I hereby waive and give up this right. [ ]

3. DEFENDANT: I understand I have the right to be confronted by the witnesses against me and to cross examine them by myself or through my attorney. I hereby give up these rights. [ ]

4. DEFENDANT: I understand I have the right to testify on my own behalf, but I cannot be compelled to be a witness against myself and may remain silent if I so choose. I hereby give up these rights. [ ]

5. DEFENDANT: I understand I have the right to call witnesses to testify in my behalf and to invoke the compulsory process of the Court to subpoena those witnesses. I hereby give up these rights. [ ]

6. DEFENDANT: I understand I have the right to appeal all matters relating to the charge(s) and, unless I plea Guilty or No Contest, specifically reserving my right to appeal, I will give up such right of appeal. [ ]

7. DEFENDANT: I understand that if I am not a United States Citizen, my plea may subject me to deportation pursuant to the laws and regulations governing the United States Immigration and Naturalization Service; and, this Court has no jurisdiction (authority) in such matters. [ ]

8. DEFENDANT: I have not received any promises from anyone, including my attorney, concerning eligibility for any form of early release authorized by law and further no promises have been made to me as to the actual amount of time that I will serve under the sentence to be imposed. Further, I understand that this plea may be used to enhance future criminal penalties in any court system, even if adjudication of guilt is withheld. [ ]

9. DEFENDANT: I offer my plea freely and voluntarily and of my own accord, with full understanding of all matters set forth in the pleadings and this waiver. [ ]

10. DEFENDANT: I have personally placed my initials in each bracket above, and I understand each and every one of the rights outlined above. I hereby waive and give up each of them in order to enter my plea to the within charge(s). I understand that even though the Court may approve the agreement of sentence, the Court is not bound by the agreement, the Court may withdraw its approval at any time before pronouncing judgment, in which case I shall be able to withdraw my plea should I desire to do so.

11. DEFENDANT: Choose one:

If applicable, I choose a program which is or may be spiritually based. [ ]

If applicable, I choose a program which is NOT spiritually based. [X]

If applicable, I have no preference if the program is or may be spiritually based. [ ]

DEFENDANT

6/30/04
DATE

DEFENDANT'S ATTORNEY ONLY:

I am attorney of record. I have explained each of the above rights to the defendant and have explored the facts with him/her and studied his/her possible defenses to the charge(s). I concur with his/her decision to waive the rights and to enter this plea. I further stipulate that this document may be received by the Court as evidence of defendant's intelligent waiver of these rights and that it shall be filed by the Clerk as permanent record of that waiver.

Jack A. Goldberger

ATTORNEY FOR THE DEFENDANT

6/30/04
DATE

RULE 3.992(a) CRIMINAL PUNISHMENT CODE SCORESHEET

1. DATE OF SENTENCE	2. PREPARER'S NAME - DC [X] SAO	3. COUNTY	4. SENTENCING JUDGE
6/30/08	Belohlavek	Palm Beach	[illegible]/10

5. NAME (LAST, FIRST, MI.)	6. DOB	8. RACE	10. PRIMARY OFF. DATE	12. PLEA [X]
Epstein, Jeffrey E.	1/20/53	[ ] B [X] W [ ] OTHER		TRIAL [ ]
	7. DC #	9. GENDER [X] M [ ] F	11. PRIMARY DOCKET # 08-1581	

I. **PRIMARY OFFENSE:** If Qualifier, please check ___A ___S ___C ___R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
2nd F.	794.03	Procuring Person Under 18 for	07	

(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)

Prior capital felony triples Primary Offense points [ ]

I. 56

II. **ADDITIONAL OFFENSE(S):** Supplemental page attached [ ]

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
06-9454	3rd F.	796.07(2)(b)	07	[ ][ ][ ][ ]	1	X 7	= 7
Description	Felony Solicitation - 2 Prior Th						
				[ ][ ][ ][ ]		X	=
Description							
				[ ][ ][ ][ ]		X	=
Description							

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

Prior capital felony triples Additional Offense points [ ]

Supplemental page points ___ II. 7

III. **VICTIM INJURY:**

		Number	Total			Number	Total
2nd Degree Murder	240 X		=	Slight	4 X		=
Death	120 X		=	Sex Penetration	80 X		=
Severe	40 X		=	Sex Contact	40 X		=
Moderate	18 X		=				

III. ___

IV. **PRIOR RECORD:** Supplemental page attached [X]

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
			[ ][ ][ ][ ]			X	=
			[ ][ ][ ][ ]			X	=
			[ ][ ][ ][ ]			X	=
			[ ][ ][ ][ ]			X	=
			[ ][ ][ ][ ]			X	=
			[ ][ ][ ][ ]			X	=

(Level - Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points ___

IV. 7

Page 1 Subtotal: 56

Page 1 Subtotal 56.7

V. Legal Status violation = 4 Points V. ____

VI. Community Sanction violation before the court for sentencing: VI. ____
6 points x each successive violation OR
New felony conviction = 12 points x each successive violation

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points VII. ____

VIII. Prior Serious Felony = 30 Points VIII. ____

Subtotal Sentence Points 56.7

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enforcement Protection	Drug Trafficking	Grand Theft Motor Vehicle	Street Gang (offenses committed on or after 10-1-96)	Domestic Violence (offenses committed on or after 10-1-97)
___ x 1.5 ___ x 2.0 ___ x 2.5	___ x 1.5	___ x 1.5	___ x 1.5	___ x 1.5

Enhanced Subtotal Sentence Points IX. 56.7

TOTAL SENTENCE POINTS 56.7

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction.

If total sentence points are greater than 44:

56.7 minus 28 = 28.7 x .75 = 21.5

total sentence points — lowest permissible prison sentence in months

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

____ maximum sentence in years

TOTAL SENTENCE IMPOSED

		Years	Months	Days
☐ State Prison	☐ Life			
☒ County Jail	☐ Time Served		12	
☐ Community Control			to	
☐ Probation		18 Month Comm	Control	w/ 12 months PBCJ

Please check if sentenced as ☐ habitual offender, ☐ habitual violent offender, ☐ violent career criminal, ☐ prison releasee reoffender, or a ☐ mandatory minimum applies.

☒ Mitigated Departure ☒ Plea Bargain

Other Reason ____

JUDGE'S SIGNATURE

L-86958

Page 1 Subtotal 56.7

V. Legal Status violation = 4 Points — V. ____

VI. Community Sanction violation before the court for sentencing: 6 points x each successive violation OR New felony conviction = 12 points x each successive violation — VI. ____

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points — VII. ____

VIII. Prior Serious Felony = 30 Points — VIII. ____

Subtotal Sentence Points 56.7

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enforcement Protection	Drug Trafficking	Grand Theft Motor Vehicle	Street Gang (offenses committed on or after 10-1-96)	Domestic Violence (offenses committed on or after 10-1-97)
___ x 1.5 ___ x 2.0 ___ x 2.5	___ x 1.5	___ x 1.5	___ x 1.5	___ x 1.5

Enhanced Subtotal Sentence Points IX. 56.7

TOTAL SENTENCE POINTS 56.7

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction.

If total sentence points are greater than 44:

56.7 (total sentence points) minus 28 = 28.7 x .75 = 21.5 (lowest permissible prison sentence in months)

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

____ maximum sentence in years

TOTAL SENTENCE IMPOSED

	Years	Months	Days
☐ State Prison ☐ Life			
☐ County Jail ☐ Time Served		1	
☐ Community Control			
☐ Probation	10 YEARS		1 DAY

Please check if sentenced as ☐ habitual offender, ☐ habitual violent offender, ☐ violent career criminal, ☐ prison releasee reoffender, or a ☐ mandatory minimum applies.

☐ Mitigated Departure ☐ Plea Bargain

Other Reason ____

JUDGE'S SIGNATURE ____

Page 1 Subtotal 76.1

V. Legal Status violation = 4 Points V.

VI. Community Sanction violation before the court for sentencing
6 points x each successive violation OR
New felony conviction = 12 points x each successive violation VI.

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points VII.

VIII. Prior Serious Felony = 30 Points VIII.

Subtotal Sentence Points 76.1

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enforcement Protection	Drug Trafficking	Grand Theft Motor Vehicle	Street Gang (offenses committed on or after 10-1-96)	Domestic Violence (offenses committed on or after 10-1-97)
___ x 1.5 ___ x 2.0 ___ x 2.5	___ x 1.5	___ x 1.5	___ x 1.5	___ x 1.5

Enhanced Subtotal Sentence Points IX. 76.1

TOTAL SENTENCE POINTS 76.1

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction.

If total sentence points are greater than 44

76.1 (total sentence points) minus 28 = ___ x .75 = 36 (lowest permissible prison sentence in months)

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

___ maximum sentence in years

TOTAL SENTENCE IMPOSED

	Years	Months	Days
☐ State Prison ☐ Life			
☒ County Jail ☐ Time Served		1	
☐ Community Control			
☐ Probation			

Please check if sentenced as ☐ habitual offender, ☐ habitual violent offender, ☐ violent career criminal, ☐ prison releasee reoffender, or a ☐ mandatory minimum applies.

☒ Mitigated Departure ☐ Plea Bargain

Other Reason ___

JUDGE'S SIGNATURE ___

PLEA IN THE CIRCUIT COURT
THE FOLLOWNG IS TO REFLECT ALL TERMS OF THE NEGOTIATED SETTLEMENT

Name: Jeffrey E. Epstein

Plea: Guilty X

Case No.	Charge	Count	Lesser	Degree
06CF009454AMB	Felony Solicitation of Prostitution	1	No	3 FEL
08CF009381AMB	Procuring Person Under 18 for Prostitution	1	No	2 FEL

PSI: Waived/Not Required X Required/Requested ____

ADJUDICATION: Adjudicate [x]

SENTENCE:

On 06CF009454AMB, the Defendant is sentenced to 12 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served.

On 08CF009381AMB, the Defendant is sentenced to 6 months in the Palm Beach County Detention Facility, with credit for 1 (one) day time served. This 6 month sentence is to be served consecutive to the 12 month sentence in 06CF009454AMB. Following this 6 month sentence, the Defendant will be placed on 12 months Community Control 1 (one). The conditions of community control are attached hereto and incorporated herein.

OTHER COMMENTS OR CONDITIONS:

As a special condition of his community control, the Defendant is to have no unsupervised contact with minors, and the supervising adult must be approved by the Department of Corrections.

The Defendant is designated as a Sexual Offender pursuant to Florida Statute 943.0435 and must abide by all the corresponding requirements of the statute, a copy of which is attached hereto and incorporated herein.

The Defendant must provide a DNA sample in court at the time of this plea.

Assistant State Attorney

Attorney for the Defendant

Date of Plea

Defendant

948.101 Terms and conditions of community control and criminal quarantine community control.--

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control.

(a) The court shall require intensive supervision and surveillance for an offender placed into community control, which may include but is not limited to:

1. Specified contact with the parole and probation officer.

2. Confinement to an agreed-upon residence during hours away from employment and public service activities.

3. Mandatory public service.

4. Supervision by the Department of Corrections by means of an electronic monitoring device or system.

5. The standard conditions of probation set forth in s. 948.03.

(b) For an offender placed on criminal quarantine community control, the court shall require:

1. Electronic monitoring 24 hours per day.

2. Confinement to a designated residence during designated hours.

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 364 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

(3) The court may place a defendant who is being sentenced for criminal transmission of HIV in violation of s. 775.0877 on criminal quarantine community control. The Department of Corrections shall develop and administer a criminal quarantine community control program emphasizing intensive supervision with 24-hour-per-day electronic monitoring. Criminal quarantine community control status must include surveillance and may include other measures normally associated with community control, except that specific conditions necessary to monitor this population may be ordered.

[1]943.0435 Sexual offenders required to register with the department; penalty.--

(1) As used in this section, the term:

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.602.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after:

a. Establishing permanent or temporary residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or

control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the sexual offender's permanent or temporary residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after October 1, 2007. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile

Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;

f. For any attempt or conspiracy to commit any such offense; or

g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)c.2. where the court finds molestation involving unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Any attempt or conspiracy to commit such offense; or

9. A violation of a similar law of another jurisdiction,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or

instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

Appendix 9

U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

July 8, 2019

VIA ECF

The Honorable Henry Pitman
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States* v. *Jeffrey Epstein*, 19 Cr. 490 (RMB)

Dear Judge Pitman:

The Government respectfully submits this letter in advance of the bail hearing scheduled for July 8, 2019, in the above-captioned case. For the reasons set forth herein, the Court should order that the defendant be detained pending trial; he cannot meet his burden of overcoming the presumption that there is no combination of conditions that would reasonably assure his continued appearance in this case or protect the safety of the community were he to be released.

As set forth below, the charges in this case are exceptionally serious: the defendant is alleged to be a serial sexual predator who preyed on dozens of minor girls over a period of years, and he now faces a potentially massive prison sentence predicated on substantial and multifaceted evidence of his guilt. In light of the strength of the Government's evidence and the substantial incarceratory term the defendant would face upon conviction, there is an extraordinary risk of flight, particularly given the defendant's exorbitant wealth, his ownership of and access to private planes capable of international travel, and his significant international ties. Indeed, the arrest of the defendant occurred when he arrived in the United States on his private jet after having returned from a multi-week stay abroad.

Finally, and as detailed herein, the Government has real concerns—grounded in past experience with this defendant—that if allowed to remain out on bail, the defendant could attempt to pressure and intimidate witnesses and potential witnesses in this case, including victims and their families, and otherwise attempt to obstruct justice. As a result, he poses both an acute danger to the community, including some of its most vulnerable members, and a significant risk of flight. The defendant thus cannot overcome the statutory presumption that detention is appropriate in this case, and the Court should order that he be detained pending trial.

BACKGROUND

A. Overview

On July 2, 2019, a federal grand jury in the Southern District of New York returned a sealed indictment (the "Indictment") charging the defendant with one count of sex trafficking of minors, in violation of 18 U.S.C. § 1591, and one count of conspiracy to commit sex trafficking of minors, in violation of 18 U.S.C. § 371.

As charged by the grand jury, the facts underlying the charges in the Indictment arise from a years-long scheme to sexually abuse underage girls. In particular, beginning in at least 2002, the defendant enticed and recruited dozens of minor girls to engage in sex acts with him, for which he paid the victims hundreds of dollars in cash.

He undertook this activity in at least two different locations, including his mansion in Manhattan, New York (the "New York Residence") and his estate in Palm Beach, Florida (the "Palm Beach Residence"). In both New York and Florida, the defendant perpetuated this abuse in similar ways. Victims were initially recruited to provide "massages" to the defendant, which would be performed nude or partially nude, would become increasingly sexual in nature, and would typically include one or more sex acts, including groping and direct or indirect contact with victims' genitals. The defendant paid his victims hundreds of dollars in cash for each separate encounter.

Moreover, the defendant actively encouraged certain of his victims to recruit additional girls to be similarly sexually abused. He incentivized his victims to become recruiters by paying these victim-recruiters hundreds of dollars for each additional girl they brought to him. In this fashion, the defendant created a vast network of underage victims for him to exploit, in locations including New York and Palm Beach.

The defendant's victims were as young as 14 years old when he abused them. Many of his victims were, for various reasons, often particularly vulnerable to exploitation. The defendant intentionally sought out—and knew that he was abusing—minors. Indeed, in some instances, his victims expressly told him they were underage before or during the period in which he abused them.

In creating and maintaining a network of minor victims whom he abused, the defendant worked with others, including employees and associates who facilitated his exploitation of minors by, among other things, contacting victims and scheduling their sexual encounters with the defendant, both in New York and in Florida.

B. The Defendant

Jeffrey Epstein designed, financed, and perpetrated this scheme, both as its main participant and through his direction of others, including certain of his employees, to further facilitate his rampant abuse of underage girls.

As has been widely reported, the defendant is extraordinarily wealthy, and he owns and maintains luxury properties and residences around the world, including in Manhattan, New York; Palm Beach, Florida; Stanley, New Mexico; and Paris, France. Additionally, Epstein owns a private island in the U.S. Virgin Islands which, as noted above, is believed to be his primary residence in the United States. His mansion in Manhattan alone—a multi-story townhouse reported to be one of the largest single residences in all of Manhattan, which previously housed a school and which he owns through an LLC—has been valued at approximately $77 million. Entities controlled by the defendant also own at least two private jets in active service, at least one of which is capable of intercontinental travel.

As described further below, the defendant possesses three active United States passports, and his international connections and travels are extensive. For example, in addition to maintaining a residence in Paris, France, as described above, in the past 18 months alone, the defendant has traveled abroad, via private jet, either into or out of the country on approximately more than 20 occasions.

C. The Prior Florida Investigation

In or about 2005, the defendant was investigated by local police in Palm Beach, Florida, in connection with allegations that he had committed similar sex offenses against minor girls. The investigation ultimately also involved federal authorities, namely the U.S. Attorney's Office for the Southern District of Florida ("SDFL") and the FBI's Miami Office, and included interviews with victims based in the Palm Beach area, including some of the alleged victims relevant to Count One of the instant Indictment.[1]

In fall 2007, the defendant entered into a non-prosecution agreement with the SDFL in connection with the conduct at issue in that investigation, which the non-prosecution agreement identified as including investigations into the defendant's abuse of minor girls in the Palm Beach area. The Southern District of New York was not a signatory to that agreement, and the defendant was never charged federally.[2] In June 2008, the defendant pled guilty in state court to one count of procuring a person under the age of 18 for prostitution, a felony, and one count of solicitation of prostitution, a felony. As a result, the defendant was designated as a sex offender with registration requirements under the national Sex Offender Registration and Notification Act.

[1] The non-prosecution agreement, further discussed below, was entered into at the conclusion of the SDFL investigation and did not purport to cover any victims outside of the State of Florida. As noted above, the instant Indictment expressly alleges the existence of dozens of victims who were abused in this District in addition to dozens of victims who were abused in Florida.

[2] While beyond the scope of a bail hearing, as discussed further below, it is well-established in the Second Circuit that absent an express provision to the contrary in the agreement, one District is not bound by the terms of an agreement entered into between a defendant and a U.S. Attorney's Office in another district. *See* page 6, *infra.*

ARGUMENT

I. Applicable Law

Under the Bail Reform Act, 18 U.S.C. §§ 3141 et seq., federal courts are empowered to order a defendant's detention pending trial upon a determination that the defendant is either a danger to the community or a risk of flight. 18 U.S.C. § 3142(e) ("no condition or combination of conditions would reasonably assure the appearance of the person as required and the safety of any other person and the community"). A finding of risk of flight must be supported by a preponderance of the evidence. *See, e.g.*, *United States v. Jackson*, 823 F.2d 4, 5 (2d Cir. 1987); *United States v. Chimurenga*, 760 F.2d 400, 405 (2d Cir. 1985). A finding of dangerousness must be supported by clear and convincing evidence. *See, e.g.*, *United States v. Ferranti*, 66 F.3d 540, 542 (2d Cir. 1995); *Chimurenga*, 760 F.2d at 405. In addition, a court may also order detention if there is "a serious risk that the [defendant] will . . . attempt to obstruct justice, or . . . to threaten, injure, or intimidate, a prospective witness or juror." 18 U.S.C. § 3142(f)(2)(B); *see also United States v. Friedman*, 837 F.2d 48 (2d Cir. 1988).

The Bail Reform Act lists four factors to be considered in the detention analysis: (1) the nature and circumstances of the crimes charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the defendant, including the person's "character . . . [and] financial resources"; and (4) the seriousness of the danger posed by the defendant's release. *See* 18 U.S.C. § 3142(g). Evidentiary rules do not apply at detention hearings and the government is entitled to present evidence by way of proffer, among other means. *See* 18 U.S.C. § 3142(f)(2); *see also United States v. LaFontaine*, 210 F.3d 125, 130-31 (2d Cir. 2000) (government entitled to proceed by proffer in detention hearings); *Ferranti*, 66 F.3d at 542 (same); *United States v. Martir*, 782 F.2d 1141, 1145 (2d Cir. 1986) (same).

Where a judicial officer concludes after a hearing that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial." 18 U.S.C. § 3142(e)(1). Additionally, where, as here, a defendant is charged with committing an offense involving a minor victim under 18 U.S.C. § 1591, it shall be presumed, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community. 18 U.S.C. § 3142(e)(3)(E).

II. Discussion

The defendant should be detained pending trial. For the reasons set forth below, it is difficult to overstate the risk of flight and danger to the community if the defendant is released, and for those reasons, the defendant cannot overcome the statutory presumption in favor of detention in this case.

A. The Defendant Poses an Extreme Flight Risk

Each of the relevant factors to be considered as to flight risk – the nature and circumstances of the offense, the strength of the evidence, and the history and characteristics of the defendant – counsel strongly in favor of detention.

1. The Nature and Circumstances of the Offense and the Strength of the Evidence

The "nature and circumstances" of this offense plainly favor detention. 18 U.S.C. § 3142(g)(1) (specifically enumerating "whether the offense. . . involves a minor victim" as a factor in bail applications). Indeed, the crime of sex trafficking of a minor is so serious that for a defendant charged with that offense, there is a presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community. 18 U.S.C. § 3142 (e)(3)(E). Here, as specified in the Indictment, the defendant's conduct was committed serially, over a period of years, and affected dozens of victims.

The seriousness of the charge is also reflected in the penalties the defendant faces, which include up to 45 years of incarceration for Counts One and Two of the Indictment.[3] As the Second Circuit has noted, the possibility of a severe sentence is a significant factor in assessing the risk of flight. *See Jackson*, 823 F.2d at 7; *see also United States v. Cisneros*, 328 F.3d 610, 618 (10th Cir. 2003) (defendant was a flight risk because her knowledge of the seriousness of the charges against her gave her a strong incentive to abscond); *United States v. Townsend*, 897 F.2d 989, 995 (9th Cir. 1990) ("Facing the much graver penalties possible under the present indictment, the defendants have an even greater incentive to consider flight."). Here, the defendant is facing a statutory maximum of decades in prison. Even in the absence of means—which, as discussed in detail below, the defendant has in abundance—this fact alone would provide a compelling incentive for anyone to fail to appear. It is particularly compelling for a defendant who is 66 years old and therefore faces the very real prospect of spending the rest of his life in prison if convicted.

The likelihood of a substantial period of incarceration is buttressed by the strength of the evidence. As set forth in the Indictment, the evidence in this case is strong. The Indictment alleges that the defendant sexually abused dozens of minor victims, and the conspiracy count lists numerous overt acts committed in furtherance of the defendant's crimes.[4]

[3] The current penalties for violations of 18 U.S.C. § 1591 include a 10 year mandatory minimum sentence. However, that punishment was created through an amendment to the statute in 2006. The penalty for a violation of Section 1591 during the period charged in the Indictment, and therefore relevant here, was a maximum of 40 years' imprisonment.

[4] With respect to the evidence in this case, the Court should start its analysis by accepting that the Indictment is sufficient, on its own, to establish probable cause that the defendant committed the crimes of sex trafficking and sex trafficking conspiracy. *Contreras*, 776 F.2d at 54. ("Were an evidentiary hearing addressing the existence of probable cause required in every § 3142(e) case in which an indictment had been filed, the court would spend scarce judicial resources considering that which a grand jury had already determined, and have less time to focus on the application of

Multiple victims, including several specified in the Indictment, have provided information against the defendant. That information is detailed, credible, and corroborated, in many instances, by other witnesses and contemporaneous documents, records and other evidence—including, as further detailed below, evidence from a search of the New York Residence on the night of the defendant's arrest that reflects an extraordinary volume of photographs of nude and partially-nude young women or girls. Such corroborating evidence also includes documents and other materials, such as contemporaneous notes, messages recovered from the defendant's residence that include names and contact information for certain victims, and call records that confirm the defendant and his agents were repeatedly in contact with various victims during the charged period. Put simply, all of this evidence – the voluminous and credible testimony of individuals who were sexually abused by the defendant as minors, each of whom are backed up by other evidence – will be devastating evidence of guilt at any trial in this case and weighs heavily in favor of detention.

Finally, it bears noting that neither the age of the conduct nor the defendant's previous non-prosecution agreement ("NPA") with a different federal district pose any impediment to his conviction. As an initial matter, all of the conduct is timely charged, pursuant to 18 U.S.C. § 3283, which was amended in 2003 to extend the limitations period for conduct that was timely as of the date of the amendment, to any time during the lifetime of the minor victim. *See United States v. Chief*, 438 F.3d 920, 922-25 (9th Cir. 2006) (finding that because Congress extended the statute of limitations for sex offenses involving minors during the time the previous statute was still running, the extension was permissible); *United States v. Pierre-Louis*, No. 16 Cr. 541 (CM), 2018 WL 4043140, at *1 (S.D.N.Y. Aug. 9, 2018) (same).

Moreover, with respect to the NPA, that agreement, to which the Southern District of New York was not a party, which by its express language pertained exclusively to the SDFL investigation, and which did not purport to bind any other Office or District, does not preclude prosecution in this District for at least two reasons. *First,* it is well settled in the Second Circuit that "a plea agreement in one U.S. Attorney's office does not, unless otherwise stated, bind another." *United States v. Prisco*, 391 F. App'x 920, 921 (2d Cir. 2010) ("A plea agreement binds only the office of the United States Attorney for the district in which the plea is entered unless it affirmatively appears that the agreement contemplates a broader restriction.") (citing *United States v. Annabi,* 771 F.2d 670, 672 (2d Cir. 1985) (per curiam)). This is true even if the text of the agreement purports to bind "the Government." *See Annabi*, 771 F.2d at 672. This analysis similarly extends to a non-prosecution agreement. *See United States v. Laskow*, 688 F. Supp. 851, 854 (E.D.N.Y. 1988) ("Defendant's argument, in effect, is that unless there is an explicit statement to the contrary, it is presumed that a non-prosecution agreement binds offices of the United States Attorney that are not parties to the agreement. This position is at odds with the law in this Circuit, which presumes a narrow reading of the boundaries of a plea agreement unless a defendant can affirmatively establish that a more expansive interpretation was contemplated.") (citing *Annabi*, 771 F.2d at 672). *Second*, the Indictment charges conduct not covered by the NPA, namely

---

the presumptions and the § 3142(g) factors in deciding whether the defendant should be detained.").

conduct that occurred in New York. The prior NPA included a list of several dozen victims identified in the prior investigation, all of whom were abused in the State of Florida, and none of whom are a part of the conduct charged in Count Two of the instant Indictment.

Each of these factors—the seriousness of the allegations, the strength of the evidence, and the possibility of lengthy incarceration—creates an extraordinary incentive to flee. And as further described below, the defendant has the means and money to do so.

2. The Characteristics of the Defendant

The history and characteristics of the defendant also strongly support detention. The defendant is extraordinarily wealthy and has access to vast financial resources to fund any attempt to flee. Indeed, his potential avenues of flight from justice are practically limitless.

As the defendant acknowledged in his most recent New York State sex offender registration, he has *six* residences, including two in the U.S. Virgin Islands (including his own private island), and one each in Palm Beach, Florida; Paris, France; New York, New York; and Stanley, New Mexico. The most recent estimated value of the defendant's New York City mansion alone is more than $77 million. The most recent tax-assessed value of the defendant's Palm Beach estate is more than $12 million. The defendant's primary residence is a *private island* in the U.S. Virgin Islands, a place where any sort of meaningful supervision would be all but impossible.

Moreover, the defendant has access to innumerable means to flee. His sex registration documentation of "current vehicles" lists no fewer than 15 motor vehicles, including seven Chevrolet Suburbans, a cargo van, a Range Rover, a Mercedez-Benz sedan, a Cadillac Escalade, and a Hummer II. These cars are registered in various states and territories including the Virgin Islands, New York, Florida, and New Mexico. The defendant also has access to two private jets, giving him the ability to leave the country secretly and on a moment's notice and to go virtually anywhere he wants to travel. He is a very frequent international traveler and regularly travels to and from the United States by private plane. In particular, between January 1, 2018, and the present, U.S. Customs and Border Patrol has logged approximately more than 20 flights in which Epstein was traveling to or from a foreign country. Indeed, he was arrested at Teterboro Airport arriving on just such a private international flight after having spent approximately three weeks abroad. Extensive international travel of this nature further demonstrates a significant risk of flight. *See, e.g.*, *United States v. Anderson*, 384 F. Supp. 2d 32, 36 (D.D.C. 2005). There can be no assurance that, upon release, the defendant would suddenly lack access to such means of travel.

Finally, the defendant has no meaningful ties that would keep him in this country. The defendant has no known immediate family. He is not married and has no children. He has friends and associates worldwide, as demonstrated by his extensive international travel, and his professional obligations, if any, can and seemingly are plainly capable of being handled by the defendant remotely. Simply put, there would be no meaningful reason for the defendant to remain in the country, while he would have every incentive (and every resource needed) to flee.

Nor would home confinement with electronic monitoring reasonably assure the defendant's presence as required. At best, home confinement with electronic monitoring would

merely reduce his head start should he decide to flee. *See United States v. Zarger*, No. 00 Cr. 773, 2000 WL 1134364, at *1 (E.D.N.Y. Aug. 4, 2000) (Gleeson, J.) (rejecting defendant's application for bail in part because home detention with electronic monitoring "at best . . . limits a fleeing defendant's head start"); *see also United States v. Casteneda*, No. 18 Cr. 047, 2018 WL 888744, at *9 (N.D. Cal. Feb. 2018) (same); *United States v. Anderson*, 384 F.Supp.2d 32, 41 (D.D.C. 2005) (same); *United States v. Benatar*, No. 02 Cr. 099, 2002 WL 31410262, at *3 (E.D.N.Y. Oct. 10, 2002) (same).

Finally, there can be little doubt that the defendant is in a position to abandon millions of dollars in cash and property securing any potential bond and still live comfortably for the rest of his life. These resources, and the ease with which the defendant could flee and live outside the reach of law enforcement—particularly considering his vast wealth and lack of meaningful ties to this District—make the risk of flight exceptionally high in this case, particularly when considered in conjunction with the strength of the government's case and the lengthy sentence the defendant could receive if convicted.

B. The Defendant Poses a Risk of Danger to the Community and of Engaging in Obstruction of Justice

The release of the defendant, under any conditions, would pose a significant threat to the community and to the ongoing investigation.

As described above, where there is probable cause to believe that an individual has committed an offense under 18 U.S.C. § 1591, it is presumed that no condition or combination of conditions can reasonably assure the safety of the community. 18 U.S.C. § 3142(e)(3). Here, not only is the defendant charged with very serious sex crimes against minors, he has already previously admitted to—and been convicted of—engaging in related conduct. Specifically, in June 2008, the defendant pled guilty in state court to one count of procuring a person under the age of 18 for prostitution, a felony, and he currently is a registered sex offender, under classification level three in New York—defined as presenting a "high" risk of committing another sex crime and harm to the community. While the conduct presently alleged does not post-date the 2008 conviction, it nevertheless underscores the risk he poses to the community if released.

Additionally, and in connection with the investigation of the defendant's offense in Florida, there were credible allegations that the defendant engaged in witness tampering, harassment, or other obstructive behaviors. In fact, according to publicly-filed court documents, there were discussions between prosecutors and the defendant's then-counsel about the possibility of the defendant pleading guilty to counts relating to "obstruction," as well as "harassment," with reference to 18 U.S.C. § 1512, which criminalizes "[t]ampering with a witness, victim, or informant." For example, in a communication from the defendant's then-counsel to prosecutors in SDFL, his counsel set forth a possible factual proffer that included statements that the defendant had "attempted to harass both [redacted] delay and hinder their receipt of a [redacted] to attend an official proceeding" and that the defendant "in particular, changed travel plans and flew with both [redacted] to the United States Virgin Islands rather than to an airport in New Jersey in order to attempt to delay their receipt of what Mr. Epstein expected to be a [redacted]" and "further verbally

harassed both [redacted] in connection to this attempt to delay their voluntary receipt of process all in violation of 18 USC 1512(d)(1)."[5] *Doe v. United States*, 08 Civ. 80736 (S.D. Fla.), Dkts. 361 at 3-4, 361-7 through 361-11. In addition to 18 U.S.C. § 1512(d), prosecutors also proposed that the defendant could plead guilty to 18 U.S.C. § 403, that is, a knowing or intentional violation of the privacy protection of child victims and child witnesses, to which the defendant's then-counsel replied: "Already thinking about the same statutes." *Id.* Dkt. 361-11. They also discussed a possible obstruction plea that "could rely on the incident where Mr. Epstein's private investigators followed [redacted] father, forcing off the road." *Id.* Dkt. 361-10.

The defendant's apparent previous willingness to obstruct a federal investigation, harass or tamper with witnesses, and hire private investigators that "*forc[ed] off the road*" the father of an individual relevant in the investigation is alarming. It should especially weigh on the Court's consideration here because the defendant was apparently willing to take those steps *before* even being charged and thus facing federal indictment; the incentive to interfere in the Government's case here, where an Indictment has been returned, is exponentially greater. And as discussed above, the defendant has nearly limitless means to do so.

Finally, despite having been previously convicted of a sex offense involving an underage victim, the defendant has continued to maintain a vast trove of lewd photographs of young-looking women or girls in his Manhattan mansion. In a search of the New York Residence on the night of his arrest, on July 6-7, 2019, pursuant to judicially-authorized warrants, law enforcement officers discovered not only specific evidence consistent with victim recollections of the inside of the mansion, further strengthening the evidence of the conduct charged in the Indictment, but also at least hundreds—and perhaps thousands—of sexually suggestive photographs of fully- or partially-nude females. While these items were only seized this weekend and are still being reviewed, some of the nude or partially-nude photographs appear to be of underage girls, including at least one girl who, according to her counsel, was underage at the time the relevant photographs were taken. Additionally, some of the photographs referenced herein were discovered in a locked safe, in which law enforcement officers also found compact discs with hand-written labels including the following: "Young [Name] + [Name]," "Misc nudes 1," and "Girl pics nude." The defendant, a registered sex offender, is not reformed, he is not chastened, he is not repentant;[6] rather, he is a continuing danger to the community and an individual who faces devastating evidence supporting deeply serious charges.

[5] The redactions above are contained in the publicly filed version of the quoted document.

[6] *See, e.g.*, Amber Southerland, *Billionaire Jeffrey Epstein: I'm a sex offender, not a predator*, N.Y. Post (2011) ("'I'm not a sexual predator, I'm an "offender," the financier told The Post yesterday. 'It's the difference between a murderer and a person who steals a bagel.'"); Philip Weiss, *The Fantasist*, New York Magazine (2007) ("'It's the Icarus story, someone who flies too close to the sun,' I said. 'Did Icarus like massages?' Epstein asked.").

CONCLUSION

As set forth above, in this case, the risk of flight in this case is extraordinarily real. The defendant is extremely wealthy, has extensive foreign contacts, and is charged with serious offenses that carry a potential statutory sentence of up to 45 years' imprisonment—even a fraction of which could result in the defendant, who is 66 years old, spending the rest of his life in jail. In sum, the defendant's transient lifestyle, his lack of family or community ties, his extensive international travel and ties outside the country, and his vast wealth, including his access to and ownership of private planes, all provide the defendant with the motive and means to become a successful fugitive. Further, the nature of the offenses he is alleged to have perpetrated—the abuse dozens of underage, vulnerable girls—along with his demonstrated willingness to harass, intimidate and otherwise tamper with victims and other potential witnesses against him, render his dangerousness readily apparent.

Accordingly, the Government respectfully submits that the defendant cannot and will not be able to meet his burden of overcoming the strong presumption in favor of detention, that there are no conditions of bail that would assure the defendant's presence in court proceedings in this case or protect the safety of the community, and that any application for bail should be denied.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By: _____
Alex Rossmiller / Alison Moe / Maurene Comey
Assistant United States Attorney
Southern District of New York
Tel: (212) 637-2415 / 2225 / 2324

Cc: Martin Weinberg, Esq., and Reid Weingarten, Esq., *counsel for defendant*
Hon. Richard M. Berman, United States District Judge

Appendix 10

Department of Justice

U.S. Attorney's Office

Southern District of New York

FOR IMMEDIATE RELEASE

Monday, July 8, 2019

Jeffrey Epstein Charged In Manhattan Federal Court With Sex Trafficking Of Minors

Alleged Conduct Occurred in both New York and Florida over Multiple Years, Involving Dozens of Victims

Geoffrey S. Berman, the United States Attorney for the Southern District of New York, William F. Sweeney Jr., the Assistant Director in Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), and James P. O'Neill, Commissioner of the New York City Police Department ("NYPD"), announced that JEFFREY EPSTEIN was arrested Saturday and charged with sex trafficking of minors and conspiracy to commit sex trafficking of minors. The indictment unsealed today alleges that, between 2002 through 2005, EPSTEIN sexually exploited and abused dozens of underage girls by enticing them to engage in sex acts with him in exchange for money. Epstein allegedly worked with several employees and associates to ensure that he had a steady supply of minor victims to abuse, and paid several of those victims themselves to recruit other underage girls to engage in similar sex acts for money. He committed these offenses in locations including New York, New York, and Palm Beach, Florida. EPSTEIN is expected to be presented in Manhattan federal court this afternoon before U.S. Magistrate Judge Henry B. Pitman. The case is assigned to U.S. District Judge Richard M. Berman.

U.S. Attorney Geoffrey S. Berman said: "As alleged, Jeffrey Epstein abused underage girls for years, operating a scheme in which girls he victimized would recruit others for Epstein to exploit and abuse. Epstein exploited girls who were vulnerable to abuse, enticed them with cash payments, and escalated his conduct to include sex acts, often occurring at his residence on the Upper East Side of Manhattan. While the charged conduct is from a number of years ago, the victims – then children and now young women – are no less entitled to their day in court. My Office is proud to stand up for these victims by bringing this indictment."

FBI Assistant Director William F. Sweeney Jr. said: "We are asking anyone who may have been victimized by Jeffrey Epstein, or anyone who may have information about his alleged criminal behavior, to please call us. The number is 1-800-CALL-FBI. We want to hear from you, regardless of the age you are now, or whatever age you were then, no matter where the incident took place. The bravery it takes to call us might empower others to speak out about the crimes committed against them. It is important to remember there was never, nor will there ever be an excuse for this type of behavior. In the eyes of the FBI, the victims will always come first."

NYPD Commissioner James P. O'Neill said: "Today's charges serve as a warning to individuals who continue to prey upon some of our society's most vulnerable population: we are coming for you. I thank and commend the U.S. Attorney's Office for the Southern District and the FBI for their tireless efforts to ensure child predators are taken off our streets. The NYPD will continue to work with our law enforcement partners to eradicate the trafficking of children in our city and nation and work to bring justice to victims of these heinous crimes."

If you believe you are a victim of the sexual abuse perpetrated by Jeffrey Epstein, please contact the FBI at 1-800-CALL FBI, and reference this case.

According to the Indictment[1] unsealed today in Manhattan federal court:

From at least 2002 through at least 2005, JEFFREY EPSTEIN enticed and recruited, and caused to be enticed and recruited, dozens of minor girls to visit his mansion in New York, New York (the "New York Residence"), and his estate in Palm Beach, Florida (the "Palm Beach Residence"), to engage in sex acts with him, after which he would give the victims hundreds of dollars in cash. In order to maintain and increase his supply of victims, EPSTEIN also paid certain victims to recruit additional underage girls whom he could similarly abuse. In this way, EPSTEIN created a vast network of underage victims for him to sexually exploit, often on a daily basis, in locations including New York and Palm Beach.

EPSTEIN's victims were as young as 14 at the time he abused them, and were, for various reasons, often particularly vulnerable to exploitation. Moreover, EPSTEIN knew that many of his victims were under 18, including because, in some instances, victims expressly told him they were underage.

In creating and maintaining this network of minor victims in multiple states to abuse and exploit sexually, EPSTEIN worked with others, including employees and associates who facilitated his conduct by, among other things, contacting victims and scheduling their sexual encounters with EPSTEIN at the New York Residence and at the Palm Beach Residence.

In both New York and Florida, EPSTEIN perpetuated this abuse in similar ways. Victims were initially recruited to provide "massages" to EPSTEIN, which became increasingly sexual in nature and would typically include one or more sex acts. EPSTEIN paid his victims hundreds of dollars in cash for each encounter.

In particular, during encounters at the New York Residence, victims would be taken to a room where they would perform a massage on EPSTEIN, during which EPSTEIN would frequently escalate the nature and scope of physical contact with his victims to include, among other things, sex acts such as groping and direct and indirect contact with the victims' genitals. In connection with the encounters, EPSTEIN, or one of his employees or associates, typically paid each victim hundreds of dollars in cash. Once minor victims were recruited, EPSTEIN or his employees or associates would contact victims to schedule appointments for "massages." As a result, many victims were abused by EPSTEIN on multiple subsequent occasions.

To further enable him to abuse underage girls, EPSTEIN asked and enticed certain of his victims to recruit additional minor girls to perform "massages" and similarly engage in sex acts with EPSTEIN. When a victim would recruit another underage girl for EPSTEIN, he paid both the victim-recruiter and the new victim hundreds of dollars in cash. Through these victim-recruiters, EPSTEIN maintained a steady supply of new victims to exploit, and gained access to dozens of additional underage girls to abuse.

* * *

JEFFREY EPSTEIN, 66, is charged with one count of sex trafficking of minors, which carries a maximum sentence of 40 years in prison, and one count of conspiracy to engage in sex trafficking of minors, which carries a maximum sentence of five years in prison.

The statutory maximum and mandatory penalties are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendant would be determined by the judge.

Mr. Berman praised the outstanding investigative work of the FBI and the NYPD. He also thanked the U.S. Customs and Border Protection for their assistance.

This case is being handled by the Office's Public Corruption Unit. Assistant U.S. Attorneys Alex Rossmiller, Alison Moe, and Maurene Comey are in charge of the prosecution, with assistance from the Office's Human Trafficking Co-Coordinator, Abigail Kurland.

The charges contained in the Indictment are merely accusations. The defendant is presumed innocent unless and until proven guilty.

---

[1] As the introductory phrase signifies, the entirety of the text of the Indictment, and the description of the Indictment set forth herein, constitute only allegations, and every fact described therein should be treated as an allegation.

Attachment(s):
Download U.S. v. Jeffrey Epstein Indictment

Topic(s):
Project Safe Childhood

Component(s):
USAO - New York, Southern

Press Release Number:
19-211

Updated July 9, 2019

Appendix 11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

UNITED STATES OF AMERICA,

v. 19 CR 490 (RMB)

JEFFREY EPSTEIN,

Defendant.

----------x

New York, N.Y.
August 27, 2019
10:30 a.m.

Before:

HON. RICHARD M. BERMAN,

District Judge

APPEARANCES

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
BY: MAURENE R. COMEY
ALISON MOE
Assistant United States Attorneys

MARTIN G. WEINBERG, PC
Attorney for Defendant
BY: MARTIN G. WEINBERG

STEPTOE & JOHNSON, LLP
Attorneys for Defendant
BY: REID WEINGARTEN
MICHAEL MILLER

(Case called)

THE COURT: Good morning, everybody. Please be seated.

So just some housekeeping. We have a podium here for both attorneys and others who may be speaking, and so we would like you, attorneys and others who are speaking, to come up to the podium. This room is a little cavernous. We thought the podium over there would be more comfortable.

For starters, and for this you don't have to go up to the podium, if you could just indicate your names. This table in front to my left, your right, are defense counsel, and that table to my right, your left, are government attorneys.

If we could just ask the attorneys to introduce themselves.

MS. COMEY: Good morning, your Honor. Maureen Comey and Alison Moe for the government. Joining us at counsel table are Special Agent Amanda Young of the FBI and Detective Paul Byrne of the NYPD.

MR. WEINGARTEN: Good morning, your Honor.

Reid Weingarten.

MR. WEINBERG: Martin Weinberg.

Good morning, your Honor.

THE COURT: Good morning.

MR. MILLER: Good morning, your Honor.

Michael Miller from Steptoe & Johnson on behalf of the

defendant.

THE COURT: Great.

Again, good morning to all of you. This hearing that we're having today considers the government's motion to dismiss the indictment in this case.

I must add that it also serves as the opportunity for me to thank all of you, the attorneys and the victims who are here today, among others, for your very hard work and dedication in this case.

We also have here today the U.S. Attorney for the Southern District of New York, Geoffrey Berman, who has also been very helpful and indispensable in this matter.

The news on August 10, 2019, that Jeffrey Epstein had been found dead in his cell at the Metropolitan Correctional Center, at the MCC, was certainly shocking. Most of you, and myself for that matter, were anticipating that the next steps in this case would be defense motion practice, including a motion to dismiss, followed by a trial on the merits before a jury, if the motions were not successful, and through which the accusers and the accused would come face to face, allowing everyone to get their day in court. Mr. Epstein's death obviously means that a trial in which he is a defendant cannot take place. It is a rather stunning turn of events.

The government's motion to dismiss the indictment because of Jeffrey Epstein's death on August 10, 2019, is

relatively straightforward. (In my view, a public hearing) (clearly is nevertheless the preferred vehicle for its) (resolution.)

Incidentally, while I'm on this subject, I got some help today from the New York Law Journal from two professors who write that a hearing is -- let me tell you exactly what they said. They say, in part, that this is an odd moment for transparency in a criminal case. I think that is an odd sentence to hear about, transparency in a criminal case.

They go on to say that normally, if a prosecutor seeks to dismiss an indictment for such an obviously worthy reason, the court would simply grant the request. As to that statement, I respectfully say it is incorrect as a matter of law.

They go on to say the judge would not schedule a hearing and he definitely would not allow the victims to speak. If he did hold a hearing, whatever informational interests the victims may have would be served by affording them a chance to attend the hearing, not by giving them a speaking role.

I read it. It was incredulous. I'm still incredulous. I don't quite understand at all. There is a suggestion in the article that the reason they are making these suggestions has to do with minimization of drama in this case. In the Jeffrey Epstein case, there has not been much a minimization of drama, and what little drama might happen

today, I don't think it would be very significant.

On a somewhat more serious note, don't quote me on this, but it is my understanding that one of the authors of that article is himself counsel in one of the Epstein-related cases. I was surprised to learn that very recently. I'm certain it is true. I was also surprised that that aspect was not disclosed in the Law Journal.

But in any event, I think you know where I'm heading. I respectfully disagree with the Law Journal piece. I was saying that the government's motion is relatively straightforward, and in my view, a public hearing is clearly, nevertheless, the preferred vehicle for its resolution. I'm still convinced of that.

(A few may differ on this, but public hearings are exactly what judges do.) (Hearings promote transparency and they provide the court with insights and information which the court may not otherwise be aware of.)

The victims have been included in the proceeding today both because of their relevant experiences and because they should always be involved before rather than after the fact.

Indictment 19 CR 490 charges Jeffrey Epstein with sex trafficking and with conspiracy to commit sex trafficking. The U.S. Attorney, on August 19, 2019, requested that the court approve the government's proposed order of *nolle prosequi*. I think that's a rough justice. That means *nolle prosequi*,

discontinuance by the prosecutor of all or of a part of the case that he or she has commenced.

The government in its motion concludes that Epstein's death abates these proceedings. In accordance with Federal Rule of Criminal Procedure 57(b), I determined to hold a public hearing and I notified the victims that they would be given the opportunity to be heard before any final action on the motion. That is the purpose also of today's proceeding. I would do that every time.

Also, recognized that Epstein, Mr. Epstein died before any judgment of conviction against him had been obtained, and that the government's proposed order appears, in form and substance, to be appropriate.

Federal Rule of Criminal Procedure 48(a) codifies the *nolle prosequi* process. It is entitled dismissal, and it states in relevant part that the government may, with leave of the court, dismiss an indictment, information, or complaint, and that leave of the court proviso, you should know, was added as an amendment to the original draft of Rule 48, which had originally provided for automatic dismissal upon the motion of the government.

This proviso, in my judgment, is clearly directed toward an independent judicial assessment of the public interest in dismissing the indictment. Thus, even whereas, in this case, the standard of court review is deferential, the

court must still make its own independent determination. A conclusory statement from the government that dismissal is appropriate does not satisfy the court's obligations.

It is also, in my view, required that the court consider the views of the victims in the case at the hearing and before deciding whether to grant the motion. This is being done here both as a matter of law and as a measure of respect that we have for the victims' difficult decisions to come forward in this matter.

In a case called United States v. Heaton, H-e-a-t-o-n-, the government filed a Rule 48 motion for leave to dismiss a charge against a defendant who allegedly committed a sexual offense against a young victim. Although I should point out, very importantly, that that defendant was still alive, which distinguishes it from our case.

Nevertheless, I think it is irrelevant because in evaluating the Rule 48 motion, then district Judge Paul G. Cassell -- who is now a law professor at the University of Utah and is regarded to be a noted expert in victims' rights -- concluded that under the Crime Victims' Rights Act, victims have broad rights that extend to a court's decision whether to grant a government motion to dismiss under Rule 48.

I completely share that viewpoint in these circumstances, even though the facts of our case, as I said, are somewhat different from those in Heaton. I believe it is

the court's responsibility, and manifestly within its purview, to ensure that the victims in this case are treated fairly and with dignity.

The fundamental substantive principle which applies in considering the government's motion is termed the rule of abatement. This principle originated in the English common law. It was adopted by most U.S. federal courts, but more recently, it has faced some appropriate criticism. The rule of abatement is best explained in the Second Circuit case of U.S. v. Wright.

In that Wright case, two defendants had pled guilty to embezzlement and tax evasion. Both defendants appealed, but one of the defendants died while his appeal was pending in the Second Circuit. The Court of Appeals rule that under the rule of abatement, the judgment of conviction against the deceased defendant was required to be vacated and the indictment was to be dismissed. The Wright court held that when a convicted defendant dies while his direct appeal as of right is pending, his death abates not only the appeal, but also proceedings had during the course of the prosecution.

The Second Circuit incidentally has also held that when a criminal conviction abates upon the death of a defendant, any restitution ordered as a result of that conviction must also abate, and it is also ruled the same with respect to associated forfeiture orders.

This latter application of the rule of abatement regarding forfeiture has not been universally accepted among federal courts, but it certainly is the law in this circuit. Some of you may be interested to know that some United States courts, state courts, have criticized the rule of abatement, particularly in the face of growing recognition of victims' rights in the criminal justice system, including the Crime Victims' Rights Act.

It has been written and contended in the Brooklyn Law Review -- I can give you the cite later -- that when courts abate criminal convictions, they reimpose a burden on victims that legislatures intended to alleviate through these victim rights statutes. The state Supreme Court has even concluded that the expansion and codification of victims' rights provides the changed conditions needed for overruling the rule of abatement. It has also been stated that Alaska's statute and its constitution now require the criminal justice system to accommodate the rights of crime victims. Further, that the abatement of criminal convictions has important implications for these rights.

But coming back to our case, which is what you are concerned about and I am as well, it is appropriate to conclude that if the rule of abatement applies to a convicted defendant as in the Wright case, it should also apply *a fortiori* in the Epstein case, which was still in the pretrial phase when

Mr. Epstein died, when there had been no conviction.

So that's just some background I wanted to share with you. At this point in time, I would like to turn to the government prosecutors to hear from them in support of their Rule 48 application to dismiss the Epstein indictment.

MS. COMEY: Thank you, your Honor.

Would you like me to address the court from the podium?

THE COURT: If you wouldn't mind.

MS. COMEY: Thank you, your Honor.

I believe your Honor has accurately summarized the state of the law, as set forth in our papers, in light of the clear Second Circuit law, that upon the death of a defendant before a final entry of a judgment of conviction, all proceedings must be abated.

In light of that clear law, the government is legally obligated to seek dismissal of the pending indictment against Jeffrey Epstein, and we respectfully submit, likewise, that the entry of the proposed order is similarly required by law.

A few notes to make about that, though, your Honor. To be very clear, dismissal of this indictment as to Jeffrey Epstein in no way prohibits or inhibits the government's ongoing investigation into other potential coconspirators, nor does it prevent the bringing of a new case in the future or the prosecution of new defendants.

It also does nothing to prevent the government from continuing to explore the possibility of seeking civil forfeiture of any assets that were used to facilitate the crimes charged in this indictment. Indeed, as has been stated publicly, investigations into those matters have been ongoing, remain ongoing, and will continue following dismissal of the indictment here.

I would also like to note that, as the government has previously mentioned, this dismissal in no way lessens the government's resolve to stand up for the victims in this case, both those who have come forward and those who have yet to do so. We agree with your Honor's sentiment that those victims should be respected, and we appreciate your Honor's recognition of that.

One housekeeping matter that I did want to reference for your Honor. The protective order in this case requires destruction or return of any and all discovery material upon conclusion of the case. We have been in communication with defense counsel, who have confirmed that they have returned all physical copies that they have of discovery that the government has produced to date, and they are in the process of deleting any copies that they may have made. So the parties are in compliance with the protective order.

Finally, I just wanted to say a word about the victims in this case, and particularly those who are here in court

today. I'll note that in light of the court's order indicating that the victims and their counsel would be permitted to be heard in court here today, the government has endeavored to provide notice to all known victims of today's proceeding. We did so either directly where a victim was not represented by counsel or through counsel where a victim is represented by an attorney.

The government does not know exactly how many victims or their attorneys are here today and we do not know how many of them or their counsel would like to speak. To the extent any individuals do wish to speak, we do not know the substance of what they would like to say. We have left that entirely up to the individual decisions of the victims and their attorneys.

I will note, though, that throughout this case, the government has endeavored and done our utmost to fulfill our obligations under the Crimes Victims' Rights Act. We have done so by trying to keep as many victims as we are aware of up to date about the ongoing case and about any developments in the case.

We will continue to provide services and offer services to any of the victims in this case, even after the indictment is dismissed. Both the U.S. Attorney's office and the FBI have been in touch with all known victims or have attempted to be in touch with all known victims, either again directly where victims are not represented by counsel or

through counsel where they have attorneys. We have expressed to them that services are available for those who wish to take advantage of them.

Unless the court has any questions for me, the government will otherwise rest on its papers.

THE COURT: I just have one question.

The protective order, is that self-executing or do I need to do something?

MS. COMEY: It is self-executing, your Honor.

THE COURT: Thanks very much, Ms. Comey.

MS. COMEY: Thank you, your Honor.

THE COURT: Yes.

I'll turn to counsel for the defense at this time. Mr. Weingarten, I'm happy to hear from you.

MR. WEINGARTEN: Thank you.

Your Honor, I think it is an understatement of the year to say the world looks and feels differently today than it did the last time I was before you. For us, the elephant in the room is what happened to our client. I would like to tell you how we see the world and where we are on that subject.

We start with the Attorney General's statements, public statements, that there were very serious improprieties in the jail. We obviously read the press. We see that the warden has been taken out. We see that the guards on duty at the time have been put on leave. We understand guards are

refusing to cooperate with the investigation. We have heard allegations that people at the time who had responsibility for protecting our client falsified information. We understand that there were orders out there that Jeffrey Epstein was never to be left alone and that the orders were ignored by many of the employees of the prison.

In a word, yikes. In addition, obviously we followed the medical examiner's report, or we haven't followed the report, we haven't seen it, but heard conclusions, initially not enough evidence to come to a conclusion, wanted to see more. We assumed she was talking about the videotapes, but then came to the conclusion that it was suicide.

We report to the court that --

THE COURT: Suicide by hanging --

MR. WEINGARTEN: Yes.

THE COURT: -- was her conclusion?

MR. WEINGARTEN: Yes.

And we report to the court that we had a doctor there at the time, and we also have been in receipt of a tremendous amount of medical and scientific evidence volunteered to us opining that the injuries suffered, as reported, were far more consistent with assault than with suicide, and we are happy to supply the court with all the information that we have.

Now, in addition, as the court noted, we were underway with our pretrial motions, and as the court obviously

understands, the NPA and the role of the NPA was going to be critically important. And I would simply like to report that we went pretty far along.

We interviewed all of the relevant lawyers on the defense side who participated in the NPA, and we were satisfied that we had a very strong argument that every one of those lawyers believed with an objective basis that the deal was global. That is, at the time --

THE COURT: I'm sorry, that?

MR. WEINGARTEN: The deal of the NPA was global. That is, more specifically, at the time, the Florida prosecutors and agents knew of conduct in New York, and that no competent defense counsel negotiating in good faith with the prosecutors would have ever agreed to a deal back then that allowed New York prosecutors to indict for precisely the same conduct in the future, which, of course, is what happened.

In addition, we have come up with very powerful evidence, we believe, that Florida prosecutors, who participated in the deal, steered the victims and the alleged victims to New York on more than one occasion because they did not want to suffer the sleights of attacks against them. So we have advanced the ball on this very subject and we are prepared to completely report to the court as to where we are and what we've done.

Another point. We obviously had contact with our

client at or around the time of his death, and obviously the attorney-client privilege survives death and we are not going to forfeit the privilege, but we will report to the court, with as much specificity as the court may want, that at or around the time of his death, we did not see a despairing, despondent suicidal person. Details to follow, if the court wishes.

The 800-pound gorilla, for us, of course, are the video surveillance tapes. Obviously we assume there is a tape that leads directly to the door where Jeffrey Epstein was housed. If that tape reports for 12 hours before his death that no one went in and out of that room, then the suggestion that there was something other than a suicide seems preposterous.

But there is no such evidence that has surfaced to date. Just the opposite. We have heard, and we actually read in the press, that the tapes were either corrupted or not functioning. Talk about a yikes. If, in fact, the system was broken for six months before Jeffrey Epstein was housed, I mean, that would be stunning incompetence. If it was allowed to continue to be inoperative when Jeffrey Epstein was housed, it would be incompetence times ten. But what if the tapes only broke down or were inoperative or were corrupted on the day he was killed or the day he died? Then we're in a completely different situation.

So where does this lead? I think where it leads,

Judge, is there are incredibly important questions that remain open. The public interest in this matter is obvious from this courtroom. There are conspiracy theories galore. We are all for finding the truth. We believe this court has an indispensable role to play.

Whether or not this indictment is dismissed, I think this court has the inherent authority to find out what happened on its watch. Obviously, when the court detained Jeffrey Epstein, the court did not anticipate that weeks later he would be dead in his cell. I think given the inherent authority of the court, the court should make inquiry.

This could come in many forms. Obviously the court made inquiry as to what happened in the first incident. When there was an allegation of an attempted suicide, the court made inquiry. The court obviously was interested.

I recall your language. You talked about that being one of the several open questions indicating an interest on the court for the others as well. Obviously, the ultimate question is what happened to the client.

THE COURT: You're talking about the July 23, 2019 incident?

MR. WEINGARTEN: Yes.

The court obviously could hold hearings. The court could assign a lawyer to help the court. I think this is an area where there is intense public interest. We have complete

confidence in the prosecutors in the Southern District and the FBI to do a competent investigation. But these are allegations against serious components of the United States Department of Justice. Sometimes the appearance of justice is just as important as justice itself.

I think the court supervising, or at least keeping an interest in this proceeding, is incredibly important for the public to have confidence in the ultimate findings, and certainly for us to have confidence in the ultimate findings.

One more issue, Judge. The conditions of the jail, in a word, they were dreadful. Not just for Jeffrey Epstein, but for many of the prisoners over there. This is a prison within the shadows of this courthouse. The situation is rife with vermin. The abuse and the conditions in that prison, in a word, are a disgrace and everybody knows it.

A person with authority told us, someone with knowledge, that the prisoners in Guantanamo -- and he spoke with personal knowledge -- are treated better than the prisoners right across the way. The feds certainly know how to run a disciplined, clean prison. I've been in 20 of them. They know how to do it just fine. And the question is, why in the world does it not happen down the road? I think that is a perfectly legitimate subject for the court to make inquiry.

In a word, we want the court to help us find out what happened. The court has a role to play. It (is the institution)

(that most people have confidence in in these very troubled)
(times.)

So whether or not you dismiss the indictment, to us, is beside the point. We want you to stay on the case, we want you to conduct an investigation, and we want to know what happened here.

Thank you, your Honor.

THE COURT: Just so it is clear, so your view on the motion directly on its merits of the *nolle prosequi* order and application by the U.S. Attorney, do you have a view on that?

MR. WEINGARTEN: I think if the court felt that the case had to stay alive for the court to continue, we would oppose it. I think --

THE COURT: I'm sorry, if what?

MR. WEINGARTEN: If the issue, if you took the position for you to conduct the investigation or lead the investigation or participate in the investigation, then we want, the role we want you to play, if the indictment has to be alive, we would oppose the motion.

I don't think you need to do that. I think you can dismiss the indictment.

THE COURT: So you're suggesting that you support the government's motion, just viewed in the context of --

MR. WEINGARTEN: Yes, of course.

THE COURT: Great.

MR. WEINBERG: Judge, if I can just supplement?

THE COURT: Absolutely.

MR. WEINBERG: Thank you, sir.

Thank you, as an out-of-town lawyer for the privilege to appear in front of you, your Honor.

THE COURT: It's my pleasure.

MR. WEINBERG: First, as to the conditions, we think your Honor trusted the government, the Bureau of Prisons, to keep our client safe and keep him in civilized conditions. The government will again ask, as to other defendants, that they be detained at the MCC, some subset of them will end up in the SHU unit.

It is a horrific. I've called it medieval. There's vermin on the floor. There is wet from the plumbing. There is no sunlight. There is limited exercise. It is simply conditions that no pretrial detainee -- and I would go farther as a criminal defense lawyer -- no United States defendant should be subjected to.

Certain judges have taken views of the conditions. We would urge your Honor, the government talks about and we talk about transparency, to see what kind of conditions there exist within 50 or 100 yards of one of the great United States district courts.

Second, in terms, we have a profound problem with the conclusions of the medical examiner. There are for three

reasons, your Honor.

One is the timing of Mr. Epstein's demise. It was on August 10. On August 12, a bail pending appeal motion was being filed in the Second Circuit. On August 12 or 13, the United States Attorneys were going to respond to our request for the preservation and production of documents that would have facilitated and furthered our efforts to demonstrate communications between the Southern District of Florida, the Northern District of Georgia, which was standing in the shoes of the Southern District of Florida main justice and the Southern District.

In other words, we were beginning the process discharging our responsibilities. There had been no new evidence that Mr. Epstein had committed any offense against a minor after 2005. The subject matter of the New York prosecution was squarely within the heartland of the Florida NPA. We had a significant motion to dismiss. This was not a futile, you know, defeatist attitude.

Third, we had all the discovery motions that your Honor had scheduled. So the timing for a pretrial detainee to commit suicide on August 10, when his bail pending appeal motion is being filed on August 12, strikes us as implausible.

Second, we had an independent doctor who was present at the autopsy which occurred on August 11. On August 11, the city medical examiner's findings were inconclusive. We are

told by a very experienced forensic pathologist that the broken bones in Mr. Epstein's neck, in his larynx, are more consistent with external pressure, with strangulation, with homicide, if you will, than with suicide. It doesn't exclude suicide, but the pure medical forensic evidence creates profound issues about what happened to him.

Also the time of death. Our medical examiner's opinion is it occurred at least 45 minutes and probably hours before 6:30 a.m. on August 10, when he was first found, if you will, according to the reports. Yet he was moved, something that is not ordinary in these circumstances.

I would also --

THE COURT: Excuse me. He was moved?

MR. WEINBERG: Instead of having the cell in the condition it was found, if he had been dead for 45 minutes or two hours or four hours, there were efforts to move him and, therefore, make it more difficult to reconstruct whether or not he died of suicide or some other cause.

I spoke to Stacey Richmond, who is a responsible member of this court who represents the family of Mr. Epstein. She spoke to the medical examiner on the Friday after Mr. Epstein's death and asked why, if the conclusion was made late in the afternoon on Friday that week. She specifically asked about what extrinsic nonmedical evidence caused the medical examiner to go from uncertain to suicide, and she was

told that the medical examiner had seen nine minutes of one video which was on a stairwell between floors at the MCC. She was told that the principal video that would have showed the whole hall was corrupted. It was in DC with the FBI to see if they can reconstruct it.

And I asked the same questions that my co-counsel did, you know, was the dysfunction of the critical pivotal video, in the most secure prison east of Florence, out in Colorado known to the MCC before August 10, or was this corruption occurring on August 10, which would again cause us to be skeptical of the servitude of the medical examiner's conclusions that this was suicide rather than some other cause.

So with my co-counsel, we ask your Honor, it is not a question of trust or not trust. They ask you to detain people and you trust the Bureau of Prisons. And it is within your inherit authority, your Honor, to find out what happened to our client.

We are angry about the conditions he was held in. And we're also angry, quite frankly, your Honor, that the only source of information that we get as to what happened to him is through the media rather than through the United States Attorney's office. We've made requests informal. We have made Touhy requests. We've been told there is a pending investigation.

But we trust your Honor and the judiciary, and with

all due respect, we believe there is an inherent and central role, a pivotal role in your Honor to find out what happened to a defendant in a case before the court, whether or not the court grants the *nolle pros* today or whether it holds it pending an investigation into Mr. Epstein's death.

We're not here without significant doubts regarding the conclusion of suicide. We are not here to say what happened. We don't know what happened. But we deeply want to know what happened to our client.

Thank you, sir.

THE COURT: And you, as Mr. Weingarten, have the same view of the *nolle prosequi* motion?

MR. WEINBERG: Yes, your Honor.

THE COURT: OK.

MS. COMEY: Your Honor, may I respond to some of those points?

THE COURT: Sure.

MS. COMEY: Thank you, your Honor.

Just briefly. With the exception of the noting that the defense does not have an objection to the government's motion, virtually everything else that defense counsel just argued, respectfully is completely irrelevant to the purposes of today's proceeding and to the motion that is pending before your Honor.

As an initial matter, the question --

THE COURT: Well, it may be. Well, I don't know. You say irrelevant.

It is a public hearing, and I think it is fair game for defense counsel to raise its concerns.

MS. COMEY: Certainly, your Honor. But it is irrelevant to whether or not the motion should be granted.

THE COURT: Right. I get that.

MS. COMEY: I would also note that the question of Mr. Epstein's death is the subject of an ongoing and active investigation, as has been publicly noted, by a separate team of Assistant United States Attorneys from the Southern District of New York, separate from the team who is handling this prosecution, as well as a separate team of FBI agents.

There is an ongoing and active grand jury investigation into the circumstances surrounding Mr. Epstein's death. It is the function of a grand jury and of the Federal Bureau of Investigation to investigate crimes in the federal court system. It is not the purview, respectfully, of the court to conduct an investigation into uncharged matters.

So respectfully, we disagree with defense counsel's suggestion that the court has some authority to conduct an independent investigation. To the extent any other defendants who are detained in the MCC have concerns about the conditions or believe that the conditions are relevant to a future or current bail determination, it is for those defendants and

their counsel to raise those arguments and for the judges hearing those arguments to evaluate those claims. It is not relevant to today's proceedings.

Thank you, your Honor.

THE COURT: In those other cases, Ms. Comey, judges do have authority to investigate, but don't here?

MS. COMEY: Not to investigate, your Honor, but to hear arguments about the conditions of confinement in the MCC as they may relate to any bail determination. I believe that was the argument that was made.

The bigger picture here, your Honor, is that the focus of today's proceeding, as we understand it, is to allow the victims who have gathered here today to be heard and to comment upon the case and to comment upon the motion that is pending, and to bring this case to a close.

THE COURT: Got it.

MR. WEINGARTEN: May I?

THE COURT: Sure.

MR. WEINGARTEN: We obviously saw this as, perhaps, the last opportunity to be before you, and we wanted to take advantage of the opportunity to say our peace and thank you for allowing us.

There is precedent here. Ted Stevens, the Senator from Alaska case in Washington, DC, Judge Emmet Sullivan ordered an independent investigation by a private lawyer when

he was deeply troubled by the alleged Brady violations. I represented the prosecutors in that case, so I'm very, very familiar with it.

It is analogous. It is a situation where there was tremendous controversy over what happened in the case and whether or not the prosecutors went off the reservation. Judge Sullivan -- and there were three or four independent -- not independent, DOJ inquiries into the very same matter. But Judge Sullivan wanted his own opportunity to make a judgment with his own independent investigation.

THE COURT: OK.

MR. WEINBERG: If I could just add one precedent, your Honor.

The Chief judge in the District of Massachusetts or the Chief Judge at the time, Judge Wolf, in a case called U.S. v. Fleming, when the conditions at Walpole, which is a state prison where federal prisoners were being held -- we don't have a federal MCC in Boston -- went to the prison, stayed in the prison to determine whether or not the complaints about the conditions were authentic.

I think your Honor has the inherent authority to go to the ninth floor and see how the MCC houses pretrial detainees.

Thank you.

THE COURT: Are you saying that whether or not the motion is granted that is pending before us?

MR. WEINBERG: Yes, your Honor.

I think, like when appeals are taken, bail issues remain before the district court. Jurisdiction is not completely divested. Your Honor issued a pretrial detention order and your Honor has the power, the inherent authority, they are not going to refuse to allow you to go look at the ninth floor. They are going to count on you to make decisions in the future.

I just trust that the executive branch is not going to prevent the judicial branch from looking into the death of Jeffrey Epstein or the conditions in the SHU unit at the MCC, sir.

THE COURT: Great. Thank you.

MS. COMEY: May I, your Honor?

Just very briefly, your Honor. I would note that upon the dismissal of the indictment, which I believe the parties agree is appropriate in this case, there would be no case. There would be no jurisdiction for the court to conduct any sort of inquiry, even if the court had such authority.

THE COURT: Right.

OK. I think we've heard enough.

(It is at this point in the hearing that I would like to call upon victims' counsel, plural, for any remarks they may have and they may wish to make.) (Also, to introduce their clients, those of them who wish to be heard.)

(It would be helpful if, in doing that, if counsel --) (Mr. Edwards and I see and I see Mr. Boise as well -- I know) (they are counsel to several, at least several of the victims.) (It would be helpful if whoever is speaking, both Mr. Edwards) (and Mr. Boise, would indicate to the court whether or not they) (have discussed the pending motion with their clients, that is) (to say and the rule of abatement, etc., etc. with them prior to) (today's hearing.)

(Are we going to hear from Mr. Edwards first, is that) (right?)

(MR. EDWARDS:) (Thank you, your Honor.)

(THE COURT:) (You bet.)

(It would be helpful, Mr. Edwards, if you would state) (and spell your name for the court reporter.)

(If you are going to introduce someone else, which I) (trust that you are, if you could state and spell their name as) (well.)

(MR. EDWARDS:) (Yes, your Honor.)

(May it please the court.) (Brad Edwards, B-r-a-d) (E-d-w-a-r-d-s, with the law firm of Edwards Pottinger.)

(I have in the courtroom today 15 victims that I) (represent and have represented over the years.) (There are at) (least 20 more who didn't make this hearing today for a) (multitude of reasons, some out of fear of public exposure,) (others because the way in which this case ended will never)

bring full justice, and they decided it was best for them not to talk today.

Some of my clients are going to address the court that are here today. Others are not. Some are going to use their names, and have in the past, and others wish to remain anonymous. And I have instructed each of them to inform the court reporter that they will be proceeding as Jane Doe so that the court reporter can take them down.

THE COURT: For those who wish to remain anonymous?

MR. EDWARDS: Exactly, your Honor.

THE COURT: And that is satisfactory, as far as I am concerned.

MR. EDWARDS: Before we do that, I would like to address a couple of the things that have occurred this morning.

First of all, whether relevant or not, I personally, and on behalf of my clients, do appreciate the presentation that Mr. Weingarten made and Mr. Marty Weinberg made.

I have tremendous respect for Mr. Weinberg. I've worked with him through this and related cases for years, and I understand the reason why they made the presentation that they made.

There is two things of interest to our clients in that respect. One is, because of the tragic ending, that none of my clients wanted, nor did I, nor did anyone else, if there is some civil rights violation and there is some civil remedy for

Mr. Epstein that goes to the estate, certainly the victims are interested in that as they might help to repair the damage done.

Second, Mr. Epstein's untimely death, the timing is curious to us. But more so, it makes it absolutely impossible for the victims to ever get the day in court that they wanted in court and to get full justice. That now can never happen. I know that Mr. Epstein's attorneys say he wanted it, and they know, we did too. And there are a lot of people here today that are very sad by the way that this ended for both Mr. Epstein and the fact that full justice was robbed from them, once again.

The second issue I wanted to address was the Law Review or the Law Journal article that your Honor referenced, which is troubling because the opinion seems to say that transparency is not appropriate in the criminal system and is not appropriate at this point in time.

That's tough to swallow, especially in this case, given the long history of this case. Personally, it is tough to swallow, and on behalf of my clients, I can say that is very concerning. Transparency is the only way that the justice system works. We know this because there was a similar investigation of Mr. Epstein many years ago, from 2005 to 2008.

My personal involvement in this case was because a young female came into my office named Courtney Wild, and she

(came to me not asking to file a lawsuit against Jeffrey) (Epstein, but simply asking for the government to talk to her.) (She was cooperating in an FBI investigation and wanted the) (government to speak with her, and I thought that was going to) (be an easy task.)

(It was only a few months later that we learned that) (this investigation that was represented to my client in written) (form, that it would be a long investigation, and to be patient.) (Basically, to hang tight.) (It was resolved by way of a secret) (deal that never allowed any of the more than 30 victims who had) (been identified of Mr. Epstein's abuse in Florida to ever) (participate in a single hearing.) (There was a hearing.) (They) (were never notified.)

(I then went on to represent many of them in civil) (cases and also in extensive pro bono work.) (And I can tell your) (Honor that while Jeffrey Epstein's abuse of them hurt them and) (harmed them for many years, the feelings they had was) (aggravated exponentially by the facts that they had no rights) (in the criminal justice system, by the fact that they were) (treated as if they didn't matter.) (They were not allowed their) (rights under the Crime Victims' Rights Act to meaningfully) (confer with prosecutors, to be treated with fairness, to be) (treated with dignity.) (That is what this is supposed to be) (about, and to have notice of hearings.)

(So I do want to thank your Honor, and especially the)

(prosecutors who have worked this investigation and this case,) (which is very different in experience for all of my clients and) (the other Epstein victims in this case, because they were) (allowed to be a part of the process.) (While some of them) (elected not to be here today, that opportunity should always be) (allowed for them.)

(In 2008, we filed that case under the Crime Victims') (Rights Act because our clients' rights were violated, and as) (your Honor knows, a federal judge has ruled in our clients') (favor that their rights were violated.) (So this hearing today) (means a lot to them.) (The fact that they may never get their) (chance to speak in court, they may never get complete closure,) (and all of us have to wonder, if their rights had been afforded) (them the first time, would any of us be here right now.) (Or) (wouldn't it more likely be the case that everyone, including) (Jeffrey Epstein, would have turned out better for it?)

(Today, I have not only represented, but met and become) (very close with many of these victims.) (Many of these) (survivors.) (They are very strong people.) (They are people who) (have persevered through a lot of adversity.) (It's been a roller) (coaster of emotions that has led us to where we are today.) (And) (while they have all been cast over the years because of the) (secrecy of the first investigation, in the shadow as victims,) (you can't put them all in one bucket and say one size fits all.) (They are each individual people who were harmed differently and)

(distinctly through not only the abuse, but the system.)

(And on behalf of all of them, I would like to thank) (your Honor for the fairness with which they've been treated,) (and the United States Attorney's office for the way in which) (you have handled this investigation, and especially how you) (have treated the victims in this case.)

(Like I said, I have many who want to speak.) (Some that) (can't.) (This is a very difficult day for them.) (But we) (appreciate the opportunity and the invitation.)

(The first client that I have that is going to address) (your Honor is the one who walked into my office in 2008 asking) (just to be heard, Courtney Wild.)

(THE COURT:) (Hold on one second.) (Did you all want to) (be seated?)

(You don't need to be standing.) (Whatever is more) (comfortable until you're ready to give some comments.) (It's up) (to you.)

(Ms. Wild, if you could spell your name for the court) (reporters, please.)

(MS. WILD:) (Courtney, C-o-u-r-t-n-e-y, last name Wild,) (W-i-l-d.)

((Continued on next page))

(MS. WILD:) (My name is Courtney Wild, and I'm a victim) (of Jeffrey Epstein.) (Jeffrey Epstein sexually abused me for) (years, robbing me of my innocence and mental health.) (Jeffrey) (Epstein has done nothing but manipulate our justice system,) (where he has never been held accountable for his actions, even) (to this day.)

(Jeffrey Epstein robbed myself and all the other) (victims of our day in court to confront him one by one, and for) (that he is a coward.)

(I want to thank the U.S. Attorney's for seeking) (justice that has been long over due, and most importantly,) (given us, the victims, our day in court to speak our peace and) (find some sort of closure.) (I feel very angry and sad that) (justice has never been served in this case.) (Thank you.)

(THE COURT:) (Thanks very much.)

(MR. EDWARDS:) (I believe my next client who is going to) (speak is probably going to speak as Jane Doe.)

(JANE DOE NO. 1:) (Yes, Jane Doe.)

(THE COURT:) (We'll say Jane Doe No. 1, just for the) (record.)

(JANE DOE NO. 1:) (Okay.) (Thank you for allowing us to) (speak today.) (I've shifted what I want to say in hearing) (what's already been said, and just about the question of) (Jeffrey's death.) (I don't know what the relevance is to this) (hearing, but I do know that it is profoundly relevant to my)

(life, as a victim.) (I don't like that word, but I still feel) (like I am learning the ways that he's impacted me as a complex) (situation, but he was also a major part of my life.) (As) (destructive as that relationship was and as much of a villain) (as we have created him to be -- based on facts we've created) (him to be a villain -- he's a complex villain and actually all) (of that is irrelevant.) (Anybody deserves -- an investigation is) (the right thing to do.) (Like, we do need to know how he died.)

(It felt like a whole new trauma all over again, and I) (don't know why, you know, because I -- I'm trying to defend) (myself against him at this point in my life, but it still does) (not feel good.) (It didn't feel good to wake up that morning and) (find out that he had allegedly committed suicide.) (Okay.) (But I) (also wanted to say to the press, I'm reading -- I read my story) (in the paper.) (I read so many other girls' stories that are so) (similar to my own, and everything that's been focused on is not) (the most important part of it.)

(There was -- the problem with focusing on these, the) (facts of the situation, that were out of the ordinary and like) (because he was such a grand person, and it was just a unique) (situation.) (I know that that's the more interesting side of the) (story, but I don't want to be used as entertainment.) (And the) (problem, the fundamental problem of the whole situation is the) (element of exploitation and coercion, and these are things that) (so many girls can relate to.)

(And even though this Jeffrey Epstein brought it to a grand scale, on some level, a lot of girls could relate to the trauma that we are talking about, and even though this whole situation sucks, I would like to think that it may be possibly a catalyst for change because, obviously, as we're seeing with the "Me Too" movement, change needs to happen and it's -- what I'm seeing in the papers is not a common story, but it's so much more common than you realize.) (That's all.) (Thank you.)

(THE COURT:) (Thank you very much.)

(MR. EDWARDS:) (I believe that the next client is going to also be a Jane Doe; so I think for the purposes of the record it will be Jane Doe 2.)

(THE COURT:) (Yes.)

(JANE DOE NO. 2:) (Good morning, your Honor.)

(THE COURT:) (Good morning.) (How are you?)

(JANE DOE NO. 2:) (Doing okay.) (I hadn't prepared any words to speak today, but there is something that was on my mind this morning when I got here.) (It's been on my mind in reading through the press and through the people that I've spoken to about it, friends, family.) (It's something that's bothered me because I think it has a lot of blame in it, as well, a little bit of what my friend, who was up here, was speaking about.)

(I think that a lot of people asked why we spent so much time, why we stayed.) (It's an experience that's really

hard to explain to people who haven't gone through it. I think there's a writer, Thomas Nagel, who wrote an essay called "What is it like to be a bat?" And I think that he touches on it pretty strongly and if you haven't experienced something, it's very hard to fully understand why someone makes the decisions they do and what the circumstances were.

I don't want to speak for all of the victims. I think each of us has a different story and different circumstances for why we stayed in it, but for me, I think he was really strategic in how he approached each of us. Things happened slowly over time. We didn't -- it almost was like, putting it like that analogy of a frog being in a pan of water and slowly turning the flame up. You didn't realize it was happening, and it just -- I don't think anyone can fully understand the experience, but I just -- the blame feels very strong.

There's a lot of support as well, but I just want people to try and understand that we aren't bad people. We weren't trying to -- it wasn't a situation where we were trying to extort money from someone. A lot of us were in very vulnerable situations and in extreme poverty, circumstances where we didn't have anyone on our side, to speak on our behalf, and that's really scary.

You start to blame yourself because, at first, you don't tell anyone what's happening, and it becomes your deep, dark secret that you tried to keep from everyone. And I didn't

(even know I was a victim until I spoke with my lawyers.) (I had no idea.) (I had so much self-hatred and doubt and just guilt for everything.) (I still do.) (I still don't feel like I deserve to say I'm a victim, and I think that's a big problem with our society right now, that people are still blaming victims, and I think that does need to change.)

(I hope that today people understand that each of us has a story, has a past, has a family and just give us a chance to -- you know, that's basically all I just wanted to say.)

(THE COURT:) (Thank you so much.)

(JANE DOE NO. 2:) (Thank you so much.)

(THE COURT:) (Okay.)

(MR. EDWARDS:) (Okay.) (I think that the next person who is going to speak is also going to be speaking as Jane Doe; so for the purpose of the record, Jane Doe No. 3.)

(JANE DOE NO. 3:) (Thank you for allowing us to speak today.) (I came to New York City 15 years ago to pursue modeling from a small town.) (I signed on with an agency and was excited to pursue my passion and my dream.) (Several months later, I met a female who told me about Mr. Epstein.) (She portrayed him as an amazing man who genuinely cared for people and that he was going to be able to help me in a modeling career.)

(I was excited to meet him, after hearing her talk about him.) (He sounded like an amazing person.) (An introduction was made at his New York home, and it is there that I was)

(sexually assaulted.) (I left his home, after he threw me,) (basically put money on the table, and I was ashamed.) (I was) (embarrassed.) (This was not the way I was brought up, and I) (couldn't believe this had happened to me.)

(I left and my world kind of spiraled after that.) (I) (stopped going on modeling castings.) (I gained weight.) (I became) (depressed.) (I stopped going out with my friends, and only five) (months after I had been in New York City to pursue my dream, I) (left.) (I left the modeling industry, and I left New York City,) (and I totally switched my career paths.)

(I buried this deep within me, and all of the new) (occurrences that have come up in the media is what brought it) (back up for me.) (And I feel sickened and saddened that it took) (so many years, and God knows how many victims, for this to) (finally come out, but I'm thankful it did.) (And I'm just angry) (that he's not alive anymore to have to pay the price for his) (actions.) (So I thank you for your time.)

(THE COURT:) (You're very welcome.)

(MR. EDWARDS:) (Your Honor, Jane Doe No. 4, I believe,) (is going to speak now.)

(JANE DOE NO. 4:) (Good morning, your Honor.)

(THE COURT:) (Good morning.)

(JANE DOE NO. 4:) (I just have something very short to) (say.) (I met Jeffrey Epstein at a very vulnerable place in my) (life, and whatever the outcome is with everything, I just)

(wanted to express that we, the victims, we will always carry) (irreparable damage and pain throughout our lives after this.) (It's something that's never going to go away.)

(You know, whoever we marry in our life, whatever) (future we have in our life, it's always going to be something) (that's always there for us.) (And I'm very nervous right now.) (And Jeffrey Epstein, he took away the chance I had at having) (the future I had envisioned for myself as a young girl, and I) (think many of us here today will never fully heal from that) (pain and the heartache that we'll continue carrying with us.)

(So I just wanted to say that.) (It's something that) (it's irreparable.) (I can't even really use a better word to) (describe that.) (So thank you for hearing us today.)

(THE COURT:) (You're very welcome.)

(MR. EDWARDS:) (Your Honor, Jane Doe No. 5 would like to) (speak.)

(JANE DOE NO. 5:) (This is a letter that I wrote; so) (it's going to be:) (Dear Jeffrey, I think you are a mentally) (disturbed human being.) (You used your power to make me believe) (at a young age that I could have my dreams of being a model.) (You paid for your freedom.) (You violated my rights.) (You should) (have to pay for them, just as anyone else.) (You got a plea deal) (that no one else would have been able to get.) (You used your) (money to get out of paying the price for your actions.)

(Also, as a victim, I never got to see what the)

(agreement was or why the special treatment got approved.) (I) (think you should have been in jail for several years in) (population and live like everyone else that is mentally) (disturbed like you.) (You paid for yourself to get special) (treatment while you were in jail.) (I don't even think you spent) (a day in a jail as a normal human being.)

(You had investigators come to my house and also went) (to my friend's house to question them.) (I will never be able to) (over -- I will never be able to get over the overwhelming) (emotions and embarrassment I experienced from that trauma.) (I) (needed therapy several times a week and had high stress and) (anxiety levels.)

(You paid your way to make the public think that the) (girls had nothing in life going on for them.) (You wanted to try) (and blame that we were lower class and that was the problem) (with the girls.) (I was from a middle class family and did well) (in school.) (I lived the American girl dream -- or the American) (girl life.) (I went on family vacations around the world, grew) (up in a good city, and my parents are still married to this) (day.) (Basically, everything you said that we didn't have in our) (life, I did.)

(It all came down to I was told I was making $200 in an) (hour.) (Being young, that was a lot of money, and I didn't know) (any better.) (Sadly, you were the one with an illness that you) (should have to go and see a doctor and also have a mentor group)

(for the sickness you have.) (I will continue with writing my) (book about that secret life, with all the newspaper articles of) (the case, my high school agenda book of official dates.) (I'm) (basing that proof that I deposited cash after leaving) (Jeffrey's.) (I still have all of the information, articles that) (I collected over the years.)

(You mentally and physically traumatized me.) (I went to) (therapy, and it was the best thing I did for myself.) (If anyone) (only learns one thing from this case, I hope is that money) (should not let you buy your way free.) (A crime is a crime and a) (victim is a victim.) (Thank you.)

(THE COURT:) (Thank you.) (Thank you very much.)

(MR. EDWARDS:) (Your Honor, my next client is Chauntae) (Davies, C-h-a-u-n-t-a-e, Davies, D-a-v-i-e-s.)

(MS. DAVIES:) (I met Jeffrey Epstein through my first) (massage teacher, a man who took me in as his apprentice to) (teach me a practice I wanted to learn while in desperate search) (to find a cure for a debilitating neurological disorder that I) (have, which manifests into violent vomiting attacks, largely) (triggered by stress.) (It's called Cyclic Vomiting Syndrome.)

(I was recruited by Ghislaine Maxwell.) (Upon my first) (meeting of her, I wouldn't know I had been recruited until many) (years later, when I would read it in a headline.) (Ghislaine and) (Jeffrey took me in.) (They sent me to school.) (They gave me a) (job.) (They flew me around the world, introduced me to a world I)

had only dreamt of and made me feel as though I had become a part of their family, another thing I was desperately searching for.

But on my third or fourth time meeting them, they brought me to Jeffrey's island for the first time, and on the first night there, Sarah Kellen came tapping on my door late at night to inform me Jeffrey was ready for another massage. My instincts told me this didn't feel right, but I got up and followed her to a villa I hadn't yet seen. Jeffrey and Ghislaine's villa.

I began my massage, trying not to let him smell my fear and obvious discomfort, but before I knew what was happening, he grabbed onto my wrist and tugged me towards the bed. I tried to pull away, but he was unbuttoning my shorts and pulling my body onto his already naked body faster than I could think. I was searching for words but all I could say was meek, "No, please stop," but that just seemed to excite him more.

He continued to rape me, and when he was finished, he hopped off and went to the shower. I pulled my shorts up, and I ran as fast as I could back to my own villa, my feet bloodied from the rocks. I cried myself to sleep that night.

I spent two weeks vomiting, almost to death, in a Los Angeles hospital after that first encounter. Jeffrey's abuse would continue for the next three years, and I allowed it

(to continue because I had been taken advantage of my entire) (life and had been conditioned to just accept it.)

(It took me a long time to come forward, too long) (maybe, and all it took to bring -- and all that it took to) (bring this man to justice has been robbed by his death.) (Every) (day, every week I've spent in the hospital since, I've suffered) (and he has won.) (Every job offer that's been offered to me and) (then retracted because of my connection to this case, I have) (suffered and he has won.) (Every public humiliation I have) (endured, I have suffered and he has won.) (Every relationship) (that I've had to end because of the abuse that I have endured) (by the hands of this man, I have suffered and he has won.)

(Every woman sitting in this room today, and all of the) (women who have yet come forward and who have not yet to come) (forward and whose lives have been affected by Jeffrey Epstein's) (sick abuse of young girls, we have all suffered, and he is) (still winning in death.)

(I refuse to let this man win in death.) (I couldn't) (fight back when Jeffrey Epstein sexually abused me because I) (hadn't yet found my voice.) (Well, I have found my voice now,) (and while Jeffrey may no longer be here to hear it, I will not) (stop fighting, and I will not be silenced anymore.) (I needed) (him to hear the pain he's caused, what I've gone through) (because of him.) (I wrote a 350-page book of all the pain that I) (have endured at the hands of this man that I really needed him)

(to hear.) (His death has robbed me of that justice.)

(Please don't rob us of justice again.) (Thank you.)

(THE COURT:) (Thank you.)

(MR. EDWARDS:) (Your Honor, I think I have one more) (client that is going to speak today, Anouska De Georgiou.)

(THE COURT:) (Would you spell that?)

(MS. DE GEORGIOU:) (Good morning, your Honor.)

(THE COURT:) (Good morning.)

(MS. DE GEORGIOU:) (My name is spelled A-n-o-u-s-k-a,) (D-e, space, G-e-o-r-g-i-o-u.)

(Thank you, your Honor, for giving us the opportunity) (to be heard this morning.)

(THE COURT:) (Sure.)

(MS. DE GEORGIOU:) (When I was introduced to Jeffrey) (Epstein, I was young and full of hope and the foolishness of a) (teenager.) (I was idealistic, and I saw the good in people.) (Jeffrey Epstein manipulated me, coerced me and sexually abused) (me.)

(Something I think is very important to communicate is) (that loss of innocence, trust and joy is not recoverable.) (The) (abuse, spanning several years, was devaluing beyond measure and) (affected my ability to form and maintain healthy relationships,) (both in my work and my personal life.) (He could not begin to) (fathom what he took from us, and I say "us" because I am every) (girl he did this to, and they're all me.) (And today we stand)

(together, those that are present and those that aren't.)

(I was a victim, and it has taken me many, many years) (to stand here and say, yes, it was me.) (I was a victim, but I) (will not remain a victim and be silent for one more day.) (Although I think it's tragic when anybody dies before their) (time, I'm extremely relieved that Jeffrey Epstein will not be) (in a position to hurt anymore children or anymore women, and) (I'm glad to be part of a group of women who are now bonded) (forever in the trauma that we endured at the hands of this man.) (Thank you.)

(THE COURT:) (Thank you.)

(MR. EDWARDS:) (Your Honor, we had one client who was) (not able to be here but sent a message through a letter.) (Her) (name is Michelle Licata, M-i-c-h-e-l-l-e; last name,) (L-i-c-a-t-a.) (And Brittany Henderson, of my office, is going to) (read her letter as instructed.)

(THE COURT:) (Sure.)

(MS. HENDERSON:) (Thank you, your Honor.)

(THE COURT:) (Yup.)

(MS. HENDERSON:) (What happened to me occurred many) (years ago when I was in high school, but it still effects my) (life.) (I was told then that Jeffrey Epstein was going to be) (held accountable, but he was not.) (In fact, the government) (worked out a secret deal and didn't tell me about it.) (The case) (ended without me knowing what was going on, without him being)

held responsible, without any explanation and without a chance for my voice to be heard. I was treated like I did not matter.

Many years later, he was arrested again. These investigators and attorneys representing the United States have been completely different. I am still mad, concerned and confused about how he committed suicide and escaped responsibility again, but I know it is not the fault of the judge or the government attorneys.

I was allowed to be a part of the process this time. My attorney was able to tell me what was going on at every stage because they kept him informed. Thank you for inviting me. It means more to me than you can ever know. I was not able to be here this time, but I know that I was allowed to be and I had the chance to attend this hearing, which is helping me in my healing process. The fact that I mattered this time and the other victims mattered is what counts. For that, I am grateful.

THE COURT: Thank you.

MR. EDWARDS: Your Honor, finally, in 2008 when I filed the case under the Crime Victims Rights Act, it wasn't me alone. I did it with Paul Cassell and Jay Howell.

Paul Cassell is here today, and I think your Honor even cited to a piece of -- an opinion of his from when he was on the bench, and he has some remarks to make.

Once again, your Honor, I really do believe that this

(is a model for how victims should be treated in a criminal) (process, and we really do appreciate it.) (Thank you.)

(THE COURT:) (Thank you.)

(MR. CASSELL:) (I'll be very brief because I know there) (are others that want to speak here.) (I'm Paul Cassell,) (C-a-s-s-e-l-l, previously served as a federal judge at the) (District of Utah, currently a law professor, where I teach) (crime victims rights at the University of Utah, College of Law.)

(I just wanted to take one minute to address some) (suggestion that there would be no need for a hearing this) (morning.) (I think, having heard already from these powerful) (victims and recognizing how important giving those statements) (will be in the trajectory of their lives, makes clear that your) (Honor has followed exactly the right path.) (Legally, there is) (one precedent, which is *U.S. v. Heaton*, a case that you cited) (that I wrote about a decade ago, and as explained in that) (opinion, victims have important interests in the criminal) (justice system that can only be recognized if they're given) (their day in court.)

(With all due respect to other law professors that have) (recently written an article, I think transparency is one of the) (overriding objectives in our criminal justice system, and the) (one substantive action that I would urge your Honor to take) (today is to publish your remarks as a published opinion.) (The) (Heaton case is, to my knowledge, the only reported decision on)

(this particular issue, even though it's more than a decade old) (and, yet, we can see today that these problems recur in many) (other cases.) (Your remarks today, I think, should be published) (so that they can serve as a guide for other judges around the) (country.)

(I would encourage you to add into your remarks a) (reference to the Crime Victims Rights Act.) (The Crime Victims) (Right Act promises victims the right to be treated with) (fairness, dignity and respect, and the process that we see) (unfolding this morning is a clear example of how victims can be) (treated with fairness, dignity and respect.)

(So I know that your Honor is wondering what is the) (appropriate action here.) (Unfortunately, it seems like there) (are no other legal options, but there was a legal option for) (you to decide to exercise, which was to allow these victims to) (come forward.) (And if there's been one positive thing that has) (come out of the tragedies, the abuse, the other events of this) (case, it's been your decision to allow these victims to be) (heard this morning, and I encourage you to publish your) (decision and to encourage other judges to follow what is) (clearly a model for crime victims rights and is clearly an) (example that should be followed in other cases down the road.)

(THE COURT:) (Thank you very much.) (I appreciate your) (being here.) (I had no idea that you would be here when I wrote) (the remarks, but it was clear from the literature that you are)

(the leading expert formerly of the District Court of Utah, I) (believe, and it's a pleasure to have you here today.)

(MR. CASSELL:) (Thank you, your Honor.)

(THE COURT:) (Thanks.)

(Mr. Boies?)

(MR. BOIES:) (Thank you, your Honor.) (David Boies of) (Boies Schiller Flexner.) (We have with us today five of the) (victims that we represent.) (There are a number of additional) (victims who either were unable to attend or are still unwilling) (to come forward publicly.) (This has been an enormously) (traumatic aspect of their lives, something that, as you've) (already heard and will hear more today, is something that they) (can never entirely escape from.)

(I want to, as prior counsel have, commend both the) (Court and counsel for the Department of Justice for the) (consideration and respect and attention that they have paid to) (the victims.) (We believe that that is not only right, as a) (matter of human dignity, but we think that is exactly what the) (law requires and intends.)

(I will be more blunt than the Court has been, or) (Professor Cassell has been about Professor Green's article.) (That is an article that cites no authority, and I believe there) (is no authority for his proposition.) (I entirely respect his) (right to advocate on behalf of his client Alan Dershowitz, who) (has retained him in connection with litigation that we've)

brought against Mr. Dershowitz, but I would have expected that the Law Journal or Professor Green himself would have disclosed that connection, which I think is a conflict.

But regardless of the appropriateness of his disclosure, or lack of disclosure, I think that his article opposing allowing the victims to have a voice in this proceeding is inconsistent not only with the policy that underlies the Crime Victim Rights Act and the very statute that Mr. Epstein is being prosecuted under, but it ignores the actual language of those statutes, and many other statutes, in which Congress has made clear that the purpose of the criminal law is no longer simply to punish the individual defendant, but it is to find some way of trying to mitigate the damage that has been done to the victims through restitution and economic mitigation, but also through the ability to confront and to have the court system and the justice system and the prosecutors treat these victims as they are victims, as they are human beings, and they are entitled to the respect that our society needs to give every human being. So I think that this is not only commendable, but I think it is what the law requires.

In response to the question the Court asked, I have discussed this hearing with my clients. I have told them that, under the applicable law, the government has no alternative but to move to dismiss this case, and I believe under the

(applicable law in this circuit, the Court has no alternative) (but to grant that motion.)

(I think the current law is outdated, as the Court) (suggested in some of its remarks.) (I think there will come a) (time when either an Appellate court or the Congress will make) (clear that, just as it's possible to continue civil cases) (against someone after they have deceased, it is possible, at) (least for purposes of things like restitution, to continue) (criminal cases, but we are not there now.) (And, fortunately, in) (this case, there are other ways and perhaps even more efficient) (ways to vindicate the interests of the victims here.)

(We greatly appreciate the remarks of the) (representative of the Department of Justice today, and we, too,) (on behalf of the victims, are not going to stop when we walk) (out of this courtroom.) (We are going to continue to seek) (vindication against Mr. Epstein's estate and, in some senses,) (perhaps even more important, against the people who worked with) (him and enabled him.)

(As you have already heard, and will hear more,) (Mr. Epstein did not act alone.) (He could not have done what he) (did, on the scope and the scale of what he did, for as many) (years as he did it without the activities and support and the) (co-conspirator activity of a number of other key individuals,) (and those individuals also need to bear their share of) (responsibility, and those people need to have a reckoning as)

(well.)

(My partner Sig McCawley, who's been working with me) (for more than five years on this case, is going to, with the) (Court's permission, introduce five of our clients who will) (speak briefly to your Court.) (Thank you very much.)

(THE COURT:) (Thank you very much, Mr. Boies.) (Pleasure) (to have you here.)

(MS. McCAWLEY:) (Thank you, your Honor, the first victim) (that would like to speak today is Theresa J. Helm.)

(THE COURT:) (Can we have the spelling of your name?)

(MS. McCAWLEY:) (Sure.) (Sigrid, S-i-g-r-i-d, and the) (last name is M-c-C-a-w-l-e-y, and I'm a partner at Boies) (Schiller Flexner.)

(THE COURT:) (Thank you.)

(MS. HELM:) (Good morning.)

(THE COURT:) (Good morning.)

(MS. HELM:) (Thank you, prosecutors and Judge, and the) (Court.) (My name is Theresa Helm.) (I note today I do feel) (respected and listened to; so I appreciate that, and I have to) (say that I commend the boldness of the New York prosecutors for) (pursuing a man that has, you know -- and others, that have) (clearly taken a lot from a lot of people.)

(17 years ago I knew him only as "Jeffrey.") (I was) (recruited and brought from California to New York, and that)

(experience for the last 17 years has been a dark corner in my) (story, in my life, in my life story and that has been) (definitely made worse by my own self-shame and that -- and) (anger for normalizing all of the red flags.) (I feel like we are) (conditioned to do that, and that's something that needs to) (change.)

(So I'm here today, you know, I'm coming forward) (because it is time to bring light to that darkness, and it's) (time to replace that darkness with light.) (And I am a survivor) (of this, and I do aim to progress further from being a) (survivor, you know.) (I feel I've worked hard, quite hard, to) (get to where I'm at now, and I'm definitely at a place in my) (life where I will no longer cover up.) (I'll no longer cover up) (what needs to be brought to light.)

(Jeffrey is no longer here, and the women that helped) (him are, Ghislaine Maxwell.) (My experience is with Ghislaine) (Maxwell and Sarah Kellen, and they definitely need to be held) (accountable for helping him, helping themselves, helping one) (another carry on this huge, almost like a system.) (So they need) (to be held accountable, all of them, and I would like to see) (that, certainly on behalf of myself and for everyone here.) (Thank you.)

(THE COURT:) (Thanks so much.)

(MS. McCAWLEY:) (Our next client, who is going to speak) (this morning, is Virginia Roberts Giuffre.)

(MS. GIUFFRE:) (Good morning, your Honor.)

(THE COURT:) (Good morning.) (How are you?)

(MS. GIUFFRE:) (Okay.) (Thank you.) (My name is Virginia) (Roberts Giuffre, that's V-i-r-g-i-n-i-a, Roberts,) (R-o-b-e-r-t-s, Giuffre, G-i-u, double F, for Fred, -r-e.)

(I am a victim of Jeffrey Epstein and Ghislaine Maxwell) (in the dark and cruel and criminal acts they committed against) (me and hundreds of other girls and young women for years and) (years and years, unstopped.)

(Thank you for allowing me to address the Court and) (speak the truth.) (I commend the prosecutors from the Southern) (District of New York for the ongoing investigation and its) (pursuit of justice for us victims.) (It has given me hope, and I) (will not let go of that hope.)

(When I was recruited by Ghislaine Maxwell at) (Mar-a-Lago, just before I was 17, I thought I was given a big) (break, and I'd be able to reset my life and become an actual) (real massage therapist.) (My hopes were quickly dashed, and my) (dreams were stolen.) (Jeffrey Epstein is no longer alive, but) (this is not about how he died.) (This is about how he lived.)

(He will not have his day in court, but the reckoning) (of accountability has begun, supported by the voices of these) (brave and beautiful women in this courtroom today.) (The) (reckoning must not end.) (It must continue.) (He did not act) (alone and we, the victims, know that.) (We trust the government)

(is listening and that the others will be brought to justice.)

(Thank you, your Honor.)

(THE COURT:) (Thank you very much.)

(MS. McCAWLEY:) (The next client of ours that will be) (speaking this morning is Sarah Ransome.)

(MS. RANSOME:) (Thank you, your Honor.) (My name is Sarah) (Ransome, R-a-n-s-o-m-e.) (I'm a victim of Jeffrey Epstein and) (Ghislaine Maxwell's international sex trafficking ring.)

(I would like to thank the Court for the dignity and) (the respect you are showing me here today, as well as the other) (victims.) (I would also like to acknowledge and extend my) (gratitude to the prosecutors from the Southern District of) (New York for pursuing justice on behalf of the victims.) (Please, please finish what you have started.) (I struggled to) (find the words to adequately say how important your work is to) (us.)

(For a very long time Jeffrey Epstein gamed the system) (at every level, and when he realized he couldn't do that any) (longer, he showed the world what a depraved and cowardly human) (being he is by taking his own life.) (But we, the victims, are) (still here, prepared to tell the truth, and we all know he did) (not act alone.) (We are survivors, and the pursuit of justice) (should not abate.) (Thank you, your Honor.)

(THE COURT:) (You're very welcome.)

(MS. McCAWLEY:) (Our next client who is going to be)

(speaking this morning is Annie Farmer.)

(MS. FARMER:) (Good morning, your Honor.)

(THE COURT:) (Good morning.)

(MS. FARMER:) (Annie, A-n-n-i-e, Farmer, F-a-r-m-e-r.)

(I had the opportunity to speak at Jeffrey Epstein's) (bail hearing, and I really appreciate that you heard me and) (listened to me that day.) (I am so sorry that others will not) (have the opportunity to stand before him the way that I did.) (But I'm here today to speak on behalf of my sister, Maria) (Farmer, who could not be here.)

(Jeffrey Epstein, Ghislaine Maxwell not only assaulted) (her, but as we're hearing from so many of these brave women) (here today, they stole her dreams and her livelihood.) (She) (risked her safety in 1996, so many years ago, to report them,) (to no avail, and it is heartbreaking to her and to me that all) (this destruction has been wrought since that time.)

(We were deeply disappointed and disturbed by Epstein's) (death and the fact that that was allowed to happen while he was) (in the government's custody, and I'm encouraged to hear that) (there will be a full investigation as to how that was allowed) (to happen.)

(But it is extremely important, as others are saying,) (that he did not act alone and that the other people that were a) (part of what he did are held accountable and that that) (investigation continues.)

(I believe that we have a real problem in this country) (with perpetrators of sexual abuse and sexual assault being held) (accountable.) (There are so many roadblocks to victims being) (heard, to cases being investigated thoroughly, and then to) (those cases being prosecuted.) (And so I think this is a really) (important signal to send a message to victims out there that) (people will take you seriously, people will follow through, and) (that even those in power, as we have unfortunately seen, that) (has not been often are able to escape that, that even those in) (power will be held accountable.) (Thank you.)

(THE COURT:) (Thanks so much.)

(MS. McCAWLEY:) (Our next client, who's going to address) (the Court is Marijke Chartouni.) (She says it much more) (beautifully than I do; so I'll let her say it.)

(MS. CHARTOUNI:) (My first name is spelled,) (M-a-r-i-j-k-e; last name is C-h-a-r-t-o-u-n-i.)

(My name is Marijke Chartouni, and I am a victim of) (Jeffrey Epstein and the sophisticated sex trafficking operation) (he ran, where he allegedly was to be a financier.)

(I was 20 and previously modeled and was living in the) (West Village.) (I met a young woman named Rena through a mutual) (friend.) (We were friends for a few months.) (She was an amazing) (artist and liked to party.) (One day she called me and asked if) (I was interested in meeting a friend of hers.) (She told me he) (wanted to meet me and really liked blonds, and I thought he was)

(our age and liked to do the same things we did at that age; so) (I agreed.)

(On a sunny, crisp day, we took the train together to) (the Upper East Side.) (She then began to talk a little bit about) (him on our way to his house.) (I was at his house.) (I was) (sexually assaulted by both Rena and Jeffrey Epstein in his) (mansion.) (It left me feeling both disgusted and betrayed.)

(As we walked home to the subway afterwards, she) (continued to tell me about the man who had just abused me with) (her participation.) (She seemed exhilarated from the horrific) (experience.) (I was shocked and in a daze.) (This is a few things) (that she had told me.) (She told me he went to Cooper Union.) (He) (was a mathematical genius.) (That he had favorite girls that he) (would take to Chanel for 15-minute, all-you-can-buy shopping) (trips.) (She told me his right-hand person had connection to the) (arts and the fashion world, and she could help me.)

(This is not my complete story.) (I'll stop here.) (I'm) (in a good, stable place in my life, and I had decided to come) (forward to be a voice to the victims who may not be able to) (tell their story, or at least not yet.) (I feel like I am a) (survivor.)

(Thank you, Judge Berman, for inviting victims to speak) (today before you.) (We hope the government is listening very) (closely to the words we are saying.)

(THE COURT:) (Thank you very much.)

(MR. BOIES:) (Your Honor, just very briefly.)

(THE COURT:) (Sure.)

(MR. BOIES:) (I would like to express to the Court how proud I am of all of these women who have come forward.) (It's taken an enormous amount of strength and courage for them to do so.) (Thank you.)

(THE COURT:) (Thanks, Mr. Boies.) (Hold on one second.)

((Pause))

(MS. LERNER:) (Thank you, your Honor.) (My name is Kimberly Lerner, of Lerner and Lerner, and your Honor, with your permission, I would like my client, Jennifer Aroz, to stand next to me.)

(THE COURT:) (Sure.)

(MS. LERNER:) (Would that be okay?)

(THE COURT:) (Absolutely.)

(MS. LERNER:) (Your Honor, I would like to begin by saying that I am in awe of all of these beautiful women.) (I just want to let you know, on behalf of Jennifer and myself, we admire you, we respect you, and we applaud you, and you are brave survivors.) (And Jennifer's heart is with all of you, and we thank you so much for coming forward.)

(Jennifer, when she went public, she thought she was one of the only ones, and to see all of these faces is, I know,) amazing for her.)

(Jeffrey Epstein was a predator, a pedophile and a sick

(individual.) (However, he was also a thief.) (He stole Jennifer's) (childhood dreams, her innocence and her self-confidence.) (She) (was 14 years old.) (What he could not buy, he forcibly took.) (Why?) (Because he surrounded himself with a network of powerful) (people who not only looked the other way, but also actively) (facilitated and participated in his sexual abuse of children.)

(Jeffrey Epstein thought he was above the law, and) (essentially he was until now.) (The system let Jennifer and the) (other victims down, but it does not have to end here.) (We ask) (the U.S. Attorney's Office and the FBI to bring all of) (Epstein's enablers and co-conspirators to justice.)

(It has taken Jennifer 18 years to find her voice, and) (again, Jeffrey Epstein has tried to silence her.) (While she) (will never have her chance to face him in court, he no longer) (has any power over her.) (Today, this brave survivor will be) (heard.)

(MS. AROZ:) (Thank you for allowing me to be able to) (have my chance in court today, to be able to tell you what this) (horrific man did to my life.) (You can't even imagine how much) (it affected my childhood, all the way through my adult life.) (He robbed me of my dreams.) (He robbed me of my chance to pursue) (a career I always adored.) (He stole my chance at really feeling) (love because I was so scared to trust anyone for so many years) (that I had such severe anxiety.) (I didn't want to leave my) (house let alone my bed.)

(The fact that he felt entitled to take away my innocence, the fact that he felt that he could do whatever he wanted, regardless of the laws, hurts me so very much.) (It took me years to tell anyone what Epstein did to me because I was so ashamed and embarrassed at what people would say or think of me until I found out there were other victims, girls just like me.) (I knew I could no longer keep my silence no matter how ruthless and powerful Epstein was, and still is even after his death.)

(The fact I will never have a chance to face my predator in court eats away at my soul.) (Even in death, Epstein is trying to hurt me.) (I had hoped to at last get an apology,) but this evil man had no remorse or caring for what he did to anyone.) (I felt let down by the people who were supposed to watch him in prison.) (They let this man kill himself and kill the chance of justice for so many others in the process, taking away our ability to speak.)

(Out of all the damages and side effects that Epstein caused by his heartless and selfish acts, it's very hard to put my feelings and emotions into words, trying to let his horrendous actions go and attempting to forgive him, has been so difficult for me.) (Yet, as hard as it's been to come so publicly forward, I refuse to let Epstein take me as a victim anymore.)

(I am a survivor.) (The many that stand before me here today that have shared the horrific experiences with this

(deplorable human being, because even though this weak, evil) (coward tried to steal all of our childhoods, tried to steal all) (of our innocence and tried to steal all of our means of) (justice, he will never steal our inner strength, and he will) (never, ever, ever steal our voice.) (Thank you so much.)

(THE COURT:) (You're welcome.)

(MS. GIBBS:) (Good morning, your Honor.) (Teri Gibbs,) (T-e-r-i, G-i-b-b-s.) (For the record, I am a California) (attorney.) (I'm not admitted to the New York State bar.) (I am) (here to make a statement on behalf of New York attorney, Lisa) (Bloom.) (I work for her firm, The Bloom Firm.)

(Lisa Bloom represents four of Jeffrey Epstein's) (victims, Jane Doe 6, for the record, Jane Doe 7 and Jane Doe 8.) (I am so proud of all of you victims who are here today and are) (able to voice yourselves today.) (I will not and cannot comment) (on the criminal case, or Ms. Bloom's communications with her) (clients.)

(Ms. Bloom would like to share three of her client's) (statements for the record.) (Here are the statements.) (Statement) (of Jane Doe 6.)

(To the Honorable Richard M. Berman.) (Jeffrey Epstein) (stole my innocence.) (He gave me a life sentence of guilt and) (shame.) (I do not consider myself a victim.) (I see myself a) (survivor.) (The abuse that I endured cannot continue.) (Let's) (stop this before it happens to other young women.) (Jane Doe.)

(Statement of Jane Doe 7.) (To the Honorable Richard M. Berman.) (I used to be relatively carefree, inquisitive, hopeful and excited about life, but my life changed because of Jeffrey Epstein.) (My perspective on life became very dark when I was unknowingly recruited by one of his agents.) (Jeffrey Epstein ruined me.) (His recruiter ruined me.) (The far-reaching consequences of that day ruined my family's lives.)

(I've chosen to remain anonymous in order to protect my family from unwanted media attention.)

(I was just trying to figure out my path in life when I encountered Jeffrey Epstein in his New York City mansion.) (I cannot even begin to summarize the many detriments this experience of sexual assault has had on my life.) (Immediately following the incident, I was unable to function and be around other people.) (My parents had to rescue me and bring me home, where I became a recluse for years.)

(I was changed forever and buried my assault deep down, where the darkness couldn't hurt me anymore, but of course, it has always been here, lingering and affecting me unconsciously.) (At the time, I was mired in shame, guilt and humiliation.) (I had somehow tricked myself into thinking that I had allowed the assault to happen, that I did it to myself, that I don't deserve to be alive or to be loved.) (I believed that I was a disgusting, shameful person who does not deserve to ever be happy.) (These are the thoughts I've lived with on a daily

basis.

Furthermore, because I couldn't tell anyone, out of fear of judgment, blame or retaliation, keeping this secret completely hindered my ability to uncover why these issues existed for me, which could have led to a path of healing over the years.

It is time for those of power to do the right thing. It is time for compassion toward our fellow human beings to reign over money, power and greed. We need to protect our most vulnerable to allow them a chance at a normal life, and nothing should come in the way of that. I believe that for future generations, including my own children, this case will set a precedent that victims must no longer suffer in silence on our own or be shamed for coming forward to seek protection.

This case should demonstrate to those who want to harm others that there will be a reckoning, and they will pay dearly for the harm they inflict on innocent people. Judge Berman, I thank you for from the bottom of my heart for this forum and opportunity.

To all of those survivors who came before me, I commend your bravery. There is no way I could have done this without you.

Thank you to the public following this story, for your outrage and desire for answers, which will hopefully move this case forward so that victims can stop having to relive their

(experiences every day and move on to begin to heal.)

(God bless the victims, their families, the investigators and public servants working so diligently to find those answers and to right all these wrongs.) (Jane Doe 7.)

(Continued on next page)

(THE COURT:) (Thanks very much.)

(MS. GIBBS:) (One more.) (Statement of Jane Doe 8.)

(In the past few weeks, I have had to reflect on my) (interaction with Jeffrey Epstein and realized that, though I) (have yet to put it all behind me, I am still a victim.) (I say) (this because I have to come to terms with it in an effort to) (truly get past the abuse I suffered at the hands of Epstein.)

(Pursuing criminal penalties against him and having an) (opportunity to address the egregious crimes he committed) (against me and other young woman would have helped my recovery) (process.) (This all came to an abrupt halt when he took his own) (life.) (This point of disclosure is lost.)

(I cannot say that I am pleased he committed suicide,) (but I am at peace knowing he will not be able to hurt anyone) (else.) (However, a sad truth remains.) (I, along with other) (people, will never have an answer as to why.) (I will never have) (an apology for the wrongdoing.) (And most importantly, Epstein) (will not be justly sentenced for his crimes.) (Now I sit in my) (home questioning the well-being of those girls like myself.) (In) (choosing death, Epstein denied everyone justice.)

(Any efforts made to protect Epstein's name and legacy) (send a message to the victims that he wins and that he is) (untouchable.) (I understand his case may be dismissed or closed,) (but this makes me feel as though I, and anyone else who fell) (pry to his hands, simply do not matter.)

(I ask that you very seriously consider the final) (decision, because it will undoubtedly affect all other facets) (of this case, including any future charges brought against the) (recruiters or third parties to his crimes.) (I do not want the) (narrative to be, Those poor girls.) (I want to send a message to) (anyone who would consider engaging in similar acts to think) (twice beforehand.) (I want some sort of closure for those of us) (who relive those horrible moments where we were assaulted,) (abused, and taken advantage of by Epstein.)

(You have the opportunity to help us seek that closure.) (I appreciate your time and consideration and ask for your) (continued support in dealing with this case to illustrate that) (we, Epstein's victims, do matter.)

(Sincerely, Jane Doe 8.)

(On behalf of Lisa Bloom and The Bloom Firm, thank you,) (your Honor.)

(THE COURT:) (Thank you, Ms. Gibbs.)

(Did we have any other victim's counsel or victims?)

(Ms. Allred.)

(MS. ALLRED:) (Good morning, your Honor.)

(THE COURT:) (Good morning.) (How are you?)

(MS. ALLRED:) (Fine.) (Thank you.)

(Allred, Maroko & Goldberg by Gloria Allred,) (G-l-o-r-i-a A-l-l-r-e-d.)

(Your Honor, thank you so much for this opportunity to)

afford the victims their voice, because many of them have never spoken before. They never spoke in Florida. They never spoke anywhere. They never told their mother. They never told their father. They never told their family members. This is an opportunity for them to be heard. We thank you for that.

Your Honor, for 43 years my firm has been the leading women's rights private law firm in the United States. We have helped thousands of victims. And I, as an officer of the court, and as a believer in the system, have tried to encourage the victims to have confidence in the system that should provide them access to justice that should help them to assert and vindicate their rights in a court of law. It has been increasingly difficult in this case for me to say to my clients that they should have confidence in the system of justice given what has occurred in this case, People v. Jeffrey Epstein.

Having said that, I am encouraged by the fact that this court, essentially, in an unprecedented situation where the defendant is deceased, is still affording these victims an opportunity to be heard. So we thank you for that. It is some encouragement.

Your Honor, you also asked do our clients wish to be heard in reference to some of the issues that have been raised this morning, including what should happen into this case. Your Honor, there has been a suggestion that the court should investigate the circumstances of the death of Mr. Epstein. I'm

not going to repeat the arguments made by counsel, but I would say that if there is jurisdiction, and I know that is a legal issue which has been previously argued, that certainly it would increase the confidence of my clients. Not just my clients, but victims all over, and some are, by the way, located in other parts of the world, to have the court oversee the investigation.

We are encouraged by the sensitivity of the attorneys for the United States Attorney's office for the Southern District of New York and the investigation that is going on with the separate team. However, and, of course, the defense is also conducting its own investigation. But I do think the greatest confidence would be if the court in some way would be able to oversee an investigation because the court is a neutral party. And although the court certainly has a stake in finding out what happened to defendants who are in the custody of the federal system and who should be there to face the prosecutors and the charges against them, but now are not because clearly the system has failed.

And the United States Attorney has admitted that, and even before he admitted that, everybody knows the system failed. Failed the victims, failed the court, failed everyone.

In any event, your Honor, having seen so many thousands of victims of gender violence, sex harassment, sexual assault, I've dealt with child sex trafficking, child

molesters, I mean, this is a unique case because there are so many victims and so many failures of the system. At this point, what we would really ask for is not just words, but words have been helpful, but deeds, and that is very important.

In addition, I would like to say, throughout this case is the running theme of the betrayal of trust. Betrayal of trust by Jeffrey Epstein. Betrayal of trust by the system. And betrayal of trust to the victims who had a right to justice. And the Crime Victims' Act should not just be words, it should have meaning and it should be enforced.

In essence, we are asking, although you may need to, of course, grant this motion to dismiss, I think because the court has shown sensitivity to victims and victims' needs, if there is a way to at least keep the record open so that victims who have not been able to be physically present in the courtroom today and who have not been able to submit to the court any letters, victim impact, and who have not been able to secure attorneys or speak to attorneys yet -- so, for example, I'll still hearing from victims who I have not been able to meet with yet because they just recently are now contacting me -- so if they could submit, at least for the record, their victim impact statements, that, I think, would be a very important assistance to them. So that would be, at least they would know that what they are sharing is on the record.

So, in summary, I would say that they are looking

(forward to the very serious investigation by the United States Attorney of who may have conspired in this case, and that is very hopeful, and we're hoping that everyone who may have a role to this criminal prosecution will submit that evidence.)

(This is about power.) (This is about many victims having lived in fear -- fear of the rich, the powerful, the famous, fear that the system will not afford them justice.) (So fear of not coming forward.) (And fear, of course, is a weapon that the rich, powerful, famous, and sexual predators used to silence the victims.) (But that is gone for a lot of victims because they refuse to suffer in silence.)

(Finally, it does take courage to speak truth to power.) (We thank this honorable court for giving these victims a voice.) (We thank them, even after the death of the defendant, for showing respect for the victims, allowing them dignity,) (allowing them a voice.) (We do want truth, we do want justice,) (we do want accountability, and we do want those conspirators to face the justice system.)

(Your Honor, right now we have two of our clients who would like to address the court.)

(THE COURT:) (Sure.)

(MS. ALLRED:) (Then I have a couple of statements on victims who do not wish to address the court.)

(As they come up, we'll give them the opportunity to say either their name or Jane Doe.)

(By the way, thank you, your Honor, for allowing some of these victims to be called Jane Doe.) (What number the court affords to them, we'll accept whatever that is.)

(Thank you.)

(THE COURT:) (We're up to nine.)

(MS. ALLRED:) (Thank you.)

(MS. DAVIES:) (Hello.) (My name is Teala Davies.) (That is T-e-a-l-a D-a-v-i-e-s.)

(I was going to start this statement by saying that I was a victim of Jeffrey Epstein.) (But that's not the case.) (I'm still a victim of Jeffrey Epstein.) (I'm still a victim because the fear of not being heard stopped me from telling my story for so many years.) (This lingering fear almost stopped me from attending this monumental movement of strength and power.)

(I'm still a victim because I am fearful for my daughters and everyone's daughters.) (I'm fearful for their future in this world, where there are predators in power, a world where people can avoid justice if their pockets run deep enough.)

(I'm still a victim because the 17-year-old Teala was manipulated into thinking she had found someone who cared, someone who wanted to help.) (Jeffrey knew I had nowhere to go.) (He knew I was vulnerable, and he took advantage of that poor girl, who will never be the same.)

(I cannot eat at the thought that Jeffrey Epstein -- I

(cannot eat at the thought of Jeffrey Epstein not serving the) (time he needed to realize the pain and suffering he caused so) (many vulnerable young girls.) (He thought he was untouchable,) (and honestly, so did I.) (I thought he was the most powerful) (person I would ever meet.)

(But the end is here and here I stand becoming more) (powerful than he will ever be.) (Thank you.)

(THE COURT:) (Thank you.)

(JANE DOE:) (Jane Doe.)

(Um, in 2004, when I was 15 years old, I flew on) (Jeffrey Epstein's plane to Zorro Ranch, where I was sexual) (molested by him for many hours.) (What I remember most vividly) (was him explaining to me how beneficial the experience was for) (me and how much he was helping me to grow.) (Yikes.)

(I remember feeling so small and powerless, especially) (after he positioned me by laying me on his floor so that I was) (confronted by all the framed photographs on his dresser of him) (smiling with wealthy celebrities and politicians.)

(After he finished with me, he told me to describe in) (detail how good my first sexual experience felt.) (That was the) (first of many lies I was forced to carry for him, the weight of) (which proliferated my trauma.) (I felt powerless not merely) (because one man wanted to strip me of my innocence, but because) (I was the victim of a system that just enfranchises human) (beings, making them vulnerable to pedophilic exploitation.)

(As unjust as what happened to me was, I believe that) (experience to be a symptom of insidious and pathological) (violence that extreme wealth yields, a violence which) (ultimately stays hidden through channels of extreme power that) (serve it.)

(I first identified with this feeling the night after I) (was molested by Epstein, when another girl and I took out two) (of his ATVs and raised them across the mesa.) (I crashed mine) (and expressed my concern to the other girl of getting in) (trouble, which she replied to me, Don't worry, no one gets in) (trouble for anything here.)

(Even as a child, I understood, in a sad and precocious) (way, what I hoped we have the ability of changing now.) (Even) (though Epstein is dead, there is still justice to be brought) (for the crimes we felt powerless against concealing for him and) (the system that supported him for all these years.)

(Thank you.)

(THE COURT:) (You're very welcome.)

(MS. ALLRED:) (Thank you.)

(Your Honor, may it please the court.) (I would like to) (read a statement for Jane Doe, my client, who is present in) (court, but requested that I read it.)

(We only have one opportunity at childhood.) (One) (opportunity to develop.) (One opportunity to find direction for) (our lives.) (Jeffrey Epstein robbed and denied me at each)

(opportunity he had.)

(I came from a small Texas town, not far from the New) (Mexico border.) (My mother died when I was 11, after suffering) (from cancer for many years.) (My father was devastated, as were) (my siblings and I.) (My father was saddled with debt.) (My only) (hope for college was to get a scholarship.)

(When I was 15, I was a blossoming freshman in high) (school and was trying to carry on my mother's dream.) (She) (wanted me to master the violin.) (After school, I would often go) (to a mall in a nearby city.) (A lady approached me and saw I had) (a violin case with me and asked if I was any good.) (We talked) (about the violin, my family, and why I had clothes that looked) (like hand-me-downs.)

(The lady told me she works for a very rich man who had) (a home close by and that he would pay to hear me play.) (I was) (told that if I could get away, she could arrange for) (transportation to and from his place and have me back before) (anyone knew I was gone.) (After some hesitation, I agreed.) (This) (decision was the beginning of the end of my childhood.)

(The man who only identified himself as J or Jeff had) (asked if I would give him a massage, and over four visits,) (eventually progressed to forced oral copulation.) (The money he) (gave me further placed my young soul into a perverse sense of) (hell.)

(I was so utterly disgusted with myself and what he did)

(to me that I stopped going to see him.) (I had documented the) (events with a Texas rape crisis center about the man I know now) (as Jeffrey Epstein.)

(Epstein targeted and took advantage of me, a young) (girl, whose mother had recently died a horrific death and whose) (family structure had deteriorated.) (His actions placed me, a) (young girl, into a downward spiral to the point where I) (purchased a gun and drove myself to an isolated place to end my) (suffering.)

(A voice that could only have been from my mother told) (me, quote, I am not the victim, I am the victor, and I dare not) (pull the trigger." I returned the gun days later.)

(Epstein is a coward.) (He lived his life leaching off) (the souls of inspiring, young girls due to the fact that he) (could never know how it feels inspired to live.) (Like a leach,) (once Epstein had his fill, he would unlatch and seek out) (another victim.)

(The only sense of justice I had hoped to see was) (Epstein being sentenced.) (However, Epstein died as he lived,) (taking the easy way out without any responsibility.)

(Your Honor, the next statement is also a statement of) (a Jane Doe.) (May it please the court.)

(I was a 16-year-old virgin when Jeffrey Epstein first) (raped me.) (I was naive and gullable.) (He was a pillar of) (finance and a giant in the world that I was an insignificant)

part of.) (I was so impressed that this great man would even) (talk to me and impart any of his wisdom on me.) (I gladly jumped) (at the chance to meet him again, when he told me how impressed) (he was with my personal story and maturity for my age.)

(When I was in his presence, he made an effort to call) (celebrities and influential people on speakerphone, like) (Academy Award-winning actresses and super models, who always) (answered his calls.) (Sadly, I was impressed.)

(He was friends with former and future heads of states) (and every other fixture in the New York social scene and) (beyond.) (He knew important people in my own world that I looked) (up to and revered, but he spoke about them like they were sweet) (distractions far beneath his stature.) (He could easily reach) (down from his position and influence the people directly) (involved with my daily life and future prosperity.) (I was the) (perfect victim.)

(My whole life was extremely turbulent.) (But one of my) (mother's greatest wishes was that all her children would) (graduate from respectable universities.) (He promised me that he) (would write me a letter of recommendation for Harvard if I got) (the grades and scores needed for admission.) (His word was worth) (a lot, he assured me, as he was in the midst of funding and) (leading Harvard's studies on the human brain, and the president) (was his friend.)

(The fact that all of you already know these next)

(details, which I'll share, should ignite fire instead of induce) (the complacency they did in the past, when heard repeatedly) (over the years, but yes, an innocent massage turned sexual) (almost immediately.)

("Here, come.) (Come help me with a kink in my shoulder) (while we finish our discussion.") (A large vibrator and a couple) (of hundred dollars, disgust and dirty secret, more praise and) (imparted wisdom from a godlike figure, a deliberate diabolical) (depression of grooming and submission for his pleasure and) (release.) (Even if I resisted, I was no match for him.) (I felt) (powerless, ashamed, and embarrassed.) (I wanted to vomit) (remembering these moments.)

(What I learned in those depraved sessions, staring up) (at the dome ceiling in his private massage room, tore a violent) (hole through any normal sexual awakening.) (I'm haunted forever,) (having learned everything there is to know about sex through a) (vile criminal.) (Every time a new molestation would bring a new) (lesson, the progressive and constant unwinding.) (I was nothing) (more than a teenage prostitute.) (I was his slave.)

(I had never even kissed a boy before I met him, and) (never throughout the horrific abuse did Jeffrey Epstein kiss me) (even once.) (When he stole my virginity, he washed my entire) (body compulsively in the shower and then told me, "If you're) (not a virgin, I will kill you.") (And then I wasn't a virgin) (anymore.)

(He forcefully penetrated me.) (I was numb.) (There was pain, but his use of the vibrator and his fingers in previous sessions with me had left a black hole-like void between my legs.) (I protested, but he forced my face into the bed to stifle my cries.) (That was my first time.)

(I got a few hundred dollars, as usual, as he led me out of his mansion with assurances that I was on the right path guided by him.) (I lied to myself and tried to believe him.) (I became a hollow shell.) (If I missed an appointment, he threatened me and let me know who was in charge. "Do you know how important my time is?) (I'll bury you.) (I owe this -- I won't say the word -- F'ing town.") (He would hang up.)

(I would stand there frozen in the street, terrified that his assistant would call to reschedule.) (I made sure to stay in line and not disobey him.) (I was in complete denial.) (Being paid after every scheduled meeting felt routine and disgusting.) (He was the master of the universe and the world bent to his will.)

(He would eventually brag to his assistants about my ability to please him sexually right in front of me, leaving me feeling grotesque and worthless.) (Everything in my outside life was falling apart.) (I distanced myself from friends and grew further away from my family.) (I felt less human after each ordeal.) (My psyche broke down completely and wouldn't let me continue.)

(One day I walked out of his residence and passed a) (girl similar to myself.) (When I turned around, she was entering) (Jeffrey's residence.) (He no longer even tried to schedule his) (appointments with other girls in secrecy from me.) (Maybe he) (never did.) (I was too stupid to see.)

(My world shattered.) (I had been so naive.) (I had an) (epiphany in a calvary of desperation.) (I realized I was just) (one of many young girls he had in rotation come to perform for) (him for money.) (I went into a deep depression and never lifted) (completely.) (I wanted to inflict pain on myself.) (I was) (humiliated, angry, and suicidal.) (I locked myself away from) (everything.) (I cut myself off forever from the world I had) (known.)

(I endured the daily agony of knowing my life would) (never be the same.) (I could never go back to New York City and) (the wonderful life I had taken for granted before I met this) (demon named Jeffrey Epstein.)

(This creature had manipulated and outwitted the whole) (system, including some of the most intelligent scientists,) (political people, prosecutors, and power players.) (How easy was) (it to manipulate a 16-year-old virgin who never had a boyfriend) (and came from a background of hardship with no parental) (guidance or support.)

(I went to therapy and was given antidepressants for) (severe anxiety and depression.) (My only solace, years later,)

(was my desire to succeed on my own terms.) (I emersed myself) (into my studies and was accepted to every college I applied to,) (graduating from a top university.) (To this day, there is still) (an ache in my being that I did not apply to Harvard in fear of) (his influence there.)

(They say you never forget your first.) (I'm in a) (never-ending nightmare trying to do just that.) (I'm forever) (suffering because everything reminds me of that horror.) (This) (new wave of worldwide publicity only worsens my despair.)

(It was only many years later that I was finally) (intimate with a man again, and those moments were marred by my) (actions as a child with Jeffrey Epstein.) (Even now is) (impossible to separate his treachery from any care of a good) (man.)

(For one brief moment there was elation when he was) (recently arrested.) (I would finally get my chance to see him) (again face to face and show him what I had become, that I had) (succeeded on my own, that I was worth something in spite of his) (abuse, and that I had surmounted the monumental obstacles he) (laid before me throughout my entire life since falling prey to) (him.)

(I had hoped humanity would prevail, but it seems to me) (that he outsmarted everyone so far, and his ghost is still) (laughing at us.) (I appeal to all of those just and true that) (his evil legacy and his death not stand in the way of)

(resolution and justice for all of his underaged victims.)

(Thank you, your Honor.)

(And then just one last one, and this is much shorter.)

(Statement of Jane Doe, also my client.)

(I was a model in another country when I came to the United States.) (I was told by a booker that I needed to meet with a man named Jeffrey Epstein, who was the owner of Victoria's Secret.) (The booker told me that Mr. Epstein could help me get into Victoria Secret's world.)

(It was my childhood dream to be a Victoria's Secret model.) (So I went one day in the afternoon and I met Mr. Epstein in his office in his mansion in New York.) (A woman introduced herself and suggested to me that I should be extremely nice to Mr. Epstein, because if he liked me, he would probably have photographers shooting photos of me right away.)

(The told me to go upstairs and directed me to Jeffrey Epstein's office.) (Mr. Epstein had a white robe on and we chatted very briefly.) (I had my portfolio of photos, but he didn't even look at it.) (Suddenly, he took his robe off and got close to me.) (I got up to leave, but the door was locked.)

(I didn't know what was going on.) (It was my first official meeting to be cast in the United States.) (I was a young girl and confused.) (He got very close to me, and I had a skirt on.) (He started to touch my genitals.) (I refused him.) (Then he went to the massage table and showed me the vibrator.)

(I took it and threw it at him.)

(At that point, I ran to the door again and figured out) (how to get out of there.) (A girl outside asked me where I was) (going and she said to be careful.) (She said that Mr. Epstein) (knew a lot of powerful people, including Bill Clinton, and that) (if I didn't do what Mr. Epstein wanted, I would not be able to) (have any job in the industry.)

(I was so scared.) (I couldn't wait to get out of there,) (and I left.) (I took the train home.) (I had spent all of my) (savings getting Victoria's Secret lingerie to prepare for what) (I thought would be my audition.) (But instead, it seemed like a) (casting call for prostitution.) (I felt like I was in hell.)

(Thank you, your Honor.)

(Thank you.)

(THE COURT:) (Thank you, Ms. Allred.)

Was there anybody else, any victim's counsel or any of the other victims who have not been heard and wish to be heard?

Well, OK then. All I have to say, really, is thank you, all of you, for your participation in today's remarkable hearing. I think everybody has benefited greatly from your input, and especially from the testimony of victims here today and who have had the courage to come forward.

We have also benefited throughout these proceedings, however brief altogether, from the attorneys' legal advocacy and their written and oral submissions. I'm grateful to them

as well, both for the government and the defense and those representing the victims.

Finally, we're also grateful to the press for their very diligent coverage of seemingly every detail of this case.

That concludes our work for today and we stand adjourned.

Thanks.

(Adjourned)

Appendix 12

The Palm Beach Post
REAL NEWS STARTS HERE

The Man Who Had Everything: Jeffrey Epstein craved big homes, elite friends and underage girls

By Andrew Marra
Posted Jul 17, 2019 at 6:02 AM

From the archives: When Palm Beach detectives started asking questions and teenage girls started talking, a wave of legal resistance followed.

Editor's Note: This article appeared in The Palm Beach Post on August 14, 2006, three weeks after Jeffrey Epstein's arrest in Palm Beach County on a charge of felony solicitation of prostitution.

WINGED GARGOYLES guarded the gate at Jeffrey Epstein's Palm Beach mansion. Inside, hidden cameras trolled two rooms, while the girls came and went.

For the police detectives who sifted through the garbage outside and kept records of visitors, it was the lair of a troubling target.

Epstein, one of the most mysterious of the country's mega-rich, was known as much for his secrecy as for his love of fine things: magnificent homes, private jets, beautiful women, friendships with the world's elite.

But at Palm Beach police headquarters, he was becoming known for something else: the regular arrival of teenage girls he hired to give him massages and, police say, perform sexual favors.

Epstein was different from most sexual abuse suspects; he was far more powerful. He counted among his friends former President Bill Clinton, Donald Trump and Prince Andrew, along with some of the most prominent legal, scientific and business minds in the country.

When detectives started asking questions and teenage girls started talking, a wave of legal resistance followed.

>> NEW: Jeffrey Epstein: Lawyer said financier had sex with woman during work-release

If Palm Beach police didn't know quite who Jeffrey Epstein was, they found out soon enough.

Epstein, now 53, was a quintessential man of mystery. He amassed his fortune and friends quietly, always in the background as he navigated New York high society.

When he first attracted notice in the early 1990s, it was on account of the woman he was dating: Ghislaine Maxwell, daughter of the late British media tycoon Robert Maxwell.

In a lengthy article, headlined "The Mystery of Ghislaine Maxwell's Secret Love," the British Mail on Sunday tabloid laid out speculative stories that the socialite's beau was a CIA spook, a math teacher, a concert pianist or a corporate headhunter.

"But what is the truth about him?" the newspaper wondered. "Like Maxwell, Epstein is both flamboyant and intensely private."

The media frenzy did not begin in full until a decade later. In September 2002, Epstein was flung into the limelight when he flew Clinton and actors Kevin Spacey and Chris Tucker to Africa on his private jet.

Suddenly everyone wanted to know who Epstein was. New York magazine and Vanity Fair published lengthy profiles. The New York Post listed him as one of the city's most eligible bachelors and began describing him in its gossip columns with adjectives such as "mysterious" and "reclusive."

Although Epstein gave no interviews, the broad strokes of his past started to come into focus.

Building a life of extravagance

He was born blue-collar in 1953, the son of a New York City parks department employee, and raised in Brooklyn's Coney Island neighborhood. He left college without a bachelor's degree but became a math teacher at the prestigious Dalton School in Manhattan.

The story goes that the father of one of Epstein's students was so impressed with the man that he put him in touch with a senior partner at Bear Stearns, the global investment bank and securities firm.

In 1976, Epstein left Dalton for a job at Bear Stearns. By the early 1980s, he had started J. Epstein and Co. That is when he began making his millions in earnest.

Little is known or said about Epstein's business except this: He manages money for the extremely wealthy. He is said to handle accounts only of $1 billion or greater.

It has been estimated he has roughly 15 clients, but their identities are the subject of only speculation. All except for one: Leslie Wexner, founder of The Limited retail chain and a former Palm Beacher who is said to have been a mentor to Epstein.

Wexner sold Epstein one of his most lavish residences: a massive townhouse that dominates a block on Manhattan's Upper East Side. It is reported to have, among its finer features, closed-circuit television and a heated sidewalk to melt away fallen snow.

That townhouse, thought to be the largest private residence in Manhattan, is only a piece of the extravagant world Epstein built over time.

In New Mexico, he constructed a 27,000-square-foot hilltop mansion on a 10,000-acre ranch outside Santa Fe. Many believed it to be the largest home in the state.

In Palm Beach, he bought a waterfront home on El Brillo Way. And he owns a 100-acre private island in the Virgin Islands.

>> **PHOTOS: The players in the Jeffrey Epstein saga**

Perhaps as remarkable as his lavish homes is his extensive network of friends and associates at the highest echelons of power. This includes not only socialites but also business tycoons, media moguls, politicians, royalty and Nobel Prize-winning scientists whose research he often funds.

"Just like other people collect art, he collects scientists," said Martin Nowak, who directs the Program for Evolutionary Dynamics at Harvard University and was reportedly the recipient of a $30 million research donation from Epstein.

Epstein is said to have befriended former Harvard President Larry Summers, prominent law Professor Alan Dershowitz, Donald Trump and New York Daily News Publisher Mort Zuckerman.

And yet he managed for decades to maintain a low profile. He avoids eating out and was rarely photographed.

"The odd thing is I never met him," said Dominick Dunne, the famous chronicler of the trials and tribulations of the very rich. "I wasn't even aware of him," except for a Vanity Fair article.

Epstein's friendship with Clinton has attracted the most attention.

Epstein met Clinton as early as 1995, when he paid tens of thousands of dollars to join him at an intimate fund-raising dinner in Palm Beach. But from all appearances, they did not become close friends until after Clinton left the Oval Office and moved to New York.

Epstein has donated more than $100,000 to Democratic candidates' campaigns, including John Kerry's presidential bid, the reelection campaign of New Mexico Gov. Bill Richardson and the Senate bids of Joe Lieberman, Hillary Rodham Clinton, Christopher Dodd and Charles Schumer.

Powerful friends and enemies

A Vanity Fair profile found cracks in the veneer of Epstein's life story. The 2003 article said he left Bear Stearns in the wake of a federal probe and a possible Securities and Exchange Commission violation. It also pointed out that Citibank once sued him for defaulting on a $20 million loan.

The article suggested that one of his business mentors and previous employers was Steven Hoffenberg, now serving a prison term after "bilking investors out of more than $450 million in one of the largest Ponzi schemes in American history."

As he amassed his wealth, Epstein made enemies in disputes both large and small. He sued the man who in 1990 sold him his multimillion-dollar Palm Beach home over a dispute about less than $16,000 in furnishings.

A former friend claimed Epstein backed out of a promise to reimburse him hundreds of thousands of dollars after their failed investment in Texas oil wells. A judge decided Epstein owed him nothing.

>> **Jeffrey Epstein: Model prisoner who swept, mopped floors, official says**

"It's a bad memory. I would rather not have ever met Jeffrey Epstein," said Michael Stroll, the retired former president of Williams Electronics and Sega Corp. "Suffice it to say I have nothing good to say about him."

Among the characteristics most attributed to Epstein is a penchant for women.

He has been linked to Maxwell, a fixture on the high-society party circuits in both New York and London. Previous girlfriends are said to include a former Ms. Sweden and a Romanian model.

"He's a lot of fun to be with," Donald Trump told New York magazine in 2002. "It is even said that he likes beautiful women as much as I do, and many of them are on the younger side. No doubt about it, Jeffrey enjoys his social life."

Investigation leads to Epstein

Although he was not a frequenter of the Palm Beach social scene, he made his presence felt. Among his charitable donations, he gave $90,000 to the Palm Beach Police Department and $100,000 to Ballet Florida.

In Palm Beach, he lived in luxury. Three black Mercedes sat in his garage, alongside a green Harley-Davidson. His jet waited at a hangar at Palm Beach International Airport. At home, a private chef and a small staff stood at the ready. From a window in his mansion, he could look out on the Intracoastal Waterway and the West Palm Beach skyline. He seemed to be a man who had everything.

But extraordinary wealth can fuel extraordinary desires.

>> **Epstein wants to leave jail for mansion in sex-trafficking case**

In March 2005, a worried mother contacted Palm Beach police. She said another parent had overheard a conversation between their children.

Now the mother was afraid her 14-year-old daughter had been molested by a man on the island.

The phone call triggered an extensive investigation, one that would lead detectives to Epstein but leave them frustrated.

Palm Beach police and the state attorney's office have declined to discuss the case. But a Palm Beach police report detailing the criminal probe offers a window into what detectives faced as they sought to close in on Epstein.

Detectives interviewed the girl, who told them a friend had invited her to a rich man's house to perform a massage. She said the friend told her to say she was 18 if asked. At the house, she said she was paid $300 after stripping to her panties and massaging the man while he masturbated.

Police interview 5 alleged victims

The investigation began in full after the girl identified Epstein in a photo as the man who had paid her. Police arranged for garbage trucks to set aside Epstein's trash so police could sift through it. They set up a video camera to record the comings and goings at his home. They monitored an airport hangar for signs of his private jet's arrivals and departures.

They quickly learned that the woman who took the 14-year-old girl to Epstein's house was Haley Robson, a Palm Beach Community College student from Loxahatchee. In a sworn statement at police headquarters, Robson, then 18, admitted she had taken at least six girls to visit Epstein, all between the ages of 14 and 16. Epstein paid her for each visit, she said.

During the drive back to her house, Robson told detectives, "I'm like a Heidi Fleiss."

Police interviewed five alleged victims and 17 witnesses. Their report shows some of the girls said they had been instructed to have sex with another woman in front of Epstein, and one said she had direct intercourse with him.

In October, police searched the Palm Beach mansion. They discovered photos of naked, young-looking females, just as several of the girls had described in interviews. Hidden cameras were found in the garage area and inside a clock on Epstein's desk, alongside a girl's high school transcript.

Two of Epstein's former employees told investigators that young-looking girls showed up to perform massages two or three times a day when Epstein was in town.

They said the girls were permitted many indulgences. A chef cooked for them. Workers gave them rides and handed out hundreds of dollars at a time.

One employee told detectives he was told to send a dozen roses to one teenage girl after a high school drama performance. Others were given rental cars. One, according to police, received a $200 Christmas bonus.

The cops moved to cement their case. But as they tried to tighten the noose, they encountered other forces at work.

In Orlando they interviewed a possible victim who told them nothing inappropriate had happened between her and Epstein. They asked her whether she had spoken to anyone else. She said yes, a private investigator had asked her the same questions.

>> **Jeffrey Epstein: Acosta, Krischer trade barbs over sweetheart deal**

When they subpoenaed one of Epstein's former employees, he told them the same thing. He and a private eye had met at a restaurant days earlier to go over what the man would tell investigators.

Detectives received complaints that private eyes were posing as police officers. When they told Epstein's local attorney, Guy Fronstin, he said the investigators worked for Roy Black, the high-powered Miami lawyer who has defended the likes of Rush Limbaugh and William Kennedy Smith.

While the private eyes were conducting a parallel investigation, Dershowitz, the Harvard law professor, traveled to West Palm Beach with information about the girls. From their own profiles on the popular Web site MySpace.com, he obtained copies of their discussions about their use of alcohol and marijuana.

He took his research to a meeting with prosecutors in early 2006, where he sought to cast doubt on the teens' reliability.

The private eyes had dug up enough dirt on the girls to make prosecutors skeptical. Not only did some of the girls have issues with drugs or alcohol but also some had criminal records and other troubles, Epstein's legal team claimed. And at least one of them, they said, lied when she told police she was younger than 18 when she started performing massages for Epstein.

After the meeting, prosecutors postponed their decision to take the case to a grand jury.

In the following weeks, police received complaints that two of the victims or their families had been harassed or threatened. Epstein's legal team maintains that its private investigators did nothing illegal or unethical during their research.

By then, relations between police and prosecutors were fraying. At a key meeting with prosecutors and the defense, Detective Joseph Recarey, the lead investigator, was a no-show, according to Epstein's attorney.

"The embarrassment on the prosecutor's face was evident when the police officer never showed up for the meeting," attorney Jack Goldberger said.

Later in April, Recarey walked into a prosecutor's office at the state attorney's office and learned the case was taking an unexpected turn.

The prosecutor, Lanna Belohlavek, told Recarey the state attorney's office had offered Epstein a plea deal that would not require him to serve jail time or receive a felony conviction.

Recarey told her he disapproved of the plea offer.

The deal never came to pass, however.

Future unclear after charge

On May 1, the department asked prosecutors to approve warrants to arrest Epstein on four counts of unlawful sexual activity with a minor and to charge his personal assistant, Sarah Kellen, now 27, for her alleged role in arranging the visits. Police officials also wanted to charge Robson, the self-described Heidi Fleiss, with lewd and lascivious acts.

By then, the department was frustrated with the way the state attorney's office had handled the case. On the same day the warrants were requested, Palm Beach Police Chief Michael Reiter wrote a letter to State Attorney Barry Krischer suggesting he disqualify himself from the case if he would not act.

Two weeks later, Recarey was told that prosecutors had decided once again to take the case to the grand jury.

It is not known how many of the girls testified before the grand jury. But Epstein's defense team said one girl who was subpoenaed - the one who said she had sexual intercourse with Epstein - never showed up.

The grand jury's indictment was handed down in July. It was not the one the police department had wanted.

Instead of being slapped with a charge of unlawful sexual activity with a minor, Epstein was charged with one count of felony solicitation of prostitution, which carries a maximum penalty of five years in prison. He was booked into the Palm Beach County Jail early July 23 and released hours later.

Epstein's legal team "doesn't dispute that he had girls over for massages," Goldberger said. But he said their claims that they had sexual encounters with him lack credibility.

"They are incapable of being believed," he said. "They had criminal records. They had accusations of theft made against them by their employers. There was evidence of drug use by some of them."

What remains for Epstein is yet to be seen.

The Palm Beach Police Department has asked the FBI to investigate the case. It also has returned the $90,000 Epstein donated in 2004.

In New York, candidates for governor and state attorney general have vowed to return a total of at least $60,000 in campaign contributions from Epstein. Meanwhile, Epstein's powerful friends have remained silent as tabloids and Internet blogs feast on the public details of the police investigation.

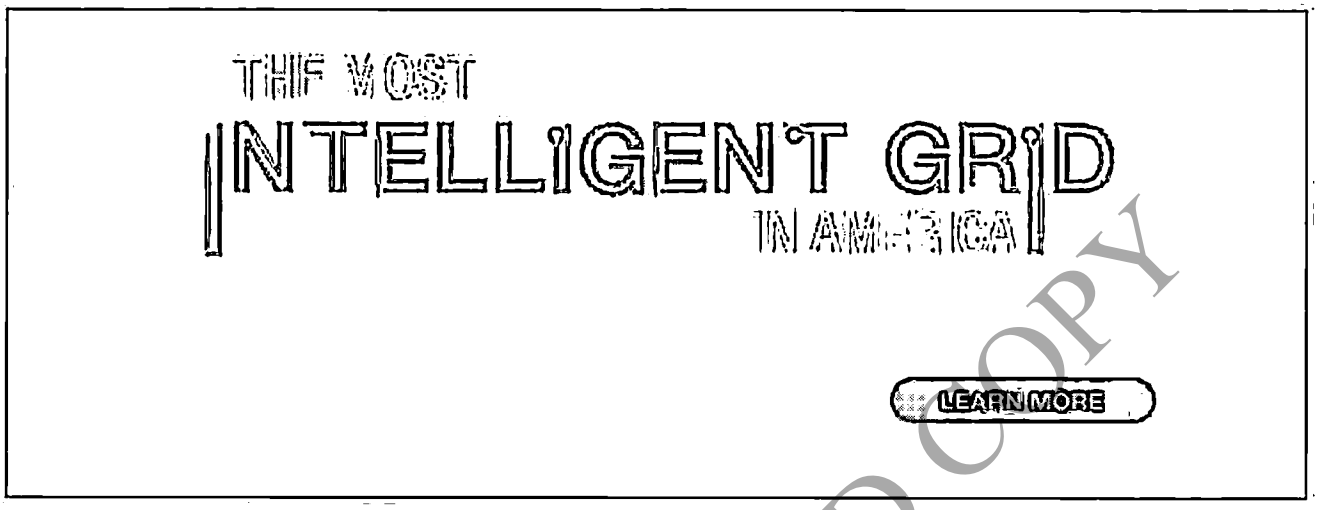
Goldberger maintains Epstein's innocence but says the legal team has not ruled out a future plea deal. He insists Epstein will emerge in the end with his reputation untarnished.

"He will recover from this," he said.

Staff writer Larry Keller and staff researchers Bridget Bulger, Angelica Cortez, Amy Hanaway and Melanie Mena contributed to this story.

amarra@pbpost.com

@AMarraPBPost



273 / 278 - Tuesday, November 16, 2004

Edition: FINAL
Section: A SECTION
Page: 1A
Source: By PAUL OWERS Palm Beach Post Staff Writer
Illustration: PHOTO (C & 2 B&W) & MAP (B&W)
Memo: Ran all editions.
Dateline: WEST PALM BEACH

TRUMP SNAGS GOSMAN ESTATE FOR $41 MILLION

When it came time to bid Monday for the palatial Palm Beach digs of Abe Gosman, The Donald was not about to be trumped.

"Nobody was going to outbid me," the brash developer-turned-TV-personality said from his New York office.

Trump bested two other bidders with a $41.35 million offer for the 43,000-square-foot, seven-bedroom estate on 6 oceanfront acres along the storied "Raider's Row."

But Trump, 58, proud possessor of Mar-a-Lago, has no plans to live in the Gosman home at 513 N. County Road. He wants to - what else? - sell it and make more money.

The star of the mega-hit The Apprentice said he intends to redevelop the site into a "super luxury house" that would be the "finest anywhere in the United States." He might build another house before flipping the entire package.

"I've known about this house for quite some time," Trump said. "It's probably the best piece of land in Florida - and probably the country - for luxury real estate."

Although Trump said he could subdivide the property into nine lots, Palm Beach Mayor Lesly Smith said zoning regulations allow for only two houses - and maybe a third. Smith said she's not worried about Trump's plans.

"He's been a very good property owner in the town of Palm Beach," she said. "He does his projects very well. He's a perfectionist."

Monday's auction took place at U.S. Bankruptcy Court in West Palm Beach as part of Gosman's Chapter 7 bankruptcy case. Proceeds from the sale will go into escrow for eventual distribution to creditors.

The auction began at exactly noon after Judge Steven Friedman dismissed an objection from an attorney representing money manager Jeffrey Epstein. The lawyer argued unsuccessfully that Trump was not a qualified bidder because his contract stipulated that he would not close on the sale unless title insurance was in place beforehand.

With Trump listening via conference call, Epstein began the bidding at $37.25 million - $250,000 higher than Trump's initial offer.

Mark Pulte, son of the founder of home-building giant Pulte Homes, passed when his turn came, letting lawyers for Trump and Esptein bid against each other until the price hit $38.85 million.

Pulte then bid $39.1 million, briefly raising the ire of Trump, who believed that Pulte had given up his right to bid by passing the first time.

But Friedman allowed the offer to stand, and Pulte and Trump went back and forth until Pulte dropped out at $41.1 million. Epstein, a part-time Palm Beach resident, bowed out at $38.6 million.

Friedman closed the bidding 10 minutes after it started, leaving Trump with the right to buy the 29,000-square-foot home (a typical Palm Beach County single-family house is about 2,200 square feet). The property also has a tennis house, a pool house and 1930s-era service quarters.

The closing could take place within a week but probably won't happen until next month.

Trustee Joe Luzinski and creditors said they were pleased with the outcome.

"We knew we were dealing with some substantial people . . . who were going to bid it up a bit," Luzinski said.

"The system worked," said Charles Tatelbaum, a lawyer for creditor JPMorgan Chase Bank. "In bankruptcy court, the idea is to get the most for creditors, and that's what happened."

The auction proved to be a bonanza for creditors, Luzinski said, noting that the highest offer former listing agent Sotheby's International Realty received was $32 million. Sotheby's won't receive a commission, he said.

Pulte, 42, of Boca Raton, said he figured Trump wouldn't back down Monday.

"I got the feeling he was willing to go a lot higher, and I didn't want to chase it," Pulte said.

Pulte said Gosman asked him before the auction whether he would be willing to let him stay in the mansion after the closing until he decides where he wants to move. Trump and Luzinski said they have had no such discussions with Gosman.

Gosman, 75, had the house built after paying $12.1 million for the land in 1986.

The former health-care magnate declined interview requests before and after the auction Monday. He was at the courthouse but left before the auction took place.

The $41.35 million price tag eclipses the $30.35 million sale of Lowell "Bud" Paxson's Palm Beach home and guest house but falls short of the $45 million that Virginia home builder Dwight Schar paid for Ron Perelman's 26,000-square-foot estate, Casa Apava, a designated landmark.

Schar also paid $18.6 million for a lakefront lot across the street from the main house, for a total of $63.6 million. Insiders say Schar spent a total of $70 million for his new property, making it the priciest residential sale in U.S. history.

Gosman once had a fortune that Forbes magazine estimated at $480 million. He voluntarily filed for Chapter 11 bankruptcy protection in 2001, listing assets of $250 million and liabilities of $233.6 million.

When a judge ruled that Gosman had to give up all of his exempt assets to creditors if he wanted to reorganize under Chapter 11, Gosman converted the case to Chapter 7 liquidation.

Last year, U.S. Bankruptcy Judge Larry Lessen ruled that Abe and Lin Gosman's marriage is invalid because Florida law does not recognize a Dominican Republic divorce that Lin Gosman tried to obtain from another man, Michael Castre.

The judge's decision was a huge victory for creditors because it prevents Abe Gosman from protecting assets by claiming joint ownership with his wife. Gosman's assets, which include an extensive collection of artwork, could total as much as $70 million and will be sold later.

Without Lessen's ruling, Luzinski would have had a much harder time selling Gosman's estate, said David Cimo, special counsel for the trustee.

"We would have been thwarted . . . or at least substantially impaired," Cimo said.

The trustee alleged during a weeklong trial in May that Gosman fraudulently gave his wife an ownership interest in his home and other belongings only to avoid losing them in bankruptcy. Gosman has denied any wrongdoing, saying he made the property transfers in 1999, well before he filed for bankruptcy.

Lessen is expected to rule in the next two months whether Gosman made improper transfers, a decision that will affect how much money will be available to creditors.

Cimo acknowledged that Monday wasn't the best of days for the Gosmans but said they were willing to move forward, in part because the upkeep of the estate now exceeds their means.

"This is not a happy occasion for them, but at least we're moving to the next level," Cimo said. "That's not a house you want to live in unless you're making large amounts of money like Donald Trump."

paul_owers@pbpost.com

The Palm Beach Post
REAL NEWS STARTS HERE

Indictment: Billionaire Solicited 3 Times

Posted Jul 1, 2008 at 12:01 AM
Updated Oct 2, 2019 at 2:30 PM

*(**EDITOR'S NOTE:** This story originally published in The Palm Beach Post on July 25, 2006)*

Billionaire money manager and Palm Beach part-time resident Jeffrey Epstein solicited or procured prostitutes three or more times between Aug. 1 and Oct. 31 of last year, according to an indictment charging him with felony solicitation of prostitution.

Epstein, 53, was booked at the Palm Beach County jail at 1:45 a.m. Sunday. He was released on $3,000 bond.

Epstein's case is unusual in that suspected prostitution johns are usually charged with a misdemeanor, and even a felony charge is typically made in a criminal information - an alternative to an indictment charging a person with the commission of a crime.

His attorney, Jack Goldberger, declined to discuss the charge.

State attorney's office spokesman Mike Edmondson also had little to say.

"Generally speaking, there is a case that has a number of different aspects to it," Edmondson said of a prostitution-related charge being submitted to a grand jury. "We first became aware of the case months ago by Palm Beach police."

Prosecutors and police worked together to bring the case to the grand jury, he said.

Palm Beach police confirmed that and said the department will release a report today regarding its investigation.

Epstein has owned a five-bedroom, 7 1/2-bath, 7,234-square-foot home with a pool and a boat dock on the Intracoastal Waterway since 1990, according to property records. A man answering the door there Monday said that Epstein wasn't home. A Cadillac Escalade registered to him was parked in the driveway, which is flanked by two massive gargoyles.

Epstein sued Property Appraiser Gary Nikolits in 2001, contending that the assessment of his home exceeded its fair market value. He dismissed his lawsuit in December 2002.

A profile of Epstein in Vanity Fair magazine said he owns what are believed to be the largest private homes in Manhattan - 51,000 square feet - and in New Mexico - a 7,500-acre ranch. Those are in addition to his 70-acre island in the U.S. Virgin Islands and fleet of aircraft.

Epstein's friends and admirers, according to the magazine, include prominent businessmen, academics and scientists and famed Harvard law professor Alan Dershowitz.

larry_keller@pbpost.com

The Palm Beach Post
REAL NEWS STARTS HERE

After long probe, billionaire faces solicitation charge

Posted Jul 27, 2006 at 12:01 AM
Updated Oct 3, 2019 at 3:11 PM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on July 26, 2006)*

Palm Beach billionaire Jeffrey Epstein paid to have underage girls and young women brought to his home, where he received massages and sometimes sex, according to an investigation by the Palm Beach Police Department.

Palm Beach police spent months sifting through Epstein's trash and watching his waterfront home and Palm Beach International Airport to keep tabs on his private jet. An indictment charging Epstein, 53, was unsealed Monday, charging him with one count of felony solicitation of prostitution.

Palm Beach police thought there was probable cause to charge Epstein with unlawful sex acts with a minor and lewd and lascivious molestation.

Police Chief Michael Reiter was so angry with State Attorney Barry Krischer's handling of the case that he wrote a memo suggesting the county's top prosecutor disqualify himself.

"I must urge you to examine the unusual course that your office's handling of this matter has taken and consider if good and sufficient reason exists to require your disqualification from the prosecution of these cases," Reiter wrote in a May 1 memo to Krischer.

While not commenting specifically on the Epstein case, Mike Edmondson, spokesman for the state attorney, said his office presents cases other than murders to a grand jury when there are questions about witnesses' credibility and their ability to testify.

By the nature of their jobs, police officers look at evidence from a "one-sided perspective," Edmondson said. "A prosecutor has to look at it in a much broader fashion," weighing the veracity of witnesses and how they may fare under defense attorneys' questioning, he said.

Epstein's attorney, Jack Goldberger, said his client committed no crimes.

"The reports and statements in question refer to false accusations that were not charged because the Palm Beach County state attorney questioned the credibility of the witnesses," Goldberger said. A county grand jury "found the allegations wholly unsubstantiated and not credible," and that's why his client was not charged with sexual activity with minors, he said.

Goldberger said Epstein passed a lie detector test administered by a reputable polygraph examiner in which he said he did not know the girls were minors. Also, a search warrant served on Epstein's home found no evidence to corroborate the girls' allegations, Goldberger said.

According to police documents:

- A Palm Beach Community College student said she gave Epstein a massage in the nude, then brought him six girls, ages 14 to 16, for massage and sex-tinged sessions at his home.

- A 27-year-old woman who worked as Epstein's personal assistant also facilitated the liaisons, phoning the PBCC student to arrange for girls when Epstein was coming to town. And she escorted the girls upstairs when they arrived, putting fresh sheets on a massage table and placing massage oils nearby.

- Police took sworn statements from five alleged victims and 17 witnesses. They contend that on three occasions, Epstein had sex with the girls.

A money manager for the ultra-rich, Epstein was named one of New York's most eligible bachelors in 2003 by The New York Post. He reportedly hobnobs with the likes of former President Clinton, former Harvard University President Lawrence Summers and Donald Trump, and has lavish homes in Manhattan, New Mexico and the Virgin Islands.

He has contributed tens of thousands of dollars to Democratic Party candidates and organizations, including Sen. John Kerry's presidential bid, and the Senate campaigns of Joe Lieberman, Hillary Clinton, Christopher Dodd and Charles Schumer.

Goldberger is one of five attorneys Epstein has retained since he became the subject of an investigation, Edmondson said. Among the others: Alan Dershowitz, the well-known Harvard law professor and author, who is a friend of Epstein. Dershowitz could not be reached for comment.

Police said the woman who enlisted young girls for Epstein was Haley Robson, 20, of Royal Palm Beach. Robson has worked at an Olive Garden restaurant in Wellington and said she was a journalism major at Palm Beach Community College when she was questioned by police last October. She has an unlisted phone number and could not be reached for comment.

Robson said she met Epstein when, at age 17, a friend asked her if she would like to make money giving him a massage. She said she was driven to his five-bedroom, 7 1/2-bath home on the Intracoastal Waterway, then escorted upstairs to a bedroom with a massage table and oils. Epstein and Robson were both naked during the massage, she said, but when he grabbed her buttocks, she said she didn't want to be touched.

Epstein said he'd pay her to bring him more girls - the younger the better, Robson told police. When she tried once to bring a 23-year-old woman to him, Epstein said she was too old, Robson said.

Robson, who has not been charged in the case, said she eventually brought six girls to Epstein who were paid $200 each time, Robson said. "I'm like a Heidi Fleiss," police quoted her as saying. The girls knew what to expect when they were taken to Epstein's home, Robson said. Give a massage - maybe naked - and allow some touching.

One 14-year-old girl Robson took to meet Epstein led police to start the investigation of him in March 2005. A relative of the girl called to say she thought the child had recently engaged in sex with a Palm Beach man. The girl then got into a fight with a classmate who accused her of being a prostitute, and she couldn't explain why she had $300 in her purse.

The girl gave police this account of her meeting with Epstein:

She accompanied Robson and a second girl to Epstein's house on a Sunday in February 2005. Once there, a woman she thought was Epstein's assistant told the girl to follow her upstairs to a room featuring a mural of a naked woman, several photographs of naked women on a shelf, a hot pink and green sofa and a massage table.

She stripped to her bra and panties and gave him a massage.

Epstein gave the 14-year-old $300 and she and the other girls left, she said. She said Robson told her that Epstein paid her $200 that day.

Other girls told similar stories. In most accounts, Epstein's personal assistant at the time, Sarah Kellen, now 27, escorted the girls to Epstein's bedroom.

Kellen, whose most recent known address is in North Carolina, has not been charged in the case.

Palm Beach police often conducted surveillance of Epstein's home, and at Palm Beach International Airport to see if his private jet was there, so they would know when he was in town. Police also arranged repeatedly to receive his trash

from Palm Beach sanitation workers, collecting papers with names and phone numbers, sex toys and female hygiene products.

One note stated that a female could not come over at 7 p.m. because of soccer. Another said a girl had to work Sunday - "Monday after school?" And still another note contained the work hours of a girl, saying she leaves school at 11:30 a.m. and would come over the next day at 10:30 a.m.

Only three months before the police department probe began, Epstein donated $90,000 to the department for the purchase of a firearms simulator, said Jane Struder, town finance director. The purchase was never made. The money was returned to Epstein on Monday, she said.

Palm Beach Daily News

Police say lawyer tried to discredit teenage girls

Posted Jul 29, 2006 at 12:01 AM
Updated Oct 3, 2019 at 2:00 PM

(**EDITOR'S NOTE:** *This story originally was published in The Palm Beach Post on July 29, 2006)*

Famed Harvard law professor Alan Dershowitz met with the Palm Beach County State Attorney's Office and provided damaging information about teenage girls who say they gave his client, Palm Beach billionaire Jeffrey Epstein, sexually charged massages, according to police reports.

The reports also state that another Epstein attorney agreed to a plea bargain that would have allowed Epstein to have no criminal record. His current attorney denies this happened.

And the documents also reveal that the father of at least one girl complained that private investigators aggressively followed his car, photographed his home and chased off visitors.

Police also talked to somebody who said she was offered money if she refused to cooperate with the Palm Beach Police Department probe of Epstein.

The state attorney's office said it presented the Epstein case to a county grand jury this month rather than directly charging Epstein because of concerns about the girls' credibility. The grand jury indicted Epstein, 53, on a single count of felony solicitation of prostitution, which carries a maximum penalty of five years in prison.

Police believed there was probable cause to charge Epstein with the more serious crimes of unlawful sex acts with a minor and lewd and lascivious molestation. Police Chief Michael Reiter was so angry that he wrote State Attorney Barry Krischer a memo in May suggesting he disqualify himself from the case.

The case originally was going to be presented to the grand jury in February, but was postponed after Dershowitz produced information gleaned from the Web site myspace.com showing some of the alleged victims commenting on alcohol and marijuana use, according to the police report prepared by Detective Joseph Recarey.

Haley Robson, a 20-year-old Royal Palm Beach woman who told police she recruited girls for Epstein, also is profiled on myspace.com. Her page includes photos of her and her friends, including one using the name "Pimpin' Made EZ." Robson, who was not charged in the case, is a potential prosecution witness.

According to Recarey, prosecutor Lanna Belohlavek offered Epstein attorneys Dershowitz and Guy Fronstin a plea deal in April. Fronstin, after speaking with Epstein, accepted the deal, in which Epstein would plead guilty to one count of aggravated assault with intent to commit a felony, be placed on five years' probation and have no criminal record. The deal also called for Epstein to submit to a psychiatric and sexual evaluation and have no unsupervised visits with minors, according to Recarey's report. The plea bargain was made in connection with only one of the five alleged victims, the report states.

Fronstin - who declined to comment on the case - was subsequently fired and veteran defense attorney Jack Goldberger was hired. He denies there was any agreement by any of Epstein's attorneys to a plea deal.

"We absolutely did not agree to a plea in this case," he said. Neither Belohlavek nor a state attorney's spokesman could be reached for comment.

The parent or parents of alleged victims who complained of being harassed by private investigators provided license tag numbers of two of the men. Police found the vehicles were registered to a private eye in West Palm Beach and another in Jupiter, according to Recarey's report.

"I have no knowledge of it," defense attorney Goldberger said.

The report also says a woman connected to the Epstein case was contacted by somebody who was still in touch with Epstein. That person told her she would be compensated if she didn't cooperate with police, Recarey's report says. Those

who did talk "will be dealt with," the woman said she was told. Phone records show the woman talked with the person who allegedly intimidated her around the time she said, Recarey reported.

Phone records also show that the person said to have made the threat then placed a call to Epstein's personal assistant, who in turn called a New York corporation affiliated with Epstein, the report states.

The issue in the Epstein case is not whether females came to his waterfront home, but whether he knew their ages.

"He's never denied girls came to the house," Goldberger said. But when Epstein was given a polygraph test, "he passed on knowledge of age," the attorney said.

After the indictment against Epstein was unsealed this week, Police Chief Reiter referred the matter to the FBI. "We've received the referral, and we're reviewing it," said FBI spokeswoman Judy Orihuela in Miami.

The chief himself has come under attack from Epstein's lawyers and friends in New York, where he has a home. The New York Post quoted Epstein's prominent New York lawyer, Gerald Lefcourt, as saying his client was indicted only "because of the craziness of the police chief."

Reiter has declined to comment on the case.

Prosecutors have not presented a sex-related case like Epstein's to a grand jury before, said Mike Edmondson, spokesman for the state attorney's office. "That's what you do with a case that falls into a gray area," he said.

The state attorney's office did not recommend a particular criminal charge on which to indict Epstein, Edmondson said. The grand jury was presented with a list of charges from highest to lowest, then deliberated with the prosecutor out of the room, he said.

"People are surprised at the grand jury proceeding," West Palm Beach defense attorney Richard Tendler said. "It's a way for the prosecutor's office to not take the full responsibility for not filing the (charge), and not doing what the Palm Beach Police Department wanted. I think something fell apart with those underage witnesses."

Defense attorney Robert Gershman was a prosecutor for six years. "Those girls must have been incredible or untrustworthy, I don't know," he said.

Other attorneys said Epstein's case raises the issue of whether wealthy, connected defendants like Epstein - whose friends include former President Clinton and Donald Trump - are treated differently from others. Once he knew he was the subject of a criminal probe, Epstein hired a phalanx of powerful attorneys such as Dershowitz and Lefcourt, who is a past president of the National Association of Criminal Defense Lawyers.

Miami lawyer Roy Black - who became nationally known when he successfully defended William Kennedy Smith on a rape charge in Palm Beach - also was involved at one point.

Said defense attorney Michelle Suskauer: "I think it's unfortunate the public may get the perception that with power, you may be treated differently than the average Joe."

The Palm Beach Post
REAL NEWS STARTS HERE

Expert: Ignorance of age isn't defense in sex cases

Posted Aug 5, 2006 at 12:01 AM
Updated Oct 3, 2019 at 1:38 PM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on Aug. 5, 2006)*

Even if Palm Beach money manager Jeffrey Epstein didn't know that girls who police say gave him sexual massages at his Intracoastal home were under the legal age, that alone wouldn't have exempted him from criminal charges of sexual activity with minors.

"Ignorance is not a valid defense," said Bob Dekle, a legal skills professor who was a Lake City prosecutor for nearly 30 years, half of that time specializing in sex crimes against children.

"There is no knowledge element as far as the age is concerned," Dekle said.

After an 11-month investigation, Palm Beach police said there was probable cause to charge Epstein, 53, with unlawful sex acts with a minor and lewd and lascivious molestation. They contend that Epstein - friend of the rich and famous and financial patron of Democratic Party organizations and candidates - committed those acts with five underage girls.

In the past week, New York Attorney General and gubernatorial candidate Eliot Spitzer has returned about $50,000 in campaign contributions he received from Epstein, and Mark Green, a candidate to replace Spitzer in

his current job, has returned $10,000 to him because of the Palm Beach scandal, the New York Daily News has reported.

Rather than file charges, the state attorney's office presented the case to a county grand jury. The panel indicted Epstein last week on a single, less serious charge of felony solicitation of prostitution.

The case raised eyebrows because the state attorney's office rarely, if ever, kicks such charges to a grand jury. And it increases the difficulty of prosecuting child sex abuse cases, especially when the defendant is enormously wealthy and can hire high-priced, top-tier lawyers.

At least one of Epstein's alleged victims told police he knew she was underage when the two of them got naked for massages and sexual activity. She was 16 years old at the time and said Epstein asked her questions about her high school, according to police reports.

A girl who said she met Epstein when she was 15 said he told her if she told anybody what happened at his house, bad things could happen, the police reports state.

Epstein's youngest alleged victim was 14 when she says she gave him a massage that included some sexual activity. She is now 16. The girl's father says he doesn't know whether she told Epstein her age.

"My daughter has kept a lot of what happened from me because of sheer embarrassment," he said. "But she very much looked 14. Any prudent man would have had second thoughts about that."

Defense attorney Jack Goldberger maintains that not only did Epstein pass a polygraph test showing he did not know the girls were minors, but their stories weren't credible. The state attorney's office also implied that their credibility was an issue when it decided not to charge Epstein directly, but instead give the case to the grand jury.

"A prosecutor has to look at it in a much broader fashion," a state attorney's spokesman said last week.

Epstein hired Harvard law Professor Alan Dershowitz when he became aware he was under investigation, and Dershowitz gave prosecutors information that some of the alleged victims had spoke of using alcohol and marijuana on a popular Web site, according to a Palm Beach police report.

Prosecutors typically consider two things in deciding whether to charge somebody with sex-related offenses against minors - whether there is sufficient evidence and whether there is a public interest in doing so, Dekle said.

If two teens are in a sexual relationship and the boy turns 18 before the girl, he could be charged with a sex crime if the sex continues. There would be no public interest in pursuing that, Dekle said.

But where there is a large gap in ages - and especially in cases of teachers with students - there is a public interest in prosecuting, he said. Likewise if the accused has a track record of sex with minors.

Still there is a "universal constant" in prosecuting these cases, Dekle said. Men who exploit underage children for sex often carefully choose their victims in ways that will minimize the risk to them, he said.

Victims usually are from a lower social status, and they may suffer from psychological problems, Dekle said.

"Lots of child sexual abuse victims have been victimized by multiple people over a period of time. Then the act of abuse produces behavior in the victims that further damages their credibility." Examples include promiscuous behavior and drug abuse.

Some of the alleged victims in the Epstein case returned to his home multiple times for the massage sessions and the $200 to $300 he typically paid them per visit. "That would be a definite problem for the prosecutor," said Betty Resch, who prosecuted crimes against children in Palm Beach County for five years and now is in private practice in Lake Worth.

"The victim becomes less sympathetic" to a jury, Resch said. "But she's a victim nevertheless. She's a kid."

Most men charged with sex crimes against minors look normal, Dekle said. A jury expecting to see a monster seldom will. And the victims' ages work against them and in favor of the defendant in a trial, Dekle said.

If a child and an adult tell different stories and both swear they're telling the truth, adult jurors are more likely to believe the adult, Dekle said.

"You have all these things working against you in a child sex abuse case. Prosecutors normally try to be very careful in filing those cases because they know what they're getting into. There is no such thing as an iron-clad child sexual abuse case."

The Palm Beach Post
REAL NEWS STARTS HERE

Epstein camp calls female accusers liars

Posted Aug 8, 2006 at 12:01 AM
Updated Oct 3, 2019 at 3:35 PM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on Aug. 8, 2006)*

Attorneys and publicists for Palm Beach financier Jeffrey Epstein went on the offensive Monday, contending that teenage girls who have accused Epstein of sexual shenanigans at his waterfront home are liars and saying that the Palm Beach Police Department is "childish."

"There never was any sex between Jeffrey Epstein and any underage women," his lead attorney, Jack Goldberger, said from Idaho where he was vacationing with his family.

Epstein did have young women come to his house to give him massages, Goldberger said. "Mr. Epstein absolutely insisted anybody who came to his house be over the age of 18. How he verified that, I don't know. The question is, did anything illegal occur. The law was not violated here."

He had no explanation as to why Epstein would pay girls or women with no massage training - as the alleged victims said was the case - $200 to $300 for their visits. "The credibility of these witnesses has been seriously questioned," Goldberger said.

Epstein, 53, was indicted by a county grand jury last month on a charge of felony solicitation of prostitution. After an 11-month investigation that included sifting through Epstein's trash and surveilling his home, Palm Beach police concluded there was enough evidence to charge him with sexual activity with minors. When the grand jury indicted

Epstein on the less serious charge, Police Chief Michael Reiter referred the case to the FBI to determine whether there were federal law violations.

After a spate of stories about the case last week, New York publicist Dan Klores - whose client list has included Paris Hilton and Jennifer Lopez - said on Saturday that Epstein's camp was ready "to get their story out."

They did that Monday via Goldberger and a Los Angeles publicist for Miami criminal defense attorney Roy Black, who also has represented Epstein in the case.

"We just think there has been a distorted view of this case in the media presented by the Palm Beach police," Goldberger said.

Reiter has consistently declined to comment on the case and did not respond to a request for comment Monday.

The implication that State Attorney Barry Krischer was easy on Epstein by presenting the case to a grand jury rather than filing charges directly against him is wrong, Goldberger said.

The Palm Beach Police Department was "happy and ecstatic" that the panel was going to review the evidence. "I think what happened is they weren't happy with the result. They decided to use the press to embarrass Mr. Epstein."

But records show that Reiter wrote Krischer on May 1 - well before the case went to the grand jury - suggesting that Krischer "consider if good and sufficient reason exists to require your disqualification from the prosecution of these cases."

Rather than flat-out decline to charge Epstein, Krischer referred the case to the grand jury to "appease" the chief, Goldberger said.

A state attorney's spokesman would say only that the office refers cases to the grand jury when there are issues with the viability of the evidence or witnesses' credibility.

Both the state attorney and the grand jury concluded there was not sufficient evidence that Epstein had sex with minors, according to Goldberger. "It was just a childish performance by the Palm Beach Police Department," Goldberger said.

The defense attorney said one of the alleged victims who claimed she was a minor was in fact over the age of 18. Another alleged victim who was subpoenaed to testify to the grand jury failed to do so. Epstein's accusers, he added, have histories of drug abuse and thefts. "These women are liars. We've established that."

But why would they all invent their stories about meeting Epstein for sexual massages?

"I don't have an answer as to what was the motivation for these women to come forward and make these allegations," Goldberger said.

Palm Beach chief focus of fire in Epstein case

By [illegible]
Palm Beach Post Staff Writer

In the case of Palm Beach financier Jeffrey Epstein, it seems, at times, as if two men are accused of wrongdoing: Epstein and Palm Beach Police Chief Michael Reiter.

Epstein, 53, was indicted last month on a charge of felony solicitation of prostitution solely because of Reiter's "craziness," one of Epstein's lawyers said. The department disseminated "a distorted view of the case" and behaved in a "childish" manner when the grand jury didn't indict Epstein on the charges it sought, another Epstein lawyer complained.

To hear the Epstein camp tell it, Reiter, 48, is a loose cannon better suited to be the sheriff of Mayberry. They whisper that he's embroiled in a messy divorce.

Reiter did in fact file for divorce from his wife, Jill, last year, after 24 years of marriage. They have a son, 18, and a daughter, 14. The couple is scheduled to go to mediation next week, Aug. 14. Nothing in the court file suggests their split is particularly ugly.

Reiter incurred the wrath of the Epstein camp as well as the state attorney's office for two reasons. First, he pressed for Epstein to be charged with the more serious crimes of sexual activity with minors. Second, he chastised State Attorney Barry Krischer in blunt language seldom used by one law enforcement official with another, because of what he perceived as that office's mishandling of the case.

In a letter to Krischer written May 1, Reiter called his actions in the Epstein case "highly unusual." He added, "I must urge you to ... consider if good and sufficient reason exists to require your disqualification from the prosecution of these cases."

In short, Reiter told the county's top prosecutor for the past 13 years that he ought to get off the case. "It looks like a departure from professionalism," Miami-Dade State Attorney Katherine Fernandez Rundle said of Reiter's letter.

Following Epstein's indictment, Reiter referred the case to the FBI to determine if the [illegible] had violated any federal laws.

Reiter won't discuss the case or the broadsides aimed at him. But others almost uniformly use one word to describe the chief: professional.

"I have always been impressed by Mike's professionalism and his leadership," said Rick Lincoln, chief of the Lantana Police Department and a Palm Beach County cop for 32 years.

"The town of Palm Beach has a very professional police department. We all consider Mike to be our peer and a man of integrity."

Juno Beach Police Chief H.C. Clark II agreed. While he doesn't know Reiter well, he has met with him on countywide law enforcement issues. "I've never seen him lose his cool. I've never seen anything but a professional demeanor from him."

Reiter joined the Palm Beach Police Department in 1981, leaving a $20,000-a-year patrol job at the University of Pittsburgh. His personnel jacket shows consistently excellent job evaluations.

Posh Palm Beach is no hotbed of crime, and in his first year on the job a resident confined to the home with a sick child thanked Reiter for delivering a few Cokes to the house. Reiter refused payment for the beverages. Another resident thanked Reiter for shutting off his car's headlights in his driveway, saying a valet must have been at fault.

Reiter worked everywhere from road patrol to organized crime, vice and narcotics. And he's no novice at investigations involving the island's rich and famous. He was the lead detective probing the drug overdose death of David Kennedy in 1984. He also was one of the officers who worked the investigation of William Kennedy Smith, who was charged in 1991 — and later acquitted — with raping a woman at the Kennedy family compound in Palm Beach.

Reiter, who has a master's degree in [illegible] from Palm Beach Atlantic University, also has attended the FBI National Academy in Quantico, Va., and management courses at Harvard. He's been active in countywide interagency law enforcement organizations and has a "top secret" federal security clearance.

"He has a perspective that's broader than just addressing the needs of the town," said Town Manager Peter Elwell, who promoted Reiter from assistant chief to chief in March 2001. Reiter makes more than $144,000 as the town's top cop. Elwell thinks he's worth it.

"He's very businesslike, very straightforward. He's not easily agitated or flamboyant. He's about the work," Elwell said. "I think that his service as chief has been outstanding in five plus years."

[illegible]

Reiter: Town Manager Peter Elwell says the Palm Beach police chief's well worth his $144,000 salary.

Reiter focus of fire in Epstein case

Clipped By:

reiter_m
Sat, Apr 22, 2017

The Palm Beach Post
REAL NEWS STARTS HERE

Delays in Epstein case unusual, lawyers say

Posted Mar 13, 2007 at 12:01 AM
Updated Oct 3, 2019 at 3:48 PM

(***EDITOR'S NOTE:*** *This story originally published in The Palm Beach Post March 13, 2007)*

A federal probe or a plea deal could explain the wait in the Palm Beacher's solicitation case.

Nearly eight months after Palm Beach tycoon Jeffrey Epstein was charged with felony solicitation of prostitution, there has been no discernible progress in his case. No witnesses deposed. No trial date set. Nothing, save for routine court hearings reset without explanation.

"Usually that would be unusual," said criminal defense attorney Glenn Mitchell, who has no involvement in the case.

"As a general rule, it would be unusual for nothing to have happened," agreed Michael Dutko, a criminal defense attorney in Fort Lauderdale. He represents Haley Robson, 20, of Royal Palm Beach, potentially a key witness in the case.

A routine hearing for Epstein was pulled from the court docket last week and reset for May 16. The delays and inaction could be due to a potential federal probe of Epstein or because a plea deal is in the works, attorneys say.

Unusual is the word that best describes everything about the case against Epstein, 54, an enigmatic money manager in New York City who counts Bill Clinton and Donald Trump among his friends.

"Highly unusual" is how Palm Beach Police Chief Michael Reiter described State Attorney Barry Krischer's handling of the case in a bluntly critical letter to Krischer last year before Epstein was indicted.

Reiter referred the matter to the FBI to determine whether any federal laws had been violated. Epstein's allies countered by attacking the chief personally and professionally.

Reiter's department investigated Epstein for 11 months. Police sifted repeatedly through his trash and conducted surveillance on his five-bedroom, 7 1/2-bath, 7,234-square-foot home on the Intracoastal Waterway.

Police said Epstein paid women and girls as young as 14 to give him erotic massages at his home. Police thought there was probable cause to charge him with unlawful sex acts with a minor and lewd and lascivious molestation.

Epstein responded by hiring a phalanx of lawyers. One of them, Harvard law professor and author Alan Dershowitz, provided the state attorney's office with information about alcohol and marijuana use by some of the girls who said they were with Epstein.

Prosecutors then referred the case to the grand jury rather than file charges directly against Epstein.

Epstein's attorneys deny he had sex with underage girls. The lawyers say the girls' stories are not credible. But if the court file is any indicator, they've made no effort to depose the girls.

Neither prosecutors nor defense attorneys have sought to question Robson, said Dutko, her attorney. She recruited teenage girls to visit Epstein for massages and sexual activity, Palm Beach police said, and presumably would be a key witness.

Epstein's attorney Jack Goldberger did not return phone messages.

A source close to the case suggested it is languishing pending a decision by the FBI on whether to refer it to federal prosecutors.

"We still have a pending case," FBI spokeswoman Judy Orihuela said Monday.

State Attorney Krischer did not return a call for comment. His spokesman, Mike Edmondson, declined to say whether federal investigators are delaying the Epstein case. But, he added, "if another agency is looking at something, we wouldn't want to step on their toes."

Attorneys say inertia in a criminal case often points to a pending plea deal.

"It would not surprise me if something has happened that's not reflected in the court file," said Dutko, such as an agreement that will be formalized later.

Defense attorney Marc Shiner said defense attorneys sometimes put off overtly conducting discovery -- deposing witnesses, requesting documents and the like -- because doing so creates more work for harried prosecutors who may become angry and not offer a plea deal.

"Sometimes defense lawyers, knowing that, will try and do discovery without taking depositions," said Shiner, a former prosecutor for 13 years.

Instead, they may conduct a below-the-radar probe such as having a private investigator check out leads, he said.

Shiner and others say a plea deal for Epstein probably would result in pretrial intervention, in which a defendant may be ordered to undergo a psychological evaluation, counseling or other conditions in return for dropping the charge.

Edmondson, spokesman for State Attorney Krischer, said there is no plea offer and no request for the prosecution to show its cards.

"To my knowledge, it's never happened before on a filed case," he said.

252 / 278 - Thursday, October 18, 2007

Edition: FINAL
Section: LOCAL
Page: 5B
Source: The Associated Press
Illustration: PHOTO (B&W)
Memo: Ran all editions.
Dateline: NEW YORK

WOMAN SUES BILLIONAIRE INVESTOR, SAYS THEY HAD SEX WHEN SHE WAS 16

A billionaire investor, already facing jail in Palm Beach County on charges of soliciting underage prostitutes, is being sued by a young woman who says he had sex with her when she was 16 and had sought his help becoming a model.

The lawsuit, filed late Tuesday in Manhattan's state Supreme Court, says financier Jeffrey Epstein had the teen perform a sex act when she brought photographs of herself for him to review in his Upper East Side mansion sometime in 2000.

Epstein, 54, a money manager, told the teen he managed finances for Victoria's Secret and "could get you into the catalog" if she were "nice" to him, court papers say. The papers say being "nice" included massages and other favors.

When the girl told Epstein, "I am 16 years old and just want to model," he replied, "Don't worry, I won't tell anybody," court papers say.

Epstein, said by London's Mail on Sunday to be a close friend of England's Prince Andrew, has been indicted in Palm Beach on charges of soliciting underage prostitutes. That case is pending.

The girl visited Epstein "several times over the several months and engaged in bizarre and unnatural sex acts" while she was a minor, the lawsuit says.

Epstein "repeatedly requested that (the girl) return with her 14-, 15-, and 16-year-old girlfriends, stating, 'Come by with your friends your age next time. Don't bring Sherrie (a mutual friend in her 40s). I love girls your age.' "

The young woman, now 23, kept returning to Epstein because she has "mental issues," said her lawyer, William J. Unroch. He refused to elaborate, but court papers say she was "disabled as a result of severe mental disease and defect."

Epstein's lawyer in New York, Gerald Lefcourt, said, "The girl has admitted she is insane, but she can read a newspaper and recognize the word 'rich.'"

Lefcourt also said the statute of limitations has expired for the woman's case criminally and civilly, and will almost certainly be dismissed.

He refused to comment on Epstein's Florida charges.

Meanwhile, Unroch, 57, also acknowledged that his client was living with him and was at the center of a $10 million lawsuit he filed last year against a neighbor who said he was having sex with underage girls. That case is pending.

"What she was doing at 22 is irrelevant to what happened to her when she was 16," Unroch said Wednesday. He went on the say he hoped Epstein would agree to "do right" by his client and resolve the case out of court.

The Palm Beach Post
REAL NEWS STARTS HERE

Palm Beacher pleads in sex case

Posted Jul 1, 2008 at 12:01 AM
Updated Oct 3, 2019 at 1:47 PM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on July 1, 2008)*

Jeffrey Epstein will serve 1 1/2 years on teen solicitation charges.

He lives in a Palm Beach waterfront mansion and has kept company with the likes of President Clinton, Prince Andrew and Donald Trump, but investment banker Jeffrey Epstein will call the Palm Beach County Jail home for the next 18 months.

Epstein, 55, pleaded guilty Monday to felony solicitation of prostitution and procuring a person under the age of 18 for prostitution. After serving 18 months in jail, he will be under house arrest for a year. And he will have a lifelong obligation to register as a sex offender. He must submit to an HIV test within 48 hours, with the results being provided to his victims or their parents.

As part of the plea deal, federal investigators agreed to drop their investigation of Epstein, which they had taken to a grand jury, two law enforcement sources said.

Epstein was indicted two years ago after an 11-month investigation by Palm Beach police. They received a complaint from a relative of a 14-year-old girl who had given Epstein a naked massage at his five-bedroom, 7,234-square-foot, $8.5 million Intracoastal home.

Police concluded that there were several other girls brought in 2004 and 2005 to an upstairs room at the home for similar massages and sexual touching.

The indictment charged Epstein only with felony solicitation of prostitution. The state attorney's office later added the charge of procuring underage girls for that purpose.

Prosecutor Lanna Belohlavek said of the plea: "I took into consideration the length the trial would have been and witnesses having to testify" about sometimes embarrassing incidents.

Epstein may have made a serious mistake soon after he was charged. He rejected an offer to plead guilty to one count of aggravated assault with intent to commit a felony, according to police documents. He would have gotten five years' probation, had no criminal record and not been a registered sex offender, the documents indicate.

Epstein arrived in court Monday with at least three attorneys. He wore a blue blazer, blue shirt, blue jeans and white and gray sneakers. After Circuit Judge Deborah Dale Pucillo accepted the plea, he was fingerprinted. Epstein then removed his blazer and was handcuffed for the trip to jail while his attorneys tried to shield him from photographers' lenses.

When he eventually is released to house arrest, Epstein will have to observe a 10 p.m. to 6 a.m. curfew, have no unsupervised contact with anyone younger than 18 and neither own nor possess pornographic or sexual materials "that are relevant to your deviant behavior," the judge said.

Epstein will be allowed to leave home for work. The New York-based money manager told the judge he has formed the not-for-profit Florida Science Foundation to finance scientific research. "I'm there every day," Epstein said.

The foundation was incorporated in November. Epstein said he already has awarded money to Harvard and MIT.

When he is released from jail, there is a chance that Epstein will be forced to move. Sex offenders are not allowed to live within 1,000 feet of a school, park or other areas where children may gather. No determination has been made as to whether Epstein's home complies, but attorneys said it likely does.

Sex offenders also typically must attend counseling sessions. Belohlavek said that was waived for Epstein because his private psychiatrist is working with him. The judge was skeptical but agreed to it.

Epstein's legal woes don't end with Monday's plea. There are four pending federal civil lawsuits and one in state court related to his behavior. At least one woman has sued him in New York, where he owns a 51,000-square-foot Manhattan mansion.

"It's validation of what we're saying in the civil cases," said Miami attorney Jeffrey Herman, who represents the alleged victims in the federal lawsuits. West Palm Beach attorney Ted Leopold represents one alleged victim in a civil suit in state court. He said he anticipates amending that lawsuit to add "a few other clients" as well.

In the criminal case, police went so far as to scour Epstein's trash and conduct surveillance at Palm Beach International Airport, where they watched for his private jet so they would know when he was in town. They concluded that Epstein paid girls $200 to $300 each after the massage sessions.

"I'm like a Heidi Fleiss," Haley Robson, now 22, told police about her efforts in recruiting girls for Epstein.

There was probable cause to charge Epstein with unlawful sex acts with a minor and lewd and lascivious molestation, police concluded.

The state attorney's office said questions about the girls' credibility led it to take the unprecedented step of presenting the evidence against Epstein to a grand jury, rather than directly charging him.

Palm Beach Police Chief Michael Reiter was furious with State Attorney Barry Krischer, saying in a May 2006 letter that the prosecutor should disqualify himself. "I continue to find your office's treatment of these cases highly unusual," he wrote. He then asked for and got a federal investigation.

Epstein hired a phalanx of high-priced lawyers - including Harvard law professor and author Alan Dershowitz - and public relations people who questioned Reiter's competence and the victims' truthfulness.

In addition to mansions in Palm Beach and Manhattan, Epstein owns homes in New Mexico and the Virgin Islands. He's a frequent contributor to Democratic Party candidates. He also donated $30 million to Harvard in 2003.

Former New York Gov. Eliot Spitzer returned a $50,000 campaign contribution from Epstein after his indictment, then resigned this year during his own sex scandal. And the same Palm Beach Police Department that vigorously investigated Epstein returned his $90,000 donation for the purchase of a firearms simulator.

Staff writer Eliot Kleinberg and former staff researcher Michelle Quigley contributed to this story.

The Palm Beach Post
REAL NEWS STARTS HERE

Jeffrey Epstein: Scientist, stuntman, 'sex slave' visit jailed tycoon

By LARRY KELLER / Palm Beach Post Staff Writer
Posted Aug 13, 2008 at 12:01 AM
Updated Jul 16, 2019 at 4:54 PM

Tycoon Jeffrey Epstein mingled with an eclectic mix of people, including beautiful young women, before he got into trouble for paying teenage girls to give him sexual massages at his Palm Beach mansion.

Not much has changed, even though he now resides in a dorm at the Palm Beach County Sheriff's Office's 17-acre, 967-bed stockade near the fairgrounds.

During his first month of confinement, Epstein was visited by the female assistant who, girls told police, had escorted them to the room at his mansion where they gave him naked massages.

Also trekking to the jail was a young woman whom Epstein purportedly described as his Yugoslavian sex slave.

The wealthy financier and science wonk also has been visited by an expert on artificial intelligence, as well as a man who is a mixed martial arts aficionado and sometime movie stuntman.

The only other people to visit him at the jail, according to records, are a Singer Island man and an individual who listed Epstein's Palm Beach address as his own.

Epstein, 55, pleaded guilty on June 30 to two prostitution-related charges and was sentenced to 18 months in jail, followed by a year of house arrest. Epstein paid teenage

girls $200 to $300 in 2004 and 2005 for massages in his home that sometimes included sexual touching, Palm Beach police said.

His jail visitors in July included:

- Sarah Kellen, 29, who some of the teen masseuses said phoned them when Epstein was in town and escorted them upon their arrival at his Palm Beach waterfront home to an upstairs room, where she prepared the massage table and provided the oils for their encounters with him. Kellen visited Epstein three times in July, according to a jail visitor's log. Kellen lists a Manhattan home address. Reached by telephone, she declined to discuss Epstein.

- Nadia Marcinkova, 23, whose family in Yugoslavia Epstein paid money to so that he could bring her to the United States to be his "sex slave," two teenage girls told police. One girl told police that Epstein instructed Marcinkova and her to kiss and have sex while he watched and masturbated. Another said she engaged in sex with Marcinkova at Epstein's urging. Marcinkova visited Epstein in jail four times in 13 days. She lists her address as on the Upper East side of Manhattan, not far from Epstein's enormous apartment.

- Roger Schank, 62, founder of the Institute for Learning Sciences at Northwestern University and an expert on artificial intelligence, paid one visit to Epstein. Schank has written numerous books on that subject and has a doctorate degree from Yale University in linguistics. He was one of 19 people who applied to be president of Florida Atlantic University in 2003. He became "chief learning officer" at the online Trump University in 2005. Schank listed his address as being in Stuart, and records show he also owns a home in Lake Worth.

Epstein has financed a number of scientists over the years, including Nobel Prize winners. He gave $30 million to Harvard University in 2003. In November, he formed the not-for-profit Florida Science Foundation, which he said finances scientific research.

- Igor Zinoviev, a Russian mixed martial arts fighter, who coaches a Chicago team in the International Fight League. He also has worked as a personal trainer, celebrity bodyguard and movie stuntman, according to the league's Web site. The New Jersey resident visited Epstein seven times in July.

Zinoviev, Schank and Marcinkova could not be reached for comment.

Staff researcher Niels Heimeriks contributed to this story.

Palm Beach Daily News

Billionaire sex offender leaves jail six days a week for work

Posted Jul 1, 2008 at 12:01 AM
Updated Oct 4, 2019 at 9:27 AM

Palm Beach billionaire Jeffrey Epstein, who's serving 18 months in jail for soliciting an underage girl for prostitution, is allowed to leave the Palm Beach County Stockade six days a week on a work-release program.

Teri Barbera, spokeswoman for the Palm Beach County Sheriff's Office, confirmed that Epstein, 55, has been in the work-release program since Oct. 10.

"He works six days a week: Friday through Wednesday 10 a.m. to 10 p.m.," Barbera said via e-mail. "(He) works at his local West Palm Beach office, monitored on an active GPS system (he wears an ankle bracelet). Mr. Epstein hires a permit deputy, at his expense, for his own security at his workplace during the time he is out."

Miami attorney Jeffrey Herman represents six young women who've sued Epstein, claiming he sexually abused them at his Palm Beach home when they were minors.

Herman said he received a letter about the work-release program from the U.S. Attorney's Office within the past few days. But Herman says Epstein had been out on work-release for several weeks before the notification.

"My clients expressed shock and disappointment," Herman said. "I find it incredible that he's on work-release in the community and my clients aren't notified of this and we get this letter weeks after the fact."

Jack Goldberger, Epstein's criminal attorney, said the

arrangement is not unusual.

"He goes to work every single day and goes back to jail at night, just like everybody else (in the program)," Goldberger said.

Epstein pleaded guilty June 30 to two felony counts: soliciting prostitution and procuring a person under 18 for prostitution. As part of the plea agreement, Epstein must serve one year of house arrest and register as a lifelong sex offender.

The Palm Beach Post
REAL NEWS STARTS HERE

Women want Epstein sex plea deal unsealed

Posted Jul 1, 2008 at 12:01 AM
Updated Oct 2, 2019 at 2:23 PM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post June 10, 2009)*

Their attorneys will ask a judge to open Jeffrey Epstein's records.

When wealthy money manager Jeffrey Epstein of Palm Beach pleaded guilty last year to procuring teens for prostitution, his case detoured around local and state rules regarding the sealing of court documents.

At a plea conference on the state charges, a judge, a defense lawyer and a prosecutor huddled at the bench and decided that a deal Epstein had struck with federal prosecutors to avoid charges should be sealed, according to a transcript of the hearing.

And so it was.

But Florida rules of judicial administration, as well as rules of the Palm Beach County court system, require public notification that a court document has been or will be sealed, meaning kept from public view. The rules also require a judge to find a significant reason to seal, such as protecting a trade secret or a compelling government interest.

Yet no notification or reason occurred in Epstein's case, according to court records.

Epstein's own attorneys, in federal filings, have referred to his confidential deferred prosecution agreement with the U.S. attorney's office, struck in September 2007, as "unprecedented" and "highly unusual." And it was "a significant inducement" for Epstein to accept the state's deal, observed the state judge who accepted his plea, County Judge Deborah Dale Pucillo.

Epstein now faces at least a dozen civil lawsuits in federal and state courts filed by young women who said they had sex with him and now are seeking damages.

Attorneys for some of those women want his agreement with federal prosecutors unsealed and will ask Circuit Judge Jeffrey Colbath to do so today.

"It is against public policy for these documents to be have been sealed and hidden from public scrutiny. As a member of the public, E.W. has a right to have these documents unsealed," wrote former Circuit Judge Bill Berger, now in private practice and representing one of the women.

The Palm Beach Post also will ask Colbath to unseal the agreement. Post attorney Deanna Shullman will argue that the public has a right to know the specifics of Epstein's deal.

According to various media accounts, Epstein moved in circles that included President Clinton, Donald Trump and Prince Andrew. "International Moneyman of Mystery," declared a 2002 New York magazine profile of Epstein.

Epstein, 56, is in the Palm Beach County Stockade, serving an 18-month sentence after pleading guilty nearly a year ago to felony solicitation of prostitution and procuring teenagers for prostitution.

He is allowed out from 7 a.m. to 11 p.m., escorted by a deputy, said Palm Beach County Sheriff's Office spokeswoman Teri Barbera.

During a Palm Beach Police Department investigation, five victims and 17 witnesses gave statements. They told of young women brought by his assistants to Epstein's mansion on El Brillo Way for massages and sexual activity, and then being paid afterward.

At Epstein's plea conference last year, his attorney, Jack Goldberger, and then-Assistant State Attorney Lanna Belohlavek approached Pucillo in a sidebar conference. Pucillo, who had left the bench nine years earlier, was filling in temporarily as a senior judge.

According to a transcript, Goldberger told Pucillo that Epstein had entered a confidential agreement with the U.S. attorney's office in which federal prosecutors brokered not pursuing charges against him if he pleaded guilty in state court. Pucillo then said she wanted a sealed copy of the agreement filed in his case, and Goldberger concurred that he wanted it sealed. Belohlavek later signed off on it.

The Florida Supreme Court has expressed "serious concern" and launched an all-out inquiry into sealing procedures across the state following media reports in 2006 of entire cases being sealed and disappearing from court records.

"The public's constitutional right of access to court records must remain inviolate, and this court is fully committed to safeguarding this right," justices wrote in their final report.

Epstein's office on Tuesday referred any questions to Goldberger, who declined to comment. Pucillo also has declined to comment.

The Palm Beach Post
REAL NEWS STARTS HERE

Epstein secret pact with Feds reveals "highly unusual" terms

Posted Jun 10, 2009 at 12:01 AM
Updated Oct 4, 2019 at 9:23 AM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on September 19, 2009)*

A secret non-prosecution agreement multimillionaire financier Jeffrey Epstein struck with federal prosecutors is being called "highly unusual" by former federal prosecutors and downright outrageous by attorneys now representing young women who serviced him.

The deal reveals that the FBI and the U.S. Attorney's Office investigated him for several federal crimes, including engaging minors in commercial sex. The crimes are punishable by anywhere from 10 years to life in prison.

But federal prosecutors backed down and agreed to recall grand jury subpoenas if Epstein pleaded guilty to prostitution-related felonies in state court, which he ultimately did. He received an 18-month jail sentence, of which he served 13 months.

The U.S. Attorney's Office also agreed not to charge any of Epstein's possible co-conspirators: Sarah Kellen, Adriana Ross, Lesley Groff and Nadia Marcinkova.

The deal was negotiated in part by heavyweight New York criminal defense attorney Gerald Lefcourt.

Unsealed on Friday after attorneys for some of Epstein's victims and The Palm Beach Post sought its release, it offers the first public look at the deal Epstein's high-powered legal counsel brokered on his behalf.

Mark Johnson of Stuart, a former federal prosecutor, described the disparity in potential sentences as unusual, but even more so a provision on attorney payment.

The first draft of the agreement in September 2007 required that Epstein pay an attorney -- tapped by the U.S. Attorney's Office and approved by Epstein -- to represent some of the victims. That attorney is prominent Miami lawyer Bob Josefsberg.

But an addendum to the agreement signed the following month struck Epstein's duty to pay Josefsberg if he and the victims did not accept settlements -- capped at $150,000 -- and instead pursued lawsuits.

Johnson said it appears the government was trying to balance the lesser sentence for Epstein with recovering $150,000 for each victim. "I've never, ever seen anything like that in my life," he said. "It's highly unusual."

The deal does not say whether any victims were contacted or consulted before the deal was made.

Attorney Brad Edwards of Fort Lauderdale, who represents three of the young women, believes that none of the 30 to 40 woman identified as victims in the federal investigation were told ahead of time. Edwards said his clients received letters from the U.S. Attorney's Office months after the deal was signed, assuring them Epstein would be prosecuted.

"Never consulting the victims is probably the most outrageous aspect of it," Edwards said. "It taught them that someone with money can buy his way out of anything. It's outrageous and embarrassing for United States Attorney's Office and the State Attorney's Office."

Epstein now faces many civil lawsuits filed by the women, who are represented by a variety of attorneys. In many, the allegations are the same: that Epstein had a predilection for teenage girls, identified poor, vulnerable ones and used

other young women to lure them to his Palm Beach mansion. They walked away with between $200 and $1,000.

Former Circuit Judge Bill Berger, also representing victims, called the agreement a "sweetheart deal."

"Why was it so important for the government to make this deal?" Berger asked rhetorically. "We have not yet had an honest explanation by any public official as to why it was made ... and why the victims were sold down the river."

Former federal prosecutor Ryon McCabe described the agreement as "very unorthodox." Such agreements, he said, are usually reserved for corporations, not individuals.

"It's very, very rare. I've never seen or heard of the procedure that was set up here," said McCabe, who has no involvement in any Epstein litigation.

"He's essentially avoiding federal prosecution because he can afford to pay that many lawyers to help those victims review their cases. ... If a person has no money, he couldn't be able to strike a deal like this and avoid federal prosecution."

The backroom deal with federal prosecutors is all the more interesting in light of the legal powerhouses who have worked for Epstein, including Harvard professor Alan Dershowitz and Bill Clinton investigator Kenneth Starr. Lefcourt is a past president of the National Association of Criminal Defense Lawyers.

Epstein's local defense attorney, Jack Goldberger, issued a statement Friday saying he had fought the release of the sealed agreement to protect the third parties named there. "Mr. Epstein has fully abided by all of its terms and conditions. He is looking forward to putting this difficult period in his life behind him. He is continuing his long-standing history of science philanthropy."

The investigation triggered tensions between police and prosecutors, with then-Palm Beach Chief Michael Reiter saying in a May 2006 letter to then-State Attorney Barry Krischer that the chief prosecutor should disqualify himself.

"I continue to find your office's treatment of these cases highly unusual," Reiter wrote. He then asked for and got the federal investigation that ended in the sealed deal.

"The Jeffrey Epstein matter was an experience of what a many-million-dollar defense can accomplish," Reiter told the Palm Beach Daily News upon his retirement.

187 / 278 - Wednesday, January 27, 2010

Edition: FINAL
Section: LOCAL & BUSINESS
Page: 3B
Source: By JANE MUSGRAVE Palm Beach Post Staff Writer
Dateline: WEST PALM BEACH

JUDGE RULES EPSTEIN ATTORNEYS CAN SUBPOENA ABORTION RECORDS

In a decision that could spark a constitutional showdown over privacy rights, a judge Tuesday gave lawyers representing multimillionaire sex offender Jeffrey Epstein the right to subpoena abortion records from women who are seeking millions in damages from the part-time Palm Beach resident.

Palm Beach County Circuit Judge Donald Hafele said the records could help Epstein rebut the women's claims that they suffered psychological ills after being paid to give him sexually-charged massages at his Palm Beach mansion when they were as young as 14.

Hafele told Epstein's attorneys they couldn't go on a fishing expedition. The medical records, he said, can't be sought until the women are asked whether they have ever had an abortion, how many and where. Further, he said, the records would not be made public and might not be admissible during trial.

But, he said, since the women claim Epstein, now 57, is responsible for their emotional distress, his attorneys can explore the impact of other events. Medical records, Hafele said, are a better source of information than a person's memory.

Attorney Louis Silver, who represents the Presidential Women's Health Center, a West Palm Beach clinic where abortions are performed, warned Hafele that he was stepping on shaky constitutional grounds.

"These records are protected by our constitutional right of privacy," he said, referring to the Florida Constitution.

After the hearing, Silver said an appeal won't be necessary until Epstein attorneys seek the records.

In another ruling Wednesday, Hafele also said that videos from depositions in the state cases can't be released without a court order. The ruling came after Epstein attorney Robert Critton complained that a video of Epstein being asked whether he had an "egg-shaped" penis became a youtube.com sensation. It first appeared on The Palm Beach Post Web site.

Critton blamed attorney Spencer Kuvin for releasing it. Kuvin said it was public record.

The civil suits began mounting after Epstein agreed to plead guilty to two state charges: procuring a minor for prostitution and soliciting prostitution. He served 13 months of an 18-month sentence. As part of the deal brokered with federal prosecutors, he agreed not to contest the accusations in the civil lawsuits. He can argue the women don't deserve the millions they are seeking.

~jane_musgrave@pbpost.com

The Palm Beach Post
REAL NEWS STARTS HERE

Epstein Journal's Findings Could Resurrect Case

By Jane Musgrave
Posted Sep 17, 2019 at 12:01 AM
Updated Oct 1, 2019 at 10:51 AM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on March 20, 2010)*

A purloined journal that is said to contain the names of "hundreds" of victims of convicted sex offender Jeffrey Epstein could be used to reopen the investigation into the multi-millionaire's appetite for teenage girls, an attorney representing seven of the victims said Friday.

New details about the contents of the journal were released this week when Alfredo Rodriguez, who worked as a property manager for the Palm Beach resident, pleaded guilty to obstruction of justice for lying to federal agents when asked if he had any information about his former boss' criminal activity. He later tried to sell the journal he stole from Epstein for $50,000 to an unidentified person, who alerted authorities, according to court records.

As part of the plea agreement, federal prosecutors said the journal "contains information material to the Epstein investigation, including the names of material witnesses and additional victims."

"Had the items been produced in response to the inquiries of state or federal authorities ... the materials would have been presented to the federal grand jury," federal prosecutors wrote.

Instead, prosecutors short-circuited the grand jury investigation and cut a deal with Epstein. They agreed not to pursue federal charges if he didn't contest prostitution-related felonies in state court. The money manager pleaded guilty in July 2008 to procuring a minor for prostitution and soliciting prostitution. He served 13 months of an 18-month sentence.

Attorney Adam Horowitz, who represents seven of the roughly 18 women who have filed civil suits against Epstein, said the new information could trump the so-called non-prosecution agreement.

The multifaceted agreement, he said, deals only with a specific list of victims that the U.S. Attorney's Office knew about when it penned the deal in 2007. If additional victims are listed in the journal Rodriguez stole, Horowitz said federal prosecutors could reopen the investigation.

"It opens the door for further prosecution," he said.

In addition to turning over the journal to federal agents, Rodriguez told them he knew his former boss was having sex with underage girls when he worked for him in 2004 and 2005. He had seen naked girls, who looked like minors, in the pool of Epstein's $8.6 million mansion. He had seen pornographic images of young girls on Epstein's computer, according to court records.

Neither Epstein's criminal defense attorney, Jack Goldberger, nor attorney Robert Critton, who represents Epstein in the civil lawsuits, could be reached. Federal prosecutors have consistently declined comment.

The wording of the controversial agreement is unclear. It says federal prosecutors would provide Epstein's attorneys "with a list of individuals whom it has identified as victims." Miami attorney Robert Josefsberg was appointed to

represent any of the victims on the list who wanted to pursue Epstein in civil court. As part of the agreement, Epstein is to pay for Josefsberg to represent the women.

Some of the women, most identified as Jane Doe in lawsuits, had already hired attorneys to represent them. Some have since settled their suits with Epstein, although terms were not disclosed.

Horowitz said he has filed court papers to get the journal that Rodriguez stole. "It's another piece of evidence that shows our clients were at Epstein's mansion," he said.

Rodriguez told prosecutors he didn't turn over the journal when both FBI and Palm Beach police asked for it because he wanted money for it. He also said he was afraid Epstein would make him "disappear." The information, he told investigators, was his "insurance policy."

He faces a maximum 20 years in prison when he is sentenced on June 18.

jane_musgrave@pbpost.com

@pbpcourts

The Palm Beach Post
REAL NEWS STARTS HERE

Epstein paid three women $5.5 million to end underage-sex lawsuits

By Jane Musgrave
Posted Oct 3, 2017 at 12:01 AM
Updated Oct 4, 2017 at 12:46 AM

Ending years of speculation about how much Palm Beach billionaire Jeffrey Epstein paid young women who claimed he used them as sex toys, court documents filed last week show he shelled out $5.5 million to settle lawsuits with three of more than two dozen teens who sued him.

Responding to requests from Epstein's attorneys in a complex lawsuit that was spawned by the sex scandal, attorney Bradley Edwards said the politically-connected 64-year-old convicted sex offender paid more than $1 million to each of the three women Edwards represented.

Identified in court papers only by their initials or pseudonyms because of the nature of the allegations and their youthful ages, L.M. was paid $1 million, E.W. $2 million and Jane Doe $2.5 million, Edwards said of the settlements he negotiated with Epstein to end the lawsuits.

Jack Goldberger, one of Epstein's criminal defense attorneys, on Tuesday declined comment on the revelations, citing confidentiality agreements that were part of the settlements. For the same reason, he declined to say whether Epstein paid similar amounts to settle roughly two dozen lawsuits filed by other young women against Epstein, claiming he paid them for sex when some were as young as 14 years old.

Attorney Jack Scarola, who is representing Edwards, said his client was compelled to divulge the confidential settlements to answer questions posed by Epstein's attorneys. "Brilliant move on their part," he said.

Even if Epstein's attorneys hadn't opened the door, Scarola said the information would have likely come out. He says the information will help him undermine Epstein's claims that Edwards "ginned up" the allegations to help his former law partner, imprisoned and disbarred Fort Lauderdale lawyer Scott Rothstein, perpetuate a $1.2 billion Ponzi scheme.

The revelations of the settlements came as part of an ongoing lawsuit that started as a dispute between Epstein and Rothstein, both billionaires.

A year after Epstein in 2008 pleaded guilty to solicitation of prostitution and procuring a minor for prostitution, he sued Rothstein and Edwards, claiming they trumped up the allegations of sexual molestation to perpetuate the Ponzi scheme.

Rothstein was sentenced to 50 years in prison in 2010 after admitting he had built his wildly successful law firm by forging the names of federal judges and others to persuade investors he had negotiated settlements in lawsuits against high-profile people. Investors were told they could get a cut of the cash.

One of the high-profile people Rothstein used to lure investors was Epstein, according to a lawsuit West Palm Beach attorney Robert Critton filed on Epstein's behalf. According to the lawsuit, Rothstein told investors Epstein, a money manager, had agreed to settle the lawsuits with the teens for $200 million — a claim Critton described as "a complete fabrication."

After Epstein dropped the lawsuit in 2012, Edwards turned the tables on him. Edwards accused Epstein of filing the lawsuit maliciously to punish him for representing the young women. Although Edwards was a partner in Rothstein's now defunct firm, Scarola claims Epstein had no evidence Edwards was involved in the Ponzi scheme. Federal prosecutors successfully charged other attorneys and members of the firm, but Edwards was never implicated, Scarola said in the malicious prosecution lawsuit.

The revelations about the money Epstein paid to three of the young woman came last week in documents filed for a hearing Tuesday in preparation for a December trial on the lawsuit.

Attorney Tonja Haddad Coleman, who represents Epstein, on Tuesday sought a delay of the trial, in part, because she claimed she has been unable to talk to her client since his estate on his private island in the U.S. Virgin Islands was devastated last month by Hurricane Irma. "I've had no ability to communicate with Mr. Epstein," she said.

Pointing out Epstein's enormous wealth and his private jet, Palm Beach County Circuit Judge Donald Hafele rejected her request. While saying he didn't want to appear insensitive to those victimized by the storm that hammered the Caribbean and roared through South Florida, he said Coleman offered no proof, such as an affidavit from Epstein, to shore up her claims.

Still, Hafele gave Coleman extra time to respond to various motions that he will have to decide before the case goes to trial.

Despite Scarola's insistence that Edwards had nothing to do with Rothstein's Ponzi scheme, Coleman said the evidence indicates otherwise. Why else would he try to depose Epstein's well-known friends, such as now President Donald Trump, former President Bill Clinton and illusionist David Copperfield, she asked. He used the celebrities as a draw, she said.

"The Epstein cases were used to fleece money and defraud investors," she said.

Edward's malicious prosecution case has been difficult for both sides because both Epstein and Edwards have refused to answer questions. As he did in the civil lawsuits, Epstein has invoked his Fifth Amendment right against self-incrimination when questioned by Scarola. Edwards has claimed that much of the information Epstein is seeking is protected by attorney-client privilege.

The malicious prosecution lawsuit is one of two hotly-contested lawsuits that continue to pit Edwards against Epstein. Edwards also is suing the U.S. attorney's office, claiming it violated the federal Crime Victims Rights Act when it negotiated a non-prosecution agreement with Epstein.

Only after federal prosecutors agreed to drop their investigation of Epstein, did he agree to plead guilty to two prostitution charges in Palm Beach County Circuit Court. In federal court records, prosecutors claim one of the key reasons they agreed to drop their case was Epstein's agreement to settle lawsuits filed against him by dozens of his underage victims.

Palm Beach Daily News

Judge rules feds' agreement with Jeffrey Epstein pact violated teen victims' rights

By Jane Musgrave
Posted Sep 17, 2019 at 4:02 PM
Updated Oct 8, 2019 at 12:31 PM

(**EDITOR'S NOTE:** *This story originally published in The Palm Beach Post on February 22, 2019*)

Federal prosecutors violated the rights of Jeffrey Epstein's teenage victims by failing to reveal they had dropped plans to prosecute the billionaire on dozens of federal charges in connection with the girls' claims that he paid them for sex at his Palm Beach mansion, U.S. District Judge Kenneth Marra ruled on Thursday.

In a blistering 33-page ruling, Marra meticulously and methodically detailed the numerous steps federal prosecutors took to hide the agreement from more than 40 young women who claim Epstein paid them for sex when they were as young as 14.

"While the government spent untold hours negotiating the terms and implications of the NPA with Epstein's attorneys, scant information was shared with the victims," Marra wrote. "Instead, the victims were told to be 'patient' while the investigation proceeded."

By then, it was too late. A deal had already been cut with then-South Florida U.S. Attorney Alex Acosta and Epstein's attorneys to shelve a 52-page federal indictment against Epstein, a former math teacher turned money manager who counts Presidents Donald Trump and Bill Clinton among his friends.

Prosecutors' failure to alert the young women about the deal violated the Crime Victims' Rights Act, Marra ruled. "At a bare minimum the (act) required the government to inform (the young women) that it intended to enter into an agreement not to prosecute Epstein," he wrote.

Still, Marra said he wasn't second-guessing prosecutors' decision not to pursue Epstein on federal charges if he pleaded guilty to minor state prostitution charges and agreed to compensate his victims for the trauma he caused.

"The court is not ruling that the decision not to prosecute was improper," Marra wrote. "The court is simply ruling that, under the facts of this case, there was a violation under the CVRA."

Further, he made no decision about what the remedy should be. He gave prosecutors and attorneys representing the young women 15 days to meet to decide how to unravel the complex legal web that has been hanging over Epstein and his young victims for more than a decade.

The chances an accord will be reached are slim, said attorney Jack Scarola, who is representing the two Jane Does who challenged the prosecutors' actions.

Further, he said, there is no road map to follow. The lawsuit attorney Bradley Edwards filed on behalf of the two unidentified young women, claiming prosecutors violated the federal act, is unique, he said.

"We are treading on virgin ground, to use what is probably an inappropriate phrase in this situation," he said.

Scarola said he and Edwards will ask that the non-prosecution agreement be thrown out. That would open the possibility that the long-shelved federal indictment could be dusted off and filed against the 66-year-old Epstein, who spends most of his time on a private island he owns in the U.S. Virgin Islands.

"I don't see the government conceding to that remedy," Scarola admitted. Further, he said, it is likely Epstein will be allowed to weigh in. Miami attorney Roy Black years ago filed papers asking to intervene on Epstein's behalf.

The U.S. Attorney's Office said it wouldn't comment on Marra's ruling. Neither Black nor New York City attorney Jay Lefkowitz, who led efforts to bury the federal indictment, responded to emails or phone calls for comment. West Palm Beach attorney Jack Goldberger, who represents Epstein, also didn't respond.

Scarola said it is likely Epstein's star-studded legal team will argue that Epstein fully complied with the terms of the agreement he made in 2007 with federal prosecutors and therefore the agreement can't be undone.

As he promised, Epstein pleaded guilty in June 2008 to state charges of soliciting a minor for prostitution and soliciting prostitution. He served 13 months of an 18-month jail term in a vacant wing of the county stockade that he was allowed to leave 12 hours a day, six days week.

Further, as agreed, he paid settlements to the young women who sued him. While the settlements were confidential, court records show he paid three women a total of $5.5 million.

In return, federal prosecutors held up their end of the bargain. Their investigation ceased.

Having done all that prosecutors asked of him, Scarola said Epstein will make a simple argument: "You can't turn around and deprive me of the benefits I bargained for."

However, Scarola said, using Marra's ruling, he will counter that the contract Epstein signed was illegal and therefore unenforceable.

Even if Marra agrees to toss out the non-prosecution agreement, Scarola conceded that doesn't mean Epstein will face federal charges.

"The contract can be set aside and the federal government can attempt to enter into the same agreement," he said. "Except the spotlight of public attention will be on them and the 40 victims will be able to explain to the court why this sweetheart deal should not be approved."

Scarola said that prosecutors may have had good reason not to pursue Epstein. "There may be a reasonable explanation but we don't know what that reason may have been," he said.

In court papers, federal prosecutors have said that many of the young women were afraid to cross the powerful, politically connected money manager and simply refused to testify against him.

In other cases, they said, the women changed their stories. Jane Doe 2, who is trying to have the non-prosecution agreement thrown out, initially described Epstein as "an awesome man" and told prosecutors she hoped "nothing happens" to him. While she later agreed to testify against Epstein, prosecutors said they feared Epstein's attorneys would use her words to destroy her if she ever took the witness stand.

Marra, however, said the young woman's comments didn't mean she wasn't entitled to know about the prosecutors' plans to drop the charges. "There is no dispute that Epstein sexually abused Jane Doe 2 while she was a minor," he wrote. "Therefore, regardless of her comments to the prosecutor, she was a victim."

Before the case is finally resolved, Scarola predicted that "a lot of people are going to have to answer a lot of questions."

In his ruling, Marra detailed what appeared to be a cozy relationship between Acosta, his line prosecutors and Epstein's team of lawyers. His phalanx of lawyers included noted Harvard law professor Alan Dershowitz and Kenneth Starr, the former U.S. solicitor general whose investigation led to the impeachment of President Clinton.

Marra describes an October 2007 breakfast meeting between Acosta, who is now U.S. labor secretary, and Lefkowitz shortly after the non-prosecution agreement was inked.

After the meeting, Lefkowitz sent Acosta a note thanking him for "the commitment you made to me during our October 12 meeting in which you assured me that your Office would not ... contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter."

Marra quoted an equally pleasant note then-Palm Beach County State Attorney Barry Krischer sent to Assistant U.S. Attorney Marie Villafana, who was the lead prosecutor in Epstein's case. "Glad we could get this worked out for reasons I won't put in writing," Krischer wrote, shortly after the non-prosecution agreement was signed. "After this is resolved I would love to buy you a cup at Starbucks and have a conversation."

Many of the notes that were exchanged dealt with prosecutors' and Epstein's lawyers' shared desire to keep the deal secret from Epstein's accusers. In a September email, Villafana asked Lefkowitz for guidance about what she should reveal. "And can we have a conference call to discuss what I may disclose to ... the girls regarding the Agreement," she asked.

Such cooperation between prosecutors and defense attorneys is unusual, Marra said. "It was a deviation from the government's standard practice to negotiate with defense counsel about the extent of crime victim notifications," he wrote.

Further, he noted, that when Edwards and his two young clients asked for information, they were repeatedly misled. "The CRVA was designed to protect victims' right and ensure their involvement in the criminal justice process," Marra wrote. "When the government gives information to victims it cannot be misleading."

Ultimately, the terms of the non-prosecution agreement were revealed only after Edwards and attorneys for the press successfully sued to make them public.

jmusgrave@pbpost.com

@pbpcourts

76 / 278 - Tuesday, July 9, 2019

Edition: Final
Section: A Section
Page: 1A
Source: By Jane Musgrave, The Palm Beach Post

Epstein indicted on sex charges
Part-time Palm Beacher pleads not guilty to sex trafficking, conspiracy charges in federal court in Manhattan

Dressed in a blue prison jumpsuit, billionaire Jeffrey Epstein on Monday pleaded not guilty to charges accusing him of creating a vast network of girls as young as 14 that he exploited for his sexual pleasure at his homes in Palm Beach and Manhattan.

The 66-year-old money manager's appearance in U.S. District Court in New York City capped more than a decade of recriminations by young women and their attorneys who claimed Epstein used his money and political influence to avoid federal prosecution.

Epstein's attorney Reid Weingarten dismissed the two-count indictment on sex trafficking charges as "essentially a do-over" of allegations that landed Epstein in the Palm Beach County Jail for 13 months more than a decade ago.

However, unlike in 2007 when then-South Florida U.S. Attorney Alex Acosta agreed to shelve a 53-page federal indictment after Epstein agreed to plead guilty to two state prostitution charges, prosecutors in New York indicated they aren't willing to deal. Acosta is now U.S. labor secretary.

"The alleged behavior shocks the conscience," New York City U.S. Attorney Geoffrey Berman said at a
morning news conference. "And while the charged conduct is from a number of years ago, it is still profoundly important to many of the alleged victims, now young women. They deserve their day in court."

At a detention hearing scheduled for Monday, Berman said he will ask a federal judge to keep Epstein behind bars until he is tried on charges of sex trafficking and conspiracy to commit sex trafficking. Epstein paid dozens of young women to give him nude massages that, for most, led to sex, he said.

If convicted of exploiting dozens of young women, including many Palm Beach County girls who were students at Royal Palm Beach High School, Epstein faces a maximum 45-year prison sentence.

Citing Epstein's enormous wealth, his homes in New York, Palm Beach, the U.S. Virgin Islands, New Mexico and Paris and his ownership of two jets, Berman said there are few conditions that could keep Epstein from fleeing to a foreign country to evade prosecution.

"We think he's a significant flight risk," Berman said of the man who ferried Britain's Prince Andrew, actor Kevin Spacey, famed Harvard law professor Alan Dershowitz and former President Bill Clinton on his jet, dubbed the Lolita Express.

Berman's hard-line stance was welcomed by young women who for years have been told that Epstein couldn't be touched because Acosta signed off on the nonprosecution agreement, promising not to charge Epstein in federal court.

Former Palm Beach County resident Virginia Guiffre, who has accused Epstein of turning her into his sex slave and forcing her to have sex with others, including Dershowitz and Prince Andrew, praised Berman. He showed the case is "being taken in a serious way," she told the Associated Press. Dershowitz has vehemently denied Guiffre's claims.

New York prosecutors were able to ignore the controversial nonprosecution agreement because it contained some significant fine print, said former federal Judge Paul Cassell, who for years has fought to get the agreement thrown out. It says only that no charges could be filed against Epstein in South Florida, he said.

Berman agreed. "That agreement only binds, by its terms, only binds the Southern District of Florida," he said. "The Southern District of New York is not bound by that agreement and wasn't a signatory of it."

That means the sordid allegations that have been leveled at Epstein for years are now part of a federal indictment.

Contrary to Epstein's claims, he knew the women who came to his homes in New York and Palm Beach were minors because they told him their ages, according to the indictment. Epstein preyed on young girls because he knew they were "vulnerable to exploitation," prosecutors added.

As part of a carefully orchestrated sex ring, Epstein or his associates would call girls while he was in New York so they would be available for sex once he returned to Palm Beach, the indictment says. The employees weren't named. They were identified only as "Employee-1," "Employee-2" and "Employee-3."

To ensure he had a steady stream of young girls, Epstein would turn some victims into recruiters. He would pay them to bring new girls to his home on El Brillo Way along the Intracoastal Waterway in Palm Beach or to his palatial townhouse on New York's Upper East Side.

"This allowed Epstein to create an ever-expanding web of new victims," Berman said.

In both New York and Palm Beach, the lurid operation was similar. Unidentified employees of Epstein's would escort the teens into a room. They were told to take off all or most of their clothes before giving the naked billionaire massages, according to the indictment.

"Epstein would also typically masturbate during these encounters, ask victims to touch him while he masturbated, and touch victims' genitals with his hands or with sex toys," the indictment says.

As part of the criminal complaint, prosecutors are asking that Epstein be forced to turn over his multimillion-dollar townhouse on East 71st Street. The complaint does not seek forfeiture of Epstein's house in Palm Beach.

While heartened that Epstein now faces serious criminal charges in New York, Cassell said he would continue to push a West Palm Beach-based federal judge to throw out the nonprosecution agreement that Acosta forged with Epstein's star-studded legal team.

U.S. District Judge Kenenth Marra has already ruled that Acosta violated the federal Crime Victims' Rights Act by not telling Epstein's victims about the agreement before it was inked. Coincidentally, Cassell and Epstein attorney Roy Black had to file papers by midnight Monday, explaining what action Marra should take to redress that wrong.

Cassell insisted Epstein should face charges in federal court in West Palm Beach. "Florida victims deserve justice in Florida," said Cassell, who is working on behalf of Epstein's victims with attorneys Bradley Edwards and Jack Scarola.

Since it's likely Florida women will get to testify against Epstein in New York, Scarola said he's not focused on whether Epstein will face charges here. Instead, he said he wants to know how and why the agreement was reached.

"There's been no explanation as to how a deal like this could have been cut and how the federal government could have been involved in a conspiracy to violate federal law," Scarola said of his interest in continuing the legal battle over the nonprosecution agreement.

When Acosta agreed to drop the federal investigation, Epstein in 2008 pleaded guilty to two prostitution charges and served 13 months of an 18-month sentence in a vacant wing of the Palm Beach County Jail - a cell he was allowed to leave 12 hours a day, six days a week. He was also forced to register as a sex offender and settle civil lawsuits more than 30 young women filed against him.

U.S. Rep. Lois Frankel, D-West Palm Beach, said she shares Scarola's interest in finding out how the agreement came to be."I am especially more interested in why Epstein got the deal he got," Frankel said. "We need to know why he was given such an easy sentence.

While she has asked the House Oversight Committee to investigate Acosta, Frankel said she is not sure that will happen. "It just seems to me it was a travesty that this guy got off the way he did and, without pre-judging it, let's have a proper court case," Frankel said.

Former Palm Beach Police Chief Michael Reiter was inflamed in 2006 when then-State Attorney Barry Krischer refused to charge Epstein with serious crimes. Reiter took the information his officers had gathered from dozens of Epstein's victims to Acosta, believing he would prosecute Epstein. He didn't.

Reiter said he was heartened that 13 years later, Epstein will finally face justice.

"Thankfully, U. S. Attorney Berman and the other authorities in New York have the good judgment to investigate and prosecute Epstein in the way that should have occurred in Florida over a decade ago," Reiter said in a statement.

And, Scarola said, there are signals that Berman's investigation is far from over.

Berman declined to answer questions about whether others, such as Epstein's high-powered friends, would be charged. He brushed off questions about the significance that the investigation was being handled by the Public Corruption Unit.

While agents on Saturday were arresting Epstein aboard his private jet at the Teterboro Airport in New Jersey after returning from Paris, other officers were searching his New York City townhouse. Agents seized nude photos of young girls who appeared to be minors, Berman said.

He said his focus was on finding more women who were exploited and abused by Epstein.

Turning to a poster, detailing the charges that had been filed against Epstein, he pointed a finger at a photo of the convicted sex offender who was once described as "a man of mystery."

"If you believe you are a victim of this man, Jeffrey Epstein, we want to hear from you," Berman said. A special number, 1-800-CALLFBI, will link victims of authorities.
Bill Sweeney, assistant director of the FBI's New York office, said after years of being ignored by federal agents, the victims' voices will be heard.
"The Jeffrey Epstein matter is No. 1 on the major case list in the country," Sweeney said. Turning to address Epstein's victims directly, he said: "Your bravery may empower others to speak out against crimes against them."

jmusgrave@pbpost.com

Appendix 13

IN THE CIRCUIT COURT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2019-CA-014681
CIRCUIT CIVIL DIVISION: "AG"

CA FLORIDA HOLDINGS LLC PUBLISHER
OF THE PALM BEACH POST,

Plaintiff/Petitioner

-vs-

DAVE ARONBERG,
SHARON R. BOCK,

Defendant/Respondents.
_____/

HEARING BEFORE THE HONORABLE KRISTA MARX

(ZOOM CONFERENCE)

Wednesday, June 3, 2020
10:08 a.m. - 10:28 a.m.

REMOTE ZOOM CONFERENCE
Port Saint Lucie, Florida

Stenographically Reported By:
SONJA M. REED
Court Reporter

APPEARANCES:

On behalf of the Plaintiff/Petitioner:
GREENBERG TRAURIG, P.A.
1840 Century Park East
Suite 1900
Los Angeles, California 90067
310.586.7700
boyajian@gtlaw.com
BY: NINA D. BOYAJIAN, ESQUIRE

On behalf of the Defendant/Respondent:
JACOB, SCHOLZ & WYLER, LLC
961687 Gateway Boulevard
Suite 2011
Fernandina Beach, Florida 32034
904.261.3693
doug.wyler@comcast.net
BY: DOUGLAS A. WYLER, ESQUIRE

On behalf of the Defendant/Respondent:
CLERK & COMPTROLLER, PALM BEACH COUNTY
P.O. Box 229
West Palm Beach, Florida 33401
561.355.2983
nfingerhut@mypalmbeachclerk.com
BY: NICOLE R. FINGERHUT, ESQUIRE

- - -

PROCEEDINGS

*****

THE COURT: We are here today for a very limited purpose. I'm sure the attorneys are aware of that, but I just don't want there to be any confusion. We are here on Defendant Dave Aronberg and Defendant Sharon Bock for the Comptroller and the State Attorney's motion to dismiss Count II.

You're all acutely aware as the lawyers that this is a question of law. So we're not going to be diving into facts and the Court will not be deciding the merits of this motion this morning. We are simply here for the sole purpose of that motion to dismiss. So I just wanted to make sure that we all stay on track and we're all on that same page.

So, Ms. Boyagian, I'll send it to you first, Ma'am. I -- of course, we all know that the Law 101, I must look at the four corners of the motion, which alleges that the State Attorney, David Aronberg, and the clerk and comptroller, Sharon Bock, actually have custody and control of these grand jury proceeding.

Whether that is true or not is not for this court to determine because I'm looking simply at the four corners of the complaint. But, not for nothing, I think we all know that they don't have control and

custody of the records. But I'm going to assume that it's correct because that's what has been alleged.

So what I first want to hear from is the attorney for Florida Holdings with regard to, assuming arguendo, that Florida Statute 905.27 does create a cause of action, what relief is it that you're seeking from -- in Count II, specifically. Not the dec action. We're not here on that today -- what is it you hope to get, a judgment?

MS. BOYAGIAN: Thank you, your Honor. Good morning, and thank you for the privilege of appearing before this court.

The relief we are seeking is disclosure of the grand jury records, pursuant to the Furtherance of Justice Exception to 905.27. And under the First Amendment.

The press, as your Honor is aware, has a right of access under the First Amendment as a surrogate of the public --

THE COURT: Let me just stop you for a minute. I'd like you to answer my specific question.

So I am not particularly convinced -- and I'd like for you to address that. So we're not going to dive into facts or the press's standing because that's not something we're here to discuss today.

And I have read the voluminous paperwork -- I've received paperwork as -- and -- five-minute ago from some of the other parties. But I deeply appreciate the fact that you sent this to me so much in advance and I have been able to spend some time with, as I said, the voluminous paperwork that was provided.

But as you know, Ma'am, we are here for such an extremely limited issue today, and that their motion to dismiss where they state "you're suing the wrong people"; that the court has these records.

And so, more importantly, I want you to address whether Section 905.27 gives you a private cause of action against the state attorney and the clerk.

Again, I'm going to assume the facts are true that are asserted in the motion. Whether they are or not -- because I think we can all agree we're not for sure if they ever -- that the state attorney doesn't have these records. So what is it you're seeking in Count II -- not the dec action. I know you want the records. I've got that. But in Count II, specifically, what do you -- what's the relief you're seeking and, more importantly, how under this statute do you get to assert a private action -- a private cause of action against the state attorney and the

clerk?

MS. BOYAGIAN: Your Honor, we are aware, of course, that there is no expressed private right of action, 905.27. But that does not end the inquiry.

As the Florida Supreme Court stated:

"Where a statute like 905.27 forbids an act which is to Plaintiff's injury, the party injured should have an action."

And that's the Smith Piezo case in the volume of materials that we sent you.

There's no question here that the denial of the FIRST AMENDMENT right to the press is an injury which gives rise to a right of action.

Stated another way, looking at the analysis that the Fischer Metcalf Court looked at, there are three factors in determining whether there is a private right of action where a statute does not expressly provide for one.

One is whether the Plaintiff is part of the class for which the statute is intended to protect; second is a legislative history; and the third is the underlying purposes of the statutory scheme.

The first factor I already addressed, that the press is part of the class that the statute is

intended to benefit, being the surrogate of the public and exercising its first amendment right.

The second issue of legislative history and the purpose -- statutory purpose are somewhat related. We were unable to find much legislative history on this issue of a private right of action under the statute.

There is nothing that says we intend to create a private action, but there's certainly nothing that says we do not want to create a private right of action.

What we do have is that in 1994, the same time that 905.27 was reenacted, a statute that pertains to the secrecy of State Grand Jury -- statewide grand juries was also enacted. That provision, which is 905.395, has no exceptions for -- for revealing these records. By contrast, the legislature intentionally enacted 905.27 with the Furtherance of Justice Exception.

If the public through the press can't bring a private right of action to enforce that exception or to seek relief under that exception, that intentionally placed exception of furthering justice is essentially rendered hollow --

(Speaking simultaneously.)

THE COURT: Okay. Pause for a minute. I don't think anybody is saying that there isn't a cause of action or that the press doesn't have standing. That's not what I'm asking you. I'm asking you, how are the clerk and the state attorney the proper defendants?

So, you know, nowhere have I said there isn't a cause of action. Clearly there is. I'm puzzled by the procedural posturing of this case naming the state attorney.

And, you know, I'm further stymied by the fact that you allege in your complaint that they have -- particularly David Aronberg the State Attorney -- that he has these records.

But I'm going to assume that's true. So I'm not telling you, you don't have a cause of action. I'm just saying, okay, let's run this all the way out. Let's say you win and you get a judgment against the State Attorney Dave Aronberg.

What's he supposed to do with it? He can't release the grand jury testimony. He has no authority whatsoever to do that.

MS. BOYAGIAN: Well, your Honor, as you stated, this is a motion to dismiss stage, and we are entitled to discovery on the issue of possession,

custody, and control. My understanding is that the state attorney has asserted that he does not have possession. It's not my understanding that the clerk has taken that position. So the clerk may indeed be the -- someone who does have possession, custody, and control.

In any event, we would submit that the state attorney, even it does not have actual possession at this time, it might be able to have the power to control or direct the entity or persons who do have control and possession to release those -- to effect the judgment.

THE COURT: So let me ask you this: So the clerk is the keeper of the record. But even if you got a judgment against her -- let's say you asserted this cause of action and let's say you win and you get a judgment against the clerk. The clerk cannot release grand jury testimony to you. Only the court can.

So really -- all I'm saying to you is I do not understand the way this case was filed or why these are the defendants because it's impossible for them to perform.

I mean, I'm going to assume, based on your motion, again, that they do have the records. But we

all know -- everyone in the room knows they do not -- that only the court -- they're -- they're with a court interpreting. And only the court can release the records.

So if you get a judgment against either the state attorney or the clerk, they cannot -- I mean, I guess what you're saying to me is, well, we want to do discovery and we want them to say unequivocally "I have these records" or "I don't have them."

And -- I mean, the law is abundantly clear. You cannot do it without a court determining whether, in the furtherance of justice, the release is appropriate.

MS. BOYAGIAN: And that is a determination we're asking your Honor to make, and we're asking for an order from your court.

THE COURT: When we get to the merits of the case, sure it is. But, again, you're asking me to make that determination and for me to make a determination of whether the grand jury records should be released. And the only thing we're here today about is why should the clerk and the state attorney have to defend a civil action when it's a possibility of performance? They -- even if you were to win and get a judgment against them, they cannot

give you what they don't have.

So -- I mean, it's as simply as this: Are you -- you just want to engage in some discovery for them to absolutely assert, particularly, the state attorney, "I don't have these records"; look to the rules that say the moment the grand jury's over, they're sealed and they're turned over and they cannot be released without court order?

So I'm not addressing the merits or whether you have an exception or you're able to argue that there's an exception in the furtherance of justice. We're not getting there today. I'm simply saying why should these two entities have to defend this lawsuit when even down the road if they win they can't give you what they don't have?

MS. BOYAGIAN: As your Honor stated, I'm not sure that's the case with the clerk. That was not in their -- that issue was not stated in their papers.

THE COURT: Let me ask you this, then: Do you think, if you got a judgment and I or the court doesn't make the determination that the grand jury records should be released, that the clerk would be able to perform?

Would they be able to say "here you go"? I mean, could the clerk just make that unilateral

decision "I'm going to release the records, sealed confidential records"?

Does she have any authority to do that?

MS. BOYAGIAN: My understanding, your Honor, is that 905.27 requires a court order before the records are unsealed.

THE COURT: Exactly. Exactly.

All right. Let me hear from Mr. Aronberg's attorney, Mr. Wyler.

MR. WYLER: Thank you, your Honor. May it please the Court --

THE COURT: Good morning, Sir.

MR. WYLER: Good morning.

Your Honor, I just wanted to let you know that I spoke with counsel for the clerk, Ms. Fingerhut, a couple of days before this hearing, and we decided that I would just make the presentation for both of of us, being that our arguments overlap except for the fact of who this claim -- whether they have the records or not, which, of course, we've said we don't have custody of the records.

But, nonetheless, our arguments overlap. The Plaintiff is attempting to assert a cause of action under Section 905.27. That statute settled testimony not to be disclosed exceptions. So it's just

explaining exceptions to the disclosure of the grand jury testimony.

Our position is that it doesn't set forth a cause of action and that it's impossible for us to perform what they're asking.

I know you said you didn't really want to get into the Furthering Justice Exception, but I know that's what they're using as their basis to get to these. But it's our position that the clear unambiguous statutory language, it shows that this disclosure only applies to a civil or criminal case, and that within that civil or criminal --

(Speaking simultaneously.)

THE COURT: Again, sir -- I'm sorry. As I told Plaintiff's counsel --

MR. WYLER: -- can only be used in the defense for --

THE COURT: Okay. We're not there. We're not discussing the merits of the case, and -- I'm not ready to cross that bridge. I'm here for a very, very limited hearing today.

So just as I stopped Plaintiff's counsel from arguing the merits of the case and whether or not the Furtherance of Justice Exception will apply in this instance, we're not even there yet.

I'm only here for the purpose of determining whether or not the clerk and state attorney should be dismissed. And I am bound by the four corners of the document, which assert that you do have control and custody over it.

So if you'll fashion your argument with regard to that limited purpose, I would appreciate it.

MR. WYLER: No problem, your Honor. I apologize.

Within the four corners of their complaint, our position is that they failed to state a cause of action under 905.27. It does not provide for -- it doesn't list that there's no element that they have adequately pled to assert a cause of action under that. There's -- and the only thing they're asking for is records that we don't have.

There's really not much more to it, your Honor. And we would ask that you would grant our motion to dismiss for failure to state a cause of action.

THE COURT: Okay. Ms. Fingerhut, are you still on the phone?

MS. FINGERHUT: Yes, your Honor.

THE COURT: Is there anything you wish to add?

MS. FINGERHUT: We agree with the state

attorney's position, and we also agree with what the Court has said, that the plain language of the statute, a cause of action doesn't exist. And we really cannot -- we'll be defending something without the four corners. We're simply involved in this action because the clerk is the custodian of the records.

THE COURT: Okay. Thank you, Ma'am.

Ms. Boyagian, back to you.

MS. BOYAGIAN: Your Honor, I'd like to note that in the Butterworth case in which the Supreme Court limited the application 905.27 by saying that a witness can reveal her own testimony and prohibiting that they violate the First Amendment --

THE COURT: Say that again, please.

MS. BOYAGIAN: In the Supreme Court case, the Butterworth case, in which the Supreme Court ruled that 905.27 can't restrict a Grand Jury witness from revealing her own testimony, that would be a violation of First Amendment, in that case, the state attorney was, in fact, a party.

THE COURT: Well, I assume the state attorney that was present -- I mean, I don't find that that's close to what we're talking about here, and that's whether or not -- I mean, as we know, this was in

2006. Certainly Dave Aronberg wasn't even the state attorney then. But this is about the release of records.

I want to give you ample opportunity -- and again, I sincerely appreciate that all of the case law and the way that it was presented to the Court in such a timely fashion. I really do. And I did spend some time with it. But I want to give you whatever opportunity you want to take to convince me that it is in -- as to Count 2, again. Not the dec action -- whether these would be the appropriate defendants.

And, you know, really, I want you to boil it down for me as to this -- let's take it all the way down the road. You win. You get a judgment against the clerk and the state attorney.

I know there's other reasons why you might have filed it this way. But I'm just simply puzzled because I do hear what the clerk and the state attorney are saying, and that is, performance is impossible. They don't have the records and cannot -- absolutely. There's not even an inch of wiggle room -- that they could release the records even if you got a judgment. It is solely a determination for the court.

I, frankly, think, you know, there's ways to

get to your records. There's ways to get confidential records. But it isn't by suing the state attorney and the clerk.

So I just want to hear your last final argument on how Count II, the appropriate defendants are the clerk and the state attorney. Even assuming arguendo they have the records -- we know they don't -- you were to get a judgment against them, how would you expect them to perform?

MS. BOYAGIAN: Two points, your Honor: One is that, again, the clerk did not assert in her papers that she does not have control. That is a position that the State Attorney's Office has asserted. It is our allegation, and as your Honor noted, allegations must be accepted as true -- as true at this stage of the proceedings.

Second, it is also our understanding that the state attorney and the clerk intend to block access to these records. So our allegation is that they do have possession, custody, or control, which the clerk has not denied; and second, that they are trying to block access to the records --

THE COURT: What do you mean? What do you mean? They're not trying to block it. They're saying that despite the fact -- let's just talk about

the clerk, because we all know the state attorney doesn't have it.

So the clerk is the custodian of records. That's her main job. There's no doubt about it. We all know that. But we also know, unequivocally -- unequivocally, only the court can make the determination of whether the moving party has satisfied that there is an exception that these should be released.

So, again, I ask you -- she is, in fact, the custodian of the records -- is it your opinion that if you got a judgment saying clerk and comptroller gets a judgment against them, that she can release the records without the court -- without the court weighing in, without the court making that determination as required by law?

MS. BOYAGIAN: No, your Honor. We are asking your Honor to order the clerk to do that under your discretion.

THE COURT: All right.

Mr. -- Ms. Fingerhut, you wish to be heard on that?

MS. FINGERHUT: Your Honor, our position is that we're not trying to block access to the records --

(Speaking simultaneously.)

THE COURT: Can you hear? Can the attorneys hear?

MS. FINGERHUT: -- custodian the records and that he cannot release the records without court --

THE COURT: Exactly.

Okay. All right. Anything further, Mr. Wyler?

MR. WYLER: No, your Honor. I concur with the attorneys for the clerk's office that it's impossible for us to release these records. There's no intent to hide them or block anything from the Plaintiff.

THE COURT: Okay. Anything further, Ms. Fingerhut?

MS. FINGERHUT: No, your Honor.

THE COURT: And, Ms. Boyagian, anything further, Ma'am?

MS. BOYAGIAN: Nothing further, your Honor.

THE COURT: Okay. I will get an order out quickly. Thank you, folks so much. And I'll see you on the next round. Thanks a lot.

MS. BOYAGIAN: Thank you, your Honor.

MR. WYLER: Thank you, your Honor.

(The proceedings concluded at 10:28 a.m.)

CERTIFICATE OF REPORTER

I, Sonja M. Reed, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript, pages 1 through 19, is a true and complete record of my stenographic notes.

Dated this 3rd day of June, 2020.

Sonja M. Reed
Court Reporter