day, you were calling for some edits that really reflected -- seemed to reflect a real discomfort --

A I --

Q -- as you identify.

A Again, I'm perhaps supporting -- I'm supporting the point you're trying to make that we were focused on getting this done, and real concern that he would not go to jail. 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?

Q You --

A From my perspective.

Q Okay. I want to just sort of round out the little bit of this -- the state -- the state only resolution. You used the term a couple of times backstopping. What do you mean by that?

A What I mean by that is, a sense that the state wasn't doing enough, and perhaps backstopping is a polite way of saying encouraging the state to do a little bit more.

Q Mm-hmm. All right. Did you have any discussions about whether this disposition comported with the Ashcroft memo in that you were hunting to the state for a minor charge, for a fairly minor charge, what you -- your office had already understood from the evidence was a quite wide

ranging scheme of predatory, my term, behavior regarding minor victims?

A So, I don't recall a discussion around the Ashcroft memo. I would characterize what we did differently, in 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 on a fairly regular basis, the federal government allows the state -- not allows, but stands aside and lets the state proceed.

Q But in this case, you actually had an active investigation that had been proceeding for a year.

A So, let's take the drug context, where there might be any number of active investigations where the federal charges can be rather substantial, but ultimately, the federal government says just let the state proceed with this, or violent crime cases where the federal government could bring gun charges using felon in possession or another mandatory minimum, but the state goes forward with -- so, in that sense --

Q But the state goes forward with what?

A Forward with different charges that -- that have a lesser term. And so, I don't think it's unusual. We can talk about, you know, whether this was the best disposition or not, but I don't think it's unusual to have fact patterns that are under investigation that proceed in state court,

where the disposition is different than -- and would have been if it had proceeded in federal court.

Q All right. Do you have anything on that?

[redacted]: On the two years, or something else?

[redacted]: No. I'm going back to the two years.

[redacted]: Okay.

BY [redacted]:

Q Did you think -- did you believe at the time, if this was part of your thinking, that because it was so important to get sex offender registration, and even later developed damages -- monetary damages for the victims, under the state plea arrangement, that pretty much the only thing that the government had -- the federal government had to give up in this negotiation was jail time? If you wanted -- you wanted --

A Right.

Q -- three things --

A Correct.

Q -- you've said, jail time, sex offender status, and some kind of restitution or damages --

A Right.

Q -- mechanisms. Sex offender registration, there's no -- really no give there. You either register or you don't. I'm being binary --

A Right.

Q -- again, I'm sorry.

A But it is binary, so --

Q It is binary.

A Yes.

Q And likewise, the --

A Right.

Q -- monetary recovery provisions. So, really, the only thing to negotiate is time, right?

A And so, your question is why did we not start at three so we ended up at two?

Q Well, that's -- that's -- that's a consequence of what --

A So --

Q -- I was asking.

A So, again, my recollection is I understood this to reflect what he would have received as opposed to some arbitrary, let's start at three so we end up at two. I also -- I'm sorry, you have a question?

Q No, go ahead. Go ahead. I'll get to my question.

A You know, I also -- from my perspective, was, you know, early on when we set firm on the two years, I thought two years would have been the right outcome. We ended up on 18 months. I can't say how. There's some documents that might help, but I -- but I was at least initially firm on

those two years.

Q Right, so you -- when you say, I thought the two years was the right amount, is that based on your understanding that that's what he would have gotten in the state?

A Correct.

Q All right.

A That -- and the point I'm trying to convey there is that this wasn't, to my understanding, a random number, but it was informed by, this is what he would have received, and therefore it is a reasonable -- agree or disagree with the analysis, but it was an informed number to begin with.

BY [redacted]:

Q But you don't recall how that analysis was done, or who conducted --

A I --

Q -- that analysis?

A -- don't recall that.

BY [redacted]:

Q Or even whether it was accurate, actually?

A I -- again, I don't recall that.

Q All right.

BY [redacted]:

Q And I understand the explanation.

A Right.

Q And --

A Right.

Q -- what it's tied to, but was there any consideration -- because this case --

A Right.

Q -- was not about one or two victims. It was a very large scheme by this older, wealthy man, to essentially turn minors into prostitutes, have sex with them, oral sex, get other people involved.

You've described it in prior statements as grotesque and deserving of punishment. What I'm not hearing through this process is anybody taking a look at this overall conduct, and saying, what is the appropriate punishment for this man's conduct? Was there such a consideration, and did you feel that two years adequately punished him for the scope of his conduct?

A Fair question, and perhaps going back to where we started, which is petite. To my mind at the time, there was a distinction between what would be the adequate punishment if this was a purely federal case, versus what is necessary so that it is not a -- to put it in petite language -- a manifest injustice, so that it wouldn't have come to the office in the first place.

And that I think is the important distinction, because if the two years is what he would have received, and

therefore it would not have come into the office under petite, then if there is a state disposition to that, that is one possible outcome.

It would be a different outcome if this was truly a federal pro=section independent of the state, which goes back to the point I was making about concern about a federal precedent with this kind of sentence, because then when the next person comes along, they say, well, here is this precedent under 371, or whatnot.

And so, this was, rightly or wrongly, and I understand the -- the pushback -- an analysis that distinguished between what is necessary to prevent manifest injustice, versus what is the appropriate federal outcome to that. Agree or disagree with the logic is one thing, but did I explain the logic?

Q You've -- yes, you've explained the logic.

A Okay.

Q And I'm going to push back a little bit --

A Right.

Q -- on that, because the petite policy specifically says it does not apply where the state conduct is only a minor part -- an insignificant part of the entire course of conduct, and they give examples about where you have some type of a RICO scheme, and the state has indicted or convicted the perpetrator based on something that could be

one single overt act in the government's conspiracy, and doesn't that really show what is going on here, that what the state had done was really just a small, minor part of this scheme that the federal government had a --

A Right.

Q -- had a real opportunity to punish him for this entire course of conduct?

A So, possibly, but if I can circle back to your question previously, it's interesting that you characterize this as, he's turning these girls into prostitutes, and then I think that's really interesting, because in 2019, 13 years afterwards, despite all the changes in the law, there is still some element somewhere that says he's turning these girls into prostitutes, whereas this was a typical trafficking case of the kind that you'd see in the Lou De Baca days where, you know, it was called modern day slavery. That's a very different fact pattern.

So, you know, a girl that's held captive, is forced to service multiple men per day, where this is part of an ongoing business arrangement. And so, I hear what you're saying, but if here at this table at least some element of that characterization is live, what would it mean in 2006 when these laws are still being developed? And that consideration, rightly or wrongly, was part of this analysis.

BY [redacted]:

Q Was it explicitly -- in other words, was -- was that aspect of it, the -- I -- the perception that this was perhaps activity that -- in which the victims cooperated? Was that part of the --

A No, no. Let me -- let me distinguish. I didn't say the perception that this was activities in which the victims cooperated. What I was going to -- what I -- and I've gone to before is, would jurors -- is there at least one juror that might say, look, we've got conflicting victim testimony.

Some of them said he did nothing wrong. They all knew each other. They kept going back and taking payment. Is this trafficking, or is this prostitution? I'm not -- I'm not saying I agree with that, and I don't think -- I don't think prosecutors do, I'm saying is there -- is there at least a possibility of that? And --

Q Was that articulated to you by the people you were listening to by [redacted] and --

A So --

Q -- [redacted]?

A So, that certainly was part of the discussions when I talk about the victim issues, would at least some jurors view it that way, rightly or wrongly?

Q And you recall having that -- those --

A I --

Q -- conversations?

A I recall having not only how would the witnesses stand up in court, but how would jurors view them? And then the second part of that is, as it goes up in the appellate process with respect to the -- the federal nexus. And so, I hear you, but you know, I -- it's -- it's sort of one of the factors. And so --

BY [redacted]:

Q And so --

A Yeah.

Q -- what I'm getting though is that there didn't seem like there was a consideration or discussion about, is this two years capturing the scope of his conduct, versus, we're just going to tie it to this potential state crime that could have been charged?

A Fair, and I would -- I would say that the two years was not meant -- so, the petite policy has several prongs, and to my recollection, the petite analysis was not based on -- and let's not even call it petite analysis. That overstates it.

But it was much more of a, is this a manifest injustice, and -- and if the original -- and so, you sort of see it in the Exhibit 3. This would not have been brought to the office in the first place if -- you know, if he had plead to jail time and registration, and rightly or wrongly, that

was understood from the very beginning of the case, and was a factor in how the case was viewed.

Q And how do you know that it wouldn't have -- that [redacted] wouldn't have been upset with a minimal jail time, even if there was sex registration?

A So, I can't 12 years later say how we knew that. I can say that my -- my general impression was that this was proceeding at the state, that there were certain charges, and that those charges changed when it went to a grand jury, and that it went from -- I think they even changed the ASA involved.

[redacted]: They did.

THE WITNESS: I can't speak for certain, but you probably have that from the record, and that when they changed the ASA involved and took it to grand jury, the charges that came back were substantially less.

BY [redacted]:

Q Do you remember the circumstances? Did you know the circumstances under which that ASA was changed?

A I don't know.

Q All right. The -- by the way, do you remember an occasion in which [redacted] came to your office in Miami to press you on what was going to be happening with the federal case?

A I don't recall.

Q You don't recall. I --

[redacted]: Just one more, [redacted] --

[redacted]: Yeah.

THE WITNESS: Yeah.

BY [redacted]:

Q So, before we --

A Yeah.

Q -- leave this --

A Yeah.

Q -- one little thing. So, if this case had come into the federal system as apart from the --

A Right.

Q -- taken the digression through the --

A Right.

Q -- state system, do you think that the two years was an appropriate punishment, given the scope of his conduct?

A I think if it had come into the federal system apart from the whole state and the petite considerations and all that, we may have ended up in a different place. I viewed the two years, to my recollection, as a manifest injustice standard, and not an appropriate punishment standard.

Q Meaning whether it was manifestly unjust that he get two years?

A No, whether it was -- so, let me -- let me -- let me rephrase. No jail time was a manifest injustice. If he had gone to jail for two years in the state system and registered, the question of whether it would have come to the office at all, and to my recollection, the consensus was, and [redacted], based on Exhibit 3, agrees with that, that it would never have come to the office in the first place, because we would not view that under petite as a manifest injustice.

There are any number of cases that are prosecuted around the country where an individual gets a jail time that the federal government may not agree with, but that doesn't mean that the federal government reprosecutes those cases. The instances where the federal government reprosecutes a state case are pretty rare, to my knowledge.

And so, under the petite standard, and the petite -- the manifest injustice would -- it would have been a manifest injustice to have zero jail time, and zero registration, but if the original charges had remained, that would be a different matter. That does not mean that that is the best outcome in the state system.

and so, perhaps beating a -- you know, an issue, but let me maybe give an example. One concern that I had was that in the violent crime side, the state brings a case, and you know, there is a deferment, no jail time. The state then brings a second case, and there's minimal jail time. Well,

now the person has done three violent crimes, they have a gun, they go federal, and it's like, please don't do that. Pretty please don't do that.

You know, we're going to punish you a little bit, and then all of a sudden in comes the federal government with the big, big punch to the face, because the federal sentences are so different than the state sentences. And that happens all the time in any number of contexts in Florida. That doesn't mean that all of those cases get reprosecuted as gun cases in Florida.

That means that we understand that the Florida system is different than the federal system. And so, the way we looked at, at least based on my recollection, those two years was not, what would he have received if this was a purely federal case, but would this case have been prosecuted by the federal system additionally if he had received jail time and registration in the state system?

Q And would -- is it fair to say that this particular concern about, for lack of a better word, federalism or the petite policy, was that a primary concern of yours versus any of your employees in terms of [redacted] or [redacted]?

A I think it's fair to say that I focused more on the legal side of things, and my team focused more on the trial and how this would play out at trial, and both of them -- both of them sort of informed the outcome.

Q And are you including this petite policy in your consideration of the legal issues?

A Yes. Yeah. I think those are all tied together.

BY [redacted]:

Q So, you mentioned victim --

A But -- but could I -- could I --

Q Yes.

A But to clarify, I thought we had sufficient to go forward so it wasn't an ethical violation to proceed.

Q Mm-hmm. Okay. The victim -- you mentioned the victims coming into state court, and you talked about all the victims coming into state court. Do you have any idea what victims formed the basis for the original charge that --

A I do not.

Q -- he was indicted on? Do you know whether it was one -- was it a felony assault pros of a non-minor.

A Mm-hmm.

Q It could have been -- it was three instances to felonize it. You don't know whether it was one person three times, three people?

A I do not.

Q And you don't know whether that person was a minor or not?

A I do not.

Q All right.

A I would assume they were, but I do not.

Q Likewise, do you know who was the victim, or who the victims were who formed the basis for the 796.03 charge to which Epstein ultimately pled in June of 2008?

A I did not at the time. I've read various accounts of that, but that's based on matters that I've read and not an independent recollection.

Q And what's your understanding?

A My understanding is that there's some -- that there is at least some issue in the media over whether the -- the right or the best victims were chosen from the prosecution's perspective.

Q And do you know -- was there any indication of who the victims were? Do you know who the victims were who were the subject of the state charges?

A Which particular names? No, I don't.

Q Right, I'm not asking you --

A Yeah.

Q -- other than names --

A Yeah.

Q -- I just want to know if you know who they are or how many they were.

A I -- I do not.

Q Right, it could be one, right? For this -- for the solicitation. It could be one conceivably. Both the charges

could relate to one victim.

A Right. So -- so, those matters were very much part of the negotiation that [redacted] and to some extent Andy were involved in. I did not --

Q What makes you think that -- that -- the -- your people were negotiating which victims would form the basis?

A Fair. Fair point.

Q Okay.

A Fair point. I withdraw. They may not have. I don't know -- I don't know how in the weeds and how much our folks, as a federal system, sort of interacted with the state in terms of what punishment. I -- there's at least some discussion in the media regarding whether the punishment was a function of the victims and registration, and I can't speak to that.

Q All right. Are you aware, just as a point of interest, that the public record of the proceedings in the state court related to Epstein are utterly silent as to who or how many victims form the basis of the charges to which he pled?

A I -- no. I was not aware.

Q Okay. So, this idea of many victims coming forth in state court and so on are not -- is not -- it's not really in play. All right. So, you have a two year -- two years has been now -- a two year state deal has been announced to

the team by [redacted].

A Yeah.

Q With your knowledge and approval, right? Because he wouldn't do it otherwise. Is that right?

A Fair.

Q Though at least one was surprised. Do you know what drove the timing of the plea offer? In other words, why did it have to be made at that point?

A I do not.

Q Okay. You know that [redacted] submitted his resignation on the 23rd of July.

A I saw that in the --

Q Right.

A -- in the -- in the documents.

Q In the documents, and he submitted that to you among other -- as well as the --

A Yeah.

Q -- HR people. Why not -- well, then there was a July 31st meeting at which the term sheet was presented. This document 15 is the term sheet that was presented, as [redacted] indicates in her September 6th cover note -- cover e-mail. And you said you approved it. You happen to be copied --

A Right.

Q -- though --

A So --

Q [redacted] --

A Let me --

Q -- forwards this, but --

A Let me -- let me be -- let me be accurate. I approved these terms, whether it was this specific term sheet or another -- another document that might have been earlier that looked highly similar to this.

My recollection is approving a, a -- you know, approving a resolution that had him pleading to certain state counts that had a binding two-year plus recommendation that -- and that provided for 22.55 restitution.

Q Right, but you don't know if it was this sheet of paper?

A I can't say 12 years after the fact whether it was this specific sheet --

Q Right.

A -- or --

Q All right.

A -- or others. I -- based on the fact that this was in the e-mail, I think it's safe to -- to assume, but --

Q To assume what?

A To assume that it was this.

Q Oh.

A But it's possible that there was as slight

difference in --

Q All right. In fact, this -- this same document with a couple of --

A Right.

Q -- additional bullets that had to do with the date of entry of the plea, sort of ministerial, is what was prepared by [redacted] on or about the 31st -- on or before the 31st of July, and this document, as indicated --

A Mm-hmm.

Q -- here, along with the attached guidelines calculation is what was provided to the folks who met on the 31st --

A Fair.

Q -- of July. Okay. So, on that 31st, it was [redacted], Jerry Lefcourt, [redacted] Sanchez, and the purpose of the meeting with Sloman, Menchel, Lourie, and [redacted] as well as the case agents was to present the plea offer. And did you get briefed on how that plea offer went?

A I don't recall being briefed, but in the regular course, I would have been.

Q All right, and at that meeting, there was an expression of concern by the defense team that Epstein wanted to avoid being incarcerated in the state system because of concerns for his physical safety, and that concern was accommodated to the extent that the U.S. Attorney's Office

team agreed to explore federal resolution. How does that square with your decision that a state plea is how this case was going to be --

A Right.

Q -- decided?

A So, I think I indicated later that it's a little bit more fluid than a decision here or a decision -- you know, than binary situations. My recollection is we were very focused on, this man should go to jail, and this man should register.

The two year plea to the state charges seemed reasonable and seemed a way to go. We can agree or disagree. Reasonable in terms of -- not in terms of, was it the -- the most just outcome, but seemed like a disposition that we would agree to.

But ultimately, the focus was on getting him to jail, and if that meant exploring a 371, it's at least worth exploring. And so, I don't think it was inconsistent, because the focus really was on, he needs to go to jail.

Q Okay. In this case, that -- that push back of the -- that resulted --

A Right.

Q -- in the agreement to explore a federal plea --

A Right.

Q -- was because Epstein was afraid to be in prison.

Why would the U.S. Attorney's Office accommodate that? And here, we're getting to -- we're beginning to talk about a major point of criticism of this whole process and the outcome and that is that it appeared that the U.S. Attorney's Office was bending over backward to accommodate the concerns of Jeffrey Epstein, and in this case, he was uncomfortable going to a federal or state prison, but all child sex predators who go to prison are going to face some --

A Yeah.

Q -- challenges, right?

A Right, and I remember along the way a heavy push that he be incarcerated at this home under some kind of home confinement, and my reaction to that was no way.

Q Right.

A And okay, you don't like prison, but that doesn't mean you get to be incarcerated in your house.

Q Mm-hmm.

A Which is interesting, because subsequently --

Q Yeah.

A And so --

Q Because subsequently, what? You might as well finish --

A Well, because --

Q -- that.

A -- subsequently, the way that the state executed

the terms of incarceration were not what I would have expected. And so, again, the focus from my perspective is, he needs to go to jail. If the team agreed to explore it, you know, the 371 was on the table to the extent we had been -- I'm speculating now. This is not to make the record clear.

Q Mm-hmm. Thank you.

A I'm speculating, not recalling. I can speculate a 371 with a two year rule 11 had been discussed based on the contemporaneous record, and so, to the extent it had already been discussed, even if it was not the direction we were taking, would it have been unusual for folks in the room to say, well, look, we've discussed that, let's go back. You know, let's see where it goes. I can't fault -- to the extent it had been discussed -- I can't fault anyone for saying, let's go back and look at it. I think that's distinguishable at least from subsequent --

Q All right. At that point, the defense was given two weeks to take it or leave it, and if not, you would indict, and there were several occasions --

A Correct.

Q -- when that kind of ultimately was made. Did that mean -- I mean, given all of your concerns about barriers to what you would consider a successful federal prosecution, was that a bluff?

A No.

Q It was not.

A It was not.

Q You were at some level at least prepared to approve the presentation of the -- or, the presentment of --

A We --

Q -- an indictment?

A We should not have gone forward with these negotiations if we weren't ready to --

Q All right.

A -- to approve. Whether in this form or a different form and indictment, and I say that because it was very much a draft indictment that hadn't been reviewed fully by the chain, but it wasn't a bluff.

Q Well, by this time it -- it had been reviewed, and it --

A Had it been reviewed, and revised, and --

Q It had -- there -- there had been some efforts to begin revising, so --

A So --

Q Yeah.

A Some --

Q It wasn't finalized.

A Yeah. Some efforts to begin --

Q Exactly.

A Right.

Q Okay. Looking at 11a, this is a letter that [redacted] drafted to sort of actually respond to a counteroffer by the defense. The counteroffer is represented in Exhibit 10b, which is a letter from [redacted] Sanchez which we don't need to go into in detail, because as you've already pointed out, essentially it was a home confinement, and you know, very, very soft --

A Yeah.

Q -- landing counteroffer. In 11a, [redacted] tweaks [redacted] letter, you're copied on this, and the date is August 2, Thursday, and he notes that he hadn't discussed it in detail with you, but he wanted to -- he hoped that tomorrow, Friday the 3rd --

A Right.

Q -- he'd have a chance to, and what's notable here is that -- is that the -- there's strong language that the "Office believes that the federal interest would 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 negotiation. It is the minimum term of imprisonment that will obviate the need for federal prosecution."

A You're on paragraph two?

Q One.

A One, yes.

Q Oh, two.

A Yeah.

Q It's the first --

A Right.

Q -- long paragraph. And then he also states that -- that you in the last paragraph -- the U.S. Attorney, "U.S. Attorney Acosta has asked me to communicate that the two year term of incarceration is non-negotiable."

A Yes.

Q That's pretty firm. That's a -- that's a line --

A It is.

Q -- in the concrete that is setting, right?

A Right.

Q And 11b is the letter as it actually went out the next day.

A And it's got the same language.

Q It's identical. It has the same language. It has one typo corrected. This is [redacted] last day in the office.

A Yes.

Q And he's gone after that. Do you think that this was an -- the appropriate timing to extend this offer, or to set this as the minimum offer, or was it something that you would've liked to have seen more fully developed in

negotiations with defense counsel?

A I'm sorry, I don't understand your question when you say more fully developed.

Q Well, you -- you have two years. Would -- would further consideration have led the U.S. Attorney's Office to decide that, well, maybe the two years is too much of a giveaway; we should stick with a five year federal plea?

A Yeah. I can't -- so, I can't speculate this far after the fact whether waiting an additional time period and further discussion would have changed things. I can tell you how we came up with it, but that -- that's a lot of speculation.

Q Would you say that [redacted] was -- as the criminal chief, was essentially the driver of this -- of the resolution --

A Right.

Q -- presented in this letter?

A I can't. Again, you're asking me to speak to something from 12 years ago. I can't speak to it. I was aware of the multiple prongs. I approved it. If we had had, you know, if -- if a -- at some point -- is your question is if at some point there had been a, let's sit down and reconsider meeting, would we have gone in a different direction? Perhaps, but I can't, 12 years after the fact, speculate as to what may have happened if something had

happened.

Q All right.

A That's just a lot of hypotheticals.

Q Understood. The question though is whether Matt Menchel, who was the author --

A Right.

Q -- of this, who first raised it --

A Right.

Q -- with [redacted] Sanchez --

A Yeah.

Q -- in an informal discussion, and who presented it to the U.S. Attorney's Office team, was this really his baby?

A I can't --

Q Approved by you.

A I can't -- I don't remember who I talked to about what, and so it wouldn't be fair for me to -- you know, I can't single out any one person as having a greater or lesser role.

Q Well, you were not the architect of this, right? You approved it as you've described it.

A No, I haven't said I wasn't the architect. What I said is I don't recall --

Q Right.

A I recall approving it. You know, I -- I think what I'm trying to convey is these discussions are much more fluid

than I think any one single architect. You've got multiple lawyers. They interact on a daily basis. They talk back and forth.

To -- to sort of put it in an OPR context, there's probably not going to be a single author to the report. You're all going to go back and forth, and there might be someone that has -- maybe there is a single author. Who knows? But it's -- I think it's difficult to say there's a single person, and ultimately I was U.S. Attorney, and so I approved it and --

Q To your knowledge, did anyone in that chain of --

A Right.

Q -- that five person chain or anyone else disagree with this offer?

A To --

Q I'm not talking about --

A To my knowledge -- to my knowledge, I think [redacted] at sometimes may have felt uncomfortable, but whether there was explicit disagreement or not, I don't recall. In terms of my management chain, I don't recall any disagreement.

Q That you were aware of?

A That I was aware of. I -- I recalled discussions. So, for example, [redacted] might say I might proceed with a 371 with a two year cap under rule 11, but then we move in this other direction, and I don't recall anyone saying, let's take

a time out, let's reconsider.

Q All right.

A And let me -- let me just clarify, I think at various points in this case -- and it's hard -- it's hard to sort of single out the timeline. Ms. [redacted] was supportive, or maybe I wish we would go in a different direction, and that sort of went in and out a little bit.

Q On her part?

A Yes.

Q Let me ask you this. Having reached the decision that you approved --

A Right.

Q -- that this was the offer, and the term sheet, or the terms, having that decision made, would you have expected your line AUSA to frustrate that, or to not abide by that, since it was your decision?

A No, with a caveat that if at any point someone felt truly uncomfortable, I would expect them to come and talk to me about it.

Q And can you recall any instance in which an AUSA -- a line AUSA came and talked to you about a disposition that he or she was uncomfortable with?

A Yes. So, I'll give you an example. I don't recall who, before you ask me, but there was this AUSA who was new to the office who impressed the hell out of me. I'm sorry,

that's not appropriate language -- who impressed me significantly.

He had inherited a case, and it was a fraud case, and the -- the bigger players had been charged, and he was basically given a lesser player to -- to basically just finish up on, right?

It was a done deal. The person was ready to plead to some minor count, no jail time, and he felt uncomfortable with it, and went to his supervisor, and then ultimately came up to me, and I had a discussion with this person about it, and it ended up with my telling him to go back and call the defense counsel and tell them we were dropping the case.

Q Mm-hmm.

A Which, for a new AUSA in the office is pretty gusty and unusual, but if this person really felt that this lesser player wasn't deserving, then that was the right thing to do.

Q Right.

A And so, I don't -- and the person was not punished for it.

Q Mm-hmm.

A If anything --

Q Mm-hmm.

A -- you know, I recounted that story to others.

Q Okay. A question, shifting gears --

A Yeah.

Q -- a little bit, about 18 USC 22.55.

A Yes, okay.

Q Not to be confused with 22 -- 28 USC 22.55, which every prosecutor is familiar with. So, whose idea was that? It's, it's a civil provision, a civil -- it's not restitution, it's damages. It's a damages recovery provision in the criminal code.

A Right.

Q Who came up with that?

A I can't speak to who came up with it.

Q Okay.

A I can speak to -- to the reasoning behind it.

Q Your reasoning, or the proponent's reasoning?

A My recollection of the reasoning as to why we thought it was important.

Q And the importance was to provide a mechanism for recovery of damages?

A To -- yeah.

Q Okay.

A Yeah. I mean, the victims bad situation, and we just -- and here is -- well, go on.

Q All right.

A I might circle back on something.

Q So, is it fair to say that's a fairly -- had you ever heard of it before? Had you come across it before?

A I don't know, but I don't think so.

Q Okay. So, is it fair to say it was novel to the office? To you, and to this team?

A I don't want -- I don't think it's fair to say that it's novel to the office.

Q Well, to the -- do you -- do you recall whether anybody in the team had had experience with 18 USC 22.55 in a criminal --

A I don't have a recollection of any discussion as to whether people had experience with this or not.

Q Did you believe that any legal research was needed, or should be undertaken to ensure that the procedure was in fact legally sound when embedded, as it was in this case, in a criminal plea?

A So, I would have expected to the extent that there were concerns. Again, we had incredibly experienced -- between the various individuals on my management team, we probably had 50 years plus of criminal experience. I would have expected to the extent their concerns, for those concerns to be raised.

Q Did you raise any -- any such concerns about it, or did it seem to make sense to you?

A From my perspective, I recall -- I don't know if it was at the time or subsequent to it, reading it, and -- and it seemed -- it seemed to -- to make sense.

Q Okay. After [redacted] letter went out on the 3rd of August, you almost immediately -- it appears you received a telephone call from Kirkland & Ellis, is that correct?

A That -- I don't recall it independently, but that's what the record shows.

Q All right, and that's reflected in Exhibit 12. Do you remember who called you?

A I do not.

Q Do you recall -- it apparently was from the context of this Exhibit 12, it -- and the caption, Epstein.

A Right. Right.

Q It appears that the call related to Epstein, correct?

A Correct. Again, I don't remember the phone call, but from the e-mail, I accept that it happened.

Q So, what had been your knowledge and relationship of -- with Ken Starr of Kirkland & Ellis --

A Right.

Q -- up to this point?

A So, I had been an associate at Kirkland, I think I indicated, what was it --

Q Mm-hmm.

A -- from '94 to '90 -- what was it? Was it '96 or '97?

Q A couple of years.

A For a couple of years. I worked on at least one case that I recall with him. I was the junior associate on a merits brief that he argued. He, at the time, was also special counsel. And so he wasn't in the office nearly as much because he was double hatting as special counsel --

Q Mm-hmm.

A -- and partner.

Q Mm-hmm. All right, and what about [redacted]?

A So, [redacted] was a partner at the time. I don't recall working with him on any particular case, although I think I worked with him on at least a matter. He was on my hallway. He had an outside office. I had the typical inside office.

Q Had you had any interaction -- any contact with them in the intervening years, socially or professionally?

A Off and on, I was in Washington. They -- you know, Ken Starr was in Washington. I think [redacted] had moved to New York but then came back to Washington to be in the administration, and he was in the policy office, and we may have -- not may have. We likely interacted.

Q And while you were here at the criminal -- at the civil rights division?

A Correct.

Q All right, and did you -- were you friends? Were

you professional acquaintances? Were you what? How would you characterize that?

A We were professional acquaintances that had worked together several years ago that continued to interact.

Q Is that true as to the two of them?

A I mean, it's hard to characterize these things. I think -- I think that's fair to say.

Q Did Ken Starr know who you were?

A Yes.

Q And obviously [redacted] as well?

A Yes.

Q Okay. So, what was your reaction to being contacted by them in -- by their firm, them, presumably one of --

A Right.

Q -- them perhaps?

A So --

Q In --

A So, I don't know who called based on the e-mail. I can infer that it was one of them.

Q Mm-hmm.

A And you know -- and I think my reaction is captured by not my e-mail, but -- but by Jeff's comment, and what -- I don't have a clear recollection, but I'm going to speculate/infer that I heard they were being brought onto the

case, and I probably walked down to Jeff's office and said, hey, Kirkland's coming onto the case, I bet you they're going to come on to try to take this up to D.C.

And then I get a phone call, and -- you know, and then I tell Matt, who tells Jeff, you know, I didn't know, maybe -- Kirkland made a call to -- you're right, unbelievable.

And then I say they're likely to go to D.C. We should strategize a bit. My concerns behind that are, will D.C. look at this as sort of legally troubled, going back to the earlier points that I made about the policy issues around the trafficking issues up here in D.C.

Q Mm-hmm.

A And I really do think he should go to jail. And so, I want to strategize a bit.

Q So, did you have concern about the fact that you were -- that the defense team was sort of appealing you to the big house?

A I think based on this, I almost predicted this would happen.

Q Yeah.

A And Jeff is saying, you were right, unbelievable, where I in some way, shape, or form predicted that something would -- someone would be hired, or something would happen to take this all up to D.C.

Q And had you experienced other cases -- other instances in which defense team went to D.C. while you were at U.S. Attorney's Office -- while you were the U.S. Attorney?

A Yes.

Q Was that a concern to you?

A It wasn't a concern. It was a, how do we address this so that we can back our position and our office.

Q Did you have concerns about the disposition that was underway? About -- main justice scrutiny of the NPA scheme?

A So, I had no concerns about main justice scrutiny of the NPA scheme. In fact, I invited Drew to come down --

Q Right.

A -- and he was part of the meeting where we discussed the NPA. And so, I say that because if I had concerns, I wouldn't have invited him. If anything, my concern was, is main justice on board, or are we going to basically be told to drop this case when it goes up to main justice?

Q Mm-hmm. In your e-mail to [redacted], when Sloman's on vacation --

A Yeah.

Q -- you say that -- you make reference to a process foul, that the attorneys in the defense team want to go to

D.C. on the case on the grounds of a process foul, i.e., that I have not met with them, and you expressed concern that that would delay matters. Is that what led you to agree to meet with the defense team on the 7th of September?

A It is. My concern was it they came up to D.C., and the first talking about was the U.S. Attorney didn't even agree to meet with us, that's not the best -- that's not the best foot to start with when you're having your case reviewed.

Q So, what was your understanding of what the purpose of the meeting on September 7th was supposed to be?

A They wanted to argue -- they, being defense counsel, wanted to argue why we should not pursue this case.

Q And in this case, it was Starr and Lefkowitz from Kirkland & Ellis, and Lilly Ann Sanchez, I believe who met with you.

A Fair. I remember it was Starr and Lefkowitz. I don't know if it was Lilly Ann.

Q All right, and our information is it was you, Drew Oosterbaan, Sloman, [redacted], and John MacMillan. Do you -- do you know John MacMillan?

A Vaguely.

Q All right. He was an AUSA as well.

A Right.

Q Correct? In West Palm?

A Right, and if I can just add, again, I -- I invited Drew --

Q Mm-hmm.

A -- so, Drew became fully aware of that, and my concern in getting Drew into the meeting was to not have them appeal us, and then having Drew say, not a good case.

Q All right. So, were you aware that Drew Oosterbaan had, in preparation for this, gone to West Palm and actually gone through the evidence and met with the case agent and the line AUSA

A I was not. Drew is an independent actor and could do what -- yeah, what he thought appropriate.

Q Did that -- does that seem like an appropriate thing for him to have done in your eyes?

A Sure.

Q Okay. Would you describe the meeting -- oh, and two other people who were there were, again ASAC Val Parlave and Junior Ortiz --

A Right.

Q -- the SSA. So, and the meeting I think was in West Palm Beach.

A Yes.

Q So, what do you recall about the meeting? The dynamics? Who spoke? How did it go down?

A I recall there were a lot of people. I think Mr.

Starr spoke most of the time. I think -- my recollection, as best as I can -- you know, with the caveat I thought [redacted] was there and clearly he wasn't. So, presented several arguments. I then either left the room with my team, or I think I most likely asked them to leave the room. I then went around and --

Q Asked who to leave the room?

A Asked the --

Q The defense?

A -- defense. I then went around the table, and I said, does anyone have any concerns, or something to that effect. And then hearing none, I asked them to come back in, and I reaffirmed the position of the office.

Q In other words, you sort of decided -- you ruled from the bench, as it were. Fair enough?

A Fair enough.

Q Okay. You didn't take -- take it under advisement. You gave them what your position was right then and there.

A That -- that's my recollection. I don't know if you have information contrary, but at least --

Q Okay.

A -- that's my recollection.

Q Okay. So, is it fair to say it was more of a presentation on the part of Ken Starr and his side rather than a debate or discussion?

A I think that that's fair to say. I may have asked a question or two, but my -- my recollection was not a -- was not a negotiation, but a, let's hear you out.

Q And so, we understand it was mainly a federalism presentation, as opposed to evidence, is that accurate?

A I believe that's accurate, yes.

Q And in your letter to Ken Starr dated -- the letter is actually not dated, but we know that it was sent on the 4th of December --

A Okay.

Q -- of 2007, and it's in this package. You noted that --

A Which exhibit?

MR. GONZALEZ: 34.

BY [redacted]:

Q Thank you. Exhibit 34. You note on page four -- I'm sorry, page five, you -- you referred to the federalism arguments, and you say that after considering the arguments and conferring with the FBI and Drew Oosterbaan, you decided to proceed with the indictment, but that you would delay presentation of the indictment to allow the defense to appeal to D.C. Does that mean that you didn't find the federalism arguments sufficiently persuasive to you to change your position?

A Yes, with the position defined as some concern, but

if we need to -- if we don't come to a resolution based on the sheet, then we indict.

Q And there is a letter of --

BY [redacted]:

Q I'm sorry, when you say some concern, some concern about the federalism argument?

A Yeah. Going -- going back to what we talked about with respect to the earlier conversation about solicitation versus trafficking, and the federal nexus. But back in July, we had decided that we were going 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.

BY [redacted]:

Q Even though you had some federalism concerns of your own, they didn't rise to a sufficiently high level.

A So, their request -- their request was to drop the matter.

Q Right.

A And -- and --

Q Okay.

A -- going back again, understood. There is -- there is legal risk. There is witness risk. All of these. If we can get pre-indictment resolution, good. If not, the indictment was not a bluff. It was -- it was real.

Q So, was -- I mean, Ken Starr is of course well known.

A Right.

Q He was solicitor general, he's -- you know, etcetera. Did you find his arguments well set forth? Impressive?

A So, you're asking for something that's 12 years -- if I had to characterize, by the time this meeting took place, there had been a fair amount of thought around these. There had been a fair amount of -- and I at least felt comfortable that while there was some legal risk, he needed -- we needed -- you've got to balance the legal risk and the precedent risk with -- with outcomes, and Mr. Epstein should go to jail, and should register, and I felt comfortable -- I felt comfortable enough to basically reiterate our position that --

Q But my -- but my question with respect to --

A Right.

Q -- was, did you enjoy the give and take with -- with a man of Mr. Starr's --

A In all candor, no.

Q -- standing?

A No.

Q No? Not at all.

A Not at all, because --

Q All right.

A -- it would have been easier to not have the meeting in the first place.

Q All right. Do you recall an exchange -- was he -- was -- were you the person to whom he was directing most of his comments?

A Most -- most likely.

Q And do you recall any exchange with him about the fact that -- sort of an observation that the two of you, you and he, were the only two people in the room who had been presidentially nominated and senate confirmed to any position so that the two of you had kind of that commonality. Does that ring --

A Do you mean --

Q -- a bell?

A -- was he trying to butter me up?

Q Was he? I mean, was he?

A I don't -- I -- look, this was 12 years ago. I don't recall. You know, I think as we talk about this, it's important to note that the position did not change. Whatever exchange there may have had, our position did not change.

Q Right. After this meeting, within a few days, in furtherance of the resolution that had been offered, [redacted] [redacted] and [redacted] Lourie met with the state attorney's office to sit down and try to work out how this thing would

work, and mind you, this was before -- well before the NPA is --

A Right.

Q -- actually formulated. Did you learn what happened at that meeting? Do you know how it devolved?

A I may have. I don't -- I don't recall, you know, sitting here today.

Q All right. It's at this meeting that somehow, the three charges that you specified -- your office specified in the term sheet became one. So, suddenly Epstein was to plead only to one charge, and this was agreed to by the U.S. Attorney's Office folks who were there. Do you know how or why that happened?

A I haven't the slightest idea.

Q If you had known -- if they had called you on the phone, sort of the mid-trial --

A Right.

Q -- call to the boss, asking what you wanted them to do, what would you have said?

A So from my perspective, when I said -- you know, when I indicated I approved this term sheet, this is the minimum, I meant what I said. I also recognize that AUSAs in the usual course need some degree of discretion to negotiate. and so, my assumption after that September meeting, I think I indicated that there was a deadline --

Q Mm-hmm.

A -- that was fairly short, was that [redacted] and [redacted] and some -- working together would go back and work out an agreement based on those terms, and you know, in the give and take, if they think that this is an important concession, that's within their discretion, but I would have been comfortable sticking to that --

Q With --

A -- charge sheet. With -- something that drove me is when I -- when I said something, I -- as a general matter, I didn't bluff. I really meant what I said.

Q So, in that terms sheet, I mean, to be fair, what Menchel's letter says is two years --

A Right.

Q -- is the minimum. If the decision to agree to let him plead to one as opposed to all three had no impact on that two years, would -- would you have cared?

A Fair enough, and so going -- going back to where I -- you know, to an earlier discussion -- can I get another Red Bull? Going -- going back to earlier discussion, I think I indicated that the charges -- the state charges I wasn't familiar with. And so if in the give and take, those charges changed, my focus was on two years registration and restitution, as long as those charges were -- captured the conduct in some appropriate way.

Q So, later -- rather much later, the defense counsel admitted that at this meeting, they thought --

A Yes.

Q -- that under misinformation from the state attorney's office that that charge that they got the U.S. Attorney's Office, or somehow the -- the U.S. Attorney's Office approved, the 793 -- 796.03 charge was not sex offender registerable, and that's a -- that's pretty -- that's a pretty major mistake, right?

A It is, and --

Q I mean, that's -- that goes to the heart of you --

A And --

Q -- one of your major concerns.

A And they tried -- they tried to get us to change that, and I said no.

Q The defense tried to get you off sex offender registration.

A Pretty vigorously.

Q Right? But at this point, the focus is on the charge, and the defense is -- one might characterize it as trying to pull a fast one by agreeing wholeheartedly to plead to one charge, knowing or at least believing incorrectly that it was not registerable, and the U.S. Attorney's Office not having that belief, but thinking it was registerable.

So, there's a disconnect. There is error, and the

error stems, as they later learned, from the ASA herself. So, we look at that, and wonder whether that shouldn't have raised some concern that this plan to put things back in the hands of the state, which had kind of mishandled the case to being with, as at this point even not a good idea, because they were continually -- continuing to be -- well, I won't characterize it, but less than reliable. Was that a -- is that a fair comment of concern?

A So, one question I would have is, at what point did we become aware that there had been, first, the error was in our favor, not the defense's favor, because [redacted] got it right as opposed to the ASA.

Q Correct.

A And secondly, at what point did our team become aware of them trying to pull a fast one? Was it before or after the signing of the NPA?

Q It was well after.

A Right.

Q But the -- the point here is that the U.S. Attorney's Office folks were not as familiar with the state procedure -- the state criminal procedure, and the ins and outs of the sentencing and incarceration, as you learned later.

So, didn't this put the U.S. Attorney's Office side at a substantial disadvantage in trying to play in the

sandbox in which both the defense -- local defense counsel and the ASAs were very comfortable?

A Possibly, although I would point out that it was the AUSA who got it right.

Q Eventually.

A Not eventually. The AUSA --

Q Oh.

A -- was correct in her analysis.

Q Right.

A So, in this case, she was more familiar than the state attorney.

Q Not by practice, but by research, or --

A By research, and so --

Q Right.

A -- my point is we had good people that were able to, if they weren't familiar with something, the research clearly worked.

Q But it took, as you saw in the -- in the -- in the process of dealing with the work release and all of that, it took a lot of --

A It --

Q -- work to keep up with those --

A It did.

Q -- errors.

A Which is why I say in hindsight, if, given all the

effort that took place after this defer to the state was reached, if all that had been known, I really think the analysis would have proceeded differently, because that was -- what was a lot of work. That was probably as much work, if not more than a trial.

Q Right. Right. Right. Meanwhile, the -- we'll talk about the actual text of the NPA in a moment, but following that -- actually, no, before it was being finalized -- before it was finalized, [redacted] [redacted] was working to identify a federal charge, as we discussed before. In that process, she came up with a plan that would have resulted -- cobbling things together in an 18 month sentence instead of --

A Mm-hmm.

Q -- 24 months. Somehow, that became the new floor. The -- the new standard. Do you know how that came about, and who actually agreed to that?

A I -- I don't. I -- I referenced the one e-mail where I think [redacted] says, he argued 12.

Q Right.

A I said 24. We agreed to 18. I assume in the give and take, this was an agreement that was reached, and --

Q But that was 18, as -- as to the potential federal charges. It somehow became imported --

A I --

Q -- into the state disposition.

A I can't -- I can't speak to that. This was -- this was something that the "trial team" was negotiating, and from my perspective, this is -- these were the terms that we wanted. These were the terms that I expected if they came back and said, no deal. Disappointed, but go forward, but they tried to get a deal, and -- and --

Q The defense tried?

A No, but our prosecutors.

Q Oh.

A And to some extent, you know, they -- and the give and take of any negotiation, I don't think it's unfair for an AUSA to -- to give up some things.

Q But did -- you had -- had stated clearly to not only the defense team through the Menchel letter, but also I believe at the end of the September 7 meeting, that two years was the deal. So, did somebody come to you and say, looks like it's going to be 18 months, and allow you to then approve that?

A I don't recall if someone came to me separately or independently of the final language. I clearly approved it at some point.

Q Mm-hmm.

A And so to the extent it was approved, that's -- that's on me, but I would -- I would argue that, you know,

someone's negotiating, one said says 24, another side says 12. They say, let's agree to 18. To some extent as U.S. Attorney, I think I have to back the -- the negotiating discretion of my AUSAs.

Q But you -- you explained quite eloquently the reasoning for the two year plea as being what Epstein would have faced if he'd been prosecuted --

A Right.

Q -- you know, absentia, by the state appropriately, and then suddenly, without any apparent relationship to that analysis, the 18 months pops up from an effort to try to get federal charges. And so how do you -- how -- does that not undercut the basis for the two years?

A So, I can provide the reasoning for the two years. I also though think as a -- as a supervisor, as U.S. Attorney, it's important to understand that when individuals go out into the field, negotiations take place. And if every time there is some give, they need to come back to the U.S. Attorney, or there is a fear that the U.S. Attorney will not back us.

You know, there is -- there's a certain -- I think there's a management issue there in that if an AUSA speaking on behalf of the U.S. makes an agreement, as long as that agreement is within a certain range, the U.S. Attorney should back that, because they're the ones that are in the -- on the

line. They're the ones that are managing the case, and it's sort of unfair to consistently second guess those late night -- I don't -- I don't want to characterize it --

Q Okay.

A -- as a late night negotiation, but those -- that give and take that happens sometimes in a conference room or on the phone.

Q Do you know exactly what give and take occurred in this case regarding the 18 months?

A I do not. I read that one document.

Q Okay.

A But I do not.

Q All right. Any other questions on this one?

BY [redacted]:

Q Really quick. I agree with what you're saying in principle, but in this case, you had had a -- almost like a mandatory, two years is the minimum that the --

A Right.

Q -- U.S. Attorney will accept. Under those circumstances, where you have come out and said, this is the minimum we'll accept, would you have expected them to have to come back to you to get approval for any kind of reduction in that amount?

A Would I have expected them? I think Ms. [redacted] was in a tough position, because opposing counsel was coming

at her. It was a tough negotiation. Would I have wanted two years? Yes. Would I fault her for agreeing to 18 months? I don't think that's fair to her.

BY [redacted]:

Q You could have said no, right?

A I could have, but it was an -- but she had agreed to it. The process had gone further down, and to some extent, I -- I think there is a need to respect that process. That happens -- I guess I was getting -- you know, this is not the only case where a supervisor sort of says, this is our -- this is our standard, and -- and at some point, things move, and you've got to provide some discretion.

Q All right.

BY [redacted]:

Q Do you think she misunderstood the priorities? That she thought you wanted to get to a resolution, and so the two years could -- could be undercut, versus taking your words literally and saying this is the line in the sand beyond which you should not go, even if it means kill this -- kill the resolution?

A So, if I had to speculate, I don't think it was a misunderstanding of priorities as opposed to opposing counsel was exhausting, and if you go through the full record, it really was an exhausting -- opposing counsel in this case was very good at taking any slight millimeter, and turning it

into, oh, so you said we could do this, and in that back and forth, sometimes there is a, can't we just agree in the middle?

Q And I understand what you're saying, but weren't they exhausting because the U.S. Attorney's Office would not say no to them? And so they always believed from the get-go, because they have a two year minimum that the --

A Right.

Q -- that the office is willing to then say, oh, we can go down from there, and that that set the tone from then on that they could continually chip away at you on virtually every single term that came about? So, yes, they were exhausting, but isn't that because the U.S. Attorney's Office would not tell them no?

A So I would push back, because after the agreement was signed, I would argue they did not chip away. They -- they certainly kept appealing collaterally, and we can talk about that, because there were other concerns raised there, but once we had that September meeting, between that September meeting and the signing of the deferment in favor of the state, that was all negotiated by the trial team. That wasn't a, come back to the U.S. Attorney, or come to the first assistant. That really, to my recollection, was, go negotiate with the state -- with the line.

Q Well, but there were a number of things that came

about later on. I mean, they -- they continually griped about the 22.55, and that got -- you know, that got modified.

A Later on -- and I think later on's are different for some reasons we can talk about now or later, but there was an attempt to work this out later on that was clearly there.

[redacted]: The --

THE WITNESS But I think that's very different than, how was the agreement negotiated? And I think that's a very different -- a different sort of timeline.

BY [redacted]:

Q So in your mind, was she prepared to walk away from the deal if need be?

A After it was signed?

Q Before it was signed.

A Before it was signed, it honestly was, get a deal or ultimately if we have to indict, we indict, and that's what I said, and -- and look at it this way. After having said that, if that really was a bluff, what would I look like, right? I would look awful.

And so, for that reason, that was not a bluff. That was a thought through, this is what we will do, and if you don't agree to this, then we indict, and we indict. You can't make those kinds of statements and not follow through. The office loses credibility if you do.

Q Right, but you can keep giving on certain terms.

A But we -- and my point is we did not give, with the exception of that 24 to 18, we did not give.

BY [redacted]:

Q Well, you also gave up two charges.

A Again, I'm thinking of a two years, registration, restitution, and so with the exception of that 24 to 18, we did not give.

Q I want to go back. This morning, we were talking about our tracks, and we talked about the legal track, and a little bit about the evidence track. There's another aspect of the evidence track that is in play here, because there was a substantial type of evidence, and the question is, to what extent were you aware of this.

In October of 2005, the local police executed a search warrant on Epstein's residence, and among things they found there were cables and cords where there had been computers -- computer equipment, video surveillance, cameras, and CPUs, all of that, that computer based stuff. It had been removed, forgetting why necessarily. If you look at Exhibit 29, were you aware of that, by the way? That that had occurred?

A I was aware that the state had gathered evidence, but not much more --

Q Beyond that.

A -- beyond that.

Q Okay. So, 29 is --

A I'm sorry, I'm on 21.

Q Wait a minute, this is not the one I'm looking for. 73? Let's do -- do you know what? Okay. That's not -- this is not the exhibit I'm looking for, and the numbers are a little bit messed up.

There is a -- an e-mail, which I may or may not be able to put my hands on -- in which [redacted] [redacted] informs you that she really wants to get her hands on important potential -- on computer evidence, that it's important potential evidence, and she had a plan to get it.

So, the question is whether you knew at the time that there was -- that the investigators had identified this computer evidence as being out there, and that they believed it contained a potentially very significant evidence against Epstein, computers, surveillance cameras, given his activity --

A Right.

Q -- in his home --

[redacted]: He's not on it.

BY [redacted]:

Q All right. She did not inform you. She informed someone else that we -- she informed Sloman and Menchel on July 3rd, and Lourie. My apologies. You're not on this.

Where she advises them that she wants -- we want to -- "we want to get the computer equipment that was removed from Epstein's home prior to the state search warrant as soon as possible." So, there was the stuff out there, and --

A Right.

Q -- as of July, there was an abiding keen interest in getting it, and the defense team was resisting the prosecutors efforts to get it. Were you aware of that at all?

A So, you -- I think you asked about that in your questions to me.

Q Right, I did.

A I have no recollection of -- of this computer evidence that --

Q All right.

A Did the question say that -- without getting into specifics, that there was a grand jury issue around this?

Q It does. It --

A I don't have that --

Q It is addressed in the non-prosecution agreement if you look at the final non-pros --

A Yeah. I don't have --

Q It's referred to --

A The question that you asked, what question was that?

Q The question was whether you were aware that that was something that the prosecutors wanted to get?

A I don't -- I don't have a recollection of some computer evidence.

Q All right, and -- and --

A But I think -- is there?

Q Are you --

A What was the question?

Q -- aware that [redacted] was instructed by her managers to delay her efforts to get this computer evidence, because the defense were resisting those efforts, and it became an issue of -- an issue that was in play in the negotiations?

A I have -- I have no recollection of that.

Q Okay.

A If you can give me one second?

Q Sure.

A Pending federal -- and so, your question said that there was litigation pending in federal court relating to the U.S. Attorney's efforts to obtain --

Q Yeah.

A -- computer evidence?

Q Without going into further detail.

A I -- I have no recollection of any litigation pending in federal court regarding that.

Q All right, and were you -- did anyone suggest to

you and your team that the -- or, getting to a plea deal was premature, because it -- you needed to get this evidence first, so that you knew whether you had potentially some very important evidence again Epstein?

A I have no recollection, and if anything --

Q Okay.

A -- I think there was a desire to move quickly as opposed to slowly.

Q On the plea?

A Yes.

Q And do you -- do you know where that energy came from? Who was --

A I --

Q --wanting to --

A -- I don't, but --

Q -- move quickly?

A -- as I recall -- so, for example, when we were setting up the meeting in September, there was a -- a request to set it up in August as opposed to September, and we had to push it back to September because of vacations or something.

Q All right. So, in addition to not getting the computer evidence, the government curtailed the investigation to a large extent, despite finding more victims. There were witnesses who were not interviewed, things that were not searched, property that wasn't searched, target letters not

served. Do you -- so, these all would have been steps taken by the FBI to enhance the federal investigation, right? As opposed to back to the state --

A Right.

Q -- case that this was sort of --

A Yeah.

Q -- being returned to.

A Right.

Q Was this --

MR. TODD: Are you asking Alex if he's aware of all the things you just said?

BY [redacted]:

Q Were you aware of all -- of those steps that were being foregone, or foreclosed?

A No. My -- my assumption would have been, we may have to go to trial, and so we should continue to develop the basis for trial. So, if I could, for example, I think I -- after Drew came down, I said if we go to trial, can you be on the trial team? I cite that, because I'm thinking, we may have to go to trial.

Q Right.

A Why not get Drew who's from Miami on the trial team?

Q So, is it -- is it your understanding that the federal investigation, notwithstanding the drafting of this

NPA, was still continuing?

A Yes. We -- you know, my understanding is you run these on parallel tracks, and again, I'm -- I'm sitting here inviting the head of CEOS to be part of the trial team, and talking about how to formulate the trial team.

Q Okay.

A That -- that implies that I was clearly thinking we might be going to trial.

Q All right. When you first received the draft of the non-pros agreement, and this is 16a, it's a draft by [redacted]. Do you know who came up with the -- the -- it sounds like you didn't, but who came up with the name or the moniker non-prosecution agreement?

A I do not.

Q Do you know what this was modelled on, if anything? Where it --

A I --

Q What the genesis was?

A I do not. I noticed from the contemporaneous e-mails that initially it was done differently, and I think it was [redacted] Lourie who said write it as a contract, or I think there is -- there is an e-mail to that effect. Someone may recall it better than I, but --

Q This version of September 10, which is the first business day after that --

A Yeah.

Q -- September 7th meeting, from [redacted], goes to her management up through you, and you do a rewrite almost right away, adding original state charges which at that point were all still in play, and you also added -- this is Exhibit 16b -- a statement that it would be Epstein's job to move the state to add additional charges, and that -- that latter piece is on page three, just below paragraph eight. So, you were --

A Can I -- can I back up a second?

Q Sure.

A When you say I did a rewrite, is there some indication of what I did a rewrite of?

Q Yes. If you compare the two --

A Right.

Q -- there's -- there are things that are bracketed in yellow in Exhibit 16b, which represent --

A Right.

Q -- the changes from 16a.

A Right.

Q Okay. So, those are the two things that are different, and they're referenced in your -- your message --

A Yeah.

Q -- at the beginning. We bracketed them just to make it easier for you to -- to recognize --

A Right.

Q -- that. So, my point is that right from the beginning, you were participating in the process -- in the drafting process.

A Oh. So -- so, I would -- I would characterize that as not participating in the drafting process, but approving a draft. There is -- there is a --

Q I --

A -- slight --

Q -- I did a small --

A -- difference.

Q -- rewrite.

A Yeah. And so, something comes -- here's how I would distinguish. Someone that's participating in the drafting process is sitting at the table with two or three people, drafting it as they go, versus something goes through the management chain, and someone in the supervisory chain says, can you change A, B, or C?

Q All right.

A I -- I clearly -- you know, here and in other places, it looks like I'm inserting the same themes, which is deferring to the state -- let's mention the state charges --

Q Mm-hmm.

A -- and we can't force the state to do anything. And so, I -- I'm adding to this. I'm clearly aware of it and

approving it, but I wouldn't say that I was drafting.

Q Fair enough. Did you read it?

A I would assume that I read it, or else I wouldn't have edited it.

Q All right. So, we have a draft from [redacted] -- a working draft on September 10 with a small rewrite from you. There is in the Exhibit 17 series indication that -- of the kind of activity that [redacted] was going through to come up with a federal plea, but eventually she and the defense attorney who is most actively working on this, Jay Lefkowitz, turn back to the NPA, and if you look at 17d, just to make the sort of staffing clear, you know, of course [redacted] has left, [redacted] is going on vacation as of September 15, and so [redacted] Lourie has helped finalize. So, the finalizing of the NPA, the final version of which is in Exhibit 22, falls to [redacted] with [redacted], right?

A Yes.

Q Okay, and [redacted] puts you on notice in 18b in that process. This e-mail in 18b is sort of a follow on to 18a. Do you see it comes one minute after your e-mail in 18a? It's a response from her to you, only in which she makes note that the defense, "tried to reopen all the loopholes that I had sewn shut."

A Yes.

Q So, it's fair to say that you're kind of -- you're

on notice that they're being difficult?

A I -- I -- that's fair.

Q Okay. In the course of that being difficult, 19a is an e-mail to you from [redacted] on September 18 in which she represents that -- or, explains that the defense is -- is -- that things are kind of falling apart with the negotiations, and she fears the deal is going to fall apart completely.

MR. TODD: Should we take a quick break here? You're losing your voice.

[redacted]: I'm fine.

MR. TODD: You could probably use a minute.

[redacted]: All right. We'll take a break.

THE WITNESS All right.

[redacted]: A four minute break.

MR. TODD: Four minutes, that's --

[redacted]: Okay.

(Off the record.)

BY [redacted]:

Q Back on the record. Looking at Exhibit 19c, you say -- you write to [redacted] regarding whether you're available to -- at a time when she's going to be hashing out language. You advise her that -- but I -- "I don't think I should be part of negotiations. I'd rather leave that to you if that's okay."

A Yes.

Q Why did you say that to her?

A Because she was the line lawyer involved, and I thought -- I think it's important for a U.S. Attorney to, absent truly exceptional circumstances, to not get involved in sort of the negotiations. You can meet, like I did in September, reaffirm the position of the office, back your AUSA, but ultimately, I think your trial lawyer needs discretion to do their job.

Q At this point, of course we know [redacted] is on vacation.

A Right.

Q And you were aware, were you not, that [redacted] Lourie was about to decamp for Washington? In other words, he left at the end of September --

A Yes.

Q -- to become the chief of staff and principle deputy, assistant attorney general --

A Correct.

Q -- for [redacted] --

A Yes.

Q -- who headed the criminal division. Okay, so it was really just the two of them at this point, and with nobody apparently involved between them and you.

A So, fair, but when you say just the two of them, [redacted] is an incredibly experienced lawyer. So, to say just

the two of them is not to take -- not -- should not imply that there was an experience in that --

Q I --

A -- table.

Q I certainly in no way intended to --

A Right.

Q -- to --

A Fair.

Q -- suggest that.

A Fair enough.

Q Looking at 19d, in which [redacted] is on page two, looking at the latest draft from [redacted], meaning [redacted], and this is in the -- in the -- in the throes of negotiating the NPA. [redacted] is essentially telling you he agrees with [redacted] observations that the defense are just up to all kinds of nonsense in this deal, and constantly changing their terms, and just not apparently negotiating or dealing with these warring drafts with the drafting process in good faith.

Again, that's my characterization, but [redacted] says to you in this e-mail, "I suggest we simply tell him, [redacted] that his counteroffer is rejected, and that we intend to move forward with our case." Right? And then your response is interesting. You say to him, why don't we just -- why don't we just call him? Tell him, one, you

agree, and then change things. Two --

A You being [redacted] agrees and changes things?

Q Correct. Tell him you agree, meaning, [redacted] agrees?

A No. No.

Q I see.

A Yeah.

Q Tell him --

A Tell him, you, [redacted], agree, and you change things.

Q I see.

A That is not acceptable to us, and is in bad faith. Stop it, or we'll just indict, and then try to work it out.

Q So, is the try to work it out -- if the -- if numbers one and two are what you should tell -- what [redacted] should tell [redacted], is number three something [redacted] should tell [redacted], or what you're telling [redacted]? Try to work it out?

A It's what I'm -- what I'm -- what I'm telling [redacted].

Q Okay. So, just to be clear, you say, tell him, meaning you, [redacted], tell Jay, number one --

A So --

Q -- and number two, but number three is then what you're instructing [redacted] to do? I --

A Yes.

Q -- I'm just trying to understand.

A Yes. So --

Q Okay.

A So, my understanding of this is, they're being difficult. Hey, this isn't the first time that an attorney agrees to something and then goes back and tries to pull a fast one. So, tell him you're onto this, that they need to stop it, or we'll indict, but then that we'll try to -- you know, [redacted] should try to work it out.

Q Okay.

A But they need to stop this tactic.

Q Did you really think that was going to be effective with this defense --

A I don't know.

Q -- team?

A You know, I think one of the hard things with this is, if it was right on September 6th, it remained right, irrespective of really -- I think I say, sorry, I know it's a pain.

Q You do.

A This 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.

Q All right, and is that sort of --

A You had a question?

[redacted]: I was going to, but [redacted] was going ahead.

BY [redacted]:

Q Is that -- is that consistent with your sort of way of doing business, being even, and working it out?

A Yeah. This is our position. It's not a bluff. It's what we want. You work it out. People yell and scream on the other side. You work it out. If not, then we indict.

Q What would have been the tipping point for you? What would have caused you to say, okay, I agree with you, [redacted]. I agree with you, [redacted]. Let's indict?

A So, it's really difficult to speculate, but I think the tipping point would have been a failure to reach -- it was pretty clear. Jail time, registration, restitution. Okay, we moved from 24 to 18 months. That was a give and take. But ultimately, if they came back and said, we can't agree to these terms, then we indict.

Q All right.

BY [redacted]:

Q It seemed like your troops were telling you, we've reached the end of our rope. We really want to just go forward and indict.

A Right.

Q And you were coming back with, tell them again that the defense is being difficult, but I want you to work it

out. Does that tell your troops basically that where your priority is, you want them to get to this resolution, and if they have to give up stuff, it's okay -- it's really okay, but you want this resolution?

A So, it's not if you have to give up stuff. I'm not telling them to give up stuff. I'm not telling them to negotiate things away, but I think -- the dynamic from my perspective is incredibly -- so, there's a tactic that counsel sometimes take where they negotiate, and then they try to come back and renegotiate, and that is, to my thinking, one of the most annoying tactics that you can have, and it -- and it creates a lot of -- of frustration, and what I'm trying to say is, look, they might be frustrating folks, but if this had been worked out -- so -- so, looking at this, we thought we had an agreement, and then they changed things, and I'm saying, look, if you thought you had an agreement, tell them you had an agreement.

Don't let them change things. I understand it's frustrating to you, but if it was right two weeks ago, the fact that they are frustrating attorneys doesn't change the underlying legal analysis. The attorney's behavior doesn't inform the rightness or wrongness of a certain disposition, to a point.

BY [redacted]:

Q What's that point?

A So, I think after the -- now I'm calling it an NPA. 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.

Q In what respect?

A To the extent that this was -- going back to, for example, the public corruption prosecutions that we had, one of the values of it was to have a public figure stand up and say, I did this, and plead.

One of the values was the, you know, avoiding a long and messy legal process. And so when you put all of that together, those -- you know, this is why I say it's not quite -- this was the factor that we'd consider, that it's all of this put together, and in something that could have been very positive for the victims and for sending a signal, as it dragged on, became exhausting and negative for the victims.

It put us in a position of what do we do with notifications. It put us in the position of a lot of appeals to Washington. It put us in the position of having to deal with complicated legal issues that actually got more messy in terms of how does a federal 22.55 relate to a -- to a state charge, and had all of that been known, I do think this would have proceeded differently.

Q Differently in what way?

A So -- so, if I had factored all of that -- like, I can't predict it's --

Q Right.

A -- what I would have done, but I think if I had known all that, this could have proceeded very differently. I was very frustrated with the October to June time period.

Q So, if you had been back in that timeframe in early September, looking at this with, I don't know, what, Harry Potter character it is --

A Right.

Q -- but whoever can see into the future, and -- and anticipated or foresaw --

A Right.

Q -- what would have happened, would you have simply said, look, we're not going to go the state route, we'll go the federal route?

A Quite possibly.

Q All right.

A And let me sort of -- we'll probably get into it, but at some point, I do think the post versus the pre-signature time period was different for any number of reasons, and we'll probably want to talk about that.

Q All right. We will, but now, I'd like to turn to some of the terms of the --

A Fair.

Q -- the NPA, because you did make -- let me -- let me make sure that this is correct --

[redacted]: You skipped this one.

BY [redacted]:

Q Oh yeah, before that -- thank you, my colleague reminds me 19e is an exhibit that has a -- an exchange between you and [redacted] Lourie about the -- at a time when the plea agreement -- the federal plea agreement --

A Right.

Q -- was still in play, and the issue is whether you should sign it, and --

A Right.

Q -- you didn't want to, because you never do, but you say at the bottom, we should only go forward if the trial team supports and signs this agreement. What did you mean by that? The -- the first part of it?

A So -- so, what I meant by that was I got something that the -- that is -- the document was unusual. So, my signature appearing on this document is not in and of itself unusual.

Q And this would have been the plea agreement -- not the federal plea agreement, not the -- or was this about the NPA?

A This was about the NPA.

Q Okay.

A Right, and so the NPA had my signature. Now, the NPA's almost too generous.

Q Mm-hmm.

A So, that in and of itself is not indicative of something, but it does raise my concern. Is this something that ultimately the trial team does not feel comfortable with? And if it's something they don't feel comfortable with, then they should speak up and let me know, because we shouldn't go forward with it.

Q And did you ever have a conversation or a discussion about that issue, other than mentioning it?

A Not -- not to my recollection. I would --

Q Okay.

A -- assume based on this that [redacted] would read it and would take me at my word and say, look, if -- I think you're going in the wrong direction, Alex. You know, I think you're going in the wrong direction, or I'm uncomfortable with it.

Q Okay. All right.

BY [redacted]:

Q Did you ever have a direct conversation with [redacted] about wanting her to sign the agreement as opposed to yourself?

A I -- I did not. This was my -- my communications with [redacted], and -- and I really meant that if at the end of the day, my team isn't comfortable, then you shouldn't go

forward.

Q You never recall hearing from [redacted] that she was not comfortable moving forward with the plea agreement?

BY [redacted]:

Q The NPA?

A I did not hear -- I don't recall hearing from [redacted] that she was not comfortable. I know that at various points she became frustrated. At various points, [redacted] became frustrated, but they were negotiating this. If at some point they did not -- they thought this was a mistake, or wrong, or unjust, I would think that they would tell me.

Q What would you have done?

A Sit down and really have a serious conversation about where this is going, and sit down and hear them out, again, even if -- at this late phase.

Q Right.

A Would be -- I would -- I would think that that's what I would have done.

Q All right. Let's turn to the NPA. What is it? Exhibit 22? Did you read it? We know that you made some final tweaks to it. 22.

A So --

Q Is the final -- as signed --

A 22. And so, I would -- again, I don't have an independent recollection of reading it. I would not have

made tweaks to it without reading it.

Q Okay.

A And so, I think you can infer that I read it.

Q All right, and let me say, you -- you were clerk to an appellate -- a very eminent appellate judge, and you did -- did you do appellate work --

A I did.

Q -- yourself? So, you were somebody who's an appellate lawyer, who has that experience at a high level, is often more sensitive to words, and phrasings, and to documents, contents, than might be, again, to be -- to caricaturize a little bit, but a more of a shoot from the hip trial attorney who spends his days, you know, in a -- in a rough and tumble courtroom, and is it fair to say that you were more of the former, and more --

A So, I would push back. I think that's not respecting the talent of the trial lawyer, and particularly on these types of agreements or documents, these are folks that sort of have expertise, because even if this was sui generis, they have seen a lot of this.

Q I am not suggesting that [redacted] [redacted] and [redacted] Lourie --

A Right.

Q -- were not up to this.

A Right.

Q Because certainly she also had a lot of appellate experience. I'm simply noting that -- that this seems to be sort of in your wheelhouse.

A What -- look, I apologize. Whether -- I'm not sure what in my wheelhouse means. I -- you know, I appear to have read this. I suggested some edits. As I would have approached this document, my assumption would have been I'm looking at it from my earlier concerns, that -- the policy level concerns.

Does it capture that we're deferring to the state? Going back to the put in the petite policy versus not. Does it capture the policy concerns of -- of appropriately understanding that we can't force the state to do something? And does it capture the essential elements of the terms that we had looked for, the --

Q All right.

A -- you know, the imprisonment, registration, and restitution.

Q All right. So, one of the things that is a little striking that's different from the original draft NPA, even as amended by you. So, let's pull out the 16b. Is that -- is what I would call the non-admission of guilty, so, in the -- in the first page of 16b, the first paragraph that's the first clause after the one through five statutes listing, in 16b, reads, "It appearing that Epstein has accepted

responsibility for his behavior by his signature on this agreement."

A I'm sorry, you're on 16b?

Q 16b.

A Okay. It appearing, yes.

Q Okay. So, his is -- and this is not -- I mean, this seems to be fairly typical sort of plea agreement language, right?

A Yeah.

Q And if you look at the top of the final NPA, 22, the third, it appearing clause --

A I'm sorry. Where --

Q Fine.

A -- where are you?

Q 16b.

A Right.

Q Has --

A The third, it appearing?

Q It appearing he has -- the -- down at the bottom.

A Yeah.

Q It says -- refers to at the --

A It has accepted responsibility.

Q -- second up.

A Yes.

Q Exactly. He's accepted responsibility.

A Right.

Q And then above in the fourth, it appearing --

A Yeah.

Q -- it references the fact that, it appearing, "Epstein has committed offenses against the United States."

A Yes.

Q Okay? So, he -- there's a sense of acceptance of responsibility. In the final NPA, which is 22 in your right hand, the --

A Right.

Q -- third it appearing clause says nothing about Epstein committing offenses. It simply references the U.S. Attorney's Office and the FBI having conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein, including --

A Right.

Q -- the enumerated statutes. And then following the enumerated federal statutes, there's no reference at all to Epstein accepting responsibility. Do you -- do you -- do you view that -- the removal of that acceptance of responsibility to be something that was appropriate?

A So, trying to reconstruct, the focus was on -- and I know I'm repeating myself, but jail time, registration, restitution. Whether he accepted responsibility for a federal or for a state, I think my focus would have been on,

these were the terms. Does this encompass those terms?

Q So, as that concession is not something material as far as -- I don't want to use the legal term material, but it wasn't important --

A So -- so --

Q -- to your objectives?

A So --

Q Is that right?

A First, I'm not sure -- so, it wasn't a concession from that -- that -- those four bullets, right? It was a concession from an earlier draft.

Q Right.

A And so to say it's not important is, again, there was an early draft. It changed. The focus was in any give and take, drafts change. The focus was, did he go to jail? Did he have to register? Did we have restitution?

Q All right.

BY [redacted]:

Q Do you remember noticing that change, and thinking it --

A I --

Q -- just doesn't matter?

A I don't. In all -- in all candor, until right now, I was not aware of that -- of that change. I doubt I would have taken two documents and sort of put them side by side,

as opposed to, does this capture what we're trying to get to.

BY [redacted]:

Q So, does that --

A I was aware of the 24 to 18.

Q Mm-hmm.

A But up until this question, I wasn't aware of that change, to my recollection.

Q So --

BY [redacted]:

Q And you're aware of the 24 to 18 because you noticed it in the NPA, or because somebody told you separately? Or do you know?

A I can't -- I can't say other than I was aware.

BY [redacted]:

Q In the final NPA on page five, there's a series of things that are included at the bottom of that page, in that long paragraph, and the one that I want to focus on is the immunity portion.

That was certainly not in the original draft proposed by the U.S. Attorney's Office. In this paragraph, the United States agrees, "That it will not institute any criminal charges against any potential coconspirators of Epstein, including but not limited to [redacted] Did you notice that provision?

A I -- I don't recall focusing on the coconspirator provision. To the extent I reviewed this coconspirator provision, I can speculate that my thinking would have been the focus is on Epstein's -- Epstein's going to jail. Whether some of his employees go to jail, or other, lesser involved, is not the focus of this.

Q All right. This particular provision, as you know, has been --

A It has --

Q -- enormously --

A -- generated --

Q -- criticized.

A Enormous, yes.

Q For a number of reasons. One of which is that it is blanket transactional immunity. It gives blanket immunity to unnamed, unidentified --

A Yes.

Q -- potential coconspirators. People who, even in the future, if evidence is developed against them, as long as they could be considered coconspirators of Epstein in this conduct, they have a get out of jail free card. Do you have any idea where that came from?

A I don't, and I don't want to characterize it as giving -- I understand how it could be read that way in the record. I don't want to characterize it, but I don't know

where this could have come from.

I was -- I would have reviewed this for the policy concerns. Did it do the -- the sort of the bullet points, and my assumption, rightly or wrongly, would have been that [redacted] and [redacted] would have looked at this, and that this was -- was appropriate. I understand your point.

Q All right, and I believe the point you were referring to is that when I use the term jail -- get out of jail free card, that you recognize this is limited to your district?

A And that's an important point --

Q Of course.

A -- to recognize.

Q Of course, but nonetheless, this does give blanket immunity to people -- you have no idea who they might be, correct? If you had focused on it, would that have raised some question in your mind?

A If -- if there was a discussion like what we're having here, then it very possibly could have raised. It's difficult to say it would have, but I understand your concern.

Q All right, and the named individuals, [redacted] are all individuals who were described in the pros memo and so on, and the pros memo does identify that at least one of these

women herself engaged in sexual activity with minor -- with minor girls.

A Yeah.

Q So that she has liability in and of her own --

A So, I don't have an independent recollection of that, but when I reviewed the pros memo, I did notice that.

Q All right. Now, you told us this morning that you have no recollection of that actually having read the pros memo back at that time.

A I think what I said was I don't have a recollection of whether I did or did not read the pros memo. I have since, when you've provided it, read it, and I note that it does reference her.

Q Having read it now, does that change your view of anything that we've talked about so far today?

A So, reading it 12 years later, knowing all of this, possibly, and part of it is I do think we approach these cases differently, and I think these cases would play out very differently in court today. I think it's very difficult to sort of go back and recreate a thought process from 12 years ago.

Q And if you were relying back then on the characterization and summary and recounting of this case to you by your people -- your senior people, [redacted] --

A Mm-hmm.

Q -- and in particular, [redacted] --

A Right.

Q -- would you -- do you -- do you have a -- did -- did anyone in that ground, including [redacted] Lourie, in any way to your recollection characterize this case as not serious, or as trivial, or as involving non-important -- unimportant victims? In any way try to diminish either the conduct or the victims?

A Not to my recollection. I -- I do think there was a concern as to how the victims would present in court, given impeachment, and given contradictory statements, but that's different than trivializing the case.

Q All right. Okay. Back to the immunity provision. Were you aware that none of the four named coconspirators had cooperated?

A I was not. To my recollection.

Q And do you recall any other case in which blanket immunity in the U.S. Attorney's Office --

A Right.

Q -- was -- in which blanket immunity, really without -- virtually without limitation --

A I -- so, I --

Q -- was granted?

A I don't recall discussion around this provision, and a general matter, I did not discuss the -- in typical

cases that came -- that bubbled up to my level, it was -- the focus was on who the prime, you know, target is, and not on what we would do with the coconspirators. And so, I don't recall, but that doesn't mean it didn't happen. That's just not typically something that I got involved with.

Q And likewise, non -- immunity being given to non-cooperating coconspirators, or codefendants? Is that something that was done in your office?

A Again, I -- as a typical matter, we -- I did not get involved with these, but let me -- let me also say that this wasn't a federal prosecution in the first place. And so, this whole thing is sui generis to some extent.

Q It is, but the -- but the grant of immunity is real, right?

A I understand where you're coming from.

Q All right. If you had focused on that provision, would you have insisted it come out?

A One question I would have had is, if we're naming -- as I sit here and sort of focus as we are now, but this is with the benefit of hindsight and criticism --

Q Mm-hmm.

A -- if there are specific folks, why do we have any potential language? Because that seems quite broad.

Q It's -- it's without limitation as to people as long as they're coconspirators, right?

A But -- and so what is -- what is the need for that?

Q Okay.

A And I would --

Q I see.

A And so, if we had this kind of discussion, I would be sending [redacted] an e-mail saying, what's the need for this? What's up?

Q But to be clear, as we sit here today, you have no recollection of having noticed that?

A I -- I don't have a recollection of -- if I read over it, my assumption would have been that [redacted] and [redacted] thought this through and sort of addressed it for a reason.

Q All right, and if --

BY [redacted]:

Q And did you have any -- anyone ever come to you with the evidentiary issues and say, we need to track this down before we give such a blanket immunity?

A I don't recall any conversation around coconspirators.

BY [redacted]:

Q This is where there is a mention of computer equipment. There is a provision later in that -- in that same paragraph that provides that, "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," --

A Right.

Q -- "violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and 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 in violate until all of the terms of the agreement have been satisfied." Do you -- do you -- do you view that this agreement to suspect the -- at least certain aspects of the federal investigation to have been an appropriate concession?

A You know, again, my -- my focus was on certain points. I would have assumed reading this that this was thought through.

Q Okay.

A And that -- and that people had.

Q Had -- had --

A Had thought it through, you.

Q All right. Okay. There is what's been criticized as a confidentiality provision.

A Yes.

Q Right? And that's on that same page, page five, paragraph -- numbered paragraph 13, which provides that, "The

parties anticipate that this agreement will not be made part of any public record."

And then there is an exception for FOIA or compulsory process from a court, in which the government will provide notice to Epstein. That seems to be limited to the placing of this document on the public record, right? As opposed to sharing it, or disclosing it for whatever purpose to individuals. Did -- is that -- is that a distinction that makes sense?

A That is -- that is a fair distinction upon reading this. I'm not sure that that is a distinction that was -- I mean, I'm basing that on my reading currently, and not as a recollection.

Q And in fact the parties, both defense counsel and even the U.S. Attorney's Office took the position that this should never have seen the light of day, even to be disclosed to, you know, victims or other parties and interest, except for filing it, or except for sharing it on a limited basis with law enforcement. I think there were e-mails that talk about if we share it, we'll tell them not to disclose it.

A Mm-hmm.

Q Is that sort of overstating what this paragraph requires?

A Possibly. I can -- you know, we can get into that, and we can discuss it. I would need to understand a little

bit more. I know there was litigation around disclosure on this, and I'd need to understand much more the positions that we took and the why before commenting on them.

Q There's -- in Exhibit 23, there is a discussion of the -- the -- whether the NPA after it has been signed could be revealed -- the existence of it could be revealed to the police chief, or even the FBI, or the girls, and [redacted] in the middle of page one, or two thirds of the way down on page one of Exhibit 23, proposes that if we tell anybody about the NPA, you just ask that -- that the recipient of that information not disclose it.

And you then at the top of the page to Lourie and [redacted] and [redacted], who is going to take over [redacted] Lourie's position as the managing AUSA in West Palm Beach, should talk with you about it on Wednesday, about the -- you should talk about who we tell, and how much. Do you remember that conversation, and --

A I -- I don't. I know there were several concerns about leaks and media, and I imagine that we had a conversation quite literally about who to tell, and how much.

Q And did you -- did you feel that this -- at the time, as best as you recall, did you feel that that clause bound you to not tell anyone?

A So, my recollection of the clause, whether it was -- whether it was this clause or whether there was a

discussion, I was -- I was aware of this provision, and my recollection of this provision is at some point it was raised as something that -- that was the subject of negotiation.

Q Okay.

A That the office policy was that we -- that these types of deferred prosecution agreement is not made part of the public record, and --

Q Mm-hmm.

A -- therefore that this is not a substantial concession --

Q Mm-hmm.

A -- because in the typical course of business, this would not be part of the public record.

Q And that's because it's a non-prosecution as opposed -- agreement as opposed to a deferred prosecution agreement?

A So, deferred prosecution is not -- to analogize from a non-prosecution to a deferred prosecution, these are -- you know, if the non-prosecution is not typically part of the public record, the deferred prosecution, it makes sense that it follows the same.

And so, it seemed that -- it seemed a concession -- I understand how it was perceived publicly after the fact. At the time, it seemed that we weren't giving up much, because the typical policy is this is not part of the public

record, and individuals need to file a FOIA. And so by saying it's not part of the public record, and individuals need to follow FOIA, if that -- if that is viewed as a concession, it really isn't.

Q So, how would -- I mean, did -- is it -- is it understandable that Epstein would not want this document to see the light of day, because it describes the existence and nature and scope of the federal investigation --

A Right.

Q -- and also his concession to liability under 22.55?

A It's understandable. It was also my impression at the time that it would see the light of day, because --

Q Mm-hmm.

A -- if victims have 22.55, the ability to get 22.55, they obviously have to hear about it from somewhere, and given the press interest, eventually this would be FOIA'd. And so, from my thinking at the time, rightly or wrongly, this is a concession that's basically saying we'll follow office policy, and we're likely going to be FOIA'd on this anyhow, and it can play out in the FOIA. And so, is this really a --

Q Yeah.

A -- concession?

Q All right. Another piece of the -- the agreement

is -- is something that is absent, and that's the sort of typical language that you find in a -- I think in pretty much any federal plea agreement, which is, this agreement only -- the defendant understands that this agreement only binds the U.S. Attorney's Office for whatever district he or she is in, or --

A Right.

Q -- you know, and that -- and that truly what you would call global dispositions are unusual --

A Right.

Q -- for the federal government.

A And I would note, you know, and this is after the fact that it does say this district agrees.

Q Okay. Understood, and it's also has you as a party, not the Department of Justice.

A Right.

Q But it does omit that standard language, and do you know whether that was done sort of by mistake, or consciously?

A I -- I have no -- I can't speak to that.

Q All right. another piece is phrasing that you injected at the -- when you addressed the first -- where it was -- it was toward the end. Where --

A Right.

Q -- you talked about injecting the best efforts

language.

A Yes.

Q Okay. Does it -- what -- what's -- I believe you made clear why you did that. That is, to avoid the appearance of having the federal government be dictating anything, but why rely on best efforts, and to what extent is that even enforceable?

A So, first, let me -- let me say it was not to avoid the appearance. It was to avoid the actual legal discovery dictating, but -- so, Epstein understands that he has no authority to require -- that -- to undertake discussions and to use -- so, as I recall, if he did not plead, then there was no agreement.

Q No, no, no. This -- I'm sorry.

A Yes.

Q I don't mean to -- it appears in paragraph -- numbered paragraph --

A Right.

Q -- 11, Epstein shall use his best efforts to enter his guilty plea and be sentenced no later than the --

A Right.

Q -- set date, and then in the first paragraph after numbered clause 11, he will use his best efforts to ensure compliance with certain procedures, and best efforts to convince the judge of the Florida court to accept his binding

recommendation. So, best efforts kind of became a sticking point in enforcement, didn't it? Because what does it mean? What does best efforts mean?

A So, I think it's fair to say that one of the issues that came up after this was entered into was the U.S. Attorney's Office, at least from my perspective, was in a little bit of a bind because we had agreed to this, yet he wasn't turning himself in. And so, how do we deal with that? And so, that's not a phrase that I focused on at the time. I understand your point.

Q All right. I'm going to move on from those. Is there anything else on those NPA clauses?

A And finally, let me -- let me just say you didn't ask, we had incredibly experienced attorneys in the office. I assumed, rightly or wrongly, that this language had been thought through and vetted, and you know, sitting here 12 years later, I understand the issues that have arisen from it, but at the time, these were not issues that were focused on.

Q to your knowledge, who was involved in the drafting, other than [redacted] [redacted] on your side --

A Right.

Q -- and [redacted] Lourie, and you, to some extent?

A So, I can't say 12 years after the fact, but again, [redacted] Lourie, very experienced head of the Palm Beach Office

has prosecuted any number of cases.

Q In -- again, just to keep --

A Right.

Q -- perspective and context, the final week that this was being negotiated, [redacted] Lourie was in Washington, and bouncing back and forth on the weekends, because he was in transition to the front office here in the criminal division in this building. That's a factor in terms of being able to give attention to some details. Would you agree with that? It could be a factor?

A So, it could be a factor. On the other hand, I'd say that [redacted] wasn't leaving the department. He is professional. He knows his stuff, and you would expect a professional -- if they're reviewing a document, whether they're on vacation, whether they're looking to move from one part of the department to another, that you would expect them to review it, you know, fulfilling their -- their responsibility to sort of focus in and make sure that -- that it's -- that it encompasses what it should. And that's not a criticism of [redacted]. That -- that's saying that, well, that might be a factor. That doesn't lessen from my perspective reliance on his expertise.

Q Mm-hmm. Understood. After the NPA was signed --

A Right.

Q -- and [redacted] came back --

A Yeah.

Q -- right about that same time, he quite quickly identified a potential problem, and that was the commitment for the -- or, the agreement that the U.S. Attorney's Office would identify the representative for the victims. Do you recall him raising that?

A I don't recall him raising that as an issue, but I know it was an issue.

Q All right. It was an issue, and it was one that he raised as soon as he came back. So, there was an effort, which he conducted then in [redacted] absence to craft an NPA addendum to address that issue.

Do you -- are you -- are you aware that [redacted] received a copy of the NPA in November when Ken Starr wrote a letter to [redacted] asking her to review the 22.55 portion of it? Do you -- do you remember that issue?

A I remember that the issue was appealed to CEOS.

Q Okay. Well, it was -- it was appealed initially by letter to [redacted], raising an issue that was new to -- that had not been raised with you, and that is what led to your letter to Ken Starr on December 4.

A I will accept the timeline.

Q Okay.

A It's difficult without all the documents --

Q Sure.

A -- but yes.

Q And at the time that [redacted] saw the NPA, he sent a message to [redacted] about the -- about his view of the NPA, and you didn't see it, but I just wanted to name some problems that he identified with the disposition, and get your reaction --

A Mm-hmm.

Q -- to it. So, first, he says I'm not thrilled about the agreement, but he acknowledges that's out of his hands. He says in terms of the charging and sentencing provisions, he's getting -- Epstein is getting a much better deal than the average defendant, with the exception of defendants who have done physical harm to their victims or abused very young children, we haven't seen more egregious conduct, because of its serial nature. The area we need to be most careful about relates to the victims.

The U.S. should seek to ensure that the plea, which is not giving him serious jail time, provides the best means possible to address the harm he caused to the victims. That generally means restitution and/or therapy. While the agreement provides facility for the victims, the relevant terms still seem pretty advantageous for the defendant, and not all that helpful to the victims.

They get an attorney who will be paid by the defendant, which involves at least some conflict of interest,

or they could hire their own attorneys on a contingency basis, and they get waivers from the defendant when his plea would facilitate their civil cases in any event. Then, they still have to sue him to get anything.

Most times with wealthy defendants, we make them agree to a restitution fund, and then still provide that the victims can sue the defendant independently if they choose. We always make them clearly admit their guilt, no nolo pleas.

This is incredibly important to the victims. I would have taken the guy to trial unless the victims were clearly against it, and I don't think most of them are here. He then says to [redacted], who by this time is working for --

A Mm-hmm.

Q -- [redacted].

A Right.

Q So, that's the context in which he's addressing it. [redacted] specifies that, "[redacted] wouldn't and shouldn't address the agreement." So, that -- so that the issue that was then before [redacted], put there by Ken Starr, was the -- whether this 22.55 scheme or scenario set out in the NPA was appropriate. It appears that she then sent that back to you to address.

A Right.

Q But as far as [redacted] commentary on the NPA,

if you had been aware of this perspective at the time you were -- that you and your people were fashioning the NPA, would that have been helpful to you in -- in deciding out to proceed?

A So, may I?

Q Yes.

A Okay. I assume you've read the whole thing, but let me just take a --

Q I have.

A And so, a few comments. First, let me say, he was part of the September meeting.

Q Mm-hmm.

A And -- and to my recollection, these perspectives -- so, so, at least the outlines of the agreement were -- were disclosed at that meeting, and I don't recall this type of communication at that time.

Q Okay.

A I also recall that there was a lot of back and forth around this restitution fund concept, and our perspective was that the restitution fund puts the victim at a disadvantage --

Q Mm-hmm.

A -- because -- let me -- let me try to recreate. I don't recall the details, but I recall that there was a perspective that the restitution fund --

Q **Mm-hmm.**

A -- put the victims as a disadvantage --

Q **Mm-hmm.**

A -- and there is some reference to --

Q **It's the --**

A Was it an Alaska case?

Q **It's called the [redacted] case.**

MR. [redacted]: [redacted]

THE WITNESS I'm sorry?

MR. [redacted]: [redacted].

THE WITNESS [redacted]?

MS. [redacted]: [redacted] or [redacted].

THE WITNESS [redacted]?

BY MS. [redacted]:

Q **Yeah.**

A And so to the extent that there were better ways of crafting this, that certainly would have been -- been highly relevant, because to my recollection, we were not wed to any particular way of crafting it.

The -- the intent of the 22.55 was to come as close as possible to putting the victims in the -- in the position they would have been had he been tried and convicted federally. And so, the answer to your question is yes.

Q **Is yes, that would have --**

A Would have been helpful.

Q Okay. As you set about addressing the 22.55, you consulted with [redacted]. Do you recall that?

A I -- I recall consultations. I don't recall that it was specifically with [redacted], but --

Q Did you know her?

A Yes.

Q Okay, and do you recall the nature of your interaction with her?

A I -- I don't. I know from contemporary review of the record, that there is an e-mail from her.

Q It's 41a.

A 41a.

Q And what I -- what I want to ask is, is simply, 41a is -- is an e-mail in which you ask -- you note to [redacted], who was [redacted] --

A Right.

Q -- one of her deputies, and she oversaw CEOS. She, [redacted], mentioned to you that [redacted] was looking at this, which is the --

A 22.55.

Q -- 22.55, she contacts her counterpart in the civil division, [redacted], and there's an e-mail from him, which is the second page of this exhibit, which he copies you on. So, my question is, is this the extent of your interaction with [redacted] on this issue?

A I -- 12 years --

Q Okay.

A -- after the fact, I don't remember.

Q Okay. All right. The -- in Exhibit 35, there is a letter from Jay Lefkowitz in which -- I'm sorry, it's an e-mail from Jay Lefkowitz.

A Exhibit?

Q Exhibit 35 to you, and this is substantially later, but it has a sentence that -- or a phrase that we'd like to ask you about, and -- all right, it's highlighted at the top. It says, back in the beginning of -- back at the beginning of January, when we both agreed that there were significant irregularities with the deferred prosecution agreement, you called a time out. Is that accurate? Did you and he agree that --

A No.

Q -- there were significant irregularities?

A No.

Q Okay.

A And if I could, there are -- there are several instances where not just, to me, but to other people as well, Jay recharacterizes conversations.

Q Recharacterizes them inaccurately?

A Inaccurately.

Q Or misleadingly?

A Or misleadingly.

Q All right.

A What I recall agreeing to at some point is there was an appeal to the DAG, or there was an appeal in place, and I basically said -- I think there was a letter that I sent, saying if you want to appeal, go ahead. We're not concerned about this.

Q Mm-hmm.

A But that doesn't mean that I agree that there were irregularities --

Q All right.

A -- or that there was a time out, that's -- I'm part of a department. I'm part of a hierarchy. If someone wants to overrule me, that's okay by me.

Q All right. So, the NPA addendum was worked out, and the defense team continued its sort of multi-pronged assault. In the middle of the negotiations between [redacted] and Lefkowitz about the NPA addendum, that's when you had the much commented on breakfast --

A Correct.

Q -- on October 12, and you have stated publicly that at -- perfectly accurately that the NPA was signed, and that was a done deal. And so, that -- that this was not tied in any way to any effort to influence the terms of the NPA, fair?

A Fair, because the way this was reported was that I negotiated it over breakfast. It was signed, and that's really important.

Q Of course. There were, however, a number of open issues --

A Yes.

Q -- right? And in Exhibit 28, Jay Lefkowitz on page two, this is an e-mail to you, acknowledges your -- your breakfast on Friday. This is dated October 18, and -- and following -- following up on -- your conversation with him about the date for Epstein's plea.

So, he notes that, "You said you didn't want to dictate a schedule to the state." So, all I want to note is that when you had the breakfast, there was -- there was -- there were issues still open that were the subject of discussions between the defense and the U.S. Attorney's Office.

And -- and so, I guess my question is, while that was a meeting of convenience in a public place, in a location where you had business later that day, a speech, I believe, optically, do you understand the public concern that this was sort of a one on one negotiation on pending issues?

A So, I -- I understand how there can be concern. This, you know, it is -- it was not unusual -- in this case, I actually very intentionally waited, and tried not to have

one on one meetings, but there are other instances where I might from time to time have one on one conversations with the opposing counsel.

I don't remember the breakfast. I can speculate that one of the issues that was informing this was somewhere around this time, and I can't say with certainty that this was what it was, but somewhere around this time, there arose allegations that [redacted] had directed the designation to her boyfriend's partner, or something along those lines.

Q A former -- I believe it was a former law school classmate of her former -- of her then boyfriend.

A I don't -- yeah, and so I don't remember what the details --

Q Okay.

A -- were, but I know that that was a topic that he wanted to raise --

Q Mm-hmm.

A -- with me.

Q Did he at that breakfast?

A I honestly -- I don't recall the breakfast.

Q Okay.

A You asked me about one characterization of what I said in the record, you know, of that breakfast. I think I responded --

Q Mm-hmm.

A -- through, or my counsel responded, and they're pointing out that I seem fairly perturbed at how he inaccurately characterized something that I said. And so, we don't need to revisit that, but --

Q Uh-uh. All right. If you look at Exhibit 27, another sort of point, just to kind of --

A All right.

MR. [redacted]: Could we -- before we --

MS. [redacted]: Yes?

MR. [redacted]: -- leave -- are we leaving the breakfast meeting?

MS. [redacted]: No. This is --

THE WITNESS Okay.

MS. [redacted]: -- this is directly related.

MR. [redacted]: Okay.

BY MS. [redacted]:

Q And that is, Exhibit 27 is the second e-mail down, is from [redacted] to Jay Lefkowitz. The date is October 12, so that's the same day as your breakfast.

A Right.

Q And the date of it is not -- I'm sorry, the time is 9:48 a.m. Your breakfast was at 7:00. So, this would have been pretty shortly after your breakfast, and [redacted] writes to Jay Lefkowitz with a copy to you and [redacted] stating that he just got off the phone with you, that is,

[redacted] just got off the phone with you, and then he furnishes a revised paragraph one, which suggests -- I mean, I infer from that that shortly after the breakfast, you had a phone conversation with [redacted] about a revision to this paragraph, and that -- that that was likely something that you talked to him about. Again, I'm not --

A Right.

Q -- suggesting that this --

A Again, I -- I don't -- I don't recall the breakfast, so I can't say one way or the other. I -- I take -- I take your point. I don't recall seeing this.

Q All right. Well, it was --

A But --

Q -- you were copied on it. Okay. All right. [redacted], you wanted to --

BY MR. [redacted]:

Q I just wanted to point to Exhibit 30.

A Can -- can we back up a second?

MS. [redacted]: Sure.

THE WITNESS [redacted], I'm not sure whether your concerns are -- so, I would -- I would only raise the question where -- or, the point where, based on this, and I don't recall, so I can't speak, but [redacted] is saying, Jay suggests revision has been rejected. Here is our latest, [redacted].

And so, to -- there are multiple ways to read this. One is that this was raised. Another is that we're rejecting something that Jay had proposed, and --

MS. [redacted]: Mm-hmm.

THE WITNESS -- because I was meeting with Jay, I asked that [redacted] not reject it until after I met with him, and I -- I'm speculating, because I don't recall the topic, but it does appear that it says, Jay suggested revision has been rejected. Here is our latest.

MS. [redacted]: All right. Thank you. [redacted]?

BY MR. [redacted]:

Q Can we just go to Exhibit 30 quickly? There's some highlighted language. This is a letter from Lefkowitz to you on October 23rd, 2007, where he recounts, again, the things that happened, or his version of the October 12th breakfast meeting.

A Yes.

Q Are you at that --

A Yes.

Q -- at that point right there, Exhibit 30?

A Yeah, I'm there.

Q Okay. So, in the highlighted language, if you could just take a look at that quickly?

A Yes.

Q So, he is recounting that you had assured him that

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the office would not intervene with the state's attorney's office, and -- or contact the civil claimants, or intervene regarding the sentence that Epstein receives pursuant to a plea agreement.

A Yeah.

Q So, is he correct in his recounting that?

A Can you -- can you find that for me?

Q Yeah.

A So, again, I don't have an independent recollection. Oh, no, I'm looking --

MS. [redacted]: Oh, you have it.

THE WITNESS -- for something -- I don't have an independent recollection of that breakfast, but in the contemporaneous e-mails and the contemporaneous record, there is correspondence between -- between [redacted] and I, and you all asked for this, and I -- I spoke with my counsel, who then responded, and there's an e-mail exchange where there's an October 20 -- this was an October 23rd e-mail -- October 23rd letter.

And then there is a response that's drafted on October 25th. I don't know if we can find that. From [redacted] to Jay that specifically addresses the point, and then I respond -- [redacted] runs that by me, and I respond -- I edit the

letter, and I move it -- I sort of emphasize -- like, I make it firmer, and my edit says our office cannot and will not agree to this, and then my comment to [redacted] is, what do you think of this rewrite? Is it too strong?

BY MR. [redacted]:

Q What day was that?

A That was two days after this. I don't know if we can find that in the -- in the chronological record. That was October 25th. Let's just take a minute. Is that what you have?

MR. [redacted]: Sorry, apparently my ability to separate paper has failed.

THE WITNESS Okay. So, this is --

MR. [redacted]: Oh, I see.

THE WITNESS So --

MR. [redacted]: Sorry, go ahead.

THE WITNESS So, October 25th, I'm writing to [redacted], what do you think of this rewrite? Is it too strong? And it says, dear Jay, I'd like to take this opportunity to document our conversation of October 24th which clarified some of the representations in your October 23rd letter.

I write in particular because you indicated that your intent in writing the letter was to memorialize our conversations. Our agreement is limited to blank, blank, blank, dot, dot, dot.

I specifically want to clarify one of the items that I believe was inaccurate in the October 23rd letter. Your office claims that this office would not intervene with the state attorney's office regarding this matter, or contact any of the 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 received.

I'm quoting Jay's letter. As we discussed and hopefully clarified, and as the U.S. Attorney previously explained in an earlier conference call, such promises equate 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.

Thus, as is typical, we do not desire or intend to "intervene" the state attorney's office. The non-prosecution agreement provides sufficient mechanisms to achieve the goals of the federal investigation. You should understand, however, that there are some communications that are typical in these matters.

And so, I go on, and so my point is this was pretty -- based on -- if you reviewed my -- my e-mails and language, for me to write something up saying, what do you think of this rewrite, is it too strong?

Q **Mm-hmm.**

A And to edit [redacted] language to, our office cannot and will not agree to this, is not my agreeing with this characterization, but my polite way of saying, this ain't what I said.

Q Mm-hmm.

A Let me be clear.

Q And then --

A Again, no independent recollection. This is just based on inferring from the contemporaneous e-mails.

Q Okay.

BY MS. [redacted]:

Q What I would like to do is ask a couple of questions in a couple of areas about the main justice review.

A Okay.

Q Then take a short break, and then [redacted] has some questions that are CVRA related, and then we have some summary questions.

A Okay.

Q Is that all right?

A Can I -- before you -- you move on, can I address something that [redacted] was getting at, but it's getting late, so I'm going to circle back to -- to --

Q Please.

A -- something that I thought you would bring up.

MS. [redacted]: Sure.

THE WITNESS So, I think something to talk about is, pre-agreement and post-agreement, I think are different, and one concern that I had, and I certainly shared with -- with Mr. [redacted] was once it was signed -- so, we had the initial issues with the case.

Once the agreement was signed, we now have an overlying issue of, is there -- is the agreement binding? To what extent it's binding. And so, you -- your question was, why this level of process after the agreement was signed, and I said I think you'll get back to that. And I think to some extent, there are two parts to that.

One is, the office shouldn't be afraid of review. We're part of the Department of Justice, and review, whether it by main justice or now you all, is -- is part of the process.

And so, to the extent that they want to appeal to main, it would be unseemly to sort of say, don't review us, and I don't think it would help reviewing this, but the second part of it is if we were to walk away from the agreement, that not only are we litigating the underlying criminal case, but we're litigating a civil/criminal issue on top of that, which is, did the agreement bind? And that's something that did inform the exhausting amount of process that they -- that they received, which didn't change any of the outcome.

BY MS. [redacted]:

Q Didn't bind what?

A So, if we were to walk away, were -- could we still prosecute?

Q I see.

A Right? Because having signed that, we were now parties to an agreement, and that would overlay any sort of prosecution. And so, you had these collateral issues coming.

BY MS. [redacted]:

Q Just to make sure we're clear, are you saying that there is -- there would have been difficulty in declaring a breach so that you could then indict?

A Correct, and so we'd have to litigate over a breach, because as much as they had collateral challenges, they are very careful in saying, this is not a breach, we would just like review.

And so, one of the issues that overlaid the post -- the October going forward time period is on top of this, do we now want litigation over a breach? And so, I think that is why the post-agreement time period is different than the pre-agreement --

MS. [redacted]: Mm-hmm.

THE WITNESS -- time period.

BY MS. [redacted]:

Q But was part of that problem the result of the

change from, here is the date that you must comply, to, you must use best efforts to comply?

A Possibly. I would -- whether it was that, or others, or other parts of the agreement, we can talk about, but how -- once the agreement was signed, and they do not -- and they start pushing the date, there becomes a legal issue over, are they really in breach or not?

And I'm not -- I understand your perspective. I'm just saying, you know, earlier I said that there was a difference. You asked about the process, and I said from my perspective, there's a difference between the pre-agreement and the post-agreement time period.

And much of that difference is informed by, if we declare a unilateral breach, how does this hold up in court? Because now there's a signed agreement that the United States is a party to.

Q And are you saying that part of the reason, or maybe all of the reason that you continued to give accommodations and process and delay was because of the concern that you couldn't actually win a breach argument?

A I think that was a consideration. Another part of the considerations are if someone -- if a party wants to take -- I mean, main justice gave a lot of process. It wasn't -- it wasn't, you know, it wasn't just to -- to [redacted], but it was up to the -- it was just up to the assistant

attorney general for criminal division, to be polite, but it was up to the DAG.

And so, if main justice is going to give this degree of process, we should -- we should be in the position of saying go forward, as opposed to, I don't think it looks positive for the office to be viewed as fearing department review.

Q But were you giving the impression to the Department of Justice that you were the one who wanted this review so that they felt like, well, it's not just these defense attorneys who we can blow off, it is an United States Attorney who is asking for this review, and so therefore we need to give the courtesy of reviewing this?

A I don't think I asked for it as opposed to saying, if you would -- so, from the very beginning, they said that they're going to take this to the Deputy Attorney General and Attorney General.

And I said, if you want to, fine. They just finally did, but that was not -- that was not -- I think they raised that as early as August or September. And so, I'm not surprised that it ended up there. I also thought it was important to not be in the position of fearing review. I think if you look at the contemporaneous record, there's an effort on our part to expedite the review.

BY MS. [redacted]:

Q But there's a difference between, have at it, go, do what you want, up at main, and getting that --

A Right.

Q -- that non-opposition, and actually sending a signal to -- in the -- in the case of the criminal division, the assistant attorney general, in the case of the DAG's office, Mark Filip or his assignee, that you supported their review, that the -- this appeal process. You could have said, look, we're going to go ahead and get on with our business.

If they want to -- if -- you could have not so much opposed a review, but not seconded their request for -- the defense request for reviews, or not in fact invited the reviews.

A So, I'd be curious as to the timeline. I would take issue with, I invited the reviews, and I question whether, did they initiate the reviews on their own, and then I said have at it, or did I -- based on -- I mean, you've got more of a record than I do, or did I invite -- I don't -- I would say I did not invite the reviews.

Q Well, let me -- bad terminology, perhaps. Let me ask you this. If -- would've -- did you convey to the criminal division that you wanted them to review this matter, as requested by the defense attorneys?

A So, from my perspective, I'm thinking back 12 --

Q Mm-hmm.

A -- 12 years now. The very reason that we invited [redacted] to come down to Miami back in August was a sense that it would end up up here. And so, if it's going to end up up here, let's bring [redacted] down.

Let's make him part of the initial meeting. You know, if there are concerns, let's raise these. Let's address them. Let's get them out so that we don't end up, after we go forward with all of this, back in front of [redacted] and [redacted]. And it's much better to involve main justice earlier.

And so, I would say I was trying, if anything, to -- to involve main justice so that we didn't end up where we were, and it had been my expectation that that October date would have been met.

The collateral reviews afterwards, the collateral appeals, obviously did not go as -- as we planned, and -- and it was my sense, we were going to end up at main justice one way or another.

Q So, my question is in December, after the December meeting --

A Right.

Q -- that you had with defense counsel, and they told you they were going to go to main justice.

A Correct.

Q To the criminal division. Did you convey to main justice criminal division that you wanted them to conduct the review that defense counsel were seeking?

A So, I don't recall what I may or may not have conveyed. I think my recollection was, if they want a review, that's their right. We're not -- as a department, we're not in the business of telling individuals that they can't take something to your supervisor, or your superior. Whether -- whether main justice takes this on or not is ultimately at their discretion.

Q Would it surprise you to learn that the criminal division front office understood you to be requesting their review, the review that was sought by defense counsel?

A Would it surprise me? Perhaps. My -- my -- my understanding -- recollection is we shouldn't fear it. If they want it --

Q Mm-hmm.

A -- that's their right. I thought by inviting [redacted] down in the first place that we had at least tried to address that early on, but I also thought that we might end up there in the first place.

Q Were you -- were you aware that a decision was made to grant the decision by your office to grant defense counsel's request -- their insistence that [redacted] role in the criminal division review be limited to review

only, and that he not be permitted to -- or that the criminal divisions -- that the -- I'm sorry, I misspoke. That because [redacted] had already been involved in essentially being a prosecutor on the case --

A Right.

Q -- that the -- the criminal division and CEOs' role vis a vis this review should be review only. That is, they should be taken off the case as a -- as a partner?

A So, I sought e-mails to that affect in the record. I don't have an independent recollection 12 years --

Q You --

A -- 12 --

Q Do you think you were involved in that decision?

A To take them off?

Q Yes.

A To my recollection, I wanted them on as a partner, and I think the contemporaneous --

Q Mm-hmm.

A -- e-mails from [redacted] is, can you please come on board?

Q But that was earlier, before this review process?

A No. No. Even after the --

Q All right.

A -- review process, I think there are contemporaneous e-mails where we're saying it's important

that you be part. If we go to trial, it's important that you be part of the trial. As I -- as I went through the record, at least I remember --

Q Mm-hmm.

A -- an e-mail, perhaps from [redacted] to [redacted] that I'm copied on saying, hey, can you reconsider? It's important that you be part of this.

Q Reconsider the review only limitation?

A No, no. Reconsider being a part of the trial --

Q Oh. All right.

A -- team.

Q All right. So, to be clear, do I understand that you -- correct me, that you don't have a recollection one way or the other whether you requested the criminal division to conduct the review, or could it have happened, or --

A So --

Q -- what?

A -- to the extent I -- again, I'm going back --

Q Mm-hmm.

A -- 12 years. To the extent there is a request to, it would be in the context of, this is going to Washington. We're not fearful of this. Have at it.

Q And you would have conveyed that to Washington? Not just to the defense attorneys, is that correct?

A I imagine in some way. It's --

Q All right.

BY MS. [redacted]:

Q And just one --

A Yeah.

Q -- just one point. This one -- this one was a little bit of an --

A Yeah.

Q -- odd posture, however, because you had a signed agreement. And so, you know, basically a contract between parties --

A Right.

Q -- and particularly on Mr. Epstein's side, a party who was -- who was extremely well represented. So, was there any consideration on your part, instead of saying, hey, everybody's got a right to review, knock yourself out, go up to Washington, as opposed to saying something like, that ship has sailed, guys. You signed this agreement. We're going forward. You don't go forward. You're in breach. End of story?

A So, his counsel are raising serious issues that go to ethics and go to fundamental relationships between sovereigns. Is this 22.55 appropriate as a matter of federal policy? Is what we're doing an overreach, you know, is what we're doing contrary to law? Are we extracting -- I'm characterizing. This may or may not --

Q Mm-hmm.

A -- be accurate. Are we extracting unduly? Are we using criminal law to extract civil concessions in an ethically suspect way? Those are serious issues. That isn't just, is this a good case?

Those are -- those are genuine issues. I happen to think that, as I recall, that we were in the right or we wouldn't have agreed to it, but by the same token, let's assume that main justice ultimately disagreed. Is that from a main justice perspective? And maybe I'm coming at this from a -- you know, being informed by having been at main justice.

Q Mm-hmm.

A Where there was talk about, can you believe what this AUSA -- this AUSA may have done or may not have done without consulting, that these are serious issues. They establish precedent.

They -- you know, maybe the DAG would have said, this is not the kind of thing we'd support, and this is wrong. And so, at the end of the day, let's move forward, but if -- once these issues are raised, I don't think a U.S. Attorney should say main justice should not review this.

I think we're part of one department, and these are valid issues. Main justice doesn't need to take months to review this. Main justice can expedite their review, but

those are valid issues for the deputy and the AAG to review.

Q But one could look at it and say, well, those are all issues that the defense certainly knew about before they signed that agreement, and having signed the agreement, they are waiving all of that. That's what contracts are for. You've got all these issues, don't sign the contract.

A And if I could, I think there's a December letter. I don't know if it's -- if it's in the exhibits, but there's a December letter that I wrote that, for me, is --

Q This is the 19th?

A Maybe it's the 19th. Let me --

Q Or the --

MS. [redacted]: The 19th is the -- your sort of ill-fated NPA addendum effort.

THE WITNESS No. No, a letter to -- to Ken Starr that I -- that I wrote. But --

MR. [redacted]: The 4th letter is to Ken Starr.

THE WITNESS I'm sorry?

MR. [redacted]: Is it the December 4th letter?

THE WITNESS Yeah, it's probably --

MR. [redacted]: December 4?

THE WITNESS It's the December 4th.

MS. [redacted]: Yeah, it didn't have a date.

MS. [redacted]: All right. That's the one you wrote --

THE WITNESS So --

MS. [redacted]: -- to him --

THE WITNESS -- so --

MS. [redacted]: -- in response to the --

THE WITNESS So --

MS. [redacted]: -- 22.55 issue.

THE WITNESS I think, you know, I -- you know, I'm starting on page four. I have responded personally in some detail to your concerns because I care deeply about both the law and the integrity of this office. I have responded personally and in detail as well, because your letter troubled me on a number of levels. Upon your understanding of the negotiations are. The 22.55 was first discussed July 31st.

You know, and one of these four points in -- in the middle of 2007, your defense team decides -- asked to meet with me. On September 7th, I met. After considering of the arguments, and after conferring with FBI and [redacted], our office decided to proceed with the indictment. At that time, I offered to delay -- our prosecutors to delay presentation to allow you to appeal our decision if you choose. You chose not to.

Instead, you elected to enter into the NPA. Since the signing of this agreement, the feds in our office have addressed several issues that have arisen, although the

exchanges at the time were a bit litigious.

BY MS. [redacted]:

Q This -- could I -- could I thought point out --

A Yeah.

Q -- that this letter is in response to not the at the request for a review by the criminal division, that comes later. This is in response to Ken Starr's letter to [redacted] about -- raising 22.55 -- 22.55 issues that had not been raised with you before.

A Right, which is -- which is in essence a review. I mean, he -- they're coming to main justice, and you know, it's against these many previous foregone opportunities to object that I receive with surprise your letter requesting an 11th hour after the fact review of our agreement. Although it happens rarely, I don't mind this office's decision being appealed to Washington, and have previously directed our prosecutors to delay.

Indeed, I'm confident in our prosecutor's evidence and legal analysis. I nonetheless directed them to consult with subject matter experts in the criminal CEOS division to confer to our interpretation of the law before proceeding with this indictment. So, I guess, you know, we consulted CEOS.

I'm thus surprised to read a letter addressed to the department headquarters that raises issues that either

have not been raised with this office previously, or have been raised and in fact resolved in your client's favor.

I'm troubled likewise by the apparent lack of finality in this agreement. The AUSAs have been negotiating with defense counsel and have for sometimes 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.

Q So, this is your protest of, it sounds like Starr's effort to bypass you and go to [redacted] with new issues?

A It is, and I'm pushing back in that, was I inviting this, or was I sort of saying -- you know, that said, there must be some closure on this matter.

Some in our office are deeply concerned that defense counsel will continue to mount collateral challenges to provisions of this agreement, even after Mr. Epstein has entered his guilty plea and thus rendered the agreement difficult, if not impossible to unwind. In closing, I ask that you consult with co-counsel.

If after consultation with your defense team you believe that our agreement is unethical, unlawful, or unconstitutional, I'd ask us that you notify us immediately so we can discuss the matter by phone or in person. I've consulted the chief prosecutor in this case who has advised

me that she's ready to unwind the agreement and proceed to trial if necessary, or appropriate.

Q So, are you suggesting that this represents your protest of their appeal to [redacted] --

A So --

Q -- on this point?

A So, protest is a -- is a loaded word. What I'm suggesting is, this is not an invitation to appeal to main justice. This is sort of saying, enough is enough is enough.

Q But Mr. Acosta, in fairness, this, to clarify --

A Right.

Q -- this is in response to a letter directed to [redacted] dated November 28th --

A Right.

Q -- 2007 raising issues that he had not raised with you. The appeal subsequently that I was asking about was --

A Right.

Q -- an appeal for a de novo review -- a de novo review of the whole case.

A Understood, and my -- the reason that I -- that I read this, you know, is this is not -- on the one hand, I'm saying we do not fear review, but I don't -- this is not an invitation to defense counsel to do a de novo -- I am not inviting them. I'm not saying, let's have more review. I'm saying, enough's enough. If they appeal, that's fine, but

this is not an invitation to appeal.

Q But there was nothing you could do to stop their appeal, right? Except indict?

A And so the department shouldn't stop an appeal to main justice by -- you know, by threatening.

Q Fair enough.

A Because main justice has a right to review.

Q I should have said that -- that this -- that this appeal process was stymying progress in resolving the Epstein case.

A It was.

Q And you had no way -- you had no recourse, other than, at least theoretically, you could have just said, you know, we're --

A Right.

Q -- going to tear it up and indict, because you're in breach, in effect.

A Which would have raised civil litigation --

Q Litigation.

A -- overlays, which is the point that I thought merited --

Q All right.

A -- at least flushing out.

BY MS. [redacted]:

Q So, short of the department itself getting a move

on, and getting this thing through expeditiously, did you feel like you just had to sit there and wait for everything to get done?

A I'm not sure sit there and wait, but -- but ultimately, the case did not get better with time, and there was frustration on our apart about, you know, the witnesses are not getting better. You know, time --

Q They're getting older.

A They're getting -- which goes back to how a juror may see them.

MS. [redacted]: Right.

THE WITNESS And I do recall conversations of their getting older, you know, this case is not getting better. We now have the civil overlay that we need to deal with. And so, yes, that -- there was process, but while there was, should we just call it a day, all of that factored into, well, if the department is reviewing the department is reviewing.

BY MS. [redacted]:

Q Okay. Are you -- what is your view of whether the criminal division's review encompassed the NPA itself?

A So, the criminal division, by its terms, did not -- did not encompass the -- the NPA. I would say that's different than the deputy's review that encompassed the totality of the -- of the circumstances.

Q Okay. Did you discuss the -- did you have conversations with the DAG -- with Mark Filip about this case?

A Not to my recollection.

Q Okay, and we've already talked about the submission that [redacted] made on behalf of your office?

A Which -- which -- yes, which I thought was a fulsome submission, and included the draft indictment, the NPA. I believe it included the term sheet and other documents.

Q Did you or anyone else to your knowledge ask ODAG to review or assess the NPA, or approve it?

A Not to -- before signature, not to my recollection, but it was part of the ultimate review when [redacted] submitted the matter to the deputy, he included the --

Q It was --

A -- the agreement.

Q It was included. Their very brief letter, you remember --

A Mm-hmm.

Q -- the letter that [redacted] --

A Yes.

Q -- authored, that he authored. Addressed really only the issue of the appropriateness of the case for prosecution in your office. It did not in any way reference

the disposition, the plea agreement, or the NPA.

A So -- so, it was a brief letter. Based on [redacted] submission, I would have read that letter as, they had all the material in front of them, and they were saying that there was no misconduct or abuse of discretion.

Q That's correct, but they did not say that they contacted -- that they addressed or assessed, reviewed even. They didn't say they reviewed or approved the NPA.

A They -- I again, you know, I -- if the letter is here, I don't know, but --

Q Yeah. I have it right here. It's not marked as an exhibit, but this is [redacted] letter to Jay Lefkowitz and Ken Starr dated --

A Right.

Q -- June 23, 2008 It states that this office, meaning the Office of the Deputy Attorney General, has completed a thorough review of the U.S. Attorney's handling of the matter involving your client.

A And --

Q And addresses the -- or, states that they've received and reviewed submissions from both parties, and then states that the deputy attorney general, "Will intervene only in the most unusual of circumstances," in a U.S. Attorney's matter, and, "we do not believe such intervention is warranted here. Even if we were to substitute our judgement

for that of the U.S. Attorney, we believe that federal prosecution of this case is appropriate. Moreover, having reviewed your allegations of prosecutorial misconduct, and the facts underlying them, we see nothing in the conduct of the U.S. Attorney's Office that gives us any reason to alter," --

A Right.

Q -- "our opinion."

A And so, so, if I could point out, this office has completed a thorough review of the U.S. Attorney's handling of the matter. And so, handling is a broad -- is a broad term, and in reference to, we believe that federal prosecution of this case is appropriate, the way I recalled reading that is, the federal prosecution of this case, the argument was that the agreement was inappropriate because this case should not have even been prosecuted, and therefore that the disposition -- the federal prosecution of this case, was appropriate.

And so, the handling of the matter, we reviewed the handling of the matter, not -- not the agreement, but the handling of the matter, and that the ultimate disposition, if -- you know, is at least not an abuse of discretion, or is appropriate.

Q That's how you read it?

A That -- that is how I read it.

Q And did you ever discuss that -- did you ever discuss with anyone in ODAG what the scope of their review was?

A Not to -- not to my recollection. It was a fulsome submission.

Q Correct, but if -- if -- but the issues presented by the defense were essentially federalism issues, right?

A So, the -- the -- again, this is -- this is based on, you know, as much recollection as contemporaneous record. The issues presented by the defense were, it -- in essence, it was the heart of the non-prosecution agreement, which is, was it -- was it an abuse of discretion to -- to proceed in this case in the way that we did on the grounds that there may not -- there should not have been a federal prosecution in the first place, or that we were using federal criminal law to -- to elicit a civil outcome.

And so, I don't think it's fair to sort of narrow -- you can't -- you can't say that our handling was -- you know, that their handling was reviewed without reviewing the non-prosecution agreement.

Q Do you have any reason to believe that the -- that either ODAG or the criminal division did -- well, that the ODAG, let's stick with that --

A Right.

Q -- did in fact review the NPA, other than to be

aware it existed, whatever its status might have been?

A So, again, it was clearly submitted. It was clearly referenced.

Q Mm-hmm.

A And it was clearly part of the complaint. The complaint -- the heart of the complaint about our office was that we were using this agreement to impose civil liability. And so, I think it is fair to infer if the complaint implicates the agreement, that the agreement would have been reviewed.

Q That -- but that's your inference. You don't have any -- you don't -- didn't have any specific communications with ODAG --

A I don't --

Q -- to that effect?

A I don't recall a specific communication.

Q All right. Okay. I would like to take a short break. We're getting there.

A I hear you.

Q There is --

A I'm good.

Q -- one area that my colleague, [redacted] will take on --

A Mm-hmm.

Q -- which has to do with the CVRA --

A Right.

Q -- and then we have some kind of wind up questions.

A Okay.

MR. [redacted]: Can we -- before we take a break, can I just --

MS. [redacted]: Yes.

MR. [redacted]: I'll try to queue up what's going to be coming next --

THE WITNESS Mm-hmm.

MR. [redacted]: -- and maybe that'll help us move through it, because --

THE WITNESS Right.

MR. [redacted]: -- you've been through a very long day.

THE WITNESS Yeah.

MR. [redacted]: We appreciate your -- the time you've put into this. You've been here for quite a long time.

THE WITNESS Well, yeah.

BY MR. [redacted]:

Q The area that I want to discuss after the break has to do with the ultimate notification to the victims about the resolution of the case, the state plea, and the result of the federal investigation, and there's going to be -- we have documents that are in your -- that are already marked there

that might be helpful if you take a look at a couple of them so we don't have to go through -- maybe during the break so we don't have to go through them one by one, or I can just give you a very quick overview of sort of where we're going.

I want to find out basically how you were getting from there -- what would be the -- the state asking for the U.S. Attorney's Office to make the notification to the victims about the upcoming state plea that happens in November of 2007.

That would be document 32b, to the defense then finding out that the government want to notify the victims by letter, and then demanding that they see the letter and have some kind of comment on it. That would be document 33, an e-mail from Lefkowitz.

Then we have an exchange of letters, but the one I'd like you to look at is document 37, which is a letter coming from [redacted] to the defense -- not now, but you know, during the break. So, I want to find out how we get from that document, 36, where [redacted] is writing --

MS. [redacted]: 36.

BY MR. [redacted]:

Q -- as letter saying that -- citing the CVRA regulations saying that the government is obligated to notify the victims about the resolution of the case, and attaching a draft letter to the victims telling them the time and date of

the state resolution and plea, inviting them to come.

To ultimately a letter from you coming on the 19th of December 2007, which is No. 41b agreeing to not notify the victims of the state plea, and agreeing with the defense to have the state be responsible for putting out that notification.

And then we end ultimately with a letter or draft letter that we have that goes out to the victims in the case on -- after the plea in July. Well, we have the draft I'm going to show you, which comes in June, showing that the letter was clearly meant to be sent after the plea as per the agreement, and that is document number 51.

A Okay. That's --

Q So, it's a lot to --

A That's a --

Q -- unpack there.

A That's a lot to unpack. We should probably take it a step at the time?

Q Yes. I just wanted to --

A All right.

Q -- give you an overview, because I think that some of what you had mentioned earlier -- and I know -- I know it's --

A Yeah.

Q -- been a long time, so --

A Yeah.

Q -- I'll try to orient you for the timelines. So, if you'd just have a -- I've highlighted the sections of those letters that we want to talk about, and if you have a chance while we're taking a break to look through them, that may help orient you so that we're not --

A Right.

Q -- spinning our wheels on this. I don't want to waste any of your time.

A Fair.

MS. [redacted]: All right. Off the record.

(Off the record.)

MS. [redacted]: All right. Back on the record.

MR. [redacted]: Are we back on the record?

MS. [redacted]: Yes.

BY MR. [redacted]:

Q Okay, great. So, I know I gave you a lot to unpack over the short break we just had. One -- basically what we're trying to get to find out is how the -- your decision making process regarding the victim notification issue. So, maybe if you could just give us a -- anything with your December 19th decision, could you give us an explanation about how you got there?

A So, I think we should probably take this in stages.

Q Okay.

A As a general matter, I recall that there was back and forth regarding -- after the agreement -- regarding how to notify the victims, and there was back and forth between [redacted] and Jay Lefkowitz and [redacted] around all that. Sorry, I'm losing my voice.

I recall that there was an issue in particular that was raised that I tried to address in the letter, and I recall at the end of the day, it was my impression that once there was an agreement for him to plead, that there was an attempt by [redacted] to provide notice to the victims, but it was a very -- it was I think on a Friday, and he was pleading on a Monday morning or something along those lines.

And finally, I recall that the view of the office was that the CVRA did not apply, and so that this was a discretionary balancing that included consideration of what impact notification of the 22.55s would have at trial -- the 22.55 provision, if we had to go to trial. So, we can -- we can unpack that, but those are my -- my general recollections.

Q Okay.

A And look, let me -- let me add, I -- so, I think it's important -- so, I came in and out of the case at stages, and -- and I was involved in certain aspects more than others, and while we had a long discussion about the terms sheet and matters like that, while I was clearly

involved in at least one dispute around the 22.55, the nuts and bolts of how victims were notified is not something that I have a recollection about.

Q Okay. Fair.

A But we can unpack it.

Q Okay. Let's start with the Exhibit 33. So, there, we have an -- as you can see, it's an e-mail from Lefkowitz --

A Mm-hmm.

Q -- to you, and to [redacted], objecting to the -- a letter being sent to the victims, unless the defense gets to review it. And later on in some of your other correspondence, you discuss that you -- you extended to the defense the courtesy of allowing them to review these letters. Is this the genesis of that courtesy?

A I can't -- I don't have a recollection as to what the genesis might be. I know that there was back and forth between our office and the defense about the -- that letter.

Q Okay, but as you can see on 33 that you're not on the response from [redacted], but [redacted] instructs [redacted] to send the proposed letter to Lefkowitz, and --

A Yeah.

Q -- I assume that [redacted] wouldn't have done that had you objected to it.

A Again, I don't -- I don't recall any specific

conversation. As a general matter, this is not something I was getting into the weeds on unless I had to. There was a lot of back and forth.

Q Mm-hmm.

A [redacted] is someone that I trusted. He was handling this matter. He's incredibly experienced. I know that there were concerns and issues around the impact that notification would have on the witnesses. I know there were -- there were issues around the language, and I trusted that folks were working those out.

Q Mm-hmm. One of the -- the criticisms that's come post, you know, the CVRA --

A Right.

Q -- litigation that's been the government allowing the defense to have review of these letters, or potential victim notification letters coming out of the government, and that that's unusual. Have you ever -- have you had any other cases where you've let the defense review such documents?

A I've had no other cases where I'm even aware of victims being notified, because I assume it all operates without it rising to management level.

Q Mm-hmm.

A And so this is the first and only time that how individuals are notified, to my recollection, was even in the executive suite.

Q Mm-hmm. Isn't that usually done -- accomplished by almost a computerized task?

A I -- I would assume so, so yes.

Q And it's a -- given that that's the usual way that notifications are made by a victim witness specialist, who is usually that person?

A Yes.

Q Do I have that right? And so, the FBI has their victim witness specialist?

A Yes.

Q And your office, the U.S. Attorney's Office has dedicated people who do that job as well?

A Correct.

Q So, why in this case, not direct, the -- this -- this notification to that person to be done in the usual course, why elevate to something that the defense is going to be able to review?

A So, so, I can't address the second half of that, but the first half of that question, why -- why was it elevated? You know, I think [redacted] addressed some of that in her, was it 2017 affidavit, and -- and so, we had an agreement that had been signed, and we also had substantial questions as to whether that agreement -- whether ultimately Jeffrey Epstein would plead in court or not.

And so, one of the questions is, how do you deal

with notification of a possibility, where that possibility could be used to impeach potential future witnesses who are also the victims, and that is a matter that was being worked out by the AUSAs in the office.

Q And the -- and the impeachment is what?

A And so, the impeachment -- and I -- I would -- I believe [redacted] went into it in some detail, is you stand -- you, Miss Victim, stand to gain quite a bit of money if there's a conviction, correct?

Isn't -- weren't you aware of this agreement, if we have to go to trial? Weren't you aware of this agreement? And this isn't based on my recollection. This is based on the [redacted] affidavit, where she says that she had concerns that the impeachment go along -- somewhere along the lines of, were you aware that if Mr. Epstein's convicted, you stand to receive substantial sums? Yes. Were you influenced by this?

And there was some -- according to her affidavit, this isn't my independent recollection, this is according to her affidavit, there had already been dispositions of the victims -- of at least some of the victims that raised these issues. And so, I do think it was a valid concern by the AUSAs how these notifications took place.

Q Okay, but isn't that the -- that type of line of cross examination the same for any case where there's a super

wealthy defendant?

A It may be. The 22.55 may make it a little different because it's automatic, but ultimately, these are the judgements that line attorneys make, and as U.S. Attorney, I think it's appropriate to back up their judgment unless there was some reason for me to believe it was incorrect.

Q Was there any thought ever to just giving the victims notification that there will be a proceeding that will end the federal case, just separating that in a -- maybe a later notification about the 22.55?

A I can't speak to what thought there was or was not. I can say around this time frame, it was far from clear that there would ever be -- that Epstein would ever go into court, and we were thinking we may have to just go to trial, because these collateral attacks keep going.

Q Okay. Okay. Let's get back on track to the -- the question that I asked earlier about allowing the defense the courtesy to look at these letters. Is -- can you just remind us again, what was -- what was the reasoning that you're -- that they're allowed to look at the --

A So --

Q -- victim notification letters?

A I can't speak to that. This is something that -- that [redacted] and [redacted] would have handled. I think that, you

know, I'm responsible for the office. I'm not shirking, I'm just saying that this is -- that this was for the most part within their wheelhouse, and not something that -- that I was involved in. I can -- I can speculate.

Q Sure.

A The agreement was notifying them -- the letter was notifying them of certain rights in the agreement, and therefore, this is a time when we weren't sure what was happening with the agreement. And so, perhaps this was a way to -- to address some of the concerns around the 22.55. I don't know. I'm just speculating.

Q Okay. Let's move onto Exhibit 36. This is a letter that goes out to Lefkowitz under [redacted] signature. You are cc'd on the letter.

A All right.

Q And what he is doing is sending a draft victim notification letter, which is attached as the attachment there, dated December 6th, 2007. And I wanted to get your impressions of -- if you go to page three of the letter, please? And that -- the first little paragraph there, when it --

A Mm-hmm.

Q -- refers to the Victims' Rights and Restitution Act, and then ultimate for the CVRA, if you could just read that paragraph to yourself, please?

A Are you referring to paragraph 10?

Q I'm sorry, I'm not on the -- I'm on the letter, not -- I'm sorry, I'm on the --

A Oh.

Q -- left -- the letter to --

A Sorry.

Q -- Lefkowitz, not the draft letter. This one right here.

A The additionally?

Q Yes, additionally, pursuant to the Victims' Rights and Restitution Act of 1990, our office is obligated, etcetera.

A Okay.

Q Do you agree with that language? That interpretation of the victims' rights, as far as the notification?

A So, let's -- let's sort of take this -- this one sentence at a time. With respect to notification of other information that we were supposed to disclose, the statute requires that we provide victims with the earliest possible notice of -- I -- I will assume that that is a restatement of the statute.

I don't have it in front of me, but let's assume that that's a restatement of the statute. Just as in 18, these sections are not limited to -- the victims, through

this federal -- should be appropriately informed that a non-pros does not require to forego its legal obligation. On a sentence by sentence basis, I mean, do I agree, sitting here? Sure, but I would want to sort of sit down before I gave a legal opinion and spent more time with it, but --

Q Okay, because coming out of your office, sort of this and that -- well, let's go to the next page, page four.

A Yeah.

Q There is a citation to the right to confer in the first paragraph there, citing the CVRA's reasonable right to confer with the attorneys of the government in this case.

A Okay.

Q So, we have -- you know, it looks like to me -- I mean, let's --

A Right.

Q -- well, it -- it appears that there is two references to the CVRA obligations that the government has that ultimately the government argues that it did not have. Can you explain why that is a correct interpretation?

A So, what I can say is I recall -- so, it looks like at least some of the victims were notified. I recall a discussion and a view that the CVRA did not require it -- it was discretionary, because it wasn't -- the case had not indicted, so it did not attach on its terms. That doesn't mean that it's not something you aspire to. That just means

it wasn't legally binding.

Q So -- and in the same manner though, while the CVRA isn't legally binding, it also doesn't prevent you from notifying the victims, does it?

A It does not, no.

Q And you have the discretion to notify, should you choose to.

A Correct.

Q Okay. And so, if you look at the letter that's attached to this, this is a draft that goes out where on page one -- two -- page three of the letter, and the second to last paragraph, the letter is giving notice of Mr. Epstein's change of plea and sentencing that will occur on -- well, at this time, it was December 14th at 2007, and it gives the address, and it says underneath there you are entitled to be present and make a statement under oath.

If you choose, you can submit a written statement under oath, etcetera, etcetera. So, this is a letter that's actively inviting victims to come to the state. Would you agree that that's inviting victims to come to the state plea?

A That -- I think that's fair.

Q And with the letter's reasoning that the government is sending -- would like to send this letter because it believes it's obligated to, because it resolves the federal case?

A So, I -- I don't want to speak to the reasoning, but it's clearly a draft that the government is saying, it intends to send.

Q Okay. Now, ultimately, just this is not a question, just --

A Got it.

Q -- some information that will help to move us along.

A Right.

Q The -- obviously, this letter is never sent. Ms. [redacted] drafts, we have them, and I'm not going to show them to you, 30 letters, copies of the letter --

A Right.

Q -- to different victims, addresses them, puts them in envelopes, and is then told not to send the letters.

A All right. Well, the plea never -- it's scheduled for December 14th, so yeah.

Q Yes, but one of the issues that's still percolating until the end of December is who is going to make this notification? Because as you can expect, the defense pushes back on this letter.

And so now we go to the -- the -- number 39, please? And this is a December 11th, 2007 letter from Ken Starr to you, and if you look on page two, at the front -- at the top of the -- the top of the page there, he is -- this

letter is complaining about an oral notification that Ms. [redacted] gave to a -- one of the defense -- one of the victim's attorneys that a letter would be coming.

And so, Mr. Starr is writing you to complain about it, and he mentions in -- later in that paragraph that we have thought that the notification process had been in abeyance until completion of our ongoing discussions with respect to that process. So, were you having discussions with Mr. Starr about the process at this time?

A I don't recall discussions. I -- I think there was at least correspondence, or -- I'm sorry, where are you? I was reading the -- reading the letter. This -- I'm sorry, where are you? What paragraph?

Q Let's take a look -- and it's been a long day. Let's slow down here. We're on the second page of the Starr letter.

A Yes.

Q And it would be this and that, the -- the language in there -- in the second sentence, which goes towards the bottom.

A This notification, but quite apart from our substantive concerns, which -- we had thought the notification process had been in abeyance until the completion. That appears not to be so. This is respectfully -- so, where does it imply that I was having --

I don't recall communications with Mr. Starr, that's why I'm curious where -- at least verbal communications. I'm curious where you're reading that from.

Q I thought he -- he's saying, we had thought that the notification process had been held in abeyance until completion of our ongoing discussions. Are you saying that that's -- he's --

A So, I don't know where that may have come from, and I don't recall. I recall at one point -- I think I sent a letter saying we'll hold off for a week. I don't recall the date of that letter, while you review some matters. Where the abeyance came from, I can't -- I can't speak to.

Q Okay. Let's go to Exhibit 41b. This is your December 19th letter, and what I'd like to draw your attention to is page two, the second to last paragraph there.

A Yes.

Q So, could you tell us how your decision making around this paragraph, how you got to this decision?

A So, so, you're asking me to recreate -- I -- at some point, the issue clearly moved from [redacted] interacting with defense counsel to -- to my desk, and my recollection 12 years after the fact is -- so, you're saying we shouldn't notify them about the state proceeding, and sure, the state -- this was negotiated between Epstein and the state attorney.

We did not direct the state proceeding. So, whatever state process is appropriate for the state process will be given. But with respect to the federal resolution, we intend to provide victims with notice of the federal resolution as required by law, and your question is if we thought it was discretionary.

I recall our believing it was discretionary, but you could also -- it doesn't hurt to in a letter say we're kind of required to do this, and I think it was the right thing to provide them notice of the federal resolution.

And once that resolution was reached, and part of the key word is what the resolution is, my understanding is that [redacted] made efforts to notify victims of that resolution and let them know that -- that there would be a hearing the following Monday, that they should attend, because these -- it would bring an end to the case.

Q Well, let's just back up real quick. As far as -- so, do you -- as far as the state attorney notifying people of -- victims of the --

A Right.

Q -- state resolution, did you have any concerns with that particular part of it?

A So, difficult to recreate the thought process 12 years later, but ultimately you've got federal, and you've got state, and the state attorney will do what the state

attorney thinks is appropriate. It's not for me to direct the state attorney.

I'm inferring, based on this language, it's 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.

Q Okay. I'm just asking because, you know, the whole case came to your office because of some issues with the state attorney's resolution of the case. So, now it's going back, and they're going to be in charge of the notification. Did that raise any flags with you, or did you have any concern about whether it would be done correctly, or done at all?

A So, again, you've -- I -- this has come up in different contexts, and I think it's -- there was obviously a concern about how it was being charged, but that doesn't mean that they will not fulfill whatever obligations they have. Let's not assume that -- that the state attorney's office is full of bad actors.

Q Okay.

BY MS. [redacted]:

Q But even if not assuming that they're full of bad actors --

A Right.

Q -- it's going to be difficult for them to notify

the victims, wasn't it, that they didn't even necessarily know the same list as the federal victims, because you had found more victims.

A So, we could certainly have shared that list with them. I mean, there are -- there are ways that this could have happened. I don't know how -- what the communication were, but as a conceptual matter, having the state notify them of the state hearing and having the federal government say, and this is the federal resolution, is consistent with the law.

Q But since the federal resolution is tied to the state plea, is -- why not just combine the two of them in the notification? Here's the federal resolution. We're tying it to the state plea, and here's --

A Right.

Q -- the date of the state plea?

A I can't speak to the why not. I can -- you know, I can speak to my belief that this would be consistent with law. That could also be one approach. I can't speak to why A versus B.

Q Did somebody instruct you that -- or did you have a conversation consulting with somebody about whether this was the better approach?

A I -- I would have said -- you know, based on practice -- not recollection, but based on practice, I would

have sat down with [redacted], most likely, since he was handling this matter, and we would have talked about it. I -- I would not have sent this without running it by at least [redacted], if not other individuals in the office. I don't know if based on your record there is -- there's e-mails with drafts, but you know, every document that I'm aware of was sort of shared within the management team, and this would have been one of those.

Q With respect to that one specific decision about this should be at the discretion of the state's attorney, did you consult with anybody in D.C. about that issue?

A I don't recall consulting with someone in D.C. about this issue. I recall a general perspective that the CVRA as a technical matter did not attach because ultimately this was not -- it hadn't -- this was not an indictment.

BY MR. [redacted]:

Q Oh, can we -- before we leave this letter --

A If I could, I -- I -- and I understand your questions, but I feel some obligation to raise the tension between, did you consult in D.C. versus should you allow D.C. review.

And so, just, you know, we certainly were allowing review, but U.S. Attorney's Offices don't consult on every matter, especially offices that have the kind of experience --

MS. [redacted]: Mm-hmm.

THE WITNESS -- that Miami does.

MR. [redacted]: Back to me?

MS. [redacted]: Mm-hmm.

MS. [redacted]: Mm-hmm.

MS. [redacted]: Back to you.

BY MR. [redacted]:

Q Before we finish with this letter from the 19th, can we look at page three, please? There is -- if you could read the first paragraph on page three to yourself, please?

A Okay.

Q Could you -- in that section, you mention that prosecutors had asked you to declare a breach, and you resisted. Can you discuss that?

A So -- sure. That's -- that's referencing -- I think increasing frustrations by the -- by the prosecutors, and I think that's reflected in contemporaneous e-mails saying, why don't we just rip this up?

And I recall conversations with [redacted], and that goes a little bit to what we talked about earlier, which is concern that a unilateral breach would overlay not just the initial issues that we had, and not just the fact that the victims are getting older and the case isn't getting better, but then we have, was the unilateral breach a valid breach, or was it not a valid breach?

And is -- is the delay justified or not justified. And ultimately, that additional -- that additional liability -- not liability, that additional legal uncertainty was -- would have made the case even harder, because they were very careful to always say there is no breach.

MS. [redacted]: Mm-hmm.

THE WITNESS Let me -- let me address, because I went on to read the next paragraph as well. And so let me circle back to an earlier issue --

MR. [redacted]: Great.

THE WITNESS -- because I at least want to address it because the next paragraph then says, and it's clear that I'm increasingly frustrated. It's against that -- that my frustration with it appears to be an 11th hour appeal weeks before the now scheduled July 4th plea date. That said, the issues raised are important and must be fully vetted irrespective of timelines concerns. We hope to preserve the July 4th date.

I understand defense counsel shares our -- with this in mind, and in the event the defense counsel may wish to seek review of our determination in Washington, I spoke this past Monday with Attorney Gen[redacted]confirming if it's possible appearing to ask her to grant the potential request for review, and to in fact review this case in an expedited manner in an attempt to preserve the July 4th date.

MR. [redacted]: January 4th.

MS. [redacted]: That address -- January.

THE WITNESS I'm sorry, the January 4th plea date. Sorry, it's --

BY MS. [redacted]:

Q And that addresses the question I was asking.

A And that goes to the question you're asking, and again, I'm recreating and I'm speculating. Having that following the -- another 11th hour appeal here, I would say I -- I wouldn't say, let's appeal this again. I think I'm saying pretty clearly, it's against my frustration with what appears to be an 11th hour appeal weeks before the now scheduled July -- January 4th plea date that this is not an invitation to do another appeal, because the appeal is already in Washington.

But my -- my saying, if -- if we're going to do this appeal, let's get it over and done with, then I'm sort of speculating based on the language, so that we can get this pled on January 4th, and let's not put it off until after the holidays.

Q But you did say, "To ask her to grant the potential request," --

A Which is --

Q -- "for review."

A Which is why I wanted to on my own raise it,

because is that saying please appeal me, or is that saying -- this is an 11th hour appeal that you have now taken to Washington.

It is December 19th. We're about to go into the holidays. There's a January 4th plea date. This should not be another way to put it off. And so, if you're going to do this, I'm going to try to expedite it so we can get this done.

Q And in fact, it took until May --

A Yeah.

Q -- 15.

A And it did, and apologies, I just realized my voice is --

Q All right.

A -- rising. So, I don't know if that's my frustration at reading this again, or it's getting late, but it -- but it was a frustrating matter. Apologies.

BY MR. [redacted]:

Q Let's just move to Exhibit 46. So, this is an e-mail from Ms. [redacted] to you and [redacted] discussing how she has interviewed some victims that day. There's a mention that one of the victims said that she would rather not get any money and she'd have -- she would rather have Epstein spend a significant time in jail. Did that piece of information go into your character list at all about how the

case should be resolved?

A So, again, not based on recollection, because this is maybe if not 12, 11 years ago.

Q Okay.

A But at this point, there had been an agreement. The agreement was signed. It was being reviewed. Based on this e-mail, we're trying to get and expedite the criminal division, because I -- I see it says please reach to [redacted] to make her decision.

And I -- I think at this point, as I said, if -- if we knew earlier -- if we knew that it was going to go this long and take all of this, I think we may have approached the case differently, but we were so far along on this, there was a signed agreement.

The United States can't unwind an agreement just because it's frustrated, or just because some victim indicates that they don't like it. That's not -- you know, if the agreement is not legally valid, if there are some other concerns, but I don't think this in and of itself would have been grounds for unwinding an agreement.

Q Do you think it's misleading for the government to have been interviewing these witnesses and preparing them for a trial when there's already a signed NPA that resolves the issue?

A So, that was part of the judgement that there's a

signed agreement, but based on the course of conduct, is that agreement really an agreement that will be honored? And so there was an ongoing investigation as well, because we didn't know if we'd go to trial, and I know that -- not I know.

My recollection is that the judgement was until we know that this agreement is really going to be performed fully, that to inform victims of the possibility of civil recovery is problematic, and -- and I can't say that judgement's incorrect. That -- I think that's a valid judgement.

Q Fair enough, and then the last question on this e-mail is at the bottom, Ms. [redacted] invites you to attend interviews with four of the girls who would be coming in the following day.

A Mm-hmm.

Q Did -- did you attend?

A I -- I did not, and as U.S. Attorney, I don't think I attended -- that's not -- that wasn't typical for our office.

Q Would -- was that ever -- had you ever had that type of request come from a line assistant?

A Not to my recollection, but I also tended not to have communications come from line assistants in the first place.

Q Were you at all curious, given the -- you discussed

the issues with the witnesses in this case --

A Right.

Q -- that, potential impeachment, and that -- you know, that caused you to -- that went into the negotiation phase. Did you have any interest in seeing these people -- even interacting with them personally so you could make your own assessment?

A So, any interest is --

Q Would there be value in doing that?

A So, we had very experienced prosecutors. It's not just interacting with the -- the -- the victims were in a really hard position. It's not -- how I would draw a distinction between a victim being interviewed by an agent, and how a victim holds up in court, in a public setting under cross examination, and in that, I don't think anyone in the office was questioning the pain or the suffering of the victims. I think that the issues were how would they hold up in court, which are uniquely trial issues.

Q Okay. Then let's move onto -- what -- what -- what was your understanding that -- that the federal government was going to do as far as the notification about the resolution of the case?

A So, my understanding was that once we believed that the case was going to be -- that the -- that the plea was going to go forward, that we would notify the victims of the

resolution, and of the agreement, and how -- basically, how it played out.

Q Now, are you saying now -- now, you had agreed to not notify -- well, did you -- I mean, you're -- one would read your December 12th -- 19th letter as an agreement that the federal government is not going to notify the victims of the state plea. That's -- and that will end that part of the case. Is that correct?

A So, so, I would parse my letter differently, and this is 12 years after the fact, and so this isn't based on recollection, but on my reading and my understanding of the course of conduct in this case, sitting here now.

Q Mm-hmm.

A My understanding was that our office was notified -- was it on a Friday afternoon?

Q Yes.

A That he would be pleading on Monday, and that at that time, [redacted] made efforts to notify victims that he would be pleading, and that that would terminate the federal resolution of this matter, and that the victims should attend that hearing, which wasn't the state resolution of the case. It was the federal resolution.

Q And so, you -- you're saying that the state plea was also the federal resolution of the case?

A Based on my understanding of what happened, that's

how my recollection -- based on having reviewed the record, that's how I believe it proceeded, although I think I [redacted] attempted to do so, couldn't reach some attorneys, and exercised best efforts to let them know, but did not get ahold of all of the victims --

Q Let's --

A -- over the weekend.

Q Before we get too deep into that, let's just take a quick look at Exhibit 51. So, this is an e-mail forwarded to you from [redacted] from January -- June 25th, 2008. So, that is five days prior to the plea in this case.

A Yes.

Q Or, the state court plea, and the attachment there, you'll notice is a letter with a notification of identified victims, and the letter is written, would you disagree -- it's written with, on June 30th, Epstein pled guilty. Do you see that?

A Yes.

Q So, the inference -- it appears to be that this letter was to be sent after the plea.

A I -- I see that. I also -- based on my review of the record, where I think I'm recalling the [redacted] affidavit, where she said that she made an attempt to notify the victims as soon as she was made aware that he would be pleading -- that he would be pleading in state court.

Q Well, the -- what [redacted] says in affidavit --

A Correct.

Q -- I believe is that she made notification, and the police department -- Chief [redacted] police department made notifications. Is that -- is that correct? Does that ring a bell?

A I --

MR. TODD: Do you have a copy of the affidavit, so we can just look at it?

MR. [redacted]: Do you have [redacted] affidavit e-mail?

MS. [redacted]: It's right here. One copy.

THE WITNESS I'll hand it back.

MR. [redacted]: Almost done.

THE WITNESS So, relevant to this paragraph 34, and then another paragraph, these and other attacks and efforts to avoid the NPA's terms led the FBI investigative team, the office, and me to conclude that prosecution at trial remained a possibility, and we should prepare as such.

This meant that the victim notification letters had to cease, because one, we no longer knew whether Epstein would perform under the NPA, and hence, we did not know whether providing information about the NPA would be accurate, until we believed that Epstein, through his counsel, would attempt to use victim notification concerning

the NPA to suggest that victims had been encouraged by the FBI or the office to overstate the victimization for monetary compensation. And then fast forwarding because you can read it on your own.

On Friday, June 27th at approximately 4:15, I received a copy of Epstein's proposed state plea agreement, and learned that Epstein's state court change of plea was scheduled for 8:30 a.m. on Monday.

The Palm Beach Police Department and I attempted to notify the victims about the hearing in the short time available to us. I specifically called to Attorney Edwards to provide notice to his clients regarding the hearing.

I believe it was during this. I never told that the state charges involved other victims, and neither the state court charging instrument nor the factual proffer limited the procurement of prostitution charges to a specific cell.

So, that was what I was referring to. Again, I am -- I am basing this based on my review of the affidavit and not on recollection of how this may or may not have proceeded 12 years ago.

Q Okay. You know, would it surprise you to learn that Ms. [redacted] only communicated with Mr. Edwards that day? That's because she was under the direction from a manger to only contact Edwards regarding this -- the

potential plea for that Monday?

A The affidavit said she attempted to notify the victims, so I can't speak to that.

Q Okay.

A And I don't have an independent recollection of this going back 12 years.

Q Were you aware that Ms. [redacted] was directed to have no communication with the state's attorney's office, and probably during the later period of the case in 2008?

A Not to my recollection.

Q Okay, so did you have -- would you not recall hearing anyone directing her to not communicate with the state attorney's office?

A I can't speak 12 years later, what role I may or may not have had. I question how, if we need -- if there is a -- an attempt to schedule a plea in all that, how can there not be communication? But I can't -- I can't say whether I did or did not. When I say I have no recollection, I mean that in the broadest sense of the word.

Q Okay. In your December 19th letter, you -- you did agree that the state attorney's office would notify the state's victims, right?

A Yes.

Q And do you have any idea how that was to be accomplished?

A I can't speak to that, no.

Q And would you have any knowledge of who the state victims are?

A I would infer that -- that our office would have had sufficient communication with the state attorney's office to communicate who the victims were in this case, because it was an ongoing -- it was an ongoing matter, and -- but I don't know.

Q Do you want to go on?

MS. [redacted]: Okay. Are you -- are you done with your -- that portion at least, for the moment?

MR. [redacted]: Yes. Thank you.

BY MS. [redacted]:

Q I'd just want to clarify something you said a moment --

A Sure.

Q -- ago, Mr. Acosta. You said you referred to the agreement, the NPA, as having been -- it was signed and was being reviewed. Were you talking about Washington?

A Right.

Q The criminal division, but we established earlier, did we not, that the NPA was not the subject of the criminal division review. They expressly declined to review it.

A I stand corrected.

Q Okay. I just wanted to be clear on the record.

Thank you. So, we -- we've had a lot of conversation about facts. We are fortunate in this case to have a plethora of documents upon which we can rely even 12 years or so after the fact, and we've tried to plum your -- the depths of your memory as to the events.

Are there any facts -- any conversations, any incidents, anything based on the questions that you've heard here today that you recall, have recalled, that you want to tell us about, want us to know?

A So, give me a minute to just sort of think this through.

Q Of course.

A I think we've covered most of the issues pretty clearly. I guess I would have two general comments. The first is, whether folks agree or disagree with the initial two years, you know, registration and restitution.

The office's focus was on having Mr. Epstein go to jail at a time when, from our perspective, these -- these cases were, at least presented with these facts, federally at least unusual, and that most trafficking cases involved different -- a different sort of nexus.

It involved bringing individuals into the country, or holding individuals against their will, or doing something like that, and -- and this will go to my second point which is, you know, sitting here, we now see several high profile

individuals who abused power, and have now been prosecuted -- who were known at the time who abused drugs, like Bill Cosby and -- who were -- there were rumors at the time, and you know, and -- and so, looking back, maybe it was the right call.

Maybe it wasn't the right call, but there is some degree of -- I'm not sure what the right adjective is. Frustration, that -- and certainly, some of this goes to me, but I think a lot of this goes to [redacted], and the individuals involved, that the attempt to put someone in jail as opposed to decline the case and say this is just a state case, that -- that the -- that the federal issues are too tricky, that ultimately, this is sort of novel interpretations, that the attempt to come up with an outcome has rebounded in the way that it has, and I'm not -- I'm not saying, look, that that's life, and I understand that.

But 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, you know, more so than today, some jurors may have looked at this as prostitution, and were -- perhaps more so than today -- judge's tolerance for victim shaming may have both caused more hesitation on the part of victims, but also created more issues at trial. And so, I think we've touched on that, but I think as we sort of wrap up --

Q Mm-hmm.

A -- this portion of it, it's important to just restate that.

Q And -- and to -- in addition, are there any facts that you -- conversations, or anything that you --

A Fair, you did ask this.

Q -- that we have -- that we've not really elicited from you that you want us to know? And to be clear, you'll have an opportunity to --

A Right.

Q -- supplement this.

A Not that I can think of --

Q All right.

A -- sitting here.

Q All right. How do you respond to public criticism that the defense attorneys -- the Epstein defense team, were gaining extraordinary access to an influence on prosecutors from the line level all the way up through the department?

A So, I would point out early on in the case -- when I said early, you pushed back, but from my perspective, early on in the case. Not when it was first investigated, but when it first bubbled up for decision.

Q And that would be mid-2007?

A Mid-2007. June-ish, May to June 2007, May, June, July. We determined, here are -- here is what we'd need for

resolution. And I -- I think I addressed some of this in the Daily Beast's letter.

Q Mm-hmm.

A Because we were receiving criticism back then, and I think that letter has been misconstrued to some extent, because it was not, oh, here are influential people, we're backing off.

It was, we, early on, set three criteria. Two years, registration, restitution. Despite all these attorneys, despite all these appeals, despite all these efforts, the office did not budge with the caveat of the 24 to 18 months, which we've discussed, and from my perspective, despite all of that, I backed the office in sticking by that resolution in the various appeals to Washington.

And so ultimately, it was a year-long process, but we ended up a year later exactly where we started with the caveat of the 24 to 18. And so, to the extent that there was influence, there was -- there was no change in position.

Q Well, my question was access. That this team of defense attorneys --

A Right.

Q -- had extraordinary access, that they asked for meetings, they --

A Right.

Q -- pressed for -- with communications, and they had

that access. Was -- did that seem extraordinary to you?

A So, they asked for a meeting with me before the agreement was signed.

Q Mm-hmm.

A I granted that. That's not the first and only time that I granted a meeting to -- to defense attorneys. I don't think it's atypical, particularly as a case is coming to -- to resolution -- for a U.S. Attorney to sit down and meet with opposing counsel, and I can think of several cases where that happened. There was certainly a lot of access in Washington. I would speak to -- you know, I think that's a question to direct to this building.

Q Mm-hmm.

A Because the process here was lengthy, and frustrating. But I think we successfully held firm in our positions, despite all the process in this building.

Q And again, my focus is not on your response, but on the access.

A And --

Q Based on the prominence and the -- the prominence of the defense attorneys. If these had been local attorneys, your sort of average criminal defense attorney from, you know, name where they hang out in --

A Right.

Q -- Miami coming to you and pressing for this, you,

writ large, the department, do you believe they would have had the same or a comparable level of access?

A So --

Q I don't know the answer. I'm asking.

A Yeah. So, I guess I'd respond this way. If an attorney after meeting with my management staff asked for a meeting with me, I believe I did and would have granted it, and I can think of several matters on which those types of meetings were granted. And so, that was not unusual.

Q All right.

A With respect to the back and forth after the agreement was signed? This was an unusual agreement, and to some extent, as a result, the back and forth quickly elevated, particularly because matters would elevate in particular when they were being addressed at main justice. That would be one natural way for matters to elevate within the office. And so, the fact that they were being addressed and reviewed, and letters were coming here, would naturally elevate the way the matter was treated in Miami.

Q In particular, Jay Lefkowitz had ready access to -- of course, he was involved in the negotiations with [redacted] directly in creating the NPA, but after that, it appears from the record that he was often contacting you, and running or going above the people who worked for you, and on numerous occasions, you -- again, my characterization -- reprimanded

him, or instructed him not to do that, and to direct his communications to the line attorney or her supervisors. Is that -- is that --

A I --

Q -- a fair characterization?

A Yes, on -- I think on several occasions, I said direct them, and again, that was after the agreement was signed, but yes.

Q But there were many issues still pending, correct?

A Yes.

Q Okay, and that was his ability to reach out to you as a function of your personal association. Is that fair?

A So, I don't think that's a fair characterization. I think it -- you could also say that it was the ability of -- a function of his -- his insistence in not doing what we asked, and the fact that in a typical course, a Miami attorney would not have done this, because they would have to interact with the office on an ongoing basis.

Q Mm-hmm.

A And so, the repeat litigator behaves very differently than the one time razed earth litigator.

Q Mm-hmm. Razed, R-a-z-e-d?

A Correct.

Q Is it reasonable to -- for us to understand that you have followed the media coverage of what happened in the

Epstein case over the years?

A Yes.

Q In your view overall, and in whatever specific respect you wish to address, is -- has it been accurate or not so?

A I think it has been inaccurate in several ways, and we can go through them, but --

Q If you could just tick those off?

A So, I think it's inaccurate in that it has been characterized as our approving a state plea, and --

Q Mm-hmm.

A -- the complexity of this case was a state plea, and we were deferring to -- in favor of a state prosecution has been lost, and it's something that I have attempted to correct, but it's very difficult to sort of explain that in the media.

You know, this is a bad analogy, and so I haven't used it in the media, but I've thought about it, and so I'll share it. So, after the Jessie Smollett plea in Chicago, there was some discussion of whether the federal government should bring charges, and I remember the media saying that, and I haven't used this analogy, because I don't want to compare, and I think it would be disrespectful to compare the facts of that case to what happened to these victims, and I still -- and I don't want the comparison to be drawn, but

there is a legal comparison, right?

The U.S. Attorney in Chicago could have stepped in and said, whether or not the state takes this plea, we may investigate this federally, and sort of stopped that plea from going forward, or at least put a wrench in those gears, or the U.S. Attorney could have pursued that under petite policy, and did not.

And so, our stepping into this sort of reminded me of how many times cases that are viewed as a manifest injustice do occur, and yet the federal government does not step in? And the fact that we stepped in has been construed as, this became a federal prosecution, and sort of going -- going to -- is it [redacted], or --

Q [redacted].

A [redacted]. [redacted] sort of question earlier, the distinction between -- it was not a manifest injustice versus this was the right outcome, is something that I think has been lost in the coverage of this matter.

I think a second issue that has been lost in the coverage of this matter is, there are references to Prince Andrew, and Alex Dershowitz and Governor Richardson and Bill Clinton, and thing happening in London, and the so called Lolita Express where things may have happened on airplanes. And so, this is viewed from the public as this international matter, where the victims were local, the actions, to my

recollection, was local.

And so, the distinction between this Palm Beach incident and what the media likes to cover, which is, you know, was, you know, did Mr. Epstein force a minor to have sexual relations with Prince Andrew, is a very different fact pattern both in terms of the public perception of forcing a minor to have sex with a third party, that they have -- you know, that is outside the solicitation context.

It's sort of -- I'm travelling with these women, and forcing them to have sex, versus a more local matter that -- I don't want to say solicitation, because I think we've covered that, but that some may view as that.

Q Mm-hmm.

A And I think those are two major elements --

Q Right.

A -- that have been lost in the coverage.

Q The case has been criticized as having involved improper influences, or favors, or payments that affected decisions that were made within your office, and you're aware of all those --

A Yeah.

Q -- allegations as well. In connection with this case. Were you yourself ever offered any -- any payments, or any favors, or any promises or job assistance or anything like that --

A No.

Q -- in connection with this case?

A No.

Q And to your knowledge, was there any such offer to anyone associated with this case in your office?

A Not to my knowledge.

Q It's been asserted also that the -- the handling of the case in the office was affected by Epstein's wealth and influence in the Palm Beach community. Do you -- what is your -- what's your response to that criticism?

A Again, my response would be, you know, sometime in May or June we came up with these three points, and we stuck to them, and -- and you know, I -- despite all of this, you know, when people make these assertions, somewhere along the way, the fact that we stuck to those points is lost and is not talked about.

And so, we did stick to those points. You know, and -- and questioned whether the case would have come to us in the first place but for -- and so, you know, I think that could also go the other way.

Q I don't understand that.

A That it's highly unusual for a case to be brought to the state -- to the U.S. Attorney's Office after the state attorney declined -- not declines, but --

Q Fails to fully prosecute?

A Right, and so, so one question that at -- that also doesn't get asked is, you know, to what extent was this case brought to us in the first place because of this, because of his profile?

Q In other words, are you suggesting that his wealth and influence in the community affected the state authorities?

A I'm not suggesting that. What I'm suggesting is the case came in, the case proceeded, and someone can make the argument that the only reason that Chief [redacted] brought it to us was because it had such a high profile -- are there other matters that take place in Palm Beach that a state attorney declines in the first place that isn't brought to the state attorney because it doesn't rise to that --

Q You mean to the U.S. Attorney.

A -- to the -- to the U.S. Attorney because it doesn't rise to that profile.

Q All right. All right.

BY MS. [redacted]:

Q Well, in fairness, he might've done it because of the number of victims too, right?

A He may have. I don't know. What I'm suggesting is we tried to treat it fairly, not looking at, hey, how wealthy is he, but also not saying we need to do this because he is so wealthy.

BY MS. [redacted]:

Q What do you think about the media's treatment of the line assistant, [redacted]?

A I think she -- I wish her name wouldn't be in the media. You know, to some extent, U.S. Attorneys, when they take the job, realize that part of their job is to take the slings and arrows.

You know, there are instances when AUSAs were accused of misconduct, and -- and I always sort of felt that that was -- I don't want to say below the belt, but that's not why they take the pay cuts that they take to go into federal service, and you know, I think the media coverage of this case has been unfair, and has lost a lot of the complexities.

It's not surprising, because I mean, here, we're talking about -- about a lot of those complexities, and it takes a fairly sophisticated discussion, but I think it's particularly unfair on [redacted].

Q In your attorney's written response, he used the term relentless for -- to characterize the team of lawyers -- the defense lawyers, and in that Daily Beast article that you --

A Right.

Q -- wrote, you referred to the yearlong assault on the prosecution and the prosecutors, you noted that the

defense was, "More aggressive than any of which I or the prosecutors in my office had previously encountered." You noted that the defense investigated prosecutors and tried to disqualify two, and I believe that those two are [redacted] and [redacted]. Is that --

A That is correct.

Q All right.

A Yeah.

Q And you also noted, or asserted that there were investigations into the family lives of individual prosecutors, accusations of bias and misconduct against individual prosecutors, and even the threat of a book on prosecutorial zeal. Do you still regard that characterization as accurate?

A I do. You know, whether I would use those same words now, we can spend a lot of time talking about it, and I'd want --

Q All right.

A -- to think about, but I do think that's accurate. I think this really was a razed earth type of matter, and in the office's typical interactions, the prosecutors know they have to come back to the office. And so, they would not -- sorry, not the prosecutors. It's getting late, though. The defense counsel.

And so, they would not -- it's not just the

accusations against the attorneys, but the mischaracterization. I -- you know, I could go through the record, and there's several instances where my words, or other AUSAs words are being mischaracterized, or where -- going back to one of the [redacted] e-mails, people walk out of the meeting believing they have an agreement, and then that's unwound, and -- that that is not -- I don't know if that's typical in Washington, but that's certainly not typical in the Miami office.

Q All right, in that Daily Beast article, I think you also used the term peccadillos.

A Yes.

Q What did you mean by that in particular?

A Could I see the -- could I see the --

Q Mm-hmm. I was afraid you'd ask that. I have it right in front of me, and I don't at the moment, but --

MS. [redacted]: Are you talking about the to whom it may concern letter?

MR. [redacted]: Yes.

THE WITNESS Yes.

BY MS. [redacted]:

Q Yes. Thank you, and it's a reference on the second numbered page of this copy, to personal peccadillos, in the middle of the page.

A Also, individual prosecutors and their families

looking for personal peccadillos that provide a -- so, [redacted] was, to my recollection, she wasn't investigated. [redacted]y

[redacted] and I haven't encountered that in other cases. I recall it -- at one point, they also looked in [redacted], and [redacted] family, and his background, and I thought that was a little out of line.

Q [redacted]

A [redacted]

Q [redacted]

A [redacted]

Q [redacted]

A I --

Q [redacted]

A [redacted]

[redacted]

[redacted]

[redacted] ut the point I was trying to convey is, this is not a -- this is not typical behavior by defense counsel.

Q Did --

A And despite all this, my point was, despite all this, we did not budge.

Q And again, that's not the focus of --

A Right.

Q -- of this question. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

A [redacted]

Q [redacted]

[redacted]

[redacted]

Q All right. Are there any other examples where defense counsel came to you that have not otherwise been addressed with --

A I'm --

Q -- allegations about someone --

A I'm hesitating --

Q -- else --

A -- just because I'm trying to think through, and not to my recollection, no.

Q Did they ever raise or imply that there were -- that there was information regarding you of whatever respect, that was in the nature of a sort of a threat, or a veiled warning?

A So, the book reference was that I might be personally embarrassed by pursuing this matter, because I would be the subject of a chapter in a book on prosecutorial overreach.

Q And who was going to write that book? Do you know?

A Professor Dershowitz.

Q Mm-hmm. Okay. Did you consider him a professional friend at all?

A I had not, to my recollection, met him. I -- I understand in this letter I sort of grouped him in.

Q Mm-hmm.

A But I would -- I'd say for the record that it's hard to know what my intent was in 2011, but that's for simplicity of grouping individuals, because I did go to Harvard.

I may have run into him at Harvard, but he was not my professor, and I don't -- I didn't work for him as a teaching assistant. I had some interest in criminal law, so

I may have chatted with him, but -- but that would have been it.

Q And did you consult with him at all in connection with your efforts -- your interest in potentially teaching or being involved in the -- sort of the law school world, either at Harvard, or at Florida International, or anywhere else?

A Not to my recollection. At some point when I applied for the deanship -- I wasn't aware of the deanship until -- so, let's -- let's take this -- let's take this in part. I thought about looking at Harvard for a teaching position. To my recollection, I never followed through on that.

Q Mm-hmm.

A I knew Elena Kagan, and may have had a conversation with her that would have been a preliminary, how does this process work? But I don't recall taking it -- if I took it that far, and I'm not saying that I did -- this was a long time ago -- I never sort of went through -- the way law schools hire is a very -- they call it the "meat market."

Q Mm-hmm.

A Take that for what it's worth. It's something that happens at the hotels here, at the -- at the Marriott here in -- on Connecticut, and it's a very formalized process, and I never --

Q Mm-hmm.

A -- went through that. I don't recall any conversation with Professor Dershowitz about that. To the extent I was thinking about it, it'd be natural for me to talk to [redacted] but I don't recall talking to him. With respect to Professor Dershowitz, with respect to FIU, the dean process is very decentralized.

To the extent a faculty member spoke to him, I don't know. To my recollection, and again, this is a long time ago, I did not ask him for a reference or a letter or something to that regard, although I may have. It was a long, long time ago. I was also no longer active in this case at the time.

Q All right, and what about with respect to that same process on your part, Ken Starr, who actually was a dean of a law school at the time? Did -- did he provide you with a reference, or --

A Not --

Q -- advice?

A Not to my recollection.

Q All right.

A As -- as the letter from -- from Ken at the end, there was some -- by the time this was over, there was some degree of tension between us on my resolution of this matter.

Q But it also appeared to be tension that both of you were eager to leave aside.

A I'm a big believer, and I had good relationships with the defense bar. I think lawyers can disagree and not be disagreeable, and we would be a better profession if we all learned to do that.

Q So would the world.

A Yes.

Q There is an -- sort of investigative journalist author named [redacted]?

A Yes.

Q Do you know that name?

A Yes.

Q Did you ever speak with her?

A So, she was the recipient of the do -- to whom it may concern letter at the Daily Beast.

Q Oh, really?

A Yes.

Q All right. All right. Thank you. I didn't -- we didn't know that. Did she comment back to you on it?

A It was a long time ago. I don't -- I don't recall.

Q So, she wrote a book called trafficking. Have you read that --

A She did --

Q -- about this case?

A She did. I haven't read it recently, but I read it a while ago.

Q And she says in that book that you told her a few years after the NPA was signed that as she writes, "He felt incapable of going up against those eight powerful attorneys. He felt his career was at stake." Did you say that to her?

A Not to my recollection, and what I tried to do was, for the record, provide this letter to her, and the purpose of this letter was to say the exact opposite, which is -- and you know, we have this -- you know, and she and the New York Times, and I think the New York Times called it -- what -- what's the word? Like, apologia? Does anyone know what --

Q Apologia.

A Apologia.

Q It's a -- it's an --

A I --

Q -- apology. It's a fancy way of saying --

A Yeah.

Q -- you're --

A Yeah.

Q -- explaining yourself.

A Yeah. I looked it up, and it's a little more derogatory than explaining yourself, because I felt a need --

Q Mm-hmm.

A -- to look it up, but the New York Times called this letter an apologia.

Q Mm-hmm.

A And this was recently, and I say this, because when folks read this letter, they read it as, this is why, you know, we had these -- they -- I think sometimes they selectively read language. The prosecutors and agents in this case -- and what followed was a yearlong assault. I used the word assault as it was more aggressive than anything in which I or the prosecutors in my office had previously encountered.

Excuse me. Mr. Epstein hired an army of legal superstars, Harvard Professor Dershowitz, former judge and then Pepperdine lodging Ken Starr, former deputy assistant to the president then Kirkland & Ellis law partner Jay Lefkowitz, and several others, including prosecutors that formerly worked in the U.S. Attorney's Office, the child exploitation section -- I'm not sure who that was -- of the Department of Defense, and they --

Q Department of Defense?

A No, no, in the child exploitation and obscenity section of the Justice Department. Defense attorneys next requested a meeting with me. And they read that as saying these -- there were all these powerful lawyers in the case, but they don't then go on to talk about, despite this army of attorneys, the office held firm to the terms first presented to Mr. Black in the original meeting.

Q So, is it your -- so, what I understand you saying

is that the panoply, this pantheon of attorneys did not have the influence on you that's alleged?

A And -- and the purpose of this letter was to say, despite all this --

Q Right.

A -- we held firm. So, how can you say that there's influence if we held firm?

Q So, the --

A And I would -- I would also -- I'm sorry.

Q No, no.

A I would also note, and I think we talked about this, that those terms were developed before many of these individuals came on board.

Q Mm-hmm. Mm-hmm.

A So, it's not like these terms were developed because, oh, now these individuals are on board.

Q All right. And we haven't, of course, talked about the whole work release issue, but --

A Yeah.

Q -- I think that speaks -- the record --

A Yeah.

Q -- speaks for itself on that.

A Yeah.

BY MS. [redacted]:

Q So, I'm not sure I'm clear. Did you have an

interview, or give a -- have a conversation with Ms. [redacted] aside -- or, just sent her this letter?

A I spoke to her briefly saying, I'm not going to speak on the record. I'm not going to address even off the record details of this case, but I will provide a letter to you. I've had a lot of requests over the years to talk about this case.

There were enough requests coming that I thought it important to provide a statement to defend the actions of the office. I didn't want it to be to one reporter in particular, because I did not want to play favorites. And so, I provided a to whom it may concern letter that was a public letter, but then I gave it to her.

MS. [redacted]: All right. Go on?

BY MS. [redacted]:

Q And just one thing on the work release issue. Did you tell the defense that -- that the U.S. Attorney's Office would not object if he got work release as long as he was treated like every -- like every other defendant?

A So -- so, I don't recall what I may or may not have said specifically around work release. My recollection of our general position is, you're pleading in state court to incarceration of 18 -- it's now 18 months, it was 24. Whether it was 18 or 24, this would have been -- any conversation I would have had would have been after the

agreement was signed.

It's our expectation that he be treated just like everyone else, if -- if it was typical to provide that kind of work release in these cases, that would have been news to me. I certainly would not have expected that, and I think based on our subsequent communications with the state attorney's office, that was not what our office envisioned. By the same token, I don't think our office envisioned that he be treated worth that the typical offender.

Q Well, did you know that [redacted] was in fact trying to make sure that he didn't get work release?

A Yes. And so, I don't see any reason why I would have contradicted that, is -- is my point.

Q All right. You've mentioned a number of times that the sexual offender registration was the -- one of the three important prongs for you and the office.

A Yes.

Q What was it that you saw the sex offender registration as accomplishing?

A So, to some extent it's putting the community on notice that, irrespective of whether he's in Florida or elsewhere, he's a registered sex offender. To some extent, I don't know if this is -- but I'll say it anyhow. This was a serious crime, and there is a public sanction associated with this, and I thought to the extent that he committed the types

of acts that typically are associated with registration that that should go forward, but the primary motivation there was, put the public on notice that he is a registered sex offender.

Q And did you see any conflict with that as being a goal with the provision in the NPA that was -- that the NPA was going to be kept confidential, and the communications in which the -- in which the U.S. Attorney's Office was having with the defense about continuing to keep things confidential? Do you see any inconsistency between those two?

A No, in that I -- I genuinely was of the opinion that this NPA would go public, and certainly his public -- his state court plea would be public, and his registration would be public. And so, it would -- what he did would be known.

Q And given what you know about these office's back and forth on notifying the victims, do you think, looking at the entire course of conduct of the office, that the victims were treated fairly, and with dignity and respect?

A So, I want to be careful, not because I'm fudging, but because it's a complex question. If, looking back in hindsight, we knew that there would be a -- what was it? Two eight months period, when -- do we have an agreement, do we not have agreement, is this concluded, is this not concluded?

Is this an ongoing investigation?

How do we deal with all these notification issues? If we had foreseen all of that, I think I've said before, that -- that something I certainly think should have been considered, and it's very possible we would have done something very different.

But that was not foreseen. And so, it's then a very difficult judgement to be made, because there is an agreement. There is concern as to if we have to go to trial, how do you address this?

There is, you know, going to the [redacted] affidavit, at least one instance -- and I'm merging my recollection here, and -- and my knowledge after the fact, because your question sort of calls for an after the fact assessment.

So, you've got the [redacted] affidavit, which points out that defense counsel did all they could, but is using this to impeach and weaken witness credibility in a case where there's already questions around witness credibility.

And so, it's a very imperfect situation with discretionary judgements to -- to do the best, to sort of balance all these factors. Is that the best outcome? Probably not, but that's where the -- that's where we were, and that's why I think this case would have been very

differently if -- what was it, October 24 --

Q Mm-hmm.

A -- he would have gone in and plead and taken his time and served his time like so many other people have done as opposed to mount all these legal challenges that we then had to work through.

Q And I'll preface my question with the -- with the fact that we're still investigating this. We've made no conclusions --

A Mm-hmm.

Q -- with respect to this, but if OPR determines that your office should be criticized for its handling of this --

A Right.

Q -- matter, does that criticism fall on you, or does it fall on your senior managers? Because as a non-prosecutor, you were relying on them to keep you informed, and for their judgement.

A So, I was the U.S. Attorney. I certainly relied on my staff, but ultimately, I was the U.S. Attorney, and I don't think it's justifiable or fair to sort of say this was on them. I was sufficiently aware of matters that -- that -- it was my office, and -- and while I'll say that I was -- I might not recall this, or I was relying on A, B, or C for guidance, or to handle this matter, ultimately, I think those judgements always sort of bubble up.

BY MS. [redacted]

Q In your press conference, you reference -- this is the -- I think July 10, 2019 press conference. You referenced victims, what they went through was --

A Mm-hmm.

Q -- horrific, you said, and then you said, I've seen these videos. I've seen the interviews. I have seen the interviews on television of these victims, and their stories. Just to be clear, are you talking about interviews and television coverage and videos recently, or back in 2006 and --

A Recently.

Q -- 2007? Okay. I just wanted to be very clear about that. The U.S. Attorney's manual requires us all in the department to conduct the fair, even handed administration of the federal criminal laws. What's your view as to how the handling of this case comported with that principle?

A So, I do think it was fair, and even handed. We -- you know, after the fact, may look back and say that two year may not have -- you know, it shouldn't have been a manifest injustice standard. It should have been, you know, a sort of a de novo, let's treat this as a new prosecution.

That's a judgement you'll all make, but -- but those judgements were made with an eye toward fairness and

impartiality, and once those judgements were made, despite all the attorneys involved, and despite all the litigation, and all the -- all the stuff, all the appeals to Washington and the -- you know, we stuck to that position.

Q Mm-hmm.

A And I think that speaks to the way the office approached this matter.

Q All right. We -- I -- we spoke sort of offline earlier about an issue that was raised in that press conference that was not clearly answered on your part in that context, and the question was -- and this is on page 15 of the internet transcript of --

A Right.

Q -- that press conference. You were asked whether you were ever made aware that Mr. Epstein was "an intelligence asset of some sort." And you -- you in your response you said you couldn't answer it -- couldn't address it directly because of guidelines. Can you clarify -- first of all, were you ever made aware of that --

A If he was --

Q -- assertion?

A -- I'm not aware of it.

Q All right. Did defense counsel ever say to you that Epstein had that status?

A Not to my recollection.

Q All right.

A And -- and to clarify, I also don't know where press reports from multiple sources -- not from multiple sources, but from multiple media outlets that I told someone that he was an intelligence asset.

I do not know where that came from. If -- if I can just -- so, there are questions that I may be asked publicly, that I don't think it's right for me to comment as to what classified information I may or may not know, because that's not the kind of stuff you'd go into, but the answer is no, and no.

Q All right. Without reservation, without any --

A No, and no.

Q All right. Excellent. Thank you. A couple of final questions. As you can tell --

A Can I -- can I --

Q Yes.

A -- address as second issue that has come up at times?

Q Yes.

A There are also media reports that this was because of cooperation in some financial --

Q Mm-hmm.

A -- financial matters. I don't know where that may have -- I don't know where that may have come from.

Q All right. Thank you, and we are familiar with that, what you're referring to.

A Was -- was there cooperation related to financial matters?

Q We didn't ask you about it.

A Okay.

Q As you can tell, OPR obtained many electronic records --

A Yeah.

Q -- mainly e-mails, but other electronic holdings from the department. The Department of Justice, however, has not been able to find/recover a portion of your e-mail account as U.S. Attorney that contained e-mails received by you between May 26th, 2007, and March 2008.

A Correct.

Q A period of time rather relevant to this. We have obtained many records of course from senders and from other people copied. So, we have many of the records, but the fact is, that's a --

A Mm-hmm.

Q -- gap in the holdings, and this is despite the fact that as you no doubt know, the law requires that U.S. Attorney records be maintained and archived --

A Right.

Q -- indefinitely. Can you give us any insight, any

idea why that might be the case?

A I can't, and my recollection was after -- after several issues that took place, the department had some sort of records retention software that automatically retained these e-mails. Is that not accurate?

Q There was a -- there was a switchover from --

A Right.

Q -- a period in which that record retention responsibility resided with each U.S. Attorney's Office, and at the switchover, it became centralized.

A Right.

Q And this appears to have sort of gotten lost in the --

A Been caught in the switchover. I -- my recollection is that there was some automatic retention mechanism --

Q Okay.

A -- and I can't address that, although there's certainly a fulsome -- a fulsome record.

Q But just to ask the inevitable question --

A Right.

Q -- did you take any action to discard, destroy, or dispense with any official records --

A Not --

Q -- related to this matter?

A Not to my recollection. I think there's a fulsome record, and not to my recollection.

Q All right, and is there any particular gap that you've discerned in the records that we've provided to you?

A Not that I recall. Do you have the e-mails that I sent, out of curiosity?

Q We do.

A Okay. So, you have the sent, but not received.

Q Yes.

A Just checking.

Q And likewise, we retrieved from the federal records center --

A Right.

Q -- records that were boxed up and sent there, hard copy documents, after your term ended, and there is nothing that relates to the Epstein case. There were records that were maintained that were kept in the main office --

A Right.

Q -- after you left, because it was an ongoing matter, but it -- do you have any idea why there are not any in the records of yours --

A So --

Q -- that were sent?

A So, I have a recollection that when I left, there were some binders that I passed along to [redacted], because it was

an ongoing case, and we sort of had binders out that sort of had correspondence back and forth.

Q All right, and you've already made -- we've -- we -- I asked you about facts, but you addressed a sort of a broader statement to us for the record about the case. Is there anything else you want to tell us at this point?

A Give me a second to --

Q Sure.

A -- sort of think this through.

Q In fact, if you'd like to take a quick break and talk to your attorney, and that will be the last question.

A Do we need a break?

MR. [redacted]: No.

MS. [redacted]: Your attorney says god no.

THE WITNESS I will -- I will follow up on this.

MS. [redacted]: All right.

THE WITNESS Nothing that I -- if something comes up, my understanding is that we're receive the transcript, and have enough time given the length of this to review and comment.

BY MS. [redacted]:

Q Exactly, yes, and for the record --

A Right.

Q -- when the transcript is prepared, which should be within a couple of weeks, we'll ship that off to your

attorney.

A Mm-hmm.

Q We'll ask you to review it, to make not only any corrections, but also clarifications, and to add to it --

A Mm-hmm.

Q -- if you feel having read something that it needs to be clarified or expanded upon, you're invited to do so.

A And if I could ask one -- one other question. Is there -- and I'm not familiar enough with the way OPR operates, and this may be suigeneris, so you may not be prepared to answer, if there is a report as opposed to a letter, which is what I typically am familiar with, will that report be shared in advance for comment?

Q I am going to --

A Or is that to be determined?

MS. [redacted]: I am going to defer to Ms. [redacted] for that.

MS. [redacted]: That's a question that doesn't need to be on the record. Do you have anything else that you'd want to put on the record before we close out?

THE WITNESS: I do not.

MS. [redacted]: All right.

MS. [redacted]: All right. Thank you. I want to extend our great appreciation for your willingness --

THE WITNESS No problem.

MS. [redacted]: -- to come in and help us with this case.

THE WITNESS So, so, let me -- now that we're off the record, let me say --

MS. [redacted]: Are we off the record?

THE REPORTER: Not yet.

THE WITNESS Not yet? Oh.

MS. [redacted]: No?

THE REPORTER: You didn't say it.

MS. [redacted]: All right. That's it. We're off the record.

(Whereupon, at 8:38 p.m. the interview of R. Alexander Acosta was concluded.)

* * * * *

C E R T I F I C A T E

THE UNITED STATES OF AMERICA)

)

IN THE DISTRICT OF COLUMBIA)

I, Beth Roots, Notary Public, before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing pages was duly sworn by me; that the testimony of said witness was reported by me by electronic record, and thereafter reduced to typewritten form; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of this action.

Beth Roots

Notary Public in and for the

District of Columbia

My commission expires:

April 30, 2020

THE UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF PROFESSIONAL RESPONSIBILITY

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INTERVIEW OF R. ALEXANDER ACOSTA :
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Washington, D.C.

Friday, October 18, 2019

Interview of:

R. ALEXANDER ACOSTA

a witness of lawful age, taken on behalf of the United States Department of Justice in the above-entitled action, before Beth Roots, Notary Public in and for the District of Columbia, in the offices of the U.S. Department of Justice, 950 Pennsylvania Avenue N.W., commencing at 9:34 a.m.

Diversified Reporting Services, Inc.

[redacted]

APPEARANCES:

On Behalf of the Department of Justice:

[redacted]

Department of Justice

950 Pennsylvania Avenue N.W.

Washington, D.C. 20530

[redacted]

On Behalf of the Witness:

GORDON D. TODD, ESQ.

T.J. HERRON, ESQ

Sidley Austin LLP

1501 K Street Northwest

Washington, D.C. 20005

[redacted]

PROCEEDINGS

Whereupon,

R. ALEXANDER ACOSTA

was called as a witness and, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. [redacted]:

Q So, would you tell us your name, please?

A Rene Alexander Acosta.

Q And Mr. Acosta, you're accompanied by your attorney, Gordon Todd, is that correct?

A Yes, it is.

Q And Mr. Todd, would you identify the associate you have with you?

MR. HERRON: Yes, T.J. Herron.

MS. [redacted]: H-e-r-r-o-n?

MR. HERRON: Correct.

MS. [redacted]: Thank you. Mr. Acosta, I'm [redacted]. I am a counsel with the Office of Professional Responsibility here at the Department of Justice, and with me are my fellow OPR counsel, [redacted], [redacted], and [redacted]. We are in a conference room at the Department of Justice main building on today, October 18, 2019, and we're starting at about 9:30 in the morning. Before we start, I'd just want to put on the record that Mr. [redacted] worked in

the Civil Rights Division at the time that you were the AAG heading that division, and I believe had an occasion to briefly meet you in connection with a matter.

THE WITNESS: Could I ask what section?

MR. [redacted]: I was in the special litigation section.

THE WITNESS: Oh, okay.

MR. [redacted]: And I provided Mr. Acosta some talking points for a press situation that we had in that case.

THE WITNESS: 14141.

MR. [redacted]: Yes.

THE WITNESS: Probably.

BY MS. [redacted]:

Q All right. Thank you. Mr. Acosta, OPR is investigating two things. As you know, one, whether one or more federal prosecutors in the Southern District of Florida U.S. Attorney's Office may have committed professional misconduct by entering into the non-prosecution agreement, or NPA, in 2007 with Jeffrey Epstein, who at the time was under investigation by that office, and the FBI, for engaging in widespread sexual misconduct involving underage females.

The second thing we're investigating is Judge Marra's finding of February of this year, 2019, that the government may have violated -- or, actually, he found the

government did violate the CVRA, or Crime Victims' Rights Act when it entered into the MPA without first providing the victims with notice and a reasonable right to confer with the government.

You are a subject of the OPR investigation, that is, one of -- somebody whose conduct is being reviewed and evaluated by OPR, and specifically as U.S. Attorney at the time for the Southern District of Florida, you had the ultimate authority over the Epstein for a period of two and a half years, as we understand it, from the time the line AUSA [redacted] first briefed you and then criminal chief [redacted] in July of 2006, and until you were formally recused from the case on or about the 8th of December, 2008, after notifying the executive office of the U.S. Attorneys that you were seeking employment with Kirkland & Ellis, a firm of which two attorneys, Ken Starr and Jay Lefkowitz had been representing Jeffrey Epstein. Is that correct?

A We may -- we may get into it a little bit later, but I think the characterization of my seeking employment is not accurate, we can talk about that a little bit later.

Q All right. We have the documents that relate to that. So, that's what we're -- we're basing it on.

A Correct.

Q And I believe the term that's used is seeking employment.

A That -- that is the term used in the e-mail. I think I addressed that in my -- I believe Mr. Todd addressed that in the letter that was sent to --

Q All right.

A -- OPR.

Q All right. Thank you. So, we recognize that you're not longer with the Department of Justice --

A Right.

Q -- and that it is your choice to come and talk to us, and we very much appreciate your willingness to voluntarily do so and help us figure this case out. OPR provided you with a few thousand pages of records, e-mails, and correspondence and some other documents that reflect your involvement in the Epstein matter over that two and a half year period.

Now that you've had a chance to review, I hope, those e-mails and other documents, we hope you can be specific in helping us understand what happened. Have you in fact been able to review those documents?

A Yes, I have.

Q Thank you. OPR asked you for a written response to certain questions, and we've received and reviewed a written response prepared and submitted not by you, but by your attorney, Mr. Todd, on your behalf. Have you reviewed his response to --

A Yes.

Q -- you?

A Yes, I have.

Q And will you now under oath subscribe to that response as if you had submitted to it yourself?

A So, Mr. Todd spoke to me and conveyed the investigation that I provide him. I believe he conveyed that information accurately, and the statements that he ascribes to me in that letter I believe are accurate.

Q All right. Do you have any changes or corrections to that written response?

A No, I do not.

Q Is there anything in it that you do not agree with?

A Again, I think that the statements that he ascribes to me are accurate, and I agree with them.

Q All right. So, we are going to accept that statement as representing accurately your -- what you would have responded if you had responded to us directly. Is that correct?

A I -- yes, the statements, he basically gives my positions, and I believe that he gave my positions accurately.

Q Perfect. Thank you. So, as we ask questions and refer to documents, we would like you to correct any misstatements in our questions, or any misstatements or

errors that are in the documents themselves, because we want to make sure the entire record --

A Mm-hmm.

Q -- is correct. Also, there's been an enormous amount of publicity about the Epstein case, particularly this year, including about the events and decisions made back in 2006 to 2010 that are the subject of our investigation. And so as best you can, we ask you to try to answer today from your knowledge, understanding, and recollections as of that period of time. However, to the extent you are asked or do speak retroactively, retrospectively, we'll just make it clear that you're doing so.

A All right.

Q Okay?

A And if I could just say, one of the difficulties is with everything that -- all the publicity and all the documents that have made it to the press and in litigation distinguishing between recollection versus after the fact --

Q Right.

A -- speculation, and I will try, but I would appreciate reminders along the way, because it's, it's an important distinction, but it's kind of hard sometimes.

Q We recognize particularly the importance of it.

A Right.

Q That's -- that's precisely the heart of --

A Yeah.

Q -- our matter. So, Mr. Acosta, your professional background is a matter of public record. I have a couple of questions. By what state bar are you currently licensed?

A So, I am inactive in -- I believe inactive in Pennsylvania and also in D.C.

Q All right, and not in Florida?

A Not in Florida.

Q So, are -- is it -- do I understand that you are not currently an active member of any bar?

A I would have to confirm with D.C. I said not inactive in Pennsylvania and in D.C. because I am not certain whether I'm currently active or inactive in D.C. I am not currently practicing, and so I would have renewed under either active or inactive.

Q All right.

A And we can --

Q We --

A We can --

Q We --

A We can verify that and get that.

Q We would appreciate it if Mr. Todd could let us know your current status. I also would like to know the status -- your bar status in the period of 2006 through 2008. Do you know what that was?

A Most likely -- I can -- I can speculate. I don't know as a fact. Mostly likely active in D.C.

Q Mm-hmm.

A And inactive in Pennsylvania.

Q Okay, but likely active somewhere, correct?

A Yes. Yes, I think that's a requirement.

Q Yes, that is a --

A And so --

Q -- requirement.

A So, it would be D.C., the distinction between active and inactive in D.C. is more minor, as I recall, than Pennsylvania where there's a large fee difference.

Q All right, thank you, and we look forward to hearing confirmation of that from you, Mr. Todd. So, after serving nearly two years as the assistant attorney general in charge of the department's civil rights division, you were presidentially appointed the interim U.S. Attorney for the Southern District of Florida in June of 2005, and then as we understand it, you were formally nominated as U.S. Attorney in June of 2006, and after being confirmed by the United States Senate, you were sworn in by the U.S. Attorney -- as U.S. Attorney in late October 2006.

A I think that may be inaccurate. I would have to confirm. When you say presidentially appointed, I believe it may have been appointed by the chief judge at the request of

the Attorney General. The chief judge has appointing authority.

Q Okay.

A And you'd have to go back and confirm whether it was either an AG designation or the chief judge --

Q All right.

A -- which is different than presidential.

Q And I understand, and again, I would appreciate if you could --

A Yeah.

Q -- follow up on that --

A I -- I'm --

Q -- Mr. Todd.

A -- not certain how to confirm that. That's something that in all candor the department would know --

Q All right.

A -- much better than I.

Q Then we will pursue it. My point is that there was a change in your status from interim to -- you -- the U.S. Attorney with the -- with the full --

A Correct.

Q -- confirmation. How if at all did that change in status affect your view of and your exercise of your authority as U.S. Attorney?

A So, it's difficult to recall. You're now asking

that just ten years back, but even further back. I was interim for a sufficiently long period of time that -- that by the time the change in status took place, I would speculate that I was, in my mind, the, you know, acting as U.S. Attorney whether you have an adjunctive interim, or acting in front of your name or not.

You know, I -- I had great people. I don't recall when -- when [redacted] came on board as first assistant, but he was my crim chief, and I thought for the continuity of the office it was important to promote him to first assistant, and --

Q He was promoted actually effective October of 2006. You made a series -- according to e-mails -- the announcement -- the personnel announcement was made to be effective in October 2006 naming [redacted] as criminal chief, and [redacted] as first --

A Right.

Q -- assistant.

A Right, and they -- they were both long serving professionals within the office, and basically, as my recollection, everyone just moved up one wrung.

Q Okay.

A You would know better than I, because you have those records. And so, sitting here today, I don't recall any specific way in which that shift would have impacted --

Q All right.

A -- my thinking.

Q You had not served as a -- as a prosecutor before, and had -- didn't have direct criminal experience is my understanding.

A The -- that is correct. I had supervised -- civil rights, for example, had supervised criminal prosecutions, but I had not been a line prosecutor previously.

Q So, as the U.S. Attorney supervising a couple of hundred --

A Right.

Q -- line prosecutors, most involved in criminal work, how -- what -- what -- what interested you most, or appealed to you most as you undertook your -- and carried out your duties as U.S. Attorney?

A What interested me and appealed to me. So, the work of the office, I mean, the -- it's a broad question, but the work of --

Q Mm-hmm.

A -- that office and any U.S. Attorney's Office I think is incredibly impactful to any local community, and I very much enjoyed being a part of the effort to bring folks to justice, to move policy initiatives. You know, I recall early on, we identified healthcare fraud --

Q Mm-hmm.

A -- as one big -- one big area, and we had one of the largest out of our -- the largest healthcare fraud initiative. You know, we focused quite a bit on gun violence, and we did a great job on that, and it's one of those jobs where people feel very good about what they do, and it's great to be part of it. I'm sure what --

Q No, that's --

A -- okay.

Q That's helpful. It just gives us a --

A Yeah.

Q -- some perspective.

A Yeah.

Q Was there any aspect of it that you particularly disliked?

A To the extent you're dealing with personnel issues, I think personnel issues are -- are rarely the preferred part of any executive function.

Q You mean the conflicts among attorneys, things like that, or performance issues?

A Performance issues.

Q All right.

A And you know, when you've got -- in any large office, you get personnel issues, disciplinary issues, and those are never --

Q Mm-hmm.

A -- those are never fun.

Q Mm-hmm. So, we talked about the personnel -- high level personnel changes you made sort of after your first year there. [redacted] had, we understand, been functioning de facto as a first assistant while [redacted] was not. He -- we understand [redacted] had been first assistant, but he stepped away, and [redacted] came in to essentially take over his brief until he was formerly appointed first assistant. Is that consistent with your memory?

A So, you might have characterized that more strongly that I would have.

Q Okay.

A Again, it's difficult to recreate from back then, but there was certainly a transition period from Mr. [redacted] to Mr. [redacted], and if I could, because when you said high level changes, my intent -- it was a great office. Great professionals. My intent in elevating Mr. [redacted] was just you go from criminal chief to first assistant, and I don't recall Mr. [redacted] prior position, but I know that he was also elevated. I think he might have been major crimes, but --

Q That's correct.

A -- I'd be -- I'd be speculating.

Q We can --

A I could guess it.

Q We can verify that.

A Okay.

Q Yes. What was your assessment of [redacted]? His capabilities, his judgement, and his working relationship with you on a day to day basis?

A Outstanding. He had been in the office for decades. He was respected by everyone. He had a good tone to him. He was someone, you know, I wanted individuals around me that were respected within the office and that were trusted and that had been there for a long time, and then I think I was very lucky to -- to have that in my management team.

Q As we understand it, your office as U.S. Attorney was sort of on one side of the reception area, and the first assistant's office is on the other side. Is that correct?

A That is correct.

Q Or, at the time --

A Correct.

Q -- that was correct. So, did you and [redacted] have a sort of easy back and forth --

A Walking --

Q -- open door?

A -- into each other's offices multiple times a day --

Q All right.

A -- kind of relationship.

Q All right, and given that he had had experience throughout his career at the department in the criminal arena and you had not, to what extent would you rely on him, among others, for guidance, perspective, information, and so on?

A I named him first assistant because I valued his guidance and his perspectives and I thought those were valuable.

Q Okay. You also, as we pointed out, appointed [redacted] to succeed [redacted] as criminal chief effective October of 2006, and he served for about ten months before he left for private practice. He left at the beginning of August --

A Mm-hmm.

Q -- 2007. What -- you -- you did -- you said you didn't recall, as we sit here today, what section he'd come from.

A Right. I guessed it was major crimes.

Q All right. Were you -- what was your assessment of [redacted]?

A Outstanding as well, and if I could say, when I say I don't recall but I guess, when you're going back 12 years, sometimes you get an impression but you can't say it's a recollection, and that's going to come up multiple times today, just because it's a while ago.

Q As long as we make that distinction --

A Right.

Q -- both are helpful.

A Right, and so -- so, whether it's a recollection or a construction after the fact, I can't -- I can't say, but you know, I -- I thought that one of the helpful factors with [redacted] is he had spent a lot of time -- and major crimes is the most active -- active unit. I assume you all know the structures of the office --

Q Mm-hmm.

A -- but major crimes is not major crimes, it's sort of the entry level crimes, and I valued the fact that he had trained and, you know, so many AUSAs, and really spent a lot of time reviewing -- the major crimes chief as opposed to the other chiefs spends a lot of time reviewing the work of AUSAs, and so, he would be someone who is very experienced and able to get in the weeds.

Q And he in fact was around -- during that time period, had gone back in the courtroom, if you recall, to actually try a major case. Do you recall that? It was a --

A I didn't until you --

Q -- major fraud case.

A -- mentioned -- I didn't until you mentioned it, and now there's something in the back of my head that's saying that sounds right, but I can't give you more detail.

Q All right. What was your assessment of [redacted] [redacted] sort of working style, and particularly working with you?

A You know, again, positive. You know, we didn't -- I didn't see him as often as Mr. [redacted], but --

Q He -- was he located on the same floor?

A He was located on the same floor, but not within the same suite.

Q Mm-hmm.

A And -- and that -- that affects interaction, but a positive working relationship.

Q All right, and how -- how -- to what extent would you, as criminal chief, was he relied on by you as distinguished from [redacted] [redacted] with regard to the criminal matters pending?

A Also relied on. Depend -- that would depend almost on the matter for --

Q Okay.

A -- as in a typical situation, he would bring things to [redacted], who would them bring them to me along, and so he would bring things to [redacted], and then depending on their discussion, they might both walk into my office. But he would typically run things through [redacted] before coming to me.

Q Were there occasions when he would come to you directly?

A Sure. That's why I said in a typical --

Q Okay.

A It's difficult to sort of recreate the interactions, but he certainly could come to me directly, and in some cases, I would say probably would.

Q Again, it being a large office with several physical locations, and we understand it, a very high volume --

A Mm-hmm.

Q -- of cases --

A Right.

Q -- and particularly in the criminal context, is it fair to say you didn't review every prosecution as it was brought?

A It -- it is not just fair, but accurate. I recall a conversation with a U.S. Attorney from a small district early on at one U.S. Attorney's conference where we compared notes, and the interaction of an office with 30 prosecutors is very different than one with --

Q Mm-hmm.

A -- a few hundred prosecutors.

Q So, when you did engage on a -- on a criminal case, would you -- whether it was a planned prosecution or a case heading to trial, would you generally rely on written submissions, or would you -- this is really an --

A Mm-hmm.

Q -- inquiry into --

A Right.

Q -- your style, or would you have everybody together, and talk about it, or would you rely on your most immediate subordinates to be briefing you? How -- which one of those --

A So --

Q -- kinds of --

A So --

Q -- approaches --

A So --

Q -- did you take?

A I would say that really depended, and probably varied based on -- on individual needs. For the most part, I would most likely just speak with my first assistant and/or criminal chief, and assess what else needed to be done.

Q In other words, you would sort of do it on a -- sort of on a verbal, or based on oral --

A Correct.

Q -- interaction and --

A Correct.

Q -- presentation as opposed to going through stacks of papers?

A For -- for the -- I would say that was typical.

Q Yeah.

A I don't want to say that was the case every single time, but that was -- was typical.

Q All right, and to what extent did you go out and about to encounter the line attorneys, or example? Was that something that you were able to do and wanted to do?

A Yes, and yes, and you know, I -- when I started, I made it a point of walking every floor and meeting everyone, and in -- toward the end of the day, I would also if I could make it a point -- particularly of major crimes of just walking down to the floor and seeing who was there and what they were doing and -- and sort of popping my head in and just saying hi because I think it's the right thing to do.

Q Okay. Okay. Was that a way to support the troops, or was it more a way for you to find -- to become informed about what was going on?

A Probably a little of both, of support the troops, but also get the temperature for the office, see how matters are progressing.

Q You at the criminal -- or, rather, the civil rights division, had experience with human trafficking and child sex trafficking cases --

A Correct.

Q -- under your supervision. We understand that you brought that concern, or your concern about those issues with

you to the U.S. Attorney's Office, and that -- we know that under your tenure, the U.S. Attorney's Office had many successful prosecutions involving conduct ranging from internet child pornography --

A Mm-hmm.

Q -- to international sex tourism --

A Correct.

Q -- victimizing children in particular. In mid-2007, you -- according to press reports, you set up a new special prosecutions unit --

A Correct.

Q -- to focus on, among other things, sex crimes against children. Could you tell us what importance those kinds of cases held for you as U.S. Attorney?

A Sure. If I could -- if I could just back up a little bit, because the -- the question goes -- the special prosecutions unit, and let me address that part of it. There are a few things embedded in that.

Q Mm-hmm.

A There's -- there's -- the special prosecutions unit was set up because there were some issues that -- that I thought were important to pursue in particular, and one of those was -- was sort of the trafficking issues. Another one was the gun violence, and the intent of special prosecutions was to have a group of individuals that would sort of be

dedicated and not part of the usual major crimes group. So, it wasn't exclusively -- I -- your question may have implied it was exclusively for sex crimes, and it --

Q Oh, no.

A -- and it wasn't -- yeah.

Q No, I understand it was not.

A Right.

Q Okay.

A And so, I thought it was sufficiently important, and so, it was one of the -- one of the initiatives that we were certainly pursuing.

Q And was that something that you can -- that -- to which you brought your experience as head of the civil rights division as well?

A It was. I think -- not I think I know when I was head of civil rights that that's something that I'd put particular emphasis on, and I thought civil rights really stepped up and did a great job on that.

Q Did you yourself ever -- I recognize you were never a prosecutor as such.

A Right.

Q But did you ever have experience being involved in a prosecution that -- sort of the nitty-gritty of the prosecution of that kind of case? Sort of seconding yourself to a trial team, for example, or an investigation?

A So, if by nitty-gritty you mean seconding myself to a trial team the answer would be no.

Q All right.

A There are a number of cases that I recall being briefed on and talking about, but --

Q But at that high level?

A Correct.

Q All right. The department set up in 2006 a PSC program, a Project Safe Childhood program --

A Correct.

Q -- focused on internet child pornography, and you appointed [redacted] as your first PSC --

A Correct.

Q -- coordinator, and she was also of course the line attorney on the Epstein case. How well did you know [redacted], and can you -- can you give us your assessment of her capabilities, judgement, and her interaction with you?

A So, a few things in there. How well did I know her prior to appointment? I don't recall. I'm not -- I don't think I knew her particularly well prior to appointment. She was clearly respected within the office, and I don't recall but I can speculate that she was appointed based on recommendations of management, and her interest and some combination -- and prior work and some combination thereof. You asked me to characterize [redacted] --

Q Her -- your view of --

A Right.

Q -- her capabilities, her judgement --

A Right.

Q -- her acumen, her knowledge of the law.

A I think she was a good, strong, professional AUSA. I mean --

Q Do you have any -- did you have any negative -- you know, anything less than fully positive in your assessment of her?

A No.

Q Okay.

A I think she was a good, strong, dedicated AUSA.

Q All right. [redacted] [redacted] --

A Yeah.

Q -- was the managing AUSA at the West Palm Beach office.

A Correct.

Q At least -- and would -- and [redacted] [redacted] worked there. How closely did you work with [redacted] [redacted], and again, that --

A Mm-hmm.

Q -- assessment question --

A Right.

Q -- what was your assessment of him?

A So, less so, only because of geographic distance.

Q Mm-hmm.

A I would also say he was a respected professional. He had a good reputation. He went on to be chief of staff here at the -- at the criminal division, which I think speaks to how he was viewed within the department.

Q Mm-hmm.

A And so, I would say positive.

Q Okay. So, now turning to the Epstein case.

A Yeah.

Q Now that your recall has been refreshed by virtue of the documents we've provided, before we get into the actual sort of documents and some of the details of the events, would you please give us a general overview of what you currently remember, refreshed, about how the case came into the U.S. Attorney's Office, how it was assessed for prosecution, and how and why the decision was made to resolve it with a two-year state plea that ultimately became an 18 --

A Okay.

Q -- I mean, yeah, a two year state plea that ultimate became --

A All right.

Q -- an 18 month state plea.

A Okay, so --

MR. HERRON: Before you answer the question, let me

just jump in on the notion of refresh your recollection, which is -- of course has a very specific legal meaning, and I think to assert that Mr. Acosta's recollection has been refreshed generally probably overstates it. It's really a document by document, issue by issue thing. So, I'd push back on that --

MS. [redacted]: I --

MR. HERRON: -- a little bit, but the question is fair and accurate.

MS. [redacted]: If you're talking about handing him a document to refresh an exhausted recollection, that's not the process we're talking about. We're using it in a more lay term that, you know, if we asked you this before, giving you all these documents, you'd probably would have not been able to be as full in your responses. So, we're asking for your full response. Thank you.

MR. HERRON: We appreciate the opportunity to review the documents, and Alex, in your answers, try to distinguish what you actually recall --

THE WITNESS: Yeah.

MR. HERRON: -- in your own head versus what you saw in the documents.

MS. [redacted]: Yeah.

MR. HERRON: And that would make for --

MS. [redacted]: Thank you.

MR. HERRON: -- the cleanest record.

THE WITNESS: Okay. So, three parts. How did it come into the office? How did -- I'm sorry --

BY MS. [redacted]:

Q How was -- how did it come in?

A Right.

Q How was it assessed for prosecution --

A Right.

Q -- and then how and -- how and why the decision was made --

A Right.

Q -- to resolve it the way it was.

A So, so, let's begin with how did it come into the office. Putting all the documents aside, I can't say with certainty how it came in. I can speculate how it came in, and the way it would have come into the office is -- I can speculate that the chief -- the chief rider from Palm Beach County would have brought it to either the FBI or to the Palm Beach Office. I'm not certain that I would have asked who brought this case to the office as opposed to the case is now in the office, so let's --

Q Right.

A -- let's discuss it, right? The format, or the mode in which it came in I think is important, because my recollection is it arrived to us in the position that the

state attorney had negotiated a plea, and that the reason that we looked at it was that that plea was going to be -- that there had been an initial charge that wasn't pursued, and that required jail time and registration, and that the plea that was going to be taken was a charge that didn't require jail time, and didn't require registration, and based on the preliminary assessment of the facts, that seemed -- that seems wrong. So, that's how did it arrive. The next question was --

Q How was it assessed for federal prosecution?

A So -- so, it was assessed for federal prosecution, my recollection, from -- from very early on, and I'm sure we'll talk about this some more, is you have a case that, while technically it wasn't final at the state level, but for federal involvement, would have been final, and -- and so from the earliest point, we were thinking federal versus state and petite, and the contemporaneous record sort of shows -- at least the material that I got, the earliest communication was Mr. [redacted] telling me that [redacted] is preparing a petite policy waiver -- that Ms. [redacted] is preparing a petite policy waiver, and that's consistent with my recollection of how it was assessed, and -- and then brought in -- assessed, you know, does it make sense to go forward, yes, investigate, and circle back. And then -- and then the third part was the --

Q How and why the disposition.

A So, my general recollection is the view was that if the state had followed through on an original charge -- I don't recall which -- that called for jail time and that called for registration, that the local police or whoever brought it would not have seen the need to refer it.

And so, that was in terms of pre-indictment resolution, a -- a logical and reasonable place given all the other sort of factors, both the petite concerns, the witness concerns, and the legal concerns.

And to that, I would add a fourth concern, which is it had already been reviewed by a grand jury at the state level, is my recollection. And so, to some extent, that's indicative of how some individuals may sort of view this matter.

Q Okay. We're going to pick that apart.

A I figured.

Q But thank you for that.

A You -- you asked for an overview, so I tried to just be very --

Q Yeah.

A -- general.

Q That doesn't -- that doesn't -- the second part of that last prong was -- was why a two year state plea. In other words, you talked about -- you talked about assessing

the case and why resolve it, but why with a two year state plea? What's the --

A And so --

Q -- overview?

A And so my general recollection is -- my understanding -- if I was asked, what is the best understanding that I have of why two years, is that is what would have been obtained in one of the original state charges. Again, this is --

Q How do you know that?

A We --

Q How did you know that?

A I'm -- that's why I say general recollection. I'm reconstructing memories of that 12 years ago. I can speculate that at some point, the matter came up, and I or someone else said if, you know, what would the original -- what would the original plea have -- you know, what would the original charges have likely brought? And someone said this amount.

Q How would have said that?

A I -- I'm speculating at this point. I don't have a recollection, but -- but that's -- that's my general understanding.

Q All right. All right. We'll now unpack --

A Yeah, I --

Q -- some of that.

A -- I noticed.

Q And by the way, my colleagues, we're all in this boat together. So, they're going to feel free to --

A I know.

Q -- chime in --

A Yeah.

Q -- as they see fit. So, the first thing going -- going to the intake of the case, we know from the records that -- and by the way, we've obviously done a great deal of other investigation --

A Right.

Q -- and spoken to many people. So, [redacted] [redacted] briefed you and [redacted] [redacted] pretty much when the case first came in --

A Mm-hmm.

Q -- in mid-2006, after the FBI and indeed the office -- the U.S. Attorney's Office in West Palm had opened the case, but before Epstein was indicted. So, this first exhibit, Exhibit No. 1 that you have in your binder before you -- or, in your folder before you -- is that e-mail from [redacted] [redacted] to you that you just referred to dated July 24 --

A Right.

Q -- 2006, in which he's sort of passing on the information that Epstein has by now been arrested -- been

indicted -- arrested and indicted by the state. Do you recall anything about that original briefing from [redacted]?

A I -- I don't.

Q All right. Did you know at the time that -- at the time she briefed you --

A Mm-hmm.

Q -- which is prior to Exhibit 1, did you know who Epstein was?

A I did not.

Q Never heard of him, to your knowledge?

A To my knowledge, I don't recall having heard of him.

Q And what did you understand at that early point the case to be about?

A So, I don't recall the briefing, and so I can't give an independent recollection. You know, based on this, I mean, the --

Q You're talking about Exhibit 1, and you're --

A Based on --

Q -- looking at --

A -- based on Exhibit 1, you know, I can -- I can infer that this would have been my general understanding of the case, and you know, and the key things that I point here is pre-trial diversion, which is code for no jail time, and

petite policy.

Q But this -- what -- Exhibit No. 1 --

A Right.

Q -- does not make it clear to you that this case involved allegations that Jeffrey Epstein had been enticing, coercing, whatever verb you want to use, young, underage females -- we will for the record call them girls here --

A Mm-hmm.

Q -- as opposed to women, and these underage females were being paid to provide him essentially with sex, or sexual activity or conduct, of a pretty salacious nature. Do you recall that as being essentially what you were briefed on from the beginning?

A Again, I don't recall the initial briefing. I take it based on your review that there was an initial briefing. I can't say the degree of detail. I can't say what it was about. As a -- as a typical matter, I wouldn't be briefed when a case comes into the office other than being made aware, this is a case, this is what we're looking at.

Q So, then, if you --

A Sure.

Q -- understanding you don't remember the briefing, is it fair to say that you did have some understanding of what the case that was that West Palm Beach was pursuing as of mid-2006?

A I certainly had an understanding of the general facts of the case early on. I can't speak to whether it was mid-2006 versus late 2006 versus 2007, but --

Q Mm-hmm.

A -- early on, I certainly had an understanding that it was a case that involved, you know, a billionaire who was doing sordid things with young women or girls who were minors.

Q [redacted] [redacted] and the records indicate that her concern in bringing this all the way to you --

A Mm-hmm.

Q -- and her first at that time criminal chief --

A Right.

Q -- but sort of acting First Assistant [redacted] [redacted] was because she was afraid of political pressure that might be brought to bear against the U.S. Attorney's Office in this case. Do you have any recollection of that being a concern that was laid before you?

A I don't -- again, I don't recall the early -- that briefing. I've reviewed this e-mail, and -- and I can -- you know, I take it -- it would have been natural for me to say, should we approach the state attorney, because we had lots of ongoing matters with the state attorney, and it seems that [redacted] said no for fear it'll be leaked straight to Epstein, and I assumed I'd let it be at that point.

Q And do you know -- oh, do you know what he meant by it being leaked to Epstein by the state -- by Barry -- Barry Krischer, the then State Attorney?

A So -- so, based on the context --

Q Mm-hmm.

A -- what I would assume is that if the state attorney is cutting this kind of deal, and it appears that things have already leaked, because you know, there's clearly and article here with leaked -- you know, so, something has already leaked.

Q You're referring to Exhibit 1?

A Exhibit 1. Other things would leak.

Q Had you ever met Barry Krischer?

A Sure.

Q What was your relationship with him?

A So, there were multiple state attorneys within the district. He was -- it was a professional relationship. We, you know --

Q It was an elected position, correct?

A It was an elected position.

Q And what was your assessment of his aggressiveness as a prosecutor, and his capabilities?

A On the public -- my -- most of my assessment with him was on the public corruption front, where we had brought several cases, and I was a little disappointed that these

were cases he could have brought that he chose not to bring.

Q Right. So, is it -- can I -- am I accurate in inferring from that that you didn't regard him as a particularly hard charging prosecutor?

A So, I -- with any state attorney, I hesitate to sort of paint broad brush strokes. I don't think that's always fair, but my experience had been in the public corruption space.

Q Yeah.

A And in that space, I did not think -- whether it was him, or whether it was his office, I can't speak, but I did not think they had done as much as they could have done.

Q Is there any area in which you thought he and his office did pursue aggressively?

A So, as I recall, we had had -- we had emphasized gun crimes quite a bit, and really had had a lot of success moving -- moving the ball in the gun crimes space in Palm Beach.

Q What --

A But let me -- let me just say, it's also very difficult to reconstruct time frames.

Q Mm-hmm.

A And so, I hesitate, because I don't know if that was 2006 or 2007, or -- but you asked in another area, and --

Q In this Exhibit 1, you ask whether it's

appropriate -- appropriate to approach Barry Krischer and give him a heads up as to where the U.S. Attorney's Office might go, presumably --

A Right.

Q -- with this case?

A Correct.

Q Why would you want to extend that difference to him? Why would it matter?

A A colleague in law enforcement. I thought it was important for the office to work with -- with state attorneys as a general matter, and I found that the office worked best when it had good working relationships with state attorneys and with -- you know, with -- for that matter, the agency SACs and others, and --

Q Right.

A -- but again, you know, rather than my asserting, I'm asking [redacted], and [redacted] was saying no, and I don't know what the ultimate outcome was, but I would guess that we'd just defer and let it be.

Q Turning to Exhibit 2, this is an e-mail that was forwarded to you by [redacted], the original forwarded e-mail is from [redacted] copying [redacted], and it essentially relates to a dust up between [redacted] and [redacted] over chain of command, and her workload, but in the first paragraph, she specifies that, "When I first

heard about the Epstein investigation, I spoke with [redacted] about it. [redacted] was not here."

"[redacted] said that she would back me up on the case, but I knew what has happened to the state prosecution can happen to the federal prosecution if the U.S. Attorney's Office isn't on board. So, I spoke with [redacted] about the case, and he spoke with Alex, and they gave the green light."

So, that -- that actually appears to be an initial contact with [redacted] that she's talking about prior to the briefing of you, so, way early when the case first came in in May of 2006. Do you recall being contacted or having a conversation with --

A Mm-hmm.

Q -- [redacted] [redacted] about that case so early?

A Again, the early recollection, whenever -- whenever it might have taken place, was I was made aware of the matter. It seemed a reasonable matter to pursue, and that's the level of detail that I recall.

Q So, if [redacted] said back in the day that she got from you all the green light, what did you understand her to be being authorized to do -- authorize may be too strong a word, but --

A So, to pursue -- to investigate -- to pursue --

Q Yeah.

A -- to someone, you know, I -- I'm speculating here,

but there's a case, and they want to know, should we spend our time on this? And the answer is it seems reasonable. Sure.

Q Okay, and do you -- do you recall making that explicit to her?

A I -- I don't, and -- and it wouldn't have been my practice to -- to sort of make it explicit to -- yeah, go spend your time, as opposed to, thank you for letting me know, that sounds reasonable.

Q All right.

A And whatever, you know, details it looks like based on Exhibit 1, there was subsequent follow up between her and [redacted], or with her and the management team, and they said, you know, go back, work on A, B, and C.

Q Do you know what [redacted] [redacted] was talking about when she referred to something happening to a federal prosecution if the U.S. Attorney is not on board? Had there been a case in which you were not supportive of a particular prosecution that was being proposed?

A None -- none that I recall, and -- and I knew that what has happened to the state prosecution can happen to a federal prosecution if the U.S. Attorney's not on board. I don't recall any federal prosecution that I wasn't supportive of, at least in -- in this context.

Q What do you mean by this context?

A It was my way of narrowing an answer so I didn't spend the time to go through every office and every division. For the most part, as I sit here, I'm sort of running through each office. I don't recall any, and -- and if I could, based on this -- on Exhibit 2, I'm not sure that she's referring to a specific case as opposed to concerns that the state prosecution started at point -- you know, with charges that required jail time and ended up somewhere else, and it may have been because management --

Q All right.

A -- wasn't.

Q But that's -- that's a current -- a reading of --

A Yeah.

Q -- this, rather --

A That -- that's my --

Q -- than a recollection?

A -- that's my reading, not --

Q All right. Based on the early description you got of the case --

A Right.

Q -- did you have any idea how many victims were involved?

A I did not.

Q Did you know what the name of the case was? What the investigation's name was? You know, cases get names.

A So, I know that based on review of the correspondence, I may have known that then. I did not independently recall that.

Q That being Operation Leap Year?

A Correct.

Q All right, and do you know where that comes from?

A I have -- well, I mean, other than February 20 -- yeah, I don't know.

Q Well, the original allegations that came in involved 28 victims, and then subsequently [redacted] advised that she was uncovering more victims, so there were --

A Yeah.

Q -- over 30 victims.

A I --

Q Well over 30.

A I did not know that.

Q All right. You did not -- you -- as you sit here today, you didn't know it?

A I don't recall knowing that.

Q But is it -- is it reasonable that the number of victims would be one of the factors that you would have been informed of at the time?

A I -- I don't know. I -- it all depends how detailed that briefing was. Again, as a typical matter early on, this is what is being done. I would trust my AUSAs and

my management staff --

Q Right.

A -- to pursue it. It wouldn't be a, here are all the facts associated with this case, just heads up. There is a high profile case involving a very wealthy man abusing young women, a state attorney is prosecuting, but you know, there's dissatisfaction. I wanted to give you a heads up, both to inform me, but also so that I'm aware in my interactions with -- with other Palm Beach officials.

Q Okay. Based on whatever information you got at the time, did you think that there was a federal interest to be served by pursuing a federal prosecution potentially?

A Yes.

Q And what was that?

A So, the exploitation of young women.

Q Girls.

A Girls.

Q I want to be -- I want to be --

A Minors. Minor females.

Q All right. I -- you know, for a -- for a sort of a glossary convention --

A Right.

Q -- that we are using is -- and we can use in this interview, is girls --

A Right.

Q -- for the victims who at the time of the conduct were minors, and women, for those who were not, even though the girls at a later time became age of --

A Fair.

Q -- majority.

A Fair.

Q Okay. So, here, we're really talking about the girls --

A Okay.

Q -- who were victims.

A Yeah, yeah.

Q Okay.

A Girls, minor females. I just don't -- sometimes that term is viewed differently. And so --

Q Right.

A Yeah, so the exploitation of girls or minor females, and that certainly is an important federal interest.

Q Well, and is the number and the breadth of the scheme -- the scope of the activity also a factor there? In other words, it wasn't one or two on one or two occasions.

A So, there's several factors that probably go into what's the federal interest. The acts, the sordidness of the acts, the -- the number, the likelihood or the importance of registration was important to my mind because that -- that goes to future prevention to putting the community on notice.

Q And were you aware that the individual in this case, Epstein, also had homes in other districts, and that there were -- it was an interstate activity on his part, the interstate travel and so on?

A I --

MR. HERRON: I'm sorry, let me just -- we're still in the original intake time frame --

MS. [redacted]: Yes.

MR. HERRON: -- here?

THE WITNESS: Yeah. Again, for the intake time, I can't -- I can't speak to the details, because I don't remember what the extent of that -- that intake briefing.

BY MS. [redacted]:

Q But as I -- as I -- as I --

A Could I -- could I ask --

Q Yes.

A -- a question? Was there -- was there a clear briefing as opposed to a heads up based on the record?

Q Yes. That [redacted] [redacted] came to Miami to conduct a briefing of you and --

A Okay.

Q -- [redacted] [redacted] in order to tell you about this case, and get from you --

A Okay.

Q -- a green light --

A I --

Q -- to proceed with it.

A I ask, because I recall an e-mail, and I don't know what the time would have been, where she's coming to Miami, and [redacted] says, why don't you stop by my office first?

Q Right.

A And -- and -- and I keep -- I would -- I would speculate that, why don't you stop by my office first is, why don't you give me a bunch of details, and then we will walk across to the U.S. Attorney --

Q Right.

A -- and fill him in, and so that would have been almost a two-tiered discussion.

Q And is that --

A And I don't know if that -- if that -- the timeline on that e-mail is when you say briefing.

Q Well, we are -- we are asking --

A I --

Q What it -- what it would --

A Yeah.

Q -- be.

A I'm speaking just based on review of the record, not based on recollection here.

Q All right. So, you have -- to be clear, you have no recollection of any specific briefing in 2006?

A I accept that I was made aware of the matter.

Q Okay.

A I can't say how or in what context or to what degree of detail.

Q Or by whom?

A Or by whom. I knew the matter -- it's easier to recollect at least for me what I knew as opposed to who told me what.

Q All right. All right. At this point, would you have had -- did you have -- if you -- at any point, did you have any reservation about investigating and potentially prosecuting Jeffrey Epstein, a reservation stemming from his wealth, and reported standing in the community at all, and influence?

A No, and we had prosecuted lots of influential folks in the office. So, while he had wealth, it's not unusual -- UBS was in the office at the time. I mentioned several high profile Palm Beach public corruption cases.

Q So, there was no concern about possible negative blowback in the press or the community or even at Main Justice if you went after someone like Jeffrey Epstein?

A There was no concern stemming from his wealth or his status.

Q What would it have stemmed from?

A At some point, I think there was concerns regarding

the -- the law, and we'll probably get into that. I alluded to that earlier in the overview. I don't know if that would have been developed this early on, but -- but that's not a function of his wealth. That's a function of the fact pattern.

Q Right. Right. Okay. So, as you mentioned petite policy concerns, petite policy, petite policy, could you tell us what your position was on the -- on the policy as it applied in this case as you understood it from -- in the beginning?

A So -- so, the policy, you know, on its face, doesn't specifically apply. Based on Exhibit 1, I'm now inferring, not recalling, it looks like either [redacted] on her own, or [redacted] asked for a -- or, Mr. [redacted], asked for a petite policy waiver memo to be prepared, in part on the assumption that the state prosecution may or may not have gone for it.

I don't know, but I know -- I do recall that early on, this was unusual, because it had been -- he had been arrested or arraigned. It was going forward on the part of the state, and so here is the big bad federal government stepping on a sovereign, you know, state, saying you're not doing enough, and to my mind, when, you know, the whole idea of the petite policy is to recognize that that estate has -- you know, 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.

Q And what kinds of -- well, so, the petite policy exists because there's a recognition that there are cases that are appropriately pursued. I mean, you were the head of the civil rights division, after all.

A Correct, which is why I say except in the most appropriate of circumstances.

Q Right.

A But let me add that based on this, I was comfortable, you know, saying, let's go forward, because the lack of jail time, you know, to use -- to use petite policy language, a plea that did not include jail time or registration would seem like a manifest injustice.

Q All right. So, did you have any doubt that you'd get a waiver if you applied for one?

A I'm not -- so -- so, I'm now speculating. I don't recall, but I'm not sure I would have said, is there a doubt that I'd get a waiver as opposed to, is this something I feel comfortable doing, or not? And --

Q And this being the prosecution, or this being the -- applying for a waiver?

A Applying for a waiver. And so, you know, either main justice gives it or doesn't give it. That doesn't mean

you don't apply for it if you think it's the right thing to do.

So, for example, in the UBS case, which was one of our big tax, you know, prosecutions, we asked for a Bank of Nova Scotia --

Q Mm-hmm.

A -- authorization to the Bank of Nova Scotia subpoena, and I didn't think Main Justice would -- you know, I pushed really hard, and I got into the weeds in that case for that purpose, but I still thought, let's go for it, and we did, and Main Justice didn't give in to it, and that's okay. That's how it works.

Q Okay. So, they denied that request?

A They denied that request, and I say that as an example of -- as a typical matter, I don't think what's main justice going to say, as opposed to how do we -- how should we approach this matter?

Q I don't understand about what you mean by, how should we approach this matter.

A So, honestly, how do I -- how do I explain this? So, I think there's a difference in saying, let me predict how main justice will come out, and follow that prediction, versus, folks, what do you all think? Okay. If we're comfortable with this, let's write it up, and let's see what Main Justice does.

One is trying to predict what folks in this building are going to think. Another one is trying to predict -- another one is saying, what do we in Miami think, and then let main justice figure it out.

Q And which is the approach you typically took?

A And my point is the approach that I typically took is, what do we think, and let main justice give it a thumbs up or a thumbs down.

Q All right, and in this case, did you do that with regard to the petite policy?

A So, in this case, we didn't get that far in that we didn't have to submit to DOJ.

Q Mm-hmm.

A But -- but we were approaching it not based on what main justice was going to think, but what do we feel is the right outcome in this office.

Q So, as I understand, the bottom line is that you didn't -- as I hear you, I believe you're saying that you didn't stand down, or in any way cease or limit pursuing this case on petite policy grounds. You pursued it as you -- as you would --

A So, we went forward with the matter, although there were petite policy concerns in the background. So -- so you're setting this up as a binary -- as a -- did -- was it a fact -- as a binary, you did not limit yourself on petite

policy grounds, and I'm pushing back a little bit, because I don't think it's, it's part or it's not, as opposed to when you look at a case, there are all sorts of factors, and it is a factor in how you think of a matter going forward.

BY MS. [redacted]:

Q If you had those petite policy concerns -- you or members of your staff?

A I would say a combination of me and my management staff.

BY MS. [redacted]:

Q Who? Who?

A I can't -- I can't recreate --

Q But who are you dealing with on this case?

A Primarily, it would be my first assistant and criminal chief as I typically -- so, there is, you know, to sort of put it in main justice terms, you know, a line attorney has a deputy section chief and a section chief and a DAG and an AAG, and the AAG usually deals with the section chief, or the DAG. And so, I was dealing with my first assistant and my crim chief.

Q Right, and they were there in Miami.

A And they were there in Miami.

Q And by the way, [redacted] [redacted] first line supervisor was [redacted] [redacted].

A Correct.

Q Do you know why she was not actively participating in this chain of command?

A I noticed that in the correspondence, and I couldn't speak to that.

Q All right.

A But the -- but it goes to the point that if you look at the -- she reported to [redacted], who reported to [redacted], who reported to [redacted], who reported to [redacted]. And so, as a typical matter, I tried to empower my first assistant and my criminal chief and my office heads and work through them, not bypass them.

Q In this particular case with regard either to the petite policy --

A Right.

Q -- or any other aspect, was there anyone other than that group of five, if you will, in that chain --

A Correct.

Q -- from you down to [redacted] [redacted] through [redacted], [redacted] --

A Right.

Q -- and [redacted] that you were dealing with?

A I can't recall. I -- I can -- I can say as a general matter, it would not be unusual for me to walk down -- walk down the hall and talk to someone that I trust and say, hey, I've got this fact pattern. What do you think?

Q Do you recall ever doing that in connection with this case?

A I -- I don't recall the specific briefings or who I talked to. I'm just saying as a general matter that there are folks on my -- on the eighth floor that were in management that I would often just walk down the hall, and --

Q But do you recall doing that --

A I don't --

Q -- in this case?

A I don't recall.

Q Okay. So, we shared with you in Exhibit 3 a pretty lively exchange between [redacted] and [redacted]. You didn't -- we have no reason to believe you saw this before, but it makes some representations about you, and that's why we brought it to your attention.

A Okay.

Q Do you recall this e-mail exchange?

A I don't recall the e-mail exchange.

Q I mean, you --

A But I --

Q -- didn't see it then. Do you recall having read it before today?

A I recall reviewing it, yes.

Q All right. Okay. So, starting from the end, [redacted] using [redacted] Blackberry, which is a little

confusing to begin with -- notifies [redacted] that -- of a -- of a particular conversation he had with one of the defense attorneys. At this point, what I want to do is draw your attention to the -- the comment, and his response, and we're looking at page --

A Page --

Q -- three.

A -- page three.

Q So, in the third paragraph --

A Yeah.

Q -- "it was made clear to you by the U.S. Attorney and the first assistant from the time when you were first authorized to investigate Mr. Epstein that the office had concerns about taking the case because of petite policy and a number of legal issues." And then later he says that, "You were never given authorization by anyone to seek an indictment in this case."

And -- close quote -- and then on the first page, [redacted] presents her version of that original contact with you, meeting with you, at the bottom of the page. Halfway through the last paragraph, she says, "My recollection of the original meeting with Alex and [redacted] is quite different than your summary. In that meeting, I summarized the case and the state attorney's office 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 month," -- that -- I'm sorry, "I noted the time and money that would be required for an investigation. I said I was willing to invest time and the FBI was willing to invest the money, but I didn't want to get to the end of it," -- "to the end, and then have the office be intimidated by the high powered lawyers. I was assured that would not happen." Can you tell us which version of that initial -- which version --

A Right.

Q -- is correct?

A So, again, I don't remember that initial briefing, so I can't tell you which version is correct. I would also say that it's possible neither version is correct and that there's a little bit of truth -- now I'm just speculating --

Q All right.

A -- that there's a little bit of truth in either one, because it's certainly possible to say, I hear you, righteous case, go forward and investigate, work on the federal nexus, which is what Exhibit 3 is saying, go work on the federal nexus and find evidence for the federal nexus. But we have concerns about petite policy and legal matters, so there's a lot of work to be done.

Q So, what kind of a direction does that amount to

for the line AUSA? What's her job then?

A So, the job would then be to go back and investigate, and develop facts and report back.

Q And if she developed enough facts, and supportive law to present proposed prosecution?

A Right.

Q Okay.

A And so -- so, a lot of times in this he said, she said, there's a little bit of truth to both sides of the discussion. I'm just -- I'm just saying as a general matter, I wouldn't -- your questions are sometimes either or, and sometimes --

Q Right.

A -- it can be a combination of both.

Q All right, and -- but in fact you don't recall?

A But I'm speculating.

Q All right. Is there anything in either of those that two accounts -- two versions that you say didn't happen, couldn't happen?

A I can't, because I don't recall it. I can't --

Q Okay.

A -- speak to that. I would speculate that there's probably a little bit of truth on both sides that -- and if you read it closely, you'll see that [redacted] acknowledges the need to work on a federal nexus. So, that goes to, you know,

where [redacted] -- or, Mr. [redacted], I'm sorry, I'm calling -- I'm using first names.

Q Its' all right.

A So, I'm going to just start --

Q This is an informal interview.

A I'm going to just start using first names. I don't mean that disrespectfully -- where, you know, [redacted] says, you know, because of petite policy and legal issues, and [redacted] is acknowledging the legal issues, because she's saying needed work to do to collect evidence establishing the federal nexus.

Q All right.

A So --

Q Yeah.

A So, they're not as inconsistent as presented --

Q All right.

A -- arguably.

Q Back in 2006, in this Exhibit No. 1, [redacted] tells you in his e-mail that the indictment target date is August 25, 2006.

A Mm-hmm.

Q In other words, very shortly --

A Right.

Q -- thereafter, within a month or so. Do you know why the line AUSA, [redacted], was keen on getting the

federal case against Epstein brought on a fairly -- on a quick basis?

A So, I can't speak to that, and -- and can I -- can I ask, based on your record, was that that the -- was that the state indictment target date, or was that --

Q He already --

A -- a federal --

Q -- Epstein had already been indicted and arraigned on the --

A Right.

Q -- indictment, so that's the federal.

A So -- so, that's --

Q That's talking about a federal indictment.

A All right.

Q The point --

A Correct.

Q -- is that early on --

A Right.

Q -- the investigative team, the FBI --

A Right.

Q -- and [redacted] [redacted] were hot to trot to get this --

A Right.

Q -- case moving from a federal standpoint. That may well have been quite unrealistic given --

A Correct.

Q -- all of the issues that we've been discussing, but the question is, do you know why there was some urgency?

A I haven't the slightest idea. When was it -- when was it initially brought to the office?

Q It was brought to the office in May of --

A Right.

Q -- 2006.

A That -- that would be a really, really fast timeline.

Q Right. So, the question is, aspirational though it may have been, there was a hope --

A I --

Q -- to get it done quickly.

A Right.

Q So, the question is, can you think of factors that would have led a prosecutor to want to pursue --

A I --

Q -- this quickly?

A I don't recall. I can speculate that [redacted] was very hard charging and wanted to do a lot, and --

Q Was that your experience of her?

A So, based on this, I see, you know, so, Exhibit 2 is, you know --

Q Excuse me, would -- but just from your memory, is

that your recollection of how [redacted] operated? Hard charging?

A Yeah. I'd say -- so, a lot of really good prosecutors are hard charging. That's --

Q All right.

A -- that's part of the job description.

Q Okay.

A And so, yes.

Q Okay. Did -- so, in the child sex offender context, are you familiar with a -- the belief on the part of people who do that kind of case, as did [redacted] and others in your office -- that those offenders typically don't stop offending, even after somebody's onto them? So that there was a concern that he -- that in this case, Jeffrey Epstein might be continuing to offend, and therefore getting him off the streets was --

A Right.

Q -- a priority?

A I have heard that discussed recently in the media. I don't recollect that back in -- part of a discussion back in 2006.

Q All right. Okay. Do you recall that [redacted] -- and this is just a, do you recall --

A Mm-hmm.

Q -- that she periodically would give you in that early period of 2006, updates -- written updates?

A I don't.

Q Did you think that it was appropriate for a line AUSA to be shooting e-mails updating on a case that was under investigation directly to you and your first assistant?

A It was unusual, and -- and so, so, did I think of a -- look, I can't reconstruct what I would have thought, but you know, you're asking not just what did I know, but what would I have thought 12 years ago.

But I can say that based on general practice, it would have been unusual, and my best guess as to how I would have reacted would have been, hey, [redacted], this is unusual, is the chain being fully informed? Are feathers being --

Q Right.

A -- ruffled? Figure it out, because, you know, you asked me early on to characterize [redacted] qualities. I think one of the things that I said was he was very good at smoothing things --

Q Mm-hmm.

A -- over. And sort of the interaction, because he was respected, and so I might say, that's kind of unusual. Go figure it out.

Q But you wouldn't necessarily jump that chain yourself, and be --

A I --

Q -- in direct communication?

A I tended not to --

Q Okay.

A -- do that.

BY [redacted]:

Q Would she have sent this to you -- something unusual, if she thought that this was a case that you wanted to be involved in?

A Even in -- even in those, I tried to be, as a general matter, fairly sensitive to the chain, because I had found that if you start jumping the chain too much, even if you become informed, managers feel, you know, out of -- out of the loop, and that's not -- that's not conducive to sort of allowing them to do their job of supervising. It's a big enough office, you have to empower your folks to do their jobs.

Q So the concern on your part would not be that she was communicating directly to you, but that as long as all of the chain was informed as well?

A Yeah. I mean, if you're -- if you're [redacted], or you know, if you're [redacted], or you know, don't you want to talk to the line attorney before the line attorney talks to your boss?

And so, it's not just informed, but it's respecting your supervisor. And it's a difficult balance, because often really good AUSAs are also the ones that, you know, just want

to get things done.

BY MS. [redacted]:

Q Did you have any reason to believe during this investigative phase that [redacted] was not pursuing this case -- this investigation adequately, appropriately, and fully?

A No, I did not.

Q Did you --

A Not to my recollection.

Q Did you feel that she did not have appropriate oversight?

A Not to my recollection.

Q Okay. Do you -- did you feel that she had any resource problem? That is, did she have, as far as you knew, sufficient resources available to pursue her investigation?

A To my recollection, yes, I noted her early -- you know, I noted more recently the e-mail where -- you know, that was shared with me by [redacted] about resource concerns, and I would just note that I would allow the management chain to figure that out.

Q All right. Were you -- did you at any point consider, based on what you then knew, expanding the scope of the investigation? Did you ever suggest or propose that instead of simply looking at Epstein's conduct in West Palm Beach vis a vis these girls, that the federal authorities

could use their resources to look at other aspects of Epstein's activities?

A So, I -- so, I think it's important to take a step back, and I was aware of any number of cases going on in the office, and based on what that stage of case was at, I would get more involved for a time.

It wasn't my practice to direct AUSAs in how they should investigate, or what the scope of a case investigation should be. They -- the Miami office, before I got there, and after I left, had a reputation for knowing their stuff. It's a large office. It's got good people. I would assume that AUSAs and their management would follow their natural leads.

Q All right. Were you aware that during this period -- and by this period, I'm talking about the investigative period from the time that the case came in in mid-2006 --

A Right.

Q -- up until May 1 when [redacted] put forth her pros memo --

A Right.

Q -- and proposed indictment. During that sort of ten month period, or almost a year, were you aware that defense counsel for Epstein were reaching out to [redacted] and to [redacted] to pitch their view of how the case --

A Right.

Q -- should proceed?

A So, I don't have a specific recollection of who reached out at what time. I would assume as a general matter that defense counsel -- defense counsel were clearly involved before the case came to the office. and so, I would assume that defense counsel would remain involved while the office was investigating. I say that not based on independent recollection, but --

Q Right.

A -- why would they stop being involved?

Q And is it in your experience as a U.S. Attorney, was it common or uncommon for defense counsel to approach the line prosecutor and supervisor to make whatever pitch they want with respect to a prosecution?

A Fairly common.

Q All right, and was it also common for those approaches to be entertained? In other words, for the line AUSA and supervisor --

A Right.

Q -- to meet with defense counsel?

A As a -- as a general matter, yeah.

Q And did you view that as appropriate?

A As a general matter, it was typical. It happened before I got there, and is probably happening now.

Q And you view it as an appropriate part of the process? Do you?

A I think AUSAs need to have discretion to meet with defense counsel, and defense counsel certainly should be able to present perspectives.

Q There is an outlook -- this is Exhibit 4, and this is something --

A Okay.

Q -- it's really sort of a point of information here. This is an outlook that shows you and [redacted] and [redacted] had a scheduled meeting with Roy Black.

A Mm-hmm.

Q Roy Black, a prominent --

A Right.

Q -- local criminal defense attorney at the time in the Miami area. This was a meeting scheduled in your office for the 23rd of February of 2007. Do you have any -- he was a -- he at the time --

A Right.

Q -- was one of Epstein's attorneys. Do you have any idea whether this meeting related to Epstein or some other case?

A I don't. I noticed that and I don't know whether it was this or another matter.

Q But you have not particular recollection of meeting

with him on the Epstein matter --

A I don't.

Q -- at this time? Okay. So, I want to --

A And let me note, I think most of the correspondence was from other attorneys and not him. And so, yeah.

Q All right. Are you -- are you okay? Do you want to take a short break, or --

A Yeah.

Q Do you --

A Let's -- what time is it? Oh, 11:00.

Q Five minutes?

A Yeah.

Q Five minutes?

A Yeah. Let's take a five minute break.

Q Off the record.

(Off the record.)

BY MS. [redacted]:

Q All right, back on the record at 11:12, having broken at 11:00. Mr. Acosta, we're going to move to that time frame I mentioned a moment ago, May of 2007 when [redacted] submitted her prosecution memo of more than 80 pages, and her proposed indictment -- her initial proposed indictment, which was more than 50 pages.

She submitted that by transmittal memo to her entire chain, [redacted], [redacted], [redacted], [redacted],

[redacted], and you. Was that a typical way for an indictment and proposed prosecution? The memo to come?

A To my recollection, it was not, and I don't recall that happening in other cases. I'm trying -- I'm hesitating, just because I'm trying to think through if there's -- I don't have any recollection of it happening in another case.

Q Why do you think it happened in this case? And who caused it to happen?

A I don't know, and I don't know.

Q All right. All right. So, you -- when you -- before you saw it -- I don't know if you even knew about it -- you -- by reference to Exhibit 6, you learned essentially from [redacted] that the FBI was planning to do a press conference two weeks after that, and [redacted] told [redacted] this office has not approved the indictment, therefore, "please do not commit us to anything at this time." Were you -- and eventually that e-mail chain --

A Right.

Q -- gets to you, apparently by blind carbon, because there's no indication you actually get it.

A Right.

Q But you advise Alicia Valle, who I think was your press person --

A Correct.

Q -- that, "[redacted] hasn't even finished her

recommendation to [redacted], i.e., we are a long way off." So, did you have any idea why the FBI was planning a press conference on Epstein?

A I don't -- I don't know if I did. I don't recall if I did.

Q Was it -- how typical was it for the FBI to plan a press conference on an indicted -- on a case that was being indicted at the time of an indictment or arrest without coordinating that with you and your office?

A Under [redacted], highly atypical.

Q He was the SAC at the time?

A He was the SAC -- he was the SAC -- I know he was the SAC at the time as of September, and I'm almost certain he was the SAC at the time.

Q All right. And when you said that we are a long way off, and [redacted] hasn't even finished her recommendation to [redacted], can -- do you know whether you had any idea that she had actually submitted her pros memo, and that she had made a recommendation to [redacted]?

A I can't -- I can't recollect --

Q Okay.

A -- but I'll take my words as reflective of, if I say she hasn't finished her recommendation, then I assume she hasn't finished her recommendation, but I don't recall --

Q Does that mean --

A -- that level of detail.

Q -- as you -- as you look at your own words, does that suggest to you that you were unaware as of that moment that she'd actually submitted her pros memo?

A That suggests that I would not have been aware that she submitted it. If -- you know, because it sounds like I'm saying she hasn't even submitted her memo to [redacted]. So --

Q All right.

A -- we're a long way off.

Q All right, so, is --

A But again, this is based on practice, not recollection.

Q All right, and when you said we are a long way off, did that reflect, if you recall, an assessment of the length of time to get to a pros --

A Right.

Q -- memo, a recommendation, and an assessment of that, or your expectation that even when you saw a pros memo and an indictment, it would be a long process before it was approved?

A So, I would assume -- and again, this is just based on speculating from the way that I write, that I'm thinking she hasn't submitted her recommendation to [redacted], [redacted] needs to review it.

He may -- you know, he'd probably want to talk to

[redacted]. It needs to be scrubbed. You know, this could be -- this ain't happening next week.

Q All right, but in your -- do you have any reason to believe that whatever that process is that you were describing would be any -- any different in any particular measure in this case from the ordinary complex case?

A So, from my language, I would take that it's the same process, but that there is a process, and the process hasn't yet been followed.

Q All right. Okay.

A So, it would be the typical process in a typical complex case.

Q All right, and is it fair to characterize this as a relatively complex case, given the legal issues?

A I think it is, yes.

Q Okay. In Exhibit 8, you actually got the -- in Exhibit 7, you see that in the bottom part of that that you received a copy of the pros memo on the second page of that exhibit at the top.

A Right.

Q [redacted] is forwarding to you the pros memo.

A Right.

Q In Exhibit 8, you see that [redacted] is forwarding or sending to that chain, excluding [redacted], that is, [redacted], [redacted], [redacted], and you, additional

items in Operation Leap Year, and that's a summary of the indictment, and evidence regarding the individual victims. Okay? So, as of May 11, you had before you the pros memo, the proposed indictment, and this substantial amount of additional --

A Right.

Q -- information. Did you read the pros memo?

A Right. So, I don't recall -- and I know you're going to say, why don't I, but this was a long time ago. I don't recall if I read it, or if I went back to the office and sat down with [redacted] and [redacted] and went over it. I can't recall from this far. I can say that it looks based on this that I was at the U.S. Attorney's conference.

Q Mm-hmm.

A The idea of printing this out on a hotel printer, I wouldn't -- I can't believe I would have printed this out on a hotel printer.

Q Let alone read it on an airplane, correct?

A Let alone read it on an airplane. That just wouldn't --

Q Right.

A -- have been my practice.

Q But going back -- arriving back --

A Right.

Q -- to your office, was it your practice to take

voluminous documents like this and go through them yourself, or did you rely on your senior staff?

A I would typically rely on senior staff. They -- they're the experienced ones that have seen these matters before. They would go through it. We'd sit down. We'd talk about the issues. We might have it in front of us, almost like you've got all those --

Q Okay.

A -- binders there, but you know, you're calling my attention to particular issues, and we'd sort of talk it through.

Q And do you recall doing that in this case?

A I recall having discussions with senior staff about this case.

Q Who?

A Certainly [redacted] and [redacted] at various points, and I can't say that I did that in May versus April versus June. I can't give you --

Q All right.

A -- timelines.

Q Well, we're talking now about May.

A Right.

Q Because you've got the actual --

A Yeah.

Q -- process.

A It would have been my practice based on this to go back and discuss it, and so based on my practiced, I would have gone back and likely discussed it. I doubt I would have printed this out at whatever hotel I was at.

Q But even when you got back to the office, would you have had somebody print it out so you would've had it available?

A I may have had someone print it out so it's available. I may have focused on particular parts of it.

Q What kinds of issues would you have focused on? In other words -- in other words, some might go straight to the facts.

A Right.

Q Some might be interested in the legal theories. What was -- what was your approach?

A So, I think that depended on the case.

Q Okay.

A Here, you had legal questions, and you also had -- had witness issues, and I would think those would have been the two primary areas.

Q Would you have gone through the indictment and the pros memo and all of those other materials, or just relied on your experience seeing your people, [redacted] and [redacted]?

A As a general practice, probably some combination. As a general -- a general recollection, the concerns in this

case weren't about the sordid details of what happened, because we believed he did what he did. The concerns were about some of the legal issues around it, and some of the issues in terms of testimony.

Q Of the victims?

A Of the victims.

Q All right. On page --

A And I say that because that would have been what I would naturally focus on as opposed to reading the sordid details, because I think everyone believed the victims.

Q All right. Exhibit 9 is an e-mail that you are not on, but that -- notes that [redacted] is advising [redacted] that you, [redacted], "Has your memo and Lefcourt's letter." Gerald Lefcourt was --

A Mm-hmm.

Q -- a New York attorney who was one of the members of the Epstein defense team. Did you know him?

A I did not.

Q Did you ever encounter him as far as you recall?

A I did not.

Q All right. He had, according to the documents we have, made two substantial submissions to [redacted] and [redacted] in --

A Right.

Q -- February of that year in an effort to dissuade

them from pursuing a prosecution, and we have every reason to believe and no reason not to believe that that's what is being referred to. Do you recall reviewing substantial submissions from defense counsel at this time attacking in very granular detail --

A Mm-hmm.

Q -- the credibility of the witnesses, and so on?

A I don't recall reviewing those. Again, I recall discussions with my senior team about issues that included the credibility, and I'm not sure if it's -- credibility is the right word, but how the victims would do on the stands.

Q Okay, and who do you recall talking to you about that?

A So, some combination of [redacted] and [redacted] would have bene the likely -- I recall the discussion. I don't recall whether it was [redacted], or whether it was [redacted] or [redacted], but the logical inference would have been it would have been some combination of [redacted] and [redacted].

Q [redacted] has told us that during this period, he was not actively involved in this case --

A Mm-hmm.

Q -- but that [redacted] was. Would that be consistent with your memory, or would --

A That -- sure, it -- I mean, they were a team. They became more or less involved based on needs.

Q And was there any particular -- if [redacted] was working with you directly on reporting --

A Right.

Q -- on his assessment of this case, was there any reason for [redacted] to be involved?

A I might bounce ideas off him. I mean, he was -- he was right across, so we worked closely, but you know, [redacted] was the criminal chief, and if he was in the weeds, [redacted], I would speculate would sort of, much like me, defer to his judgement, because they've known each other, and they've worked together, and they had a good working relationship.

Q And is it -- do we understand correctly that as first assistant, [redacted] had a brief that really encompassed the entire office?

A He did.

Q All right.

A He -- so, he supervised the civil, the criminal, the appellate, and the forfeiture.

Q All right. There is here in this e-mail that you did not see back in the day, Exhibit 9, a pushback from [redacted] regarding the rush that [redacted] is in to pursue the case, and he says, "This is obviously a very significant case, and Alex wants to take his time making sure he is comfortable before proceeding." Do you -- can you tell us what the basis would be for, or was, for that assertion by

[redacted] [redacted]?

A So, I can't -- well, I can't tell you from recollection what the basis is. I can -- I can speculate that the materials being transmitted Friday morning -- oh, I guess it was -- yeah, so --

Q The 11th.

A Yeah.

Q Friday.

A So, Friday morning, it hasn't been reviewed by anyone in the management chain, much less approved and edited, and [redacted] that Monday is saying why don't I have a decision?

And -- and so, absent truly extenuating circumstances, typically, you'd have -- give -- you know, it'd go through the management chain up to the U.S. Attorney. And so, he's pushing back, saying, hey, it's been a day, or it's been a weekend. I'm --

Q Right.

A -- I'm just reading between the lines here.

Q Who had authority to sign off on the Epstein prosecution? To, say, indict?

A So, as a delegated matter, [redacted] [redacted] had signature authority.

Q Mm-hmm.

A As did -- as did [redacted], as did [redacted], and

obviously I did. As a practice matter, this is something that would have gone through the chain, and that we would have then discussed.

Q But why up at your level? Is it because it is, as [redacted] [redacted] says, "Obviously a very significant case?"

A So, at my level, not only because of the facts, because it's not about the facts, but I do think that there are legal issues that -- that implicated policy, that -- that we were thinking through.

Q And what were -- what were the legal issues, and what were the policy issues?

A So -- so, the legal issues, and also factual issues in terms of the witnesses. So, the legal issues -- so, and there's an e-mail from [redacted] based on the -- you know, the contemporaneous record that alludes to some of this. In my experience at the civil rights division, trafficking cases involved -- you know, I can -- I can describe some -- some horrific cases of girls being held against their will, you know.

You had child pornography matters with young women, sometimes incredibly young, that the office prosecuted. As the trafficking laws were being developed, there was a lot of discussion about, what's the difference between trafficking and solicitation, and that discussion took place as the trafficking laws were being developed. And so, this

implicated that, and it implicated the -- what is local and what is federal.

Q All right. So, in the first, you're talking -- in the first category, you're talking about the individual charges that had been -- that were being proposed, which included both trafficking and coercion and enticement -- or, enticement.

A Correct.

Q All right. And in the latter, you felt that -- did you -- to what extent did the witness -- victim witness kind of credibility issues implicate policy?

A So -- so, I think I said policy and victim in that.

Q All right.

A In that there was certainly discussion between me and my management about concerns as to how these victims would sort of stand up in court.

Q So, what would have -- what would make you comfortable before -- before proceeding? What would make you -- what at that point would have made you comfortable about proceeding?

A So, I think that at this point, I don't think it's what would or would not have made me comfortable, and I'm speculating here. I think it's, it came in on Friday, let's talk this through.

Q But there -- but you've just identified for us

issues that --

A Issues that --

Q -- in your mind --

A -- we would have --

Q -- had to be resolved.

A -- wanted to talk through.

Q All right. Okay. At that point, did you -- to your recollection, have any doubt that some form of indictment or charging instrument against Epstein was likely to be -- become viable?

A So, I don't -- it was a case that I thought it very important that we do something. How that something played out, I think had all along been a matter of discussion.

Q As something other than what the U.S. Attorney's Office does, which is prosecute?

A Well -- well, no, I mean, what the U.S. Attorney's Office does is ensure that justice is served.

Q Right.

A And whether -- and in partnership with state attorneys, and sometimes that means state attorneys take the lead. Sometimes that means the U.S. Attorney's Office takes the lead, and it -- and a lot of times, we actually had, you know, we -- we would share staff, because sometimes it made sense for -- you know, for one part of the other to take the lead.

So, writ large, I thought throughout it was very important that something happen. There were these concerns all along. I can speculate that this is just a reflection of those continuing concerns.

Q As expressed by you to [redacted] in the ordinary course?

A As developed as a group throughout this -- I can -- so, if we go back to -- what was the Exhibit?

Q June of -- June of 2006.

A So, Exhibit 3, [redacted] says, "In that meeting, I summarized the case and the state attorney's office handling it. I acknowledged that we needed to do work to collect evidence establishing a federal nexus, and I noted the time and money that would be required for an investigation." And so, as far back as that initial meeting, there is the discussion about the federal nexus, and is this a state or a federal --

Q Right.

A -- case?

Q All right. Exhibit 7 is an early e-mail from [redacted] to you. Early, meaning it proceeds the one --

A Correct.

Q -- we just looked at, and early in that it's right as you're --

A Right.

Q -- receiving the pros memo, and you ask him, have you read the memo? And curious why you ask [redacted] rather than [redacted].

A I don't recall. I can -- I can speculate, and I have two thoughts that I'll speculate. One is, [redacted] her direct supervisor.

Q Mm-hmm.

A And I might be thinking --

Q Second line supervisor.

A Her second line supervisor, so why is [redacted] sending me this? [redacted], have you read this? I.e., did you jump the chain? Secondly, I think it -- I may have wanted to have multiple opinions on this.

Q Mm-hmm.

A It's most likely that I had talked to [redacted]. already, because [redacted] and I talked more often, and I'm asking another person in the management chain, hey, what do you think? Let's have multiple opinions on the table here.

Q Well, this is the first time other than [redacted] that we see you getting a recommendation.

A Right.

Q When [redacted] says, he thinks that you should charge him -- you, the office, should charge Epstein. He has issues with the charging strategy proposed by [redacted], but one, he says, "We all need to get on the same page as to

whether the statute's covered 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." He proposes that the office start with a complaint, which is not unusual, is it?

A It -- it happens, yes.

Q All right, which allows the defendant to be arrested, and ideally detained, and then the defendant is then highly motivated or incentivized --

A Okay.

Q -- to work a pre-indictment resolution. That's what [redacted] is proposing. He also notes that it's important to -- in his view, to "cap him with conspiracy counts to make a plea attractive," and the court could give us a hard time with that if we had to dismiss indicted counts.

A Right.

Q Okay. The proposed indictment included one conspiracy -- a conspiracy that has a five year --

A Five year cap.

Q -- statutory maximum, and this notion is that Epstein be charged with a five-year conspiracy count, and take it from there. Do you know what he was referring to when he noted that a court could give you a hard time in dismissing indicted counts in this case?

A So -- so, as a typical matter, once there's an indictment, the -- a pre-indictment -- well, by definition, a pre-indictment resolution comes off the table, but in cases of this nature, the resolutions tend to happen before indictment, because once the indictment is done, at least in South Florida, dismissal of charges -- for example, if -- you know, if [redacted] is saying, let's think about a 371 with a five year cap a rule 11 --

Q Mm-hmm.

A -- that's something that South Florida judges, they tend not to -- you know, dismissing a number of counts, and then doing a rule 11 is not something that judges tend to do.

Q All right. Two -- two pieces to that. One is --

A Okay.

Q -- the issue of dismissing substantive --

A Right.

Q -- counts -- substantive counts. Is that -- was that a particular concern in this case because of the nature of the conduct represented in the --

A So --

Q -- substantive counts?

A -- so, so, your question -- you asked a general question, and then now you're moving to a --

Q Right.

A -- specific. As a general matter, not just in this

case, but in other cases, it is -- it was rare that the office after an -- in cases like this, after a full charge was done, that that substantive counts were dismissed. So, for example, in the public corruption cases that I referenced earlier out of Palm Beach, those were all negotiated pre-indictment, and agreed to, and then by the time the -- the case was indicted, it was all -- it was all sort of set on auto-pilot.

Q So, typically, in my experience, the -- a disposition like that is -- results in a criminal information, not an indictment.

A Correct, and --

Q Are you saying that you would go ahead and indict then?

A No, no, no, what I'm saying is that they were -- it was all negotiated in advance, and then there was an information --

Q Oh, okay.

A -- and the information would go forward, not an indictment.

Q All right.

A And so, that is how a number of high profile cases typically proceeded, as opposed to indict and dismiss.

Q And that is the experience of the Southern District of Florida in general?

A It -- it was in particularly the Palm Beach office with other high profile cases that were there at the time.

Q Do you recall any case in which a judge in an indicted case refused to dismiss counts when the government --

A Yeah.

Q -- in an indictment under those circumstances?

A I don't recall specific cases, but I can -- I can say that typically in the higher profile cases you'd negotiated with opposing counsel, presenting information. The information would have agreed to an agreed to guideline, and it would proceed in that way.

Q Understood, but in this case, I'm focusing on the assertion by [redacted] that the court could give us a hard time, and that's a little different from, you know, exercising discretion to negotiate and proceed by information. So, is there any judge that -- that was particularly concerning with regard to an unwillingness to --

A I --

Q -- dismiss?

A I don't -- so, first, this is 12 years ago, and I don't recall any specific judge, but I can -- I can sort of that say that was not the practice of the office. The practice of the office was to proceed by information rather than indictment with dismissal, because there is more --

there is -- there -- you can -- you can -- you can lay out more what you've negotiated. I think later there's a letter from [redacted] that sort of presents the same perspective.

Q All right. In --

MS. [redacted]: One moment?

MS. [redacted]: Go ahead.

THE WITNESS: Yeah.

BY MS. [redacted]:

Q You said in cases of this nature, the resolution happens before indicting. What is the -- this cases of this nature?

A Higher profile. Higher profile cases.

Q So, not necessarily sex offense cases?

A Not necessarily sex offense, no, no, no, higher -- higher profile cases where --

Q And this made -- this was a higher profile case because --

A This was a -- just, a -- so, I would say it's a combination of all of the above, and to my mind, one of the -- one of the parts of this case is the legal theories were, if not novel, they were novel within the Southern District of Florida. At least, some of the legal theories, and I -- we'll probably get into that.

Q Did his wealth make it a high profile case?

A Well, it was clearly in the paper. And so, that

made it a high profile case. I don't think it -- I don't think it was his wealth. I think it was all of the above. This was a matter that the state attorney had been ready to charge that the federal government is now jumping into and saying, by its presence, that the state did not do enough.

That in and of itself makes it a very high profile case. I can't remember any other instance, certainly during my time, when we jumped in and said, you know, the state dropped charges, and so we are going to do more.

BY MS. [redacted]:

Q As opposed to, or as distinguished from what you'd described a few moments ago, a situation in which the federal authorities and the state authorities kind of worked together to sort out what would be charged, where, and do it cooperatively?

A And that was more cooperative, and I --

Q Right.

A -- I would -- you know, I do recollect that -- and I think the record bears this out, that this was not a particularly cooperative relationship between us and the state attorney.

Q Mm-hmm. Yes, we will get to that. Were you --

A If I could -- if I could return, I think your question -- the way you posed your question, you said a recommendation from [redacted], and let me -- let me push back a

little bit on that.

Saying what are your thoughts? Have you read it, what are your thoughts? And he says, yes, we can talk next week, my current thoughts are -- is very different than, we've sat down, we've discussed this, this is my now informed position.

Q Understood, and I -- I should have been clearer. I was referring to his recommendation that if you were going to proceed, you should start with a --

A Right.

Q -- complaint.

A Right.

Q Just to be clear.

A And I'm just saying --

Q Okay.

A -- initial thoughts are -- yeah.

Q All right. So, were you aware that [redacted] bootlegged a copy of the pros memo to [redacted] at CEOS?

A I was not.

Q He did at that time.

A Okay.

Q And did you -- did you know [redacted]?

A A little bit. I certainly knew of him.

Q Had you encountered him when -- he was the chief of

the child exploitation and obscenities section --

A Right.

Q -- in the criminal division here, correct? Had you encountered him while you were in this building also?

A Most likely. I knew of him enough that the correspondence shows -- and I recall asking to involve him pretty early on.

Q So, it does read as if you were acquainted with him.

A Yeah.

Q All right. And did you have any -- did his opinion, his views as chief of CEOS and as [redacted], who had been an AUSA --

A Right.

Q -- in --

A In Miami.

Q -- Miami, did his views have influence on your thinking about this case?

A I don't think at this time I was aware that [redacted] had been consulted.

Q All right, and in July, just so you know, and I -- and this is not something you saw -- he provided a fairly strong statement to -- by e-mail to [redacted], [redacted], and [redacted] in which he advises that he reviewed the pros memo closely.

It's terrific. He says [redacted] did a terrific job, and he says, "we agree with her legal analysis. Her charging decisions are legally sound," and then [redacted] goes through the different statutes, and concludes that they are all properly charged, and that although there are some issues, legally, that in his view we should, "We should prevail." "Our position should prevail."

And that he also reviewed the arguments contained in the letters from defense counsel, and he found none of their arguments persuasive. So, at least as of July 18, your --

A Right.

Q -- three levels of supervisors down were on notice that CEOS was on board and wanted to --

A Right.

Q -- see the case move forward, but is it -- am I correct in understanding that at that time, you were unaware of that?

A I do not recall being aware of that.

Q All right. Okay. If you had been aware of it, if they had sent this --

A Yeah.

Q -- pretty -- I don't want to overstate it, but it is a pretty strong endorsement of the proposed prosecution, would you have been influenced by that?

A Sure, I would have. I mean, I -- I respected [redacted], and clearly wanted him to be part of the team, and later invited him down, and so, yes.

Q Okay. All right. Do you know why they wouldn't have shared -- your people wouldn't have shared this with you?

A I can't -- I don't know.

Q All right. So, when -- as far -- based on the briefings that you got at -- in this time period when there was an effort to try to figure out --

A Right.

Q -- what you were going to do, were there any issues of concern of fact or evidence or the charges that were left unaddressed? In other words, if there were issues about victim credibility, were steps being taken to address those?

A Unaddressed is a -- again, it -- it's a very binary, and it's not about addressed versus unaddressed. And so, let me -- let me sort of come at it, if I can try to get -- there were concerns around some legal issues. There were concerns about how the victims would do when put on the stand.

Q Right.

A As a general matter, we thought there was enough if we had to go forward, we could, as an ethical matter, go forward. That doesn't mean that there was not value in a

pre-indictment resolution.

And so, here, you have [redacted], based on this Exhibit 7, saying, we need to get on the same page as to what to charge, pre-indictment resolution, cap him with conspiracy count to make up the attractive.

So, a five year cap, something less than five years, you have [redacted] in her affidavit that was submitted to the court saying she favored a pre-indictment resolution. And so, it's not a, have you addressed everything, yes or no, as opposed to putting all of this, how do we --

Q All right.

A -- how do we move forward?

Q Right, but there is a binary point here, and that is, you either indict or you don't indict. You either present an indictment to the grand jury, or you don't, right? That's a decision. Right?

A So, I would -- I would actually push back in that in many cases, it's not quite that binary. In many cases, you sit down with opposing counsel and say, look, we can go to a grand jury, and we can present this indictment and indict, or we can resolve this now. If we resolve this now, this is the path that can go forward. Alternatively, we can go here. And so, it's not an A versus B.

Q I understand that nuance, but the decision to indict does -- I mean, you either indict or you don't. If

you don't indict, it's for any number of reasons. If under these circumstances, the choices that are available are you have a case that's been brought in -- taken in from --

A Right.

Q -- the state. You can -- you can decline it. Send it back to the state, make it go away, whatever.

A Right.

Q We're not interested. You can indict. You can indict and go to trial. These are the subcategories. Or you can indict and have the defendant plead to the indictment, or you can indict and work a post-indictment plea deal, which raises the issues you talked about, or you can negotiate an -- or you can charge -- proceed by complaint, and do as [redacted] was suggesting --

A Right.

Q -- work a pre-indictment but post charge disposition, or you can work a pre-charge disposition, right? I mean, that's really --

A So, so --

Q That's the parade of possibles.

A Sure, but that's more than indictment or don't indict. That's six or seven options.

Q I understand that. That's how it will play out, but the decision as to whether to indict is binary. You're either indicting or you're not indicting. The -- the act of

indicting is a -- is something that either happens or doesn't happen. That's all I'm saying.

A Sure.

Q Okay? So, what I'm getting at is, with respect to the indictment -- so, as you're looking at this case, you're -- it sounds as if you're doing sort of one analytical track, which is, what do we do with this case? The other piece of that, and a track that could have been followed exclusively is, what do we need to do to get an indictment that is legally sound and evidentiary -- evidentiarily solid? I'd like to focus on that track --

A Okay.

Q -- because they're not unrelated.

A Sure.

Q If you never get down the, do we have a viable indictment road, then you're not going to be able to do anything in the other --

A Sure.

Q -- road. So, at this point, you had identified, and you collectively -- you and your people had identified some witness -- victim witness issues, and some legal issues. My question is, were steps being taken to -- I used -- I used the term address --

A Right.

Q -- let me -- let me clarify, with respect to the

witnesses, was the FBI and the line attorney with the assistance perhaps of the grand jury, taking steps to corroborate --

A Right.

Q -- shore up victim witness testimony, find new victims, find additional evidence, and so on?

A So -- so, taking that in part is helpful. So, with respect to the witness issues, I recall, and [redacted] goes into much more detail in her affidavit, but I recall concerns that were communicated to me about, in essence, to sort of summarize my impression or recollection, these girls are young.

They're impressionable. They are scared. Will they stand up in court? There are any number of -- there's any number of things that could be used against them. Some of them are -- and this is uncomfortable, but some of them thought he actually cared for them, and that's not atypical in these cases where they -- they sort of develop thoughts that are wrong, but -- but they are what they are, and were actually saying he did nothing wrong, and because many of them knew one another, how would that all play out?

Q Right.

A And so, it would be my assumption, particularly given, you know, how much work [redacted] was doing on this case -- Ms. [redacted] was doing on this case -- that she, in

combination with the FBI, would be pursuing those matters, and looking to develop the evidence and corroborate, and throughout this process, it would have been my assumption and hope that she was continuing to develop the facts, because that can only help.

Q And so as U.S. Attorney, would it indeed have been your expectation?

A Yes.

Q And the expectation that her -- that all those interim supervisors would have been supporting her and encouraging her and guiding her?

A It would have been, and that -- that's what happens in typical cases.

Q Right.

A Just because we're having a legal discussion doesn't mean you stop pursuing leads.

Q All right. Let me stick with the evidence piece of that.

A Yeah.

Q I'm going to keep these --

A Helpful.

Q -- strains going. You got a very detailed accounting in -- reflected in Exhibit 8 from [redacted] of the different Jane Does, and there were a lot of them, and there were -- there were many counts in the indictment, and many

carefully -- the -- each -- each victim was tied to a particular set of criminal activity. In other words, these victims were not lumped in an aggregate sort of formless petri dish.

A Yes.

Q They were individuals. [redacted] had met -- was meeting with them, *indeed was finding new victims along with the FBI, and they were conducting individualized assessments of the viability of each victim witness, and indeed [redacted] submitted a follow on pros memo, a pros memo addendum in July, and another one in September, and tailored -- continued to tailor her indictment -- proposed indictment to these individualized acts.

The question -- when I -- when I hear the victims referred to in the aggregate, I wonder what effort there was to sit down and address each individual victim, because there were so many, and a credibility issue that could be very troubling with one victim, if -- or, two victims, or four victims --

A Fair.

Q -- could well be overcome by other victims who had, not those credibility issues, perhaps others, and if I may finish, that in the aggregate, when presented individually in total, a kind of a persuasive case could be made that would be impossible with one or two or three? Does that -- is that

a fair --

A So, that is fair, and I think -- and your point that we shouldn't sort of talk about the victims in aggregate is a fair point. I would -- I would respond, and Ms. [redacted] goes into this in her affidavit a little bit, and I've got it -- and I have a recollection of some discussion of this between myself, and you're going to ask me who, so let me just say I don't know who.

But the concern is when you have victims that know one another, to what extent would defense -- if you've got two victims that say A happened, even if it's similar sets of facts, and another victim that said he did nothing wrong, and another victim that said horrendous things happened, to what extent does defense cast this as, they are trying to recover, they're trying to do -- and so one of the concerns was when you have victims that know one another, that brought one another in, even if you've got similar patterns, if some of them cast doubt, how would that be taken by -- by the jury?

Q Is that assessment or analysis your own, or is it one that you developed with the people you talked to about this case?

A So, that -- that assessment would have been, in my general recollection, but also based on my practice, that kind of witness assessment is the kind of thing that I would have relied more on the AUSA -- on my management team for,

because that was more within their -- their area of expertise.

Q Right, and [redacted] [redacted] in particular was known as a trial attorney.

A Right.

Q Correct?

A Right.

Q Do you recall having discussions with [redacted] about that?

A He would have been the logical --

Q Right.

A -- person. I know that we had those discussions, and we talked about what happened, how will they -- how will they play out at trial, and -- and the takeaway was, it could play out well, it could not play out well.

Q So, as of the time that all --

A And again, I say they as a collective.

Q Right.

A Understanding that some would say exonerating things. Some would have contradictory statements. Some may not want to testify, and -- and so, that conversation was had.

Q So, was had, it -- you and [redacted] talked about it?

A I can't say -- [redacted] and I can say, I recall the discussion, you know, I don't know -- 12 years ago, you might

recall a discussion from 12 years ago. What -- what you presented to me, for the record, I'm pointing to [redacted], or I'm indicating [redacted], the -- the issue about civil rights, do you recall who else was in the room or wasn't in the room at the time?

Q I --

A Yeah, I --

Q It's a rhetorical question.

A It's a rhetorical question.

Q We'll take it, I guess.

A But --

Q Yes.

A -- you know, it's very -- it -- one can remember substance without remembering who was in the room at the time.

Q And understanding --

A Right.

Q -- that this was one case of thousands that were under your --

A Correct.

Q -- authority, although a particularly sensitive and high profile one, but the -- a -- the question to you is, do you know what individualized assessment [redacted] [redacted] did of the victim witnesses?

A I -- I can't speak to that.

Q Do you know whether he actually met with any of the victim witnesses?

A I can't speak to that.

Q Do you know whether [redacted] went to West Palm and sat down and actually went through the evidence as to each one of the potential --

A I --

Q -- witnesses?

A I can't speak to that.

Q Do you know any of that information as to [redacted]?

A Again, I can't -- I can't speak to that. I would -- I would say that -- that [redacted] was first assistant, and to the extent he relied on the criminal chief, that would be -- he used to be criminal chief, and so --

Q Right.

A -- he would naturally view the role of criminal chief as being important, and someone that would naturally review matters before they went to the first assistant.

Q Okay. So, when you talk -- when you were -- as you recall, having these conversations about the -- the victim issues, as -- as matters of evidence, it -- it -- you cannot tell us what the basis for [redacted] analysis was?

A I can't. I mean, as a general matter, I don't recall the specific. As a general matter, when I talk to

individuals about a case, I would assume that they had informed themselves, and had done the diligence necessary to have that discussion with me.

Q Do you remember him parsing out for you, or --

A I --

Q -- you know --

A -- I don't recall that --

Q -- the individual --

A -- that level of granularity.

Q All right. The -- to finish my sentence, to the individual witnesses, and you're saying you don't.

A Yeah.

Q And by witness, I mean victim witness. Did you ever sit down with [redacted] and have her present to you each witness -- each victim as a potential witness, and her individualized credibility issues, and how as a -- as a prosecutor and an experienced trial attorney, [redacted] was going to overcome those issues?

A I don't recall doing that, and as a matter of general practice, particularly when it came to what I'll call trial issues --

Q Mm-hmm.

A -- we had really experienced individuals in the office, and that's not something that I would typically do on this or other high profile cases, because they're the trial

lawyers. They -- this is what they do. I would tend to focus more on the legal issues.

Q All right. I want to stay with the -- the witness issues, and the evidence of that for the moment.

A Mm-hmm.

Q In Exhibit 3, this lively exchange between [redacted] and [redacted], she asks to make a presentation to you in the last major paragraph of her e-mail on page four. She says, "I would like to make a presentation to the U.S. Attorney, [redacted], [redacted], 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 of the strength of the case." Bearing in mind that by this time, [redacted] and [redacted] had in front of them --

A Right.

Q -- her pros memo, her proposed indictment, this analysis she did as evidenced in Exhibit 8, but also the submissions from Jerry Lefcourt, and that -- that [redacted] had not had a chance to actually make a presentation to them. [redacted] [redacted] response is on page three, his last paragraph.

He chides [redacted], and tells her that, "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 desired to meet with you, they will let you know." She, in her final response on page one points out that she's

not trying to dictate anything. She's just asking. Are you aware that -- bear in mind, you didn't see --

A Correct.

Q -- Exhibit 3, were you aware that [redacted] very much wanted to make a presentation to you and to [redacted] and [redacted] about her case, and her evidence?

A So, I don't recall this.

Q By this, you mean --

A I don't -- I don't recall being aware of this request.

Q All right.

A As a -- as a general matter, it seemed that there was communications going back and forth. And so, she certainly felt comfortable e-mailing me when she wanted to, I guess is my point, rightly or wrongly. And so, I wasn't aware of that request, and --

Q So, are you suggesting that she could easily have e-mailed you and said, Alex, I really want to make a presentation to you?

A I'm not suggesting -- let me -- what I'm suggesting is from my perspective, there was a lot of communication in this case, more than is typical. I wasn't aware of -- I don't recall the request, but there was communication in this case.

Q What do you -- what do you mean by communication?

I mean, there are a lot of e-mails, but --

A There is. There are a lot of e-mails, right.

Q But a lot of them are because there are draft -- later on, we have drafts and so on, but --

A I --

Q -- we don't --

A So, what I mean by that is, I do not recall an impression that she wasn't being -- that she didn't have access, or wasn't being heard.

Q To you?

A Correct.

Q You've already seen two e-mails here where she was scolded pretty seriously, and in one case for approaching --

A Correct.

Q -- [redacted] and you without [redacted] being involved back when --

A Correct.

Q -- [redacted] was crim chief, and then here, she -- the -- what [redacted] says to her is quite strong, isn't it? Would you have ever used that language to a subordinate?

A You've seen my e-mails and my style.

Q I think not.

A I -- so, what I -- what I am saying is, from my perspective at the time to the best of my recollection, this was not a case where she was not -- where she was frozen out.

This was a case where there was ample communication --

MR. [redacted]: Well --

BY MS. [redacted]:

Q Did [redacted] [redacted] ever tell you, hey boss, this line assistant, she's being a pain. You know, she's asked for to make a presentation to you. Do you want to do it?

A I -- I don't -- look, this was 12 years ago. I don't recall it. Whether he did or not, I can't say, but I don't recall it.

Q If he or [redacted] or even [redacted] [redacted] had directly asked you for that opportunity, would you have entertained it? Would you have agreed to a presentation from the line attorney?

A As a general matter, if someone makes a direct -- saying, this is a case that I have worked, I need to sit down and talk to you, I would have said, yes.

Q Do you recall any occasion when a line assistant on his or her own initiative came to you and made such a request and you granted it?

A I don't, because it rarely got to that level. I -- from my impression and my recollection, we had pretty good communications in the office.

Q All right, I'm sorry, I --

MR. [redacted]: That's okay.

MS. [redacted]: -- cut you off.

BY MR. [redacted]:

Q You've talked about needing to respect the chain of command.

A Right.

Q Would there have been any repercussions for a line assistant actually trying to approach you about this presentation?

A I would hope not. I mean, it's -- I think it's important for line assistants to be respectful and to, you know, let their supervisor know, and issues -- you know, and to do it with -- with respect, and not go around supervisors, but I would hope -- I mean --

Q Well --

A -- not --

Q If she had raised it with a supervisor first, and that supervisor said, no, that's not your place, would you have expected her to have followed what the supervisor had told her on that regard?

A Fair. Look, fair point. I'm not aware of this e-mail. I can't speak to that. AS a general matter, I would -- you know, going back to where I started, you know, I would at 6:00 o'clock walk around the office and say, how are things going? What case are you working on? In part, because I thought it was important to.

BY MS. [redacted]:

Q Did you wander up down -- up to West Palm and do that too?

A Less often, but yes.

BY MR. [redacted]:

Q You talked a little bit about the experience of your senior staff.

A Right.

Q What do you know about the experience [redacted] had in handling these types of cases?

A You -- when you say these types, you mean --

Q Sex crimes --

A I --

Q -- or --

A I can't.

Q -- cases involving children --

A I can't --

Q -- or child victims?

A I can't speak to that. I don't know.

Q What about [redacted]?

A I can't speak to that.

Q Or [redacted]?

A I can't speak to that.

BY MS. [redacted]:

Q But you do know that [redacted] had substantial experience with child sex crimes?

A I --

Q You named her PSA coordinator.

A I know that she had experience with prior cases.

Q All right.

A Yeah.

Q Okay. We're going to go for half an hour more, then we'll take our break, and then we'll --

A Okay.

Q -- come back. I -- and we will get back to that other piece of the evidence and the legal issues --

A Right.

Q -- and then -- and then we'll spend a lot of time on the alternatives. Haven't forgotten that. In June of 2007, there was a meeting that defense counsel requested of the sort of next level up from [redacted]. In other words, they had already made a --

A Right.

Q -- presentation to the line assistant, and her supervisor. They wanted to come to Miami and talk to, in this case, [redacted] and [redacted] --

A Mm-hmm.

Q -- and they did meet with them. Were you aware -- do you have a recollection of whether you were aware that they -- there was such a meeting?

A It -- so, I don't have a recollection, but it rings

a bell. I don't know if that distinction is a fair one.

Q Well, I can -- I may help amplify the bell a little bit. One of the defense attorneys who was present there in addition to Gerald Lefcourt, Roy Black, and Lillian Sanchez was Alan Dershowitz.

A Yeah.

Q Does that ring a bell?

A So, it does. There's --

Q Okay.

A I -- I can't say it's a recollection, but it sounds like there -- it sounds right, and in my usual course, once [redacted] was meeting with someone, he would typically have let me know.

Q All right. All right, and where would such a meeting take place? Would it be in [redacted] office? Was it big enough? Or would you use the executive conference room?

A Based on the number of people, almost definitely the executive conference room.

Q And is that -- do people have to go by your office to get there?

A They do not.

Q Okay, and would you in a case like this make a -- as you said a moment ago, pop your head in --

A Right.

Q -- and say hello?

A Right. As a typical matter, I probably would not, because then it very rapidly turns into a meeting with me as opposed to a --

Q Mm-hmm.

A -- meeting with --

Q Mm-hmm. Okay.

A If that makes sense.

Q There was some written submissions also submitted. Pretty substantial ones. These addressing more of the legal issues --

A Mm-hmm.

Q -- both before and after this. Did someone -- and if so, who -- brief you about what happened at the meeting, and what was contained in the written submissions?

A So, I do not recall a briefing. I would assume that, again, based on practice, there's a senior level meeting in the office. Based on practice, [redacted] would have told me, and then afterwards, he would have said this is what happened.

Q All right, but you have no actual recollection of what happened in this case?

A I have no actual recollection of -- other than the meeting sounding familiar, I have no recollection.

Q So, Exhibit 50 in this packet, it's almost at the end. It's the next to last, really, is a letter that [redacted]

[redacted] offered to the DAG -- the then DAG --

A Yes.

Q -- in June of 2008, a whole year later. The DAG, Deputy Attorney General Mark Filip, and this is -- you certainly recall that there was an appeal, if you will, a small appeal to the DAG's office --

A Right.

Q -- by defense counsel, and [redacted] submitted a fairly substantial accounting of what had gone before in the case, and he also submitted a number of other documents relevant to that.

He says on page three that at this June 26th, 2007 meeting, which he characterizes arguments, legal and factual, were presented against a federal indictment, and [redacted] writes that, "The arguments and written materials provided by the defense were examined by the SDFL and rejected." Do you -- is that consistent with any understanding you have of what happened at this meeting?

A So, I don't recall, so I'm going to speculate, and the speculation is that by the time this happened, we were fairly far along in how we were viewing this matter.

Q This being 2008, or --

A No, June.

Q June 26th, 2007. Okay.

A You know, and as I reviewed the documents, I tried

to establish a timeline, but clearly, by July 31st, we had -- you know, we had sort of concluded how we were approaching it.

And so, I'm going to speculate that when he said the arguments and written materials provided to defense counsel were examined by the SDFL and rejected, it was they asked us to drop the matter, and we said we're not dropping the matter.

Q Okay. Okay, and by the way, is -- just to clean this up, this letter was -- to the DAG, was signed by [redacted] under your type name, as is --

A Right.

Q -- standard but you're not cc'd on it. Do you -- do you recall why you didn't sign this letter? why it was sent by [redacted] --

A I --

Q -- [redacted]?

A I do not recall.

Q I just -- that's a -- that's a point of interest. and so, I'll draw your attention to --

A All right.

Q -- Exhibit 49, which is actually dated the day prior, that is, June 2, 2008, and this is a -- an e-mail to you from [redacted], who is -- was and is the ethics --

A Yes.

Q -- officer for the U.S. Attorney's Office, correct? Reporting back to you an assessment by the executive office of U.S. Attorneys general counsel's office that they did not see you as having an either actual or apparent conflict of interest that would necessitate your recusal from the Epstein matter by virtue of the fact that you apparent, according to this, intended to seek employment with Harvard Law School.

A Right, or was considering seeking.

Q Was considering. All right. Right. Should you seek employment, it says. So, is it -- is it reasonable for us to infer that this potential recusal --

A Right.

Q -- was pending at the time the letter to Mark Filip was being drafted, and that's why it went out over [redacted] signature, and without you as a CC?

A So, I would not infer that.

Q Okay.

A In part because it was potential -- and in part because [redacted] -- [redacted] had the facts at his disposal, and was the natural -- this was a very detailed letter. I did not feel that -- I'm speculating here -- as a general matter, things don't have to go out under my name, and some letters went out under his name, and some letters went out under my name, and the ones that went out under my name tended to be ones that I had more authorship in, and the ones that went

out under his name in this case were the ones that he had more authorship in. And so, I would just say that this was the continuing course of that.

Q Okay. Thank you. Minor technical issue.

BY MS. [redacted]:

Q Would you have read the letter before it went out?

A Probably. I would say in my usual course, he would have shown it to me, but not always.

Q Not always letters that would have been sent to the Deputy Attorney General's Office, or just letters in general?

A Well, he would have -- I think he would have shown this to me because it's going to the deputy's office. The flip side is, I trust [redacted]. I think he's a professional.

Something that I -- so, an important distinction to draw, I remember talking to an AUSA that had spent time at main justice, and contrasting the experience of an AUSA with the experience of a trial lawyer here, and sort of the line was you can't send a letter from main justice without three letters of approval, whereas an AUSA in their case typically doesn't even get approval from their line supervisor. And so, as a usual matter, particularly in this case, [redacted] would run letters by me.

That doesn't mean that every letter had to be run by me, and you know, I was certainly aware that the letter was being transmitted. I was aware of the appeal to D.C. I

had comfort in what we had done, and so I thought the appeal would be fine, and if I was out of the office, or if there was some reason that I wasn't going to be consulted, [redacted] was quite capable of doing it without my review.

Q But if you were in the office, it would have been typical for him to run it by you first?

A It would have been.

BY MS. [redacted]:

Q Did you read the letter in preparation for --

A I did.

Q -- this, and is there anything in it that is -- that in your view is not accurate?

A I think it's accurate. I think the letter, as it should be, is an advocacy piece for what the office has done as opposed to a, on the one hand, on the other hand, analysis piece. But at this point, we're defending the actions of the office, and I think it appropriately should be an advocacy piece.

Q All right. Do you disagree with any of the points of advocacy, or the points made in advocacy?

A We -- we'd have to go through it --

Q All right.

A -- paragraph by paragraph.

Q Okay. Okay.

A But --

Q But nothing struck you so much that you --

A I think --

Q -- recall?

A -- I think he fairly presented the totality of everything to the DAG for the DAG to review her for whoever the DAG designated, and I think that was -- that was an appropriate presentation.

Q All right. Thank you. So, now I'd like to launch into -- and before we break for lunch, sort of the core question.

A Mm-hmm.

Q Which we addressed a little bit earlier, and that is who at the U.S. Attorney's Office made the decision to resolve this case with an offer of a two year state plea, and why?

A Right. So, how we got to the two years, I can't tell you, because I can give you my general impression. Ultimately, all the cases in the U.S. Attorney's Office were under me.

Ultimately, I saw what we'll call that, you know, three pronged resolution, two years -- you know, registration and restitution, and ultimately that was approved on my authority.

Q So, who came -- did you -- did you come up with it? Was it your idea --

A I --

Q -- of an issue?

A I don't -- I don't know. The -- this is reconstructing conversations -- I'm going to speculate now. This was not, let's all get in a room and figure out the resolution in the next half hour.

Q Mm-hmm.

A But this was a course as things are discussed and there's a back and forth over the course of some days or a week or two, and then people get together and discuss, and a view develops, and then the office proceeds with that. But ultimately -- let me -- let me just sort of push back. Look, ultimately, I approved it, and so, I --

Q Okay.

A -- accept that. I'm not -- I'm not pushing away responsibility for it. I'm just saying I can't recall how we got to, for example, two years. I can speculate as to particular parts of it, but I can't -- you know, but ultimately I'm not pushing away responsibility.

Q I understand, and we're going to delve into that --

A Right.

Q -- that two years -- shortly, but I want to turn back to Exhibit No. 3, in which sort of the statement that launches this -- what I keep calling a lively exchange, is on page four, the -- the statement from [redacted], and this

is in response to an inquiry from [redacted] to her management, not including you, about what conversations any of them has had with defense counsel --

A Right.

Q -- about any resolution, because her plan was to talk to Lilly Ann Sanchez about working a plea to federal time concurrent to the state -- whatever the state time was, and in response, [redacted] tells her, "I told Lilly that a state plea with jail time and sex offender status may satisfy the USA," meaning the U.S. Attorney --

A Right.

Q -- I believe. So, that's a -- that's a closed quote after USA. Had he discussed that with you? How did he know that that might satisfy you?

A So, I don't recall. I can -- I can speculate based on Mr. [redacted] course of conduct, I don't think he would have raised that possibility in a case of this profile without having discussed it with me.

Q But you have no specific --

A I have no --

Q -- recollection?

A -- specific recollection, but I don't think he would have done that without having come by and said.

Q All right. At this point, bearing in mind that you don't have any specific recollection, at this point, do you

believe you had any understanding of what amount of jail time was in play at this point when [redacted] tells Lilly Ann Sanchez --

A I can't pinpoint that timeline --

Q All right.

A -- to that degree.

Q All right.

A Of accuracy.

Q He also says later in this e-mail that he told this to Lilly Ann Sanchez a couple of weeks prior before the June 26th meeting.

A Correct.

Q All right. Were you aware that [redacted] had been communicating directly with Sanchez about the case, and specifically that he represented that you might go for a state disposition if it included jail time and sex offender registration?

A I -- I don't recall whether I was aware or not. I recall at some point adopting the concept of jail time plus registration, and then plus restitution. And so, I don't know when that would have happened. Let me also speculate that the U.S. Attorney might go -- could also refer to, this is being talked about, no final decision has been made.

Q Right. If [redacted] had made that informal discussion comment to Lilly Ann Sanchez without having told

you, without having gotten your clearance ahead of time to tell her that, would that -- would that surprise you, or would you have expected him to consult with you about whether it was okay to go ahead and raise this?

A So, as a general matter, yes, but -- and let me -- let me explain that. AUSAs on occasion, and because this is a high profile -- higher profile case -- a criminal chief may run an idea across opposing counsel and say, look, I don't have authorization.

I don't know how the office will react, but it's certainly possible that X, Y, or Z may work out. And that's a very different conversation than, you know, the office will accept.

And so, a lot of that really depends on how that conversation goes, and you know, certainly if he's representing my view, I would expect him to check on what my view is, if he's, as criminal chief, saying, this is something that I could support. I don't know how the office will react, that may -- you know, but I can run it up the flagpole, that might be a different type of conversation.

Q Okay, and did you know Lilly Ann Sanchez?

A I did. She was an AUSA in the office.

Q And she left about a month after you came on board?

A Was it that -- was it that quick?

Q That's our information, yes.

A Okay.

Q Although she apparently remained a periodic present.

A Hence, the wasn't that quick.

Q Did you know that she'd been [redacted] deputy at major crimes?

A I don't remember that.

Q All right. Did you -- what did -- what did you remember about her? And had you had any dealings with her after she left the office up to this point?

A So, I remember that she was in the office, that she was a senior attorney. Whether within the management structure or not, I -- I didn't recollect until you just raised it, and that I can't swear to it, but it rings a bell that she was in major crimes, and she was someone that you would see at bar functions that would --

Q Mm-hmm.

A -- she -- she was active in the local bar, and I would see her on occasion at a bar function and say hello.

Q All right. Did you encounter her in connection with a case, to your recollection, in the period before Epstein?

A I'm hesitating not to avoid, but I'm running through my --

Q Mm-hmm.

A Not that I recall.

Q What's your impression of her as a -- as a practitioner?

A She did -- she did quite well after she left the office. She set up -- I think she set up her own practice.

Q At the time -- at this time, she was with something called Fowler White Burnett.

A Okay, so --

Q She --

A -- she went to Fowler White.

Q -- subsequently --

A She subsequently set up her own practice, and I thought she's done well for herself.

Q Okay. Were you aware that [redacted] had a close personal relationship with Lilly Ann Sanchez, both because they had worked together as chief and deputy chief --

A Mm-hmm.

Q -- in major crimes, but also because they'd had a dating relationship sometime prior?

A I don't recall them having dated, but I don't --

Q Do you recall knowing that they had dated in the past?

A I don't recall knowing that, and in all candor, that's not the kind of thing I ask about.

Q But in this case with her representation of

somebody in a matter being ultimately supervised by [redacted], would you have expected [redacted] to disclose to you that he'd had a prior romantic relationship with Lilly Ann Sanchez, a member of Epstein's defense team, if only to address a potential appearance of impropriety or conflict of interest?

A I think some of that might have depended on how recently. Was it ten years ago? Was it two years ago? If they were in the supervisory chain that this happened, that could raise other -- other issues. So, if to the extent -- so, for example, [redacted] disclosed to me a potential conflict --

Q Mm-hmm.

A -- to the extent that these arise, if there is a potential conflict, I'd like to know. I was aware of [redacted] conflict. I said, keep going.

Q And in fact, [redacted], you're talking about the Herman --

A Yes.

Q -- connection, the prior --

A Yes.

Q -- short lived law firm connection. Are you aware that [redacted] in fact vetted that through [redacted], your ethics person?

A I am -- I don't recall that independently, but I recall knowing about it. He may have told me he vetted it

through [redacted]. [redacted] is highly respected in the office, and --

Q Mm-hmm.

A -- that would be the appropriate --

Q So, are you also aware that [redacted] raised, again with [redacted], the potential, again, appearance of a conflict of interest, or appearance of impropriety, because of his supervision of the Epstein case, and his concurrent close friendship with Mike Tein, who was an attorney who was representing Epstein, as well as Guy Lewis, former U.S. Attorney?

A So, I was not aware of that.

Q You were not aware of it, but -- but I guess what I'm -- what I'm noting is that both [redacted] and [redacted] perceived appearance issues, and went through the process that's provided for them to get the blessing to go ahead and proceed with the case by the -- the blessing by the ethics expert --

A Right.

Q -- but [redacted] apparently did not in this case vis a vis Lilly Ann Sanchez.

A Yeah.

Q Does that surprise you, or disappoint you, or perplex you, or do you care?

A I would want to know more.

Q Right.

A But certainly it would provide -- I would want to know more before saying I'm disappointed, but again, was it ten years ago? Was it two years ago? What's the continuing -- there are a lot of facts, but certainly it -- that's the kind of -- it's the kind of discussion one would typically have with [redacted].

Q And in this case, what we're talking about is an informal conversation, or informal discussion, to use [redacted] own term, with Sanchez as opposed to any of the other attorneys in Epstein's team about a particular resolution that we're going to spend all afternoon talking about, because it has some problematic aspects. Okay? So, you see why we're --

A I get it. No, I get it.

Q Okay.

BY MR. [redacted]:

Q So, before we break, I'm -- should he have talked about this potential resolution with the line assistant before actually making it?

A In a typical case, yes. So, in a typical case, I fostered communication. I would -- I would come -- I'd get involved in cases, but we'd want to know what the line assistant thinks, and they can agree or disagree, but we'd want -- we'd want input.

BY MS. [redacted]:

Q What do you make of this really acid tone between [redacted] and [redacted]? Between [redacted] and [redacted] in this Exhibit 3 exchange? I mean, [redacted] is really -- as I read it, it's pretty strong.

A I -- I can't -- I -- I'm not sure what to make of it.

Q All right. All right. There are a couple of -- let's -- could we go off the record for a split second?

(Off the record.)

BY MS. [redacted]:

Q Okay, back on the record. Going back to Exhibit No. 3, there are a few things here that we think are important to raise with you, albeit you not having seen this at the time.

[redacted] [redacted] says that the -- she complains about this soft -- that's my term -- plea offer that [redacted] extended to Epstein through Lilly Ann Sanchez. She says that such an offer is completely unacceptable to the FBI, ICE, the victims, and me, meaning [redacted] [redacted]. Did you have an understanding of what the FBI's position about prosecuting this case was?

A My recollection of interaction with the FBI is with [redacted] [redacted] who was the SAC, and as I recall, he supported the eventual direction of this case.

Q Is he the individual who you identify I believe in actually your -- your attorney's written response as the SAC who called you to congratulate you about the --

A He is.

Q -- the case? About the result?

A Yes.

Q And was SAC [redacted] -- in that same written response from your attorney, there's a mention that he was present at many meetings on this case?

A He was present at, at least some, and in part that was at my request, because this was a high enough profile case that I wanted to bring him into this.

Q So, the -- we know he was present at the December 14, 2007 meeting, right?

A Yeah.

Q With Ken Starr and company. He is not present at -- to -- according to our investigation, at any other case with defense counsel. Others are. His ASAC, [redacted] is present.

A So, recollections aren't nearly as good as documents. I don't recall the December meeting. I would have said that he was present at the September meeting, but it may be that I am, because this was so long ago, mixing the two.

Q Okay.

A Because I thought he would have come to the September meeting.

Q No, according to all the information we have, just so you know --

A Right.

Q -- [redacted] was there as ASAC, but not -- actually, I'm not sure she was at the -- at any rate, she was -- she was --

A Right.

Q -- he was present, [redacted] was present at the December meeting only.

A Right.

Q So, just so --

A Fair.

Q Okay. Would he have been present at meetings other than with defense counsel meetings about this case?

A Typically no. Typically, he and I would have talked on the phone or had discussion, and I know that he was aware of the matter.

Q So --

A I recall his being aware of the matter, and generally positive as to the direction that we were going.

Q By the direction or the eventual outcome?

A The eventual outcome.

Q All right. So, what about the prosecution? Do you

know what the FBI's view was about the prosecution?

A I can't speak to the timeline. I would have -- and I'm contradicting the documents here, but I would have -- if you had asked me, said that he was present at the September meeting, and was aware of the terms that were presented at the September meeting. Clearly, I'm --

Q Right.

A -- my recollection is incorrect, and I take that for what it is.

Q Just to finish on -- with this point though, my question was an understanding of the FBI's position of the case, not the ultimate disposition. In other words, as of -- as of the date of Exhibit 3, there was no deal on the table. So, the question is, what was the FBI's view about the case?

A So -- so, I -- I'm not trying to be difficult. At some point, when you say view, the FBI, to my recollection, thought that what Mr. Epstein did was sordid and disgusting and that we should proceed. How we proceeded, I don't recall having -- hearing specific views as to the how as opposed to the, we should.

Q All right. Let's -- thank you. Let's take a break, 45 minutes. Thank you.

(Off the record.)

BY MS. [redacted]:

Q All right. We're going to go back on the record.

We're beginning after the break at 1:30 in the afternoon. Thank you.

A Before get started --

Q Yes.

A -- you referenced an e-mail from [redacted] that wasn't part of the packet.

Q Correct.

A Is that something that I could see and review, or is there discomfort on that?

Q Yes. No, I am not -- as long as we make it on the record. Do you -- do you need to do it now, or can we do it during the next break?

A It depends how long -- how long is it? It would just take --

Q One page.

A -- a minute, if you don't mind.

Q Do you want to go off the record while Mr. Acosta --

(Off the record.)

BY MS. [redacted]:

Q All right. On the record again. For the record, Mr. Acosta has just reviewed and e-mail from [redacted] to [redacted], [redacted], and [redacted] dated July 18, 2007 at 2:07 p.m. It's one that I described to Mr. Acosta a moment -- this morning. Do you have any

comments?

A I don't.

Q All right. Before we broke, we were -- I mentioned your statement about SAC [redacted] having attended many meetings. That to be clear was a representation you made in your March 2007 letter to the Daily Beast, not the written response.

Looking briefly at -- back at Exhibit 3 and [redacted] -- you don't have to read it yourself. [redacted] representation that in her view the plea offer was completely unacceptable to the victims. Do you -- do you believe that she was correct in her view that the victims' views should have been solicited before a plea offer was made?

A So, I would have to think that was one through. There were concerns -- and I don't know about the timeline about communications with the victims. They're sort of laid out in the [redacted] affidavit. So, whether 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.

Q But do you believe as a matter of sort of principle that the views of victims should be elicited before a plea offer --

A Right.

Q -- is made?

A So, as a general matter, yes.

Q Okay.

A I think that the -- the reason I'm pushing back is because you're saying plea offer, and the CVRA does talk to plea offers as opposed to a situation where deferring prosecution in favor of a state is a very different thing than a plea offer, and at the time, that was not a, it must. That was a depending on the facts and circumstances, that's a judgment call. At least that's how the department, to my understanding, viewed it.

Q And was it also your view that it would have, as a general matter, it's a better practice or better approach to talk to the victims before?

A As a general practice, yes.

Q All right. Do you think that would have been particularly important in this case where the proposal involved sending the case back to the state, which the victims were aware had already mishandled the case to begin with?

A So, a few -- there are -- there are a few things in that question that I think are packed. Whether the victims were aware and were of the view, from my perspective and my recollection, were of the view that the state had mishandled the case, I can't speak to.

Some of the victims were, to my recollection, exonerating him. There was concern that some of the victims were more on his side than on the prosecution's side. And so, that judgement call of which victims are notified and how much I think is something that really is a judgement call that needs to be done almost on a case by case basis by individuals that are aware of sort of the facts and circumstances surrounding each victim.

In the general -- in a general case, you want to have fulsome communication. I can understand in cases where victims might be giving exonerating information, where -- or, there is restitution at stake, that could be different.

Q And by the people involved, are you talking at the -- at the trial team level?

A At the trial team level with whatever appropriate supervisors --

Q Mm-hmm.

A -- are engaged in the victim notification issues.

Q And in this case, that would not include you, is that correct?

A That -- I don't recall cases where I got -- where I became part of the victim notification judgements.

BY MS. [redacted]:

Q Did you ever issue an instruction to the trial team that they should not consult with the victims before the NPA

was signed?

A So, not that I recall. I know that there's some instances where after the NPA was signed, I said, you know, I'm directing that we withhold notification for five days, or X period of time to work this out.

But before the NPA was signed, I don't recall -- in all candor, I don't recall discussions about victim notification until after the NPA was signed. I don't know if there's e-mail traffic before the NPA was signed, but I don't recall victim notification issues until after the NPA was signed.

Q Okay.

BY MR. [redacted]:

Q And I just -- one more question on this topic is that prior to -- we interviewed other people, obviously, in this --

A Mm-hmm.

Q -- case, and we interviewed Ms. [redacted], and one of the things that she told us, she has a recall of a -- of a meeting with you present, Mr. [redacted], and Mr. [redacted], where this issue of victim notification was discussed in the timeframe of prior to the FBI, and at that meeting, she was specifically instructed that we are not going to talk about it with the victims. Do you recall that meeting?

A I don't -- I don't recall. If that's her

recollection, that's her recollection. I don't -- I don't recall that. I -- I recall knowing that there were issues around victim notification. I recall, particularly after the NPA was signed, I recall efforts, I believe, to notify as it was being signed -- to notify the victims of the upcoming state plea.

Q Mm-hmm.

A And I recall discussions -- if not discussions -- let me not say discussions -- a general concern about the victim notification, what does that do? Because the victim is also a witness, and a --

Q Mm-hmm.

A -- potential witness, and in some cases and adverse witness. And so, how does all that balance out?

Q Okay. Well, we're going to drill down into those --

A Right.

Q -- post-NPA issues later on.

A Right.

Q Just now, focusing on --

A Right.

Q -- pre-NPA, before it's signed, when the negotiations are going back and forth.

A Right.

Q You have memory of this topic coming up?

A I don't recall discussing the victim notification issues.

Q Okay, and what would your response be though to -- are you -- are you aware of the CVRA litigation that went on?

A Yes.

Q From Judge Marra?

A Yes.

Q So, one of the issues that comes up in Judge Marra's decision is, he made a finding that the government violated the CVRA because they didn't inform -- consult with the victims --

A Right.

Q -- prior to signing the NPA, and there is a perception, or he -- from his opinion that the government did this -- failed to communicate that in order to eventually keep the victims in the dark and protect the resolution. Why is that an incorrect assumption?

A And so -- so, I would say that [redacted] sets out her reasoning in her affidavit. She talks about --

BY MS. [redacted]:

Q Are you referring to the -- her 2017 affidavit?

A Her 2017 affidavit. She talks about -- I believe she notified at least some victims, and it became an issue, and there's concern -- you know, you have this NPA. Whether -- whether or not that NPA will ultimately remain is

a very open question, because from our office's expectations, we expected him to plead shortly after that, and he did not.

And so, are we going to trial or are we not is a very open question, and I think there is -- has to be discretion, where there is no legal requirement. There has to be discretion to judge how much you can tell the victims and when.

BY MR. [redacted]:

Q Okay, just -- just one other point, and this is that -- we've reviewed --

A Yeah.

Q -- Ms. [redacted] declaration, and the notifications that she's referring to there, those discussions take place after the signing of the NPA. So, we're just talking about here still --

A Right.

Q -- just the pre-NPA --

A Yeah.

Q -- pre-signing of that. So, does that change your answer at all?

A Again, I don't -- I don't recall the victim notification being issued before the NPA. I recall a lot of discussions afterwards. I don't recall. That doesn't mean they didn't happen. That just means I don't recall them.

Q Was there any concern with you or among any of the

other people involved in this negotiation phase that if the victims were to find out that we are negotiating this NPA that it will blow up the NPA, that it will cause us trouble in some way?

A Our -- my focus before the NPA was signed was, here are -- here are these terms. You know, and then for the team, go negotiate this. And so, from my perspective, it was much more of a, what are the terms, than the victim notification issues around that.

BY MS. [redacted]:

Q Right, but just to follow up --

A Right.

Q -- did you hear any discussion amongst the people that you were dealing with --

A I --

Q -- that they were afraid that the victims might raise such objections, or go to the press that this whole thing would be -- you know, come to a -- come to a halt?

A So, I tried to think -- I don't recall -- I believe we notified the victims in advance of the state hearing so that they would be aware. We didn't notify them before we signed the NPA to my recollection, but we certainly notified them of the state hearing. And so, I was aware generally of what was being done, but the NPA and what we -- you know, the NPA was the focus, not the victim notification --

MS. [redacted]: When --

THE WITNESS: -- part of that.

MS. [redacted]: -- when you talk about -- go ahead.

MR. [redacted]: We -- we're going to get into the plea --

THE WITNESS: Right.

MR. [redacted]: -- and what we're --

MS. [redacted]: All right.

THE WITNESS: Right.

MR. [redacted]: -- a little bit later on.

THE WITNESS: Right.

BY MR. [redacted]:

Q Just one -- can I just direct you to --

A Yeah.

Q -- document number 15?

MS. [redacted]: Exhibit 15?

THE WITNESS: Yeah.

BY MR. [redacted]:

Q Okay. So, do you -- that was an e-mail that is from Ms. [redacted] to [redacted], then forwarded to you?

A Yeah.

Q Do you see the reference in there where she mentions that she spoke to [redacted], or [redacted] reminded her -- where is it?

MS. [redacted]: It's in the second paragraph --

THE WITNESS: Yeah, no, I --

MS. [redacted]: -- in the middle.

THE WITNESS: I see it.

MR. [redacted]: The middle --

THE WITNESS: It's highlighted.

BY MR. [redacted]:

Q Could you just read that? The agents and I have not reached out to the victims to get their approval, which as [redacted] politely reminded me, is required under the law. Do you -- do you -- do you recall that e-mail?

A I -- again, I don't recall this specific e-mail. My recollection is a view that there is no requirement to notify, because it's not a plea, it's deferring in favor of a state prosecution.

And therefore, it becomes a discretionary issue, and what notification is appropriate is really a function of how you interact with -- with victims who are also potential witnesses, and I was aware -- I support what the office did. I'm not backing away from it.

I'm just saying I can't, 12 years later, reconstruct what the thought process was other than there was no legal obligation. It was a discretionary issue, and this is how the discretion was exercised.

Q But did -- do you remember -- so, there's two things. Any -- do you remember any discussions coming up

about the topic of what we have to do as far as notification in the pre-NPA negotiations?

A I -- again, I really don't. I know there was a lot of discussion after the NPA. I don't recall pre-NPA discussions on this.

Q Last question on this.

A Sure.

MS. [redacted]: By him.

THE WITNESS: Yeah.

BY MR. [redacted]:

Q You're getting at least forwarded to you an e-mail from the trial attorney in the case showing that she is concerned about the notification issue, and she's raising at least the -- referencing the head of --

A Right.

Q -- CEOS about this issue. Did this ring any bells to you? Raise any --

A So, from this, I would infer that a discussion was had as to what the obligations had -- were, and whether we had to or not, because -- so, I think it's fair to infer she is, you know, e-mailing my first assistant.

I don't know what the attachment here -- oh, the attachment here is the term sheet, so to speak, and my first assistant is forwarding it to me in large part so that I get the attachment, and I think from here, it's fair to infer

that -- that some conversation or discussion was had. I don't remember the conversation or discussion.

My focus was on the terms. I'm willing to accept that the conversation was had. My recollection of the obligations under the CVRA is that they did not attach, because this was not an indictment, it was not a plea, and that it was entirely discretionary how we proceeded, and therefore how you proceed is a function of, should you notify victims?

Yes, but there are concerns because they're also witnesses. There are concerns because we are going out of our way to provide for restitution, and all of that played into a complex calculus.

Q That was it.

BY MS. [redacted]:

Q So, you said that there was a view that there's no requirement to notify the victims. Who was that view coming from?

A I can't -- I can't speak to person A, B, or C. I can say that if -- if the office thought there was a legal obligation, there are too many professionals involved in this that if they thought there was a legal obligation to notify, they would have done so.

At some point in this process, whether it was pre or post, I know that there was some explicit consideration of

what are the obligations, and some discussion of, this is not the obligations don't attach until indictment, and therefore, this is a discretionary matter.

Whether that happened in September or in August or October, I can't speak to. But I know that that was -- that was talked about, and I think later on in the record, there's an e-mail from our appellate chief in a different case that highlights, well, there is this Texas case that just ruled the other way. So, clearly, it's an issue that had been talked about, and I recall it being talked about. I just can't tell you the when, or the with who.

Q And would there have been any -- you've spoken on one concern --

A Right.

Q -- concerning impeachment of the victims regarding their --

A Yeah.

Q -- financial aspect of the NPA. Would there have been any downside to consulting with the victims concerning, hey, the U.S. Attorney's Office is considering a resolution short of a plea that involves charges in state court. How do you feel about that, victims?

A So, there may not have been a downside. It's difficult to recreate. My understanding, going back 12 years, was 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.

Q And where does that -- where does this come from?

A So, my understanding is that when he was going to go into state court that they would have been notified that that was an all-encompassing plea, that that state court sentence would also mean that the federal government was not proceeding.

Q But again, in terms of --

A Before -- your point is before it was signed.

Q Correct, so that they could have input --

A Right.

Q -- into trying, perhaps, if they wanted to, to persuade you that that --

A Right.

Q -- was not a good idea.

A It may have -- it may have been a -- look, looking back on it, it may have been a very good idea. I can't speak to what the thought process was then, other than it was discretionary and it was not legally required.

Q But at least as we sit here today, you cannot recall a particular problem that somebody brought up to you and said, we should not consult because of this problem?

A I don't recall that, and clearly, given the way it's played out, it may have been much better if we had.

BY MS. [redacted]:

Q In the last 15 or --

A Right.

Q -- 20 minutes, you've several times referred to discussions and we.

A Right.

Q I want to make it clear that so far, the people who were involved in this case, the Epstein case in your shop were you, [redacted], [redacted], [redacted], and [redacted]. If -- is there anyone else who was involved in those discussions other than those five?

A Not to my recollection at this phase.

Q Okay. Okay. I just want to make sure --

A Yes.

Q -- we understand who you --

A Yeah.

Q -- who is encompassed --

A Right.

Q -- in that general discussion --

A Right.

Q -- of -- of the matter. Okay. So, on July 26, so, we're now a month after that -- that presentation by the defense counsel to the team, including [redacted] and [redacted].

A Correct.

Q There was a meeting in Miami, and it was, again,

among [redacted], [redacted], [redacted] [redacted] by telephone, [redacted], as well as the two case agents --

A Mm-hmm.

Q [redacted] [redacted] and [redacted] [redacted]. Did you know them, by the way?

A I did not, not to my recollection.

Q Okay, and also their supervisor, [redacted] [redacted]? Did you know [redacted] [redacted]?

A Somewhat.

Q All right, and they were all in West Palm, of course.

A Yeah.

Q And then ASAC [redacted].

A Yeah.

Q Do you recall her?

A Somewhat.

Q All right. They arrived -- or, at least, the trial team -- the investigative team arrived ostensibly to discuss the case. It turned out to be a very brief meeting essentially consisting of [redacted] [redacted] coming in, announcing that you had decided on a two year state resolution, and then essentially leaving without -- that is, [redacted] [redacted] left the meeting without discussion.

This was -- this has been described to us as stunning to the investigative team. They had no idea this

was coming. This was -- they were completely blindsided. The question is, were you aware that [redacted] was going to announce that you had decided on this resolution?

A So, I don't recall that, but I had decided and endorsed this resolution at some point. And so, the fact that I don't recall doesn't mean that -- I wasn't at the meeting, I don't recall. But I clearly had endorsed this resolution, and so --

Q Mm-hmm.

A -- his announcement would have been consistent with my decision.

Q And again, that decision was reached without consultation and discussion with -- and input from the line AUSA. Does that trouble you?

A Sitting here today, I wouldn't have said that there was no input from the AUSA. So, to the extent that she felt there was no consultation or input, that would. From my perspective, trying to recreate things from 12 years ago, there had been discussions and consultations, and she had spoken with [redacted] and [redacted] and -- and it would have been my guess that views were known and articulated, and there was good communication back and forth.

Q But again, that's your expectation of your people, is that correct?

A Correct.

Q Okay. So -- and also, from our interviews, it -- there's -- our -- it's our understanding that you popped your head into that meeting and said hello to the folks --

A Okay.

Q -- gathered. Do you have any --

A Again, I --

Q -- recollection of that?

A -- I don't remember the meeting.

Q All right.

A I may have -- I may have done that.

Q And it's not --

A Right.

Q -- completely uncharacteristic of you?

A Right.

Q Okay.

A It's not.

Q All right.

A No, because that was an internal meeting. That wasn't --

Q Right, or -- correct, as opposed to the --

A Right.

Q -- scenario we were discussing this morning. All right, this deal, and we're not talking about --

A Right.

Q -- the term sheet yet, two major prongs we want to

talk about. One -- the first one is forgoing federal prosecution, right? Going for a state only disposition, and I talked to you this morning about the five -- sort of the five ways a case could proceed when it comes from the state. You can either decline it and give it back to the state. You can go ahead and indict, but the guy -- let the defendant or defendants go to trial, or plead to the indictment. You can indict, negotiate a deal, although you talked about some of the issues there, and you can also file a complaint and negotiate pre-indictment, or negotiate something.

A Right.

Q So, why was it that all of those other options were rejected, and the state only deal was settled on?

A So, let me -- let me back up a minute, because I think it was a little more -- a little more fluid. 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, which I'm sure we'll talk about. There were witness issues. And -- and we could go to trial, potentially, 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. I think you showed me an exhibit where [redacted] said a 371 with the rule 11. There was some discussion of other statutes at some point. I don't recall the timeline.

And so ultimately, the focus was as an initial matter, what -- how do we get this to resolution with some flexibility for state versus federal? I think -- not I think. I -- you know, there was a preference for deferring to the state.

Q Where does that come from? What --

A In part because the legal issues are to some extent also present in a federal resolution, because that then becomes a precedent for other similarly situated cases.

Q Did you want to avoid a precedent?

A So, should we talk about the legal issues? Because we -- we say we keep coming back to the legal issues, but --

Q All right. Talk about the legal issues.

A So -- so, when I was at civil rights, one of the areas of responsibility that I had was trafficking. I was very supportive. We set up some of the first human trafficking task forces. I thought civil rights really became aggressive. I think [redacted] was one of the point people.

We brought in [redacted] to be a point person on human trafficking. One of the background issues that -- that

informed the time and all those prosecutions and also the development of the trafficking law was, what is the distinction between trafficking and solicitation, and how -- and what is the distinction between a truly federal case and a local case?

Because there was a lot of concern at the time about federalizing something that is traditionally local. Now, that was 12 years ago, and I think that those concerns are no longer in play today nearly -- and certainly not to the extent that they were 12 years ago.

Q This was the state of play at the time you were the AAG for --

A At the AAG and afterwards as I was U.S. Attorney to some extent, there was a lot of discussions about federalizing state issues generally, and certainly in the legislative issues that went back and forth, that was -- that was a consideration.

Q Wasn't that trend very swift as of -- was it '06 when the Adam Walsh Act was enacted?

A So -- so, sure. I think we're trending in a certain direction.

Q All right.

A And I think that trend has continued and accelerated, but these were very -- these were valid, in my opinion, considerations at the time, and one question to be

considered is, how would a court look at this -- because different judges may look at these statutes differently. And how would a court consider federal nexus issues?

And so, that was, to my mind, an important consideration, because this was at the time to some extent uncharted territory, and while we might prevail, and probably would prevail, we may not have, and how is that weighed against a certain plea with registration that would make sure that the public knew that this person was a sex offender?

Q Okay, a couple of things. One, did you engage in that -- that discussion, based on your experience, with [redacted]? Did -- did you -- did you engage in that kind of conversation?

A I don't recall who I may have talked to, but this was -- when -- when -- you will see in the record reference to legal issues. This -- these were the legal issues, at least to my mind, that that's referring to.

Q But did you sit -- I mean, not to be silly about it, but --

A Right.

Q -- did you sit in your office and ponder them, or did you in the context of --

A We would have -- we would have discussed them.

Q All right, we, being you, and --

A I and -- whether it's [redacted] or [redacted] or [redacted], I

wouldn't have sat and pondered them on my own, but we would have had some level of discussion about these.

Q So, conversely, is it your understanding that -- that those three guys understood from you at least your perspective on these legal issues?

A I -- let me -- let me push back. Those -- those three professionals, because they are --

Q Oh --

A Yeah.

Q I'm sorry.

A Well, in this context, it's --

Q Colleagues, yes.

A Yeah. Yeah. So, there were two large buckets of issues. One was the witness issues, and on those, I would have deferred more to folks that are experienced trial prosecutors. The other one are these legal issues.

Q Mm-hmm.

A And you see it with the fed -- with the reference at the very beginning to the federal nexus --

Q Mm-hmm.

A -- and you see it throughout where -- these were discussions that we had, and from the very beginning, what is the federal nexus, and how do we make it clear that we are not stepping on something that is a purely local matter, because we don't want bad precedent for the sake of the

larger human trafficking issue.

Q Did you have those conversations with your three subordinate colleagues in this case?

A I would have had those conversations with those colleagues. Whether it was with all three, or with two, I can't recall, but I would have had those conversations.

Q And do you recall whether anyone -- anyone among them pushed back as, for example, [redacted] indicated his view of some of those issues?

A So -- so, I don't recall specific pushback. I can -- I can say where we concluded, which is there -- we are comfortable enough with the law to believe that we are -- that if we need to go to court, we can do so ethically, and we have a good chance of winning. Because if we could not go forward --

Q Of course.

A Then -- then we just can't go forward, right? No matter what outcome you want. Was it a slam dunk? Was there some legal risk? Yes, there was some legal risk.

Q Mr. Acosta, you use the term a roll of the dice in your press conference.

A Yes.

Q In -- there's a different -- I mean, at one end, you have a slam dunk. I would submit that no criminal prosecution --

A Right.

Q -- is a slam dunk.

A Correct.

Q Likewise, I would ask you to comment on whether any prosecution is really a roll of the dice, given that a prosecuting authority, in this case, the U.S. Attorney's Office, will have always done investigation, persuaded at least a majority of grand jurors to -- that they -- that there is sufficient proof to bring an indictment --

A Right.

Q -- and so on. Do you -- do you -- would you still hang your hat on a roll of the dice hook?

A So, I don't know if I would use that exact phrase.

Q All right.

A But let me -- let me just say, because you -- prodding grand jurors. From our perspective, sitting in the office in 2006 and 2007, this is a case that someone comes to you and says, this has been presented, we have no reason to believe the state attorney acted -- we're not happy with what they did, but we have no reason to believe that there was funny business.

Q Misconduct?

A Misconduct.

Q All right.

A And let's assume that there is no misconduct,

because you don't want to assume that again still. So, the state attorney took this, reviewed it, presented it to a grand jury, and the grand jury came out with this kind of recommendation. That at least is indicative of some -- some other authority looking at this and making a judgement as to what it looks like.

Q Are you aware that at least at the investigative and line assistant level, there was -- they had understanding and reason to believe that the state prosecutors had put in witnesses into their grand jury and set about impeaching them? I'm not --

A Right.

Q -- suggesting that this is misconduct, but it's a way of approaching evidence before a grand jury, and if they did that, it would be perhaps charitably for the purpose of making it abundantly clear to the grand jurors how the witness would fair --

A Right.

Q -- or not fair under aggressive cross-examination at a trial and so on.

A Right.

Q So, were you aware of that at the time?

A I was not.

Q You were not.

A Right.

Q You were not aware that that was an actual concern and understanding --

A That -- that there was --

Q -- by your team?

A That there was a concern that they basically --

Q Tanked the case.

A Tanked.

Q Yes.

A So, there was -- I --

Q You -- I just --

A -- I --

Q You didn't know that?

A I was aware of a concern about how the state attorney -- how aggressive they were.

Q Right.

A There's a -- there's a distance between how aggressive they were versus tanking a case.

Q Right, but I am telling you the concern by your people at the ground level --

A Right.

Q -- was the latter.

A Understood.

Q Okay.

A Aware of lack of aggression, tanking the case, very specifically, I mean, there might have been, hey, you know,

is there -- this looks really odd, but you've given a level of granularity as to highly unusual conduct. So, my point, there is at least a perspective coming out of the state. There are legal concerns.

We believed -- at the end of the day, I thought we would prevail, but they're valid, and then you overlay that with witness concerns, and concerns as to how juries, which were different in 2006 on these issues.

Q What do you base that on, by the way?

A It's --

Q Because you're not a trial attorney anymore.

A So, experience with how juries in South Florida looked at these matters, and with how South Florida looked at the project Safe Neighborhood -- I'm sorry, --

Q It's childhood.

A Project Safe Childhood run initiative generally, and so there had been -- there had been prior instances where we had talked about this, and we had gotten some pushback.

Q From --

A From within the office, from within the FBI.

Q On what?

A On -- on sort of sex cases more generally.

Q And pushback in what regard?

A Where should we put our resources? And so, there was -- there was just a general -- just general pushback.

Q Okay, but there are a couple things there. One is, the juries -- the juries -- the petite juries, and -- which --

A Right.

Q -- you -- I'd still like the answer on.

A Yeah.

Q And then the other is the FBI being loath to muck around with these cases that they were not --

A Yeah.

Q -- yet --

A So --

Q -- engaged with.

A So, let's -- let's take them one at a time, you know, and -- and in all candor, I think we're looking at this through a 2019 lens. You know, at the time, and I've said this in different forms, but you know, Weinstein was known and about, and actions weren't taken, and Bill Cosby was known about. And they're each -- go with me. They're each different --

Q All right.

A -- but I do think the public looked at these cases differently in 2006, and there are at least some individuals -- I'm not saying it was the right view -- but there are at least some individuals who would have looked and said, this is a solicitation case, not a trafficking case.

Q All right. Who in your office -- who in the U.S. Attorney's Office ever said that?

A So, this was -- this came up in the context of, how would the victims do in court? And it wasn't just, you know, how will they be impeached, but how will jurors look at the fact patterns around this generally?

Q And who was -- who was talking --

A I can't --

Q -- about that?

A I can't say. I know that it was discussed. I can't say A, B, C, or D. I --

Q Well, it wouldn't have been D, because it would -- D would be [redacted], and I think you would agree with me that she would not --

A I would agree --

Q -- concede that.

A I would agree with you.

Q All right.

A With that, but my point is that when we're talking -- so, when you're looking at victims in court today, I think it's fair to say that the way we approach -- there's been -- you know, there's been a lot of changes in victim shaming, and the degree to which all of that is permitted.

The degree to which I think the public understands that -- that girls, minor females, may be scared and may

testify differently. And I'm suggesting that it's important to sort of think back to 2006 and understand that these issues may have been viewed differently.

Q You -- you're -- you have not -- since leaving the U.S. Attorney's Office -- been engaged in the investigation and prosecution or handling in any respect of child sex crimes, is that correct?

A That is correct.

Q So, on what do you base this -- is it -- is it a -- your cultural observation? Your perspective on the evolution of popular culture, not in a derogatory way, that leads you to that assessment?

A So, on a few -- certainly the law has changed, and the law has become much more aggressive. So, for example, I believe the law on proof of age has changed where proof of age is no longer required.

Q The law has, but the case law even at this time was already --

A What was --

Q -- reasonably clear on that.

A Was reasonably clear, and certainly moving in that direction.

Q Correct. Wouldn't you have wanted to be at the forefront of this?

A So, I believe I was at the forefront of trafficking

issues, and I think if you were to look at my civil rights record, I really was at the forefront of trafficking issues.

Q Even the U.S. Attorney's Office had a very robust, as we discern it now, a very robust initiative. It maybe wasn't a formal initiative, but commitment to prosecute these cases.

A Correct, and -- and I fully supported that. All the more reason why, if there is an issue, and there is a potential for some judge, rightly or wrongly, whether I agree or not -- because you can't always predict -- even though you think you'll prevail, you can't always predict where holdings go. To --

Q Are you talking about on appeal?

A On appeal or in trial to --

Q Right.

A -- to issue a negative precedent on travel for purpose of, or on federal nexus, and if you think back at the time, on appear, there were -- there's a lot of case law on commerce clause and federal nexus.

Q Right.

A And so, I think that that is an important and valid factor that goes into the decision making that assesses the risk of trial, not just from the -- this -- you know, how the victims will testify in this particular case, but also what this means to the greater -- to the greater effort.

Q I understand that completely. What I -- what I am not hearing is where a voice other than you and your team in this case was being heard, like [redacted]. Did -- did you --

A And --

Q -- talk to him about these issues? Because --

A Not --

Q -- CEOS --

A Not to --

Q -- was at the forefront of --

A Not to my recollection.

Q All right. Wouldn't --

MR. TODD: Let [redacted] finish her questions.

THE WITNESS: Okay. Sorry. Sorry.

MS. [redacted]: We're all --

THE WITNESS: I apologize.

MS. [redacted]: We're on a mutual role here.

THE WITNESS: Okay.

BY MS. [redacted]:

Q But wouldn't -- if you'd had those concerns, perfectly well founded, why not reach out and engage with CEOS and see what their assessment was about the vulnerability that this case might expose your office to?

A So, I can't reconstruct that 12 years later. You know, one interesting question is would CEOS have come to

mind versus civil rights crim, because coming from civil rights crim, I -- you know, my primary trafficking contacts would have been --

Q Did you pick up the phone and --

A Not --

Q -- call them?

A Not to my recollection.

Q So, I guess what I'm -- what I'm getting at is you, based on substantial experience and a commitment to these cases in your office -- the U.S. Attorney's Office -- had formed your own analytical analysis -- your own analysis legally.

You've told us you've discussed this or made those issues and concerns known to the people who were below you, at least immediately below you, and that it -- that's where it sort of rested. There was not an effort to go out and enhance or add to your understanding of the case, and legal issues.

A So, to my recollection, I don't recall, and it's -- we'll get into perhaps -- you know, I -- from my impression, I actually thought I was being more aggressive than main justice would feel comfortable with, and --

Q More aggressive in what respect?

A In my interpretation and how comfortable I was going forward than main justice, and we can get into that,

but I thought I was being more aggressive, not less, and so I had these concerns. I did not vet them at main justice.

Q Okay. When you said more -- more aggressive, are you talking about the fact that you crafted this state disposition, or that you were more forward leaning on the potential of prosecuting Epstein federally?

A More forward leaning.

Q And yet you didn't. You didn't -- you didn't lean sufficiently far forward to actually pull the trigger and have an indictment returned.

A So, I would push back on that, and that from my perspective, we were leaning forward, because we did prosecute him by deferring to the state, and ensuring that at the state --

Q All right.

A -- he had a sentence that he -- where he went to jail.

Q All right. Okay. I want to sort of move on. I want to ask you a question about 11C1C, please, that you mentioned earlier.

A Okay.

Q And sort of alluded to here, when we --

A Right.

Q -- talked about judges, and we talked about dismissing charges from an indictment. Was your -- what was

your position as U.S. Attorney with regard to the binding pleas in an 11C1C plea agreement?

A We used them very rarely.

Q But why?

A As a typical matter, judges did not like them.

Q And -- and was that something that as U.S. Attorney, you engaged with the judges on, or was that simply a matter of seeing what they did with them?

A It -- it happened before I got there. I suspect it continued to happen after I left.

Q All right. Okay. That said, were there some occasions in which the office, if you recall at all, did do 11C1C --

A There --

Q -- plea agreements?

A -- may have been. I don't recall.

Q Okay. All right.

MR. [redacted]: And [redacted], before we move onto --

MS. [redacted]: Yes.

MR. [redacted]: -- another issue, can I --

MS. [redacted]: Yeah. I'm --

MR. [redacted]: -- go back a second --

MS. [redacted]: -- still with federal -- I'm still on the federal prosecution, but go ahead.

BY MR. [redacted]:

Q We had talked about the -- you talked about the state grand jury, and how their decision informed your decision, and you said, well, what state grand jury did with this. What was your understanding of what this was? Like, what exactly the state grand jury looked at?

A So, so, let me back up. I said it was a factor that informed, not just --

Q I understand.

A -- determined. So, my understanding is that at least some core amount of facts were presented, and I understand that since it was at the state, the FBI may have found additional witnesses, but when it was presented, the very reason the office took it in the first place was because it was presented to the state, and it went to a grand jury, and the recommendation from the grand jury was for a -- you know, a statute that would not require jail time, and that seemed wrong.

But the very fact that it was presented to a grand jury certainly was one of several factors that we considered, because it at least indicated some level of how individual jurors may view this.

Q Do you have any recollection that the state grand jury presented a single witness, who, as [redacted] talked about earlier, that they impeached?

A I have -- I have read that it was a single witness.

Since then, I don't have an independent recollection of that.

Q Okay.

BY MS. [redacted]:

Q And were you -- how familiar were you with Florida state criminal procedure?

A It depends what -- what area.

Q Well, you never practiced there, right?

A Correct.

Q I forget what law school you went to.

A Not Florida.

Q Not in Florida, and you were not a member of the Florida bar.

A Correct.

Q Correct. So, really any knowledge you had would have sort of been picked up?

A I should -- I should point out that a number of AUSAs in Florida are not a member of the Florida bar, so that's not unusual.

Q Oh, okay. No -- I'm not -- I'm not --

A Right.

Q -- suggesting --

A Right.

Q -- otherwise.

A And in federal employment, you can move from --

Q Right.

A Yeah. So, I had been U.S. Attorney for quite a while, and then I -- you know, I think we would have been interacting with the state system sufficiently, and if there was something that I had questions on, I could certainly ask.

Q Were you aware that in the Florida system, grand juries were not required to be used to bring federal criminal charges except in capital cases?

A Yes.

Q Okay, so even bringing a case to a grand jury was an -- in a non-capital context, was somewhat unusual?

A An indication that there were some concerns or something, so the state attorney, presenting it in the best possible light, is looking to test the case.

Q All right, and without getting into any substance, did you at any point become aware of the kind of reaction that the line AUSA, [redacted], was getting from the federal grand jurors to whom she was presenting?

A I did not.

Q All right. Another aspect of concern that I think you mentioned in your press conference was the concern about labelling or putting the girls -- the girls -- the victims in a position where they would be labelled as prostitutes, right? Do you recall --

A I'm not sure --

Q -- mentioning that?

A -- I phrased it that way, but I -- I take -- I take your --

Q We'll defer to the record.

A Right.

Q But -- but you did -- you did express concern, and our understanding is there was some expression of concern in the U.S. Attorney's Office among the folks about the victims having to self-identify, or --

A Right.

Q -- admit that they were sort of prostitutes. The disposition that was reached in the state -- and that -- and that -- avoiding that was something to be desired --

A Yes.

Q -- right?

A Yes.

Q The charge to which Epstein was ultimately require to plead guilty did just that. It was a solicitation to prostitution of minors. Was that -- did that factor in at all as a -- as a -- as an issue of -- that -- that was not being addressed at all --

A Right.

Q -- by the state disposition?

A So, I -- I was aware of and signed off on this three point --

Q The term sheet?

A -- it's in here somewhere -- term sheet. In terms of the negotiation over which state statute was used, and which victims, that is something that -- that -- to my understanding, was being handled by Ms. [redacted], and from my perspective, she would certainly have had sensitivity to that.

Q And do you have any idea how that three -- those three counts or charges were reduced to simply one?

A I do not. That would be a function of the course of the negotiations.

Q Why was -- why wasn't any reasoning for this disposition -- deferring to the state -- set forth in writing? Why didn't anyone do a memo explaining what your reasoning was, or what the office's reasoning was?

A I can't speak to that directly, but I can say that it would have been unusual. I don't recall other cases where there was a, this is the reason for our disposition type memo. At least not memos that came to me.

Q Okay. I'm showing you two, and the caption is -- is all that's relevant here, but there are two memos that are both dated February 2006, and March 2006. One of them is in fact addressed to you from [redacted], and it attaches a memo, which is a require for pretrial diversion to resolve case against an individual named Ronald Sasse, S-a-s-s-e.

And it is a child pornography possession case in

which the conclusion was that the defendant merely possessed it, and that it was a case that should be resolved by pretrial diversion, and I'm just only bringing that to your attention --

A Right.

Q -- as well as this second one that I'll show you, to show you that there are cases involving, you know, child sex crimes, where it's -- the office did see fit to set forth its analysis and reasoning for the proposed result.

The second document, dated February 15, 2006, is a memo, not to you, but to [redacted] in his capacity as chief of the criminal division, and it requests authorization to enter into a plea agreement with a five year cap, and it -- it is a C1C plea, and the handwritten notes indicate that the supervisors concurred in it. Again, I'm simply suggesting that there -- that there are at least some examples where the office, you know, in these kinds of cases --

A Right.

Q -- did --

A So --

Q -- put it to paper.

A So, I can only speculate.

Q Mm-hmm.

A And questions I would have is, to what extent was this put on paper, because it was a case that [redacted] or others

were not involved with. So, this was the way that in this case, the chief of the -- you know, the economic crimes, or in this case, you know, [redacted] is chief of the criminal division, we're communicating information rather than walking in and having a discussion.

We're just communicating it on paper as a way to obviate a discussion. In this particular case, there were -- there was discussion, there was communication, and so a memo to sort of establish -- in other words, is this a required approval memo, or is this a memo that says, in lieu of getting together, where are the facts, let me know what you think.

Q All right, and was there not a practice, or even a requirement in the office that plea dispositions should be memorialized in writing in -- in -- with the rationale?

A So, to the extent that a line attorney might be seeking permission from a supervisor --

Q Mm-hmm.

A -- on a plea disposition, I would think that they would communicate that in writing as the cleanest, most typical way when you've got 20 or 30 line attorneys and one supervisor. That is not necessarily the only way, and certainly as U.S. Attorney, I don't recall a -- you know, a practice of memorializing to me what plea dispositions would be.

Q Okay, and in this case, you were involved in the case, right?

A And in this case, I was involved, and so to be clear, I'm not -- I -- I'm not saying that I disagreed with this, and I'm not walking away with it. And so, to the extent that I may have in a meeting said this looks good, that may have obviated a need to --

Q All right.

A -- write that up.

Q Okay. Thank you. Another aspect of the state resolution that raises concern -- and it -- and let me make clear that -- that many of our questions are framed in this way, but we are also reflecting a concern that's been expressed in the press, and in the public, and by others.

A I understand. Understood.

Q So --

A Understood.

Q -- we're sort of coming through that lens. So, another aspect of the state resolution that raises concern is, doesn't it appear that the -- that by going -- sending this matter back to the state, there's more federal interference, more federal involvement in the state process than there would have been if you had just kept the case?

A So in hindsight, one of the issues I think in this case is after the agreement, and you know, we keep calling it

a non-prosecution agreement, and I kept saying call it an agreement to defer in favor of state prosecution.

Q A DPA instead of an NPA?

A Right.

Q Why wasn't it called a DPA, by the way?

A I don't know. There's one e-mail where I suggested putting in reference to petite policy.

Q Right.

A And [redacted] said, looks strange, take it out. There's another e-mail in the record where I keep saying -- everyone keeps calling it an NPA, call it a deferred to state. So, I can't -- you know, I can't say why not, but it's an important distinction.

Q But if you had said -- it -- I don't want to go --

A Yeah.

Q -- to far afield, but if you had said, uh-uh, call it, no, call it a deferred prosecution --

A Right.

Q -- agreement, they would have changed it, right?

A They would have, and I -- I actually asked that we have a clause based -- I don't have the independent recollection of this, but based on the record that we include a clause saying that we were doing this in light of the petite policy to defer, and [redacted] pushes back and says, I haven't seen that, and he's the local expert, so I deferred

to him. I take responsibility, but it's an important distinction. And so -- I'm sorry, I just lost track of your question.

Q We were talking about, doesn't this involve more federal interference?

A Could I -- could I grab a Red Bull from you that I bought?

MR. HERRON: Yeah.

THE WITNESS: Sorry, just a --

MS. [redacted]: Do you want to take a five minute break?

THE WITNESS: Would you mind?

MS. [redacted]: Not at all.

THE WITNESS: Yeah.

MS. [redacted]: Call it, please, at any time.

THE WITNESS: Let me grab the Red Bull.

MS. [redacted]: Off the record.

(Off the record.)

BY MS. [redacted]:

Q All right. Thank you. All right. Back on the record. So, Mr. Acosta, I was asking you about -- didn't this -- didn't this resolution end up injecting the feds into the state business in a pretty aggressive way?

A And -- and so what I was saying is in hindsight, one of the -- one of the issues here is I think this would

have gone very differently if after the agreement to defer in favor of state prosecution, all the victims knew about this, they had gone into state court, he had pled October -- whatever the date was -- had been sentenced, had served his sentence, and case over.

And so, one -- you know, to the extent there are lessons learned, an attempt to provide a -- an attempt to backstop the state here, rebounded, because in the process, it got convoluted, and complex, and ended up being arguably more intrusive than it would have had this just been, here is what we'll do, go back to the -- if you go back to the state and work this out, but --

Q Would that have required or depended on cooperation from the state authorities?

A So, I think I was clear, and my recollection is this was an issue where I said it is up to you, and one of the -- I edited a few parts of this. I got involved selectively.

Q Exhibit 21b is --

A Oh.

Q -- your edits.

A Okay. So, let's -- before I say I think, let's go to --

Q But --

A -- 21.

Q But before we talk about 21b, as a general matter, you talked earlier about the more -- the sort of more typical, usual way in which the U.S. Attorney's Office and local authorities -- prosecutive authorities would work, and that is cooperatively, and would decide who gets what, and --

A Right.

Q -- who has what responsibilities. Here, there was not such cooperation, apparently.

A There wasn't, and I was going to say, to my recollection, we can look at whether it's in 21b or not, one of my edits was make it clear that it's up to him to figure this out with the state attorney, because we as federal prosecutors are not going to walk in and dictate to the state attorney.

Q But in affect, you did.

A I --

Q By -- you did -- you did it through Epstein.

A I -- I understand. And so, in an attempt to -- in an attempt to reach a resolution, particularly as convoluted as this got, I do think a lesson learned is that it ended up perhaps being worse that if we would not have in the first place.

Something -- I -- we, my team, we very much thought that it was important that he go to jail. That it was important that he register. How we got to that ending is

unusual, and as an attempt to factor in, here are all the issues around the federal statutes, the concerns about trafficking law, here are the victim issues as to trial, and how -- you know, here is -- here are all these things. And so, on the one hand, deferring to state -- to the state, appears -- appears logical.

On the other hand, the way it played out was a lot more confrontational with the state than I would have hoped, particularly because rather than go back to the state and work it out, in the collateral -- subsequent collateral attacks, they almost tried to state to circumvent and to -- you know, to get the state to circumvent and undermine our agreement.

Q And that was -- when you say they, you mean the defense team?

A Yes.

Q So, you could have -- you could have obviated that whole thing if you had just offered the same result, which would be a plea to a criminal charge with, for sake of argument, a two-year cap, which would have required a C1C plea.

A Right.

Q And you'd get your restitution, because federal law requires it. They would have been able to proceed under 18 USC 22.55 anyway, and he would have gone to jail and been

registered as a sex offender. All just within the normal course of doing business as the U.S. Attorney's Office. Why not pursue that? Who was -- who was calling the shots that said, yeah, we'll do it, but it's got to be with the state? Was that the defense?

A So, something that -- that wasn't the defense. Something that I think is important to sort of lay out here, is the -- the -- sort of the terms sheet was developed really early in the case.

Q Excuse me, it's dated, it's presented to the team by [redacted] [redacted] on the 31st of July. Do you consider that early?

A So, from -- let me -- let me clarify from my perspective. It was developed and approved by me before I became involved with interactions with the defense team.

Q In the sense that you only met with the defense team for the first time in the person of Ken Starr and Jay Lefkowitz and company on the 7th of September.

A And it wasn't the 7th of -- yeah, the 7th of --

Q The 7th of September.

A -- September.

Q 2007.

A And that is important, because it goes to -- there is a lot of buzz in the media, did they influence this outcome? To my recollection, they may not even have been

attorneys of record in this case, and I don't know when they came onto the case.

Q Well, there's an e-mail in the package that indicates that you got a call from K and E --

A Right.

Q -- on -- on or about the 6th of August.

A After the terms sheet was --

Q Correct.

A -- presented, and so I say that because we can -- we can -- and probably will talk about whether those terms were the best judgement or not, but once those terms were agreed and approved, with the exception of the 24 to 18 as a material, and then we can talk about how that happened, we stuck, and I backed the office, and I backed [redacted] in her negotiations on those. And so, I just -- I think that's important to note.

Q I understand. I -- that's not, for the moment, the focus.

A Fair.

Q It's the terms themselves, and in this case, the state court disposition, everything that you wanted to get with the state court disposition, you could have gotten with a federal plea --

A We --

Q -- much more easily.

A We could have, and there was certainly some consideration of a 371, and that may be -- you know, in retrospect, it would have obviated a lot of issues.

Q So, who said no, that's not --

A So --

Q -- acceptable?

A So, there is e-mails that at the time [redacted] spoke to me about it. I don't recall, but I'll take responsibility for -- for favoring -- or, not for favoring, but if that's -- if that's what happened, I will take responsibility. From my perspective, and my recollection, there are two -- two factors here.

Well, I don't know if it's two factors, but at least two factors. One, concerns about how this interacts with federal law, and what precedents this might mean for other trafficking cases. Two, a southern district's general dislike for rule 11, and -- and then third, there were other federal statutes that were considered at various points, and I remember looking at those and saying, yeah, I don't -- it doesn't quite -- it doesn't quite fit.

Q To -- just to be clear, that process of looking for the square peg that --

A Right.

Q -- would fit into the round hole of -- of the two years that had been committed to was a process that came

before the NPA was actually negotiated, at a time when [redacted] was working with defense counsel to see if there was a federal charges that could be within the two year --

A Correct.

Q -- scope that would allow Jeffery Epstein to serve his time in a federal facility, rather than in a state facility. Is that --

A That --

Q -- is that correct?

A -- is correct.

Q Okay.

A And I recall -- I recall at least one of those ideas, and I recall that my general reaction to it was, we're pushing the law that just looks odd, and we don't want to go there.

Q Are you talking the assault on an airplane, or the obstruction of a witness, or --

A I actually -- my recollection is not about the assault on the airplane --

Q Okay.

A -- but about his home being a special maritime jurisdiction.

Q Oh.

A Which is -- no.

Q Definitely square peg in round hole.

A Right.

Q Correct? But there were -- so, I guess it -- is it -- is it -- is it accurate that from your standpoint, an 11C1C federal disposition was not going to be acceptable? That that's not something that you would approve?

A It would have been unusual, I don't recall with specificity, but I can -- based on circumstances, infer that it would have been unusual, and -- and I would have looked at it and said this isn't -- this isn't typical. I'm not comfortable.

Q So, why not -- why not offer the five year hit, and say that's it?

A I wish I could speculate. I mean, I could sit here and speculate after the fact. I can speak to what I recall. I can speak to what I approved. I can speak to the considerations that went into it. There are all sorts of things that in hindsight we may or may not have done, which may have worked out well or not. I -- I can't answer that.

Q So, I guess -- I guess the -- sort of the big unanswered as yet question is, why was there a fixation on the two years when that's not something that comported with anything that was possible in the federal scheme?

A So, speaking to the two years, I don't remember with specificity. I -- let me give you my general recollection --

Q Mm-hmm.

A -- and then let me speculate.

Q Mm-hmm.

A My general recollection is that there were earlier charges, you all may know those in more detail than I do, but there were earlier state charges that were brought.

Q That were brought?

A That -- I'm sorry, not that were brought, that were contemplated.

Q Of which there is no public record?

A There is -- I don't know if there's public record or not. I can just say my recollection is that there were earlier state charges that were contemplated. The state attorney chose to not pursue those earlier state charges and take it to a grand jury.

From public information, my understanding is that that's why Chief [redacted] became upset. My general recollection is that the two years represented what he would have received if the original recommendation, or the original view of the state attorney's office had gone through, and it hadn't been brought to the grand jury, and I would -- I would sort of point to -- you know, in this Exhibit 3 -- I thought it was in Exhibit 3.

Somewhere, there's a reference to -- as you can see it -- Exhibit 3, page three, 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 would have interceded.

Q But that is completely silent as to what those original charges may have been, or --

A I --

Q -- how they related to --

A I understand.

Q Okay.

A And so, so, to just close the loop, my understanding is that those two years reflected what that would have been such that the case would not have come to federal authorities in the first place.

Q Okay. Where did that information come from? Who said, oh, those charges would have resulted in a two year sentence? Was that something that was analyzed by your office, or did it come from defense counsel, or --

A I --

Q -- from who?

A I can't -- I can't speculate. It had to come from someone.

Q It did not come from you, is that correct?

A So, I would not have the knowledge to know what that charge would have resulted. As an initial matter, a penalty that says up to blank years is rarely that number of

years, right?

Q Right.

A By the time you apply guidelines and all that, and so I would not have the knowledge to know how to calculate that state sentence.

Q And in fact were you aware that Florida did have its own state guidelines -- sentencing guidelines?

A Generally, I -- I know that --

Q Right.

A -- there is a process.

Q Right.

A Might I at some point have said, you know, Mr. or Ms. AUSA, or management team member, if this had been done the right way in the state, what would he have gotten, and someone comes back to me, possibly, maybe someone at some point had said, look, this would never have come to us if it was done the right way in the state, and this was the term that he would've gotten.

At some point in this process, my general understanding is we got to that two years based on not random, but based on, this was the calculation that he would have received.

Q Right, and to make sure we understand, is that your actual recollection, or is it your belief based on what you know happened that that's the way it --

A So --

Q -- happened?

A So, it is my recollection of my understanding, which is convoluted, so let me --

Q Yeah.

A It is how I recall viewing the term sheet when I approved it.

Q Okay.

A How it got into -- and so, if we got to the term sheet --

Q It's 21 -- no, it's not.

A It's -- it's one of these exhibits.

MR. [redacted]: 15.

BY MS. [redacted]:

Q Thank you, 15.

A 15. So, if we go to the terms sheet, Epstein pleads guilty -- contender to an information follow -- charging him with -- these particular statutes are -- I am not familiar with, but I would have assumed that either [redacted] or someone else would have selected them appropriately. It makes a binding recommendation to serve at least two years in prison.

Q Let me back up if I could. Those three statutes, did you understand those three statutes to be the three statutes that -- or, to be the statutes that the state

originally was going to bring?

A I can't speak to that.

Q You don't know.

A I don't know.

Q So, you don't know what the statutes were?

A Yeah.

Q Okay.

A Yeah. You know, it makes a joint binding recommendation at least two years in prison. My -- my understanding, my recollection of my understanding, when I reviewed these terms, is that that reflected what he would have received if he had -- if the state had gone through with an initial -- with an initial charge, and from our perspective at the time, that would have obviated the need in the first place to have engaged federal authorities. Agree or disagree with the logic, I'm trying to explain the logic.

Q Mm-hmm. No, I understand. Thank you for that clarification. Is it -- you posited a couple of possibilities that you might have said, you know, gee, what would --

A Right.

Q -- he be looking at if --

A Right.

Q -- the state had done what it originally set out to do or was supposed to do. Is it -- how also likely is it

that someone came to you, one of your people, and said, hey, I suggest we go with two years, because the same reason.

A It's --

Q In other words, it came from --

A Right.

Q -- somebody else to you, and you agreed.

A So, it's very difficult to reconstruct this in retrospect, in part because I don't want to leave the impression that there was one meeting where this was discussed --

Q Mm-hmm.

A -- as opposed to, you've got -- you're sitting across the hall from someone, you're sitting down the hall from someone. There are ongoing discussions, how do we resolve a matter that has some thorny legal questions, some difficult victim witness questions, and this is the kind of back and forth where I might have indicated a concern, someone was trying to address that concern, or I might have asked the question. It -- it's --

Q Well, you've already told us that you did express concern --

A Right.

Q -- about the case, and somebody -- and you were having conversations with [redacted], possibly [redacted], correct?

A Correct.

Q And is it possible -- does it -- is it reasonable that one of them might have come up with a solution for you to your problems?

A And that's the point that I'm --

Q Okay.

A -- trying to make. It's certainly possible, and it's difficult to reconstruct that 12 years after the fact.

Q All right. All right. I want to go back to wind up this -- this concern about engagement with the federal -- I mean, engaging the federal system into the state process. 21b is the exhibit that is your comments really on the very final version of --

A Right.

Q -- the NPA on September 24, and the -- the language is quite striking to us in this regard, looking at the -- at the first e-mail there, you've talked about deleting the petite policy portion upon [redacted] [redacted] recommendation, and inserting global resolution language which you've proposed.

And then you then say, "I'm not comfortable with requiring the state attorney to enter into a joining recommendation," and then you propose essentially taking out a mention of the state attorney's office regarding the -- the sentence recommendation, and then you also note, "I'm not comfortable with requiring a state court to stick with our

timeline," and you ask that the reference be softened -- your term is to soften.

You also use soften below when you talk about your -- making it -- a concern about making Epstein an agent of the U.S. regarding negotiations. So, you're really -- and then at the very top, in the -- in the later follow up e-mail, you express concern about, "Do we really need to set a date for his reporting? I'm very nervous about that. If I were a judge, I would be upset by the federal government telling a state court how to manage their calendar. Can we delete?"

A Right.

Q So, clearly you're very mindful, right, of the importance of not injecting the federal sovereign into the state sovereign.

A Correct.

Q Fair? All right, but yet, this whole set up, the whole NPA did require certain actions to occur, however they came about, in the state, because of the federal requirement.

A Yes.

Q And why was that a good idea?

A In hindsight, the complexity that this took on clearly is something that -- that if I was advising a fellow U.S. Attorney today, I would say, think it through. I do think it would have played differently if he had actually not

done all the collateral deals and stuck to what was --

Q But that came later.

A It --

Q This is before it's signed.

A It came -- it came later, but let me -- let me at least say that, and stuck to October 26th, but look, I understand your point, and -- and the response that I can give was, you have -- we had these concerns, but we also thought it was very important that he serve some real punishment, and that he register. And whether -- whether we balance that or not, a lot of people are going to be questioning for a long, long time, but that's how we balanced it.

Q Because the state disposition was not a precondition to achieving those two objectives. You could have done it with a federal plea, serving time --

A Arguably --

Q -- and the offender registration.

A Arguably, we could have done it with a federal plea if judges would have gone -- if judges would have gone for rule 11s, which in the Southern District they tend not to, but arguably. I --

Q Okay. Okay. I just wanted to --

A And you know, again, this is -- this is a hindsight thing, but yes.

Q It is, but what we're focusing on is not so much the hindsight as the -- at the time, did this make sense? And it seems that you all were putting in so much effort, and it was so hard to make this come together and work, that it -- it's striking that it didn't collapse of its own -- of its -- of its own weight.

A And to that point, let me say, you know, it's also, if I had to speculate, one question that I'd -- that I'd ask is, everyone's putting in all this effort. You know, [redacted] put in a lot of work on the negotiations with the defense counsel that were somewhere between zealous and difficult.

Q Meaning defense counsel were --

A Yeah.

Q -- between zealous and --

A Yeah.

Q -- difficult?

A Yeah. Whether there's zealous advocates or cross line to rude, we can have conversations about, and at what point, you know, would it have proceeded differently if folks said, let's take a big step back, and let's seriously reconsider? But everyone was very, let's get the job done, let's put him in jail. And I -- look, I'm speculating in hindsight.

Q But could you not have pulled the plug at any time before it was signed? I mean, clearly by the morning of that

ELECTRONIC COURT REPORTING WITNESS LOG

STATE V. _____ CASE NO. _____ Page 1 of 1

CRIMES AGAINST CHILDREN INVESTIGATION — ASA: LANNA BELOHLAVEK

DATE	ST or DFS	WITNESS	DIRECT	CROSS	REDIRECT	RE-CROSS	REDIRECT CONTINUED	RE-CROSS CONTINUED	END	TTL	
7/19/06	TT	DET [redacted]	9:14:18		10:00:28		11:38:08		9:20:47	10:58:28	11:34:14
7/19/06	TT	[redacted]	11:11:15						11:31:37	[redacted]	
7/19/06	TT	[redacted]	: :						: :		
7/19/06	TT	[redacted]	9:21:04						10:00:00		
7/19/06	TT	[redacted]	11:34:39						11:56:42		
7/19/06	TT	[redacted]	11:56:34						12:14:56		
CONTINUING INVESTIGATION & REVIEW OF GRAND JURY DIRECTIVES DATED 4/25/06 — ASA: MARY ANN DUGGAN											
7/19/06	TT	[redacted]	1:17:22						1:39:51		

B: Bench Conference

*: Motion to Strike

Defense Attorney[s]: _____

Asst. State Atty[s]: LANNA BELOHLAVEK MARY ANN DUGGAN

Forms/Witness Log - 2005

CONFIDENTIAL

Pag 1 7/19/06 Grand Jury
Crimes against children Investigation
TT: Joanna Bloszanek

9:14:12 on record
9:14:18 TT direct (dot [redacted])
15:05 when became involved in case
15.29 how case came to P.B.P.D.
16:04 what [redacted] thought was going on
16:43 [redacted] had [redacted] attorney w/ was from Palm Beach
17:16 [redacted]
17.37 [redacted] was interviewed
18:09 what [redacted] said initially
18:56 what [redacted] told [redacted] about going to the house
19:45 man identified as ~~Jeffrey~~ Epstein, Jeffrey
20:25 [redacted] said she was over 18
9:21:04 TT direct ([redacted])
22:20 age & birthdate
22:29 was [redacted]
23:30 how knows [redacted]
24:02
24:12 how met [redacted]
25:20 [redacted] said wit would meet Jeffrey
26:42 [redacted] told asst lady wit was 18
29:15 Jeffreys full name
29:23 where was Jeffrey's house
30:02 went to back door
30:18 Jeffrey & asst lady came to back door
31:13 asst lady walked wit up the stairs

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TI direct (cont...)

9:37:19 lady told wit to keep (via ℓ parties) ox
33:10 Jeffrey layed down on his belly
33:15 Jeffrey's description
34:05 wit was kind of hesitant
35:09 told Jeffrey she was 18
35:38 gave Jeffrey a message
36:08 Jeffrey
36:20 asst. lady asked wit to undress
37:36 wits bare witness touching Jeffrey's butter
38:11 * Jeffrey asked to [redacted]
38:37 * [redacted]
39:10 Jeffrey on his back
40:13 * where did Jeffrey [redacted]
40:36 * Jeffrey [redacted]
42:00 Je
42:12 Jeffrey gave her $300.
43:19 wits scare about telling det about [redacted]
43:58 who was downstairs
44:19 [redacted] got money too make $300
44:57 discussed w [redacted] what happened
46:17 did [redacted] & wit discussed about doing it again
47:08 ~~Jeff~~ wit did not go back
47:22 * made controlled call to [redacted]
48:22 * told [redacted]
49:15 got [redacted] w/ [redacted]

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TT direct (cont...)

9:50.13 why lied to asst. principal
50.53 asst principal called wife or mother)
52.00 told mom she was [redacted]
52.38 [redacted]
52.58 has Myspace site acct.
53.55 document shown to wit
54.40 survey addressed
55.11 dad took her to get [redacted]
55.47 did [redacted]
56.02 put income as $250,000. not or joke)
9:57.03 Jury O:
57.55 Jury O:
58.24 TT O: as wit aware it was a crime)
58.45 Jury O:
59.07 Jury O:
59.17 Jury O:
10:00.00 off record
10:00.24 on record
10:00.28 TT direct (dtr. [redacted] cont...
01.30 what found in Jeffrey's house attic
02.43 [redacted] made by [redacted]
03.17 [redacted] 2 girls) identified
03.42 how old girls) were
04.05 9/21/05 trash pulled from Jeffrey's house
05.03* what found in trash pulled
05.20 name of girls)
05.43 10/3/05 trash pulled from Jeffrey's house

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Pg 4: 7/19/06

To direct (dot. [redacted] sent
10:07:50 when talked to [redacted]
08:48 * what [redacted] said
09:23 Jeffrey's asst's name [redacted]
10:27 had [redacted] met people that led her to Jeffrey
11:50
11:56 who [redacted] took to Jeffrey's house
13:10 [redacted] said she was like Heidi Alice
14:05 [redacted] was paid $200 every time she brought a girl
14:37 got statement from [redacted]
15:30 what additional things did [redacted] said happened
16:28 how many times [redacted] went to Jeffrey's house
17:13 how much Jeffrey paid [redacted]
18:05 when I.D. [redacted]
18:30 [redacted] said she went to Jeffrey's house
hundreds of time)
19:20 how [redacted] described first time she went to
Jeffrey's house
21:03 Alex said Epstein [redacted]
23:30 * Jeffrey introduced his other asst.
24:04 [redacted] described (description of sex acts)
26:00 * [redacted] dead [redacted] head on massage table
& [redacted]
27:43 asked [redacted] what she did w/all that money
28:10 * who is [redacted]
28:54 [redacted] said she was taken to Jeffrey's house
29:24 [redacted] was 17 at the time

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11 direct (cont...)

10:30:47 [redacted] said sex acts became more involved
31:05* did [redacted] tell Jeffrey she was 17
31:55* did any girls tell Jeffrey they were under 18
32:43 how much was Christmas bonus
33:00
33:34 information given by [redacted]
34:22 [redacted] kept notes (like a journal)
35:50 when flowers taken to [redacted]
36:22 no formal training by girls for messages
37:28 [redacted] relationship w/ Jeffrey
38:26 did messages by [redacted] go beyond
41:15 how girls knew each other
41:42* obtained search warrant for Jeffrey's home
42:19* who was present w/ us when served warrant
42:58 item found known as twin torpedo
43:20 where was item found
43:54 any sexual devices found at door given by girls
44:24 Jury Q:
45:03 Jury Q:
45:35 Jury Q:
45:56 Jury Q:
47:02 JI Q: [redacted] present occupation
47:18 Jury Q: did girl say no when Jeffrey [redacted] her
48:12 Jury Q:
49:10 Jury Q: who was [redacted] Jeffrey

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TT direct (cont...)

10:50:00 Jury Q:
50:44 Jury Q:
51:04 Jury Q:
51:50 Jury Q:
52:12 TT Q: who made direct appointments)
52:29 Jury Q:
52:48 Jury Q:
53:20 Jury Q:
53:52 Jury Q:
54:52 Jury Q:
55:12 Jury Q: Epstein's age
55:47 Jury Q:
56:40 TT Q:
57:32 Jury Q:
58:13 Jury Q:
10:58:28 off record
11:11:10 on record
11:11:15 TT direct ([redacted]) PBPD
16:02 where went on Dd. - address
16:41 * how) house was entered
18:46 dit. [redacted] read search warrant about to
accupants outside of house
19:38 residence) description
20:43 wit steps down from stand
20:46 wit describes) diagram

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TT direct (cont...):

11:23:22 found message table)
23:31 " " aids)
24:10 any massage aids found where massage table was)
25:46 wit notates) retrieved
25:58 did any officers find a purple vibrator)
27:20 Jury Q:
28:42 TT Q:
29:00 Jury Q:
29:45 Jury Q:
29:53 Jury Q:
30:40 Jury Q:
11:31:32 off record
11:32:07 on record
11:32:08 TT direct (dtr [redacted]) cont...:
32:10 who was in) home when warrant served
33:08 where was wit in) relation to found
34:03 Jury Q:
11:32:06 on record
11:34:29 TT direct ([redacted])
35:48 how knows [redacted]
36:36 [redacted] introduced wit to Jeffrey
37:45 when went to Jeffrey's home 1st time)
38:08 was 16 yrs old junior/year
38:39 wit describes) first time went to Jeffrey's house
39:20 Jeffrey gave her $200.

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TI direct (cont...)

11:40.15 how many times went to Jeffrey's home
40.48 * how messages progressed
41:20 * last time [redacted] how old was wit
42:47 told Jeffrey she was 17
43:10 Jeffrey [redacted]
43:40 how much was wit paid
44:27 Jeffrey gave her digital camera
44:56 * [redacted] was in room w/them) one time
45.46 Jeffrey asked wit to touch [redacted]
47:07 * does wit want Jeffrey to be charged
47:30 * does (father) know about situation)
47:58 how much money did wit get during all that time
48:59 Juky Q: how old was wit when [redacted] occurred
50:34 Juky Q: why didn't ask Jeffrey to stop
52:07 Juky Q:
52.18 Juky Q:
52.32 Juky Q:
52.55 Juky Q:
53.29 Juky Q:
1:54.42 off record
1:55:32 on record
1:56.34 TI direct ([redacted])
52:40 police report on [redacted]
59:08 [redacted]
2:01:05 wit has looked at [redacted] (Myspace.com) site
02:03 what is [redacted] web name

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redirect (cont...)

12:02:49 (Victim) [redacted] wants to wit

03:36 [redacted]

04:39 * wit reads from exhibit C - aloud

07:26 does [redacted] make references to wanting to be famous)

08:29 Jury Q:

08:57 TT Q:

09:05 Jury Q: what was date that she said she wanted to be famous)

12:10:10 Jury Q:

10:29 Jury Q:

11:02 Jury Q:

12:30 Jury Q:

13:20 Jury Q:

13:54 Jury Q:

14:15 Jury Q:

14:34 Jury Q:

12:14:56 off record

on record

[redacted]

12:51:45 redirect ([redacted]) cont...

51:46 TT Q: what is [redacted]

2:52:34 off record

(continuing investigation / review of Grand Jury Directives dated 4/25/06 - ASA: Mary Ann Duggan

1:17:17 on record

1:17:22 TT direct ([redacted]) [redacted]

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TT direct (cont...)

1:18:00 terms of [redacted]

18:20 " " " "

19:24 is part time [redacted] ...

21:16 Miller

28:32 6/1/04 [redacted] started as [redacted]

22:00 [redacted] started career on ...

23:00 do records reflect [redacted] suspension date

24:10 how witness does his hirings

27:52 5/26/06 [redacted] out on road

29:02 did computer) check on ofcr [redacted] start date

29:55* ran computer) check from 11/6/05 - 5/27/06

31:09 total of 25 cases during period - 17 open & closed

33:38 ~~ofcr~~

34:04 [redacted] employed 3/20/06 legal

from 5/24

34:47 8 cases during period handled by [redacted]

35:38 14 ofcrs may have similar) problems

36:17 Jury Q: who [redacted] familiar) w/rules

36:47 Jury Q: is [redacted] responsible for ...

37:38 TT Q:

38:00 Jury Q: who signed certificate for [redacted] E [redacted]

38:49 Jury Q:

1:39:51 off record

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EFTA00009438

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

IN RE: OPERATION LEAP YEAR

COPY

Federal Grand Jury, 07-103

West Palm Beach, Florida

May 8, 2007

APPEARANCES:

[redacted], ESQUIRE

Assistant United States Attorney

[redacted], Foreperson

TESTIMONY

OF

[redacted]

Copy 1 of 3

The sworn testimony of [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, West Palm Beach, Palm Beach County, State of Florida, on the 8th day of May, 2007.

Philip W. May, Court Reporter, was authorized to and did report the sworn testimony.

(The witness entered the grand jury room.)

[redacted]

having been duly sworn by the grand jury foreperson, was examined and testified on his oath as follows:

EXAMINATION

BY MS. [redacted]:

Q Special Agent [redacted], could you state and spell your name for the record.

A [redacted].

Q By whom are you employed?

A I'm employed by the FBI.

Q What is your position with the FBI?

A I'm a special agent, and have been so for four years.

Q Are you one of the agents assigned to the investigation known as Operation Leap Year?

A Yes, I am.

Q Were subpoenas caused to be issued on behalf of this grand jury in connection with that investigation?

A Yes.

Q And have documents been received in response to those?

A Yes.

Q What additional subpoenas have been issued, and what have you received in response?

Copy 1 of 13

A Additional subpoenas that have been issued include OLY-28 to Colonial Bank, along with OLY-29, which was issued to Palm Beach National Bank & Trust Company. That was served on March 5, 2007. It should be known that Palm Beach National Bank & Trust Company is now operated by Colonial Bank, which we learned in the issuance process. We did receive documents back from Colonial Bank, which covered both subpoenas, on April 25, 2007.

Q And those sought information relating to bank accounts belonging to Mr. Epstein?

A That is correct.

Q What else?

A Also served OLY-30 to Western Union Financial Services seeking documents and records related to Jeffrey Epstein. It was served on February 26, 2007, and we received items back from Western Union on two separate dates, and two packages, the first on April 9, 2007, and the second on April 11, 2007.

Q And those sought records of wire transfers from Mr. Epstein to girls whom have been identified for this investigation?

A Yes.

Q What else?

A We also served OLY-31 to Western Union Financial Services. It was served on February 26, 2007, and they

returned information which we received on May 3, 2007.

Q The same type of information?

A Yes, the same type of information, seeking wire transfer information from Jeffrey Epstein to victims.

We also served OLY-32 to J.P. Morgan Chase Bank. After serving that one on February 26, 2007, they informed us by letter that they are known as Chase, not J.P. Morgan Chase. So we had to reissue another subpoena, which was taken care of on March 22, '07.

We also issued OLY-40 on Chase Bank as well on April 4, 2007. We received records on April 13, 2007 and April 19, 2007 to cover all three subpoenas that were served.

Q And those sought information related to bank accounts and credit cards related to the defendants?

A Yes. Additionally, we served OLY-33 on Dr. Thomas Rofranno (phonetic), who's a chiropractic doctor. We were seeking records related to Jeffrey Epstein as a patient. The subpoena was served on March 6, 2007, and Thomas Rofranno provided materials on March 16, 2007.

Also we have OLY-36, which was served on the Palm Beach County Health Department. It was served on March 5, 2007, seeking birth certificates of our victims that we were researching. We received the records from the Palm Beach County Health Department on April 16, 2007.

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We also served two subpoenas on the Adult Video Warehouse. The first one was OLY-41, which was served -- both of these were served on April 24, 2007, and they were seeking any transactions that had occurred on behalf of Mr. Epstein or those individuals that were working for him or with him. We received items back on the OLY-41 subpoena on April 30, 2007.

The second subpoena served on Adult Video Warehouse was OLY-34. Again, it was served on April 24, 2007, and the Adult Video Warehouse complied and provided us materials on April 30, 2007.

That concludes all of the items that we have received to date for the outstanding subpoenas that were issued.

Q Are the documents that you refer to in that box that's on the desk?

A Yes, they are.

[redacted]: Does anyone want to review those documents? At this time, no one is requesting that they want to review the documents today.

Would you please swear in the witness to maintain those documents.

(Witness sworn in as custodian of the records.)

(Witness excused.)

CERTIFICATE OF REPORTER

I CERTIFY pages 1 to 6 is a true transcript of my shorthand notes of the testimony of [redacted], before the Federal Grand Jury, West Palm Beach, Florida, on the 8th day of May, 2007.

Dated at West Palm Beach, Florida this 28th day of May, 2007.

Philip W. May

Philip W. May, Court Reporter

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

IN RE: OPERATION LEAP YEAR

Federal Grand Jury, 07-103

West Palm Beach, Florida

February 27, 2007

APPEARANCES:

[redacted], ESQUIRE

Assistant United States Attorney

[redacted] Foreperson

TESTIMONY

OF

[redacted]

ORIGINAL

Copy 1 of 13

The sworn testimony of [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, West Palm Beach, Palm Beach County, State of Florida, on the 27th day of February, 2007.

[redacted], Court Reporter, was authorized to and did report the sworn testimony.

(The witness entered the grand jury room.)

[redacted]

having been duly sworn by the grand jury foreperson, was examined and testified on her oath as follows:

EXAMINATION

BY [redacted]:

Q Good morning, special agent [redacted]. Could you restate and spell your name for the record.

A It's [redacted].

Q Can you remind the grand jury who you are employed by?

A The FBI.

Q I know that you testified here a few weeks ago. Was there anything from that testimony that you wanted to correct?

A I did. I was asked by one of you Mr. Epstein's age, and I confused him with another individual in another one of my cases. His birthdate is January 20, 1953. We are looking at the time period of 2004 and 2005. So Mr. Epstein would have been about 51 or 52-years-old, and I believe I told you he was 45. So at the time we're looking during this investigation, he is 51 or 52.

Q Agent [redacted], how did this case first come to the attention of the police?

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A In March of 2005, [redacted], our youngest identified victim -- her [redacted] called the Palm Beach police department and reported that she believed that her stepdaughter had been molested by a male that resided in the town of Palm Beach.

Q So today we are going to talk about [redacted]?

A Yes.

Q And we are using her initial to protect her identity, correct?

A Yes.

Q Can you tell the grand jury [redacted] date of birth?

A [redacted] birthday is [redacted].

Q And you mentioned that the call came in from [redacted] in March of 2005, correct?

A Yes.

Q So how old was [redacted] at that time?

A She was 14.

Q Where does [redacted] live?

A [redacted] lives in the [redacted] area here in Palm Beach County.

Q At the time, in 2005, what school was she attending?

A [redacted].

Q What year was she in school?

A She was a ninth-grader there.

Q You mentioned that her [redacted] called the Palm Beach police department. What did the police department do in response to that call?

A They wanted to interview [redacted]. I believe it was the next day they went out to where [redacted] was attending school at that time, which I think was [redacted]. They interviewed [redacted] at [redacted] and wanted to get her side of what took place.

Q Because we'll be referring to this throughout, what was the name of the detective who conducted that first interview?

A Detective [redacted].

Q So in March of 2005, detective [redacted] talked with [redacted]. Was [redacted] ever interviewed at any other times?

A Yes. She was interviewed -- they talked to her again. She placed some controlled calls for them later that month, we will talk about that later. As well as she was interviewed about a year later in July of 2006. Not interviewed, but she testified before the grand jury for the State of Florida. So she was interviewed by detective [redacted] in March of 2005, and then about a year or three or four months later, in July of 2006, she testified before a grand jury with the State of Florida.

Q In preparation for your appearance today, did

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you have a chance to interview [redacted]?

A Yes, I did.

Q And when was that?

A Last night.

Q Back in March of 2005, you mentioned that detective [redacted] met with [redacted] on or more than one occasion?

A Yes.

Q If you could give us sort of an overview of what [redacted] reported during these interviews, and then if there are specific discrepancies or differences, we will return to those later.

A All right. On February 5, 2005, it was a Saturday, and [redacted]. was at [redacted] house, [redacted]. She was there with her boyfriend, [redacted]. And because these are minors, we'll refer to them without using their last names, so I'll use those initials.

They were at [redacted] residence, and [redacted]. is [redacted] boyfriend, which is also [redacted] cousin. So they were all at [redacted] house, and [redacted] was on the phone with an individual that [redacted] refers to as the assistant.

[redacted] described the assistant as a tall blonde. So throughout I'll refer to her as the blonde lady, if that's okay. [redacted] was unable to recall her name. So [redacted] is on the phone with the assistant for Jeffrey

Epstein.

[redacted] and [redacted] overhear [redacted] on the phone describing [redacted]. [redacted] describing [redacted] to the lady on the phone. So when [redacted] gets off the phone, [redacted] and [redacted] both want to know why [redacted] was being described to this lady on the phone. [redacted] becomes upset when [redacted] asks [redacted] if she would like to go to Palm Beach and give a man a massage that she knows. [redacted] agrees, and this upsets [redacted], and an argument ensues where [redacted] and [redacted] go into the bathroom and they argue outside the presence of [redacted].

Q Let me stop you there. Was [redacted] supposed to be paid for giving this massage?

A Yes. [redacted] told [redacted] that she would be paid $200 or $300, I believe.

Q You mentioned that [redacted] is [redacted], and [redacted] is also [redacted], correct?

A Yes.

Q What was [redacted] idea about why they were arguing?

A She has told us that she believed that [redacted] must have known what [redacted] was doing for this man and the work that [redacted] did for Mr. Epstein, and that is why [redacted] was so upset.

Q So [redacted] knew that this wasn't just a regular

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massage that was going to take place?

A Yes.

Q So [redacted] and [redacted] have this argument. What does [redacted] decide to do?

A [redacted] decides to go.

Q Because she wanted to make the $200 or $300?

A Yes.

Q So tell us then what happened after that meeting?

A The next day, February 6 -- they discussed that evening about going the next day. We do have on [redacted] phone records two calls that were placed. One was placed to [redacted] [redacted] cell phone, and the other was placed to Jeffrey Epstein's residence the night of February 5.

The next day [redacted] is contacted a couple of times before [redacted] arrives. Each time prior to [redacted] being contacted by [redacted], a call is placed by [redacted] to [redacted] [redacted] cell phone. [redacted] [redacted], I should tell you, is Jeffrey's assistant.

So on Sunday a call was placed to [redacted] [redacted], and then shortly after that a call was made to [redacted]. That same series occurs again, but this time [redacted] places a call to Mr. Epstein's residence, and then [redacted] is called again.

Eventually, [redacted] comes to [redacted] residence with

another girl in the car, [redacted]. So the two of them arrive at [redacted] residence, and they continue over to Mr. Epstein's house.

Q [redacted] is driving with [redacted] and [redacted]. Do you know how they were sitting?

A You know, I'm not sure how they were sitting, but I know that it was a pickup truck that [redacted] drove, and [redacted] was the driver. I'm not sure exactly the placement of the other two girls, but they were in the truck.

Q And [redacted] was able to describe how they travelled to the island of Palm Beach?

A Yes. She gave directions -- you know, the best that she could on how she was able to come to Mr. Epstein's residence.

Q Once they arrived at the residence, what happened?

A I should have mentioned that either the night before or the day of, there were some things that [redacted] tells [redacted]. One, she tells [redacted] that she is to tell, if asked, that she is 18-years-of-age, that she attends high school, that she's in the 12th grade, and I believe it was [redacted] that she was to say that she went to.

Talking to [redacted] last night, [redacted] told us that

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once she arrived at the residence [redacted] tells her that she may possibly be asked to take her clothes off. She also tells her that she can stay in her bra, but she may be asked to take her clothes off. And [redacted] told us last night that that's when she knew for the first time that she might have to possibly remove her clothes.

At this point they proceed to enter the residence. [redacted] describes him as a security person. He approached and asked what they were doing there, and [redacted] said they were there to see Mr. Epstein, or see Jeffrey. He allowed them entry into the kitchen area by the pool, and [redacted] describes that area. So now [redacted], [redacted] and [redacted] are all sitting in the kitchen. A short time goes by and Mr. Epstein, as well as the assistant, enter the kitchen.

Q And I know that you mentioned that [redacted] did not know the name of the lady who was there in the kitchen, correct?

A Right.

Q She just described her as a blonde, tall lady?

A Yes.

Q Was [redacted] also interviewed about what happened that day?

A She was interviewed by the Palm Beach police department.

Q Did [redacted] identify the person who was on the phone with her as [redacted] [redacted]?

A Yes, she did.

Q So even though [redacted] doesn't know her name, [redacted] knew [redacted] [redacted] name?

A Yes.

Q So you mentioned that the three girls are in the kitchen, along with Jeffrey and the person [redacted] calls the blonde lady?

A Yes.

Q What happened then?

A [redacted] follows the blonde lady upstairs to Mr. Epstein's bedroom. The blonde lady proceeds to take out a massage table and set it up, prepare it. She also takes out some lotions to be used during the massage. [redacted] told me last night that the blonde lady asked her to remove her clothing, and then left the room and said that Mr. Epstein would be in shortly.

Q What happened after she left the room?

A Shortly after that, Mr. Epstein does come into the room and shakes [redacted] hand. [redacted] told us last night that Mr. Epstein told her to remove her clothing. He leaves the room and comes back in just a towel, and he tells her again to -- she is at that point -- when he walked in the first time she had on her bra and her pants.

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When he comes back in, he tells her that she needs to take her pants off. So she took her pants off. So now she's in her bra and underwear.

Q At some point did [redacted] tell any of the people who interviewed her what was running through her mind?

A She stated at one point that she was upstairs with him, with the man, and that [redacted] was downstairs. I guess she says, "What could [redacted] do? She's downstairs, I'm upstairs." So she did what she was asked to do.

Q So now you mention that Mr. Epstein is here wearing just a towel, and [redacted] has removed both her shirt and her pants, is that correct?

A Yes.

Q Tell us what happens then?

A Mr. Epstein gets on the massage table lying on his stomach and instructs [redacted] how to do the massage. He tells her to put some lotion on her hand and instructs her on how to actually perform the massage. At one point during the massage he tells [redacted] that she would be more comfortable to get on top of him, so [redacted] gets on top of him and straddles Mr. Epstein's back.

The way [redacted] describes it is Mr. Epstein is laying on the table, he has a towel covering his bottom, and she is straddling him with her bottom touching the towel and some skin touching his lower back. She was kind

of sitting -- it sounds like sitting on his rear end, but with part of her skin touching him -- the front of him, but he had a towel across his bottom.

Q What happens as she is providing the massage to his back?

A The massage goes on. She said the entire massage lasted anywhere from 30 to 45 minutes. At one point Mr. Epstein excuses himself for a few minutes, one or two minutes briefly. [redacted] states that she can hear Mr. Epstein [redacted], and states that she believes he was, in her words, [redacted]. She didn't say [redacted] she said [redacted] I am going to use that she believes he was [redacted].

Then he returns. At this point he gets back on the table lying on his back and asks her to start massaging his chest. So she begins to massage his chest.

Q Does he keep the towel on?

A No, at this point the towel is removed. When he comes back and he gets back on the table, the towel is removed and she is massaging his chest.

Q What does he do as she is massaging his chest?

A He [redacted]. So he [redacted] on the table. He asked [redacted], at some point during this time, if she would like to make an

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extra $100. He tells her that it would not involve doing a massage. [redacted] agrees. He asked her if he could [redacted], and she does agree. [redacted] describes it as a [redacted], and she said this goes on for about ten minutes.

At some point during that massage [redacted]. [redacted] describes him [redacted].

Q What did she say happened when Mr. Epstein [redacted]

A The [redacted]. At some point he does [redacted]. And these are her words. She looks at him kind of funny, and he sarcastically -- which is her word -- he sarcastically says, "What's the matter?" And she at that point just kind of looks away, and he continues on with [redacted]. In the last three to four minutes of that, he [redacted].

At the conclusion of the sexual activity, Mr. Epstein [redacted]. [redacted] was asked if [redacted] She [redacted], but saw him [redacted].

Q Was [redacted] able to provide a physical description of Mr. Epstein?

A Yes.

Q Including of [redacted]?

A Yes.

Q Was she also able to provide a description of her surroundings in that massage area?

A Yes.

Q Was that description accurate?

A Yes. According to other testimony we have gotten from other victims, yes.

Q And a search was performed on Mr. Epstein's house?

A Yes. The Palm Beach police department did perform a search, and several of the items that were described were found in the house.

Q After Mr. Epstein [redacted], what happened?

A He told [redacted] that she was getting the extra hundred dollars because he was allowed [redacted]. The massage had been concluded, the sexual activity had been concluded. He gets up and leaves for a brief moment of time and comes back with $300 and pays [redacted] the $300. I believe he told [redacted] that she could see herself out.

Q Before we leave that room, when [redacted] was either being directed to the room or was inside that room where the massage took place, was there anything in particular

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that she noted seeing?

A She noted seeing several naked pictures of girls in the room, a mural or pictures of naked girls either exposing their breasts or completely naked.

Q While the massage was going on, did Mr. Epstein talk to [redacted]?

A Yes, he did.

Q And did he talk about sexual conquests with girls?

A Yes, he did.

Q Once Mr. Epstein has provided [redacted] with the $300, what did she do?

A She went back downstairs and she, [redacted] and [redacted] leave the residence. In the car they ask [redacted] how much money she has made, and she tells them $300. [redacted] wants to see the money. She shows the money to [redacted], and [redacted] asks what did she do. At that point [redacted] tells her that he [redacted]

Q When they left the house, where did they go?

A When they left the house, they were on their way to a mall to go shopping with the money that they had received from Mr. Epstein. [redacted] had told [redacted] the night before that she needed some shoes and wanted to go to the mall, and she was going to Mr. Epstein's to pick up some money. That was another reason that she had for going to

Mr. Epstein's house that day, and that they were going to go shopping after she got her money, and that [redacted] could make some money.

Q During that ride, did [redacted] realize that [redacted] received money from Mr. Epstein?

A Yes. At some point [redacted] knows that [redacted] received $200, but is unsure that [redacted] ever gave a massage. So at that particular time [redacted] did not know why she had gotten the $200, because she didn't think that [redacted] had had time to give a massage.

Q In [redacted] interview, did she explain what she got the $200 for?

A [redacted] told the Palm Beach police department in her interview that she received her $200 for bringing [redacted] to the house.

Q You mentioned that there were these three different time periods that [redacted] was interviewed: Shortly after the events, at the time of the state grand jury proceedings, and when you met with her, correct?

A Yes.

Q And there were some discrepancies between the different interviews. Can you explain some of those to the grand jury.

A Before we go and get to that, I want to make sure that -- when we discussed what [redacted] was told in the

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car by [redacted], that we learned from [redacted] interview with the Palm Beach police department. So I don't know if I said that, but I want to make sure you know that we first learned that [redacted] by listening to the interview that was conducted between the Palm Beach police department and [redacted], not from [redacted]. When I talk later, I just want to make sure you realize that that had not initially come out in [redacted] interview, but through the interview with [redacted].

So going back. I'm sorry, discrepancies?

Q Yes.

A I met with [redacted] last night to discuss some of the discrepancies when looking at what she had talked to detective [redacted] about in March of 2005 and what she had testified to in the grand jury in July of 2006. Reading the testimony and listening to the tapes, or reading the transcript, there were a few discrepancies.

One of the first ones we talked about was what [redacted] had told her about going to Mr. Epstein's house. She tells detective [redacted] that she was told about the massage, told about getting $200, but that she was not told that she would have to take her clothes off. She didn't know she would have to perform the massage naked.

When I asked her last night that question, she told me that when she got to the house prior to going into

Mr. Epstein's residence, that [redacted] did tell her that she may be asked to take off her clothes. She also did state that [redacted] told her she could stay in her bra.

So I wanted you to know that there was a discrepancy in what she originally had told detective [redacted] and what she told me last night. That would be one.

The second discrepancy I wanted to touch on with her was going upstairs and taking off her clothing. When she is in that room, she states to detective [redacted] that [redacted] asked her to remove her clothing, and she took off her shirt. Then Mr. Epstein came in the room, shook her hand and told her to take off her clothes. He leaves, he comes back in a towel. He tells her again. [redacted] tells detective [redacted] in a stern voice, "Mr. Epstein told me to take off my pants." Because she hadn't taken off her pants from the first time that she met him.

In her testimony with the grand jury with the state, she tells the grand jury that it was [redacted] who asked her to remove her clothing. So last night we went over with her who told her to remove what. She had a very hard time recalling exactly. She knew she had gotten down to her bra and underwear. And then at some point, when we're going through the sexual activity, she actually tells me that her underwear was off when he was [redacted]

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Later in the interview, we tell her about what we have in her testimony to the grand jury and her statements made to detective [redacted]. And she really is having a difficult time trying to remember who told her to take off her clothes and her pants. As we are walking through the sexual activity, she does recall and states that it was Mr. Epstein who told her to take off her pants.

I guess I'll go to the third discrepancy. Is there anything I left off with that?

Q Well, does she report that when the assistant leads -- or the blonde lady leads her upstairs, that the blonde lady also said, "Get undressed," but that [redacted] didn't get fully undressed?

A That's what she said in her statement to the detective, when she gives her first statement. She tells us again last night that that's what she recalled.

Q That the lady said first, "Get undressed," but she doesn't get fully undressed. And when Jeffrey comes back, he said, "Take your pants off."?

A Yes. And again, like I said, when we started interviewing her and asking her about this, she did have a hard time. But when we were walking through the sexual activity, that's when she recalls who told her to take off her pants.

And I'll tell you, when we talked about the sexual activity, and it comes out that she wasn't wearing her underwear when [redacted], she does not recall how they came off. She cannot remember removing her underwear. She doesn't remember if Mr. Epstein removed her underwear. She knows her underwear was off, but she cannot tell you exactly at what point her underwear was removed.

Q Let's talk about the third discrepancy.

A The third is the sexual activity, when she was originally interviewed by detective [redacted] about the [redacted]. When detective [redacted] comes and sees her again a few weeks later, she does tell her at that time that [redacted]. She also says that to the grand jury, she talks about the [redacted]

Last night she told us about [redacted]. When we asked her about him [redacted], and that [redacted] had told the police department that she [redacted], [redacted] told us last night that she [redacted] by Mr. Epstein, but that she thought only her and [redacted] knew about this and that she did not want her father to know that [redacted]. She didn't want anybody to know, but she especially didn't want her father to know, that that was her business. That

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she did not know that [redacted] had told anybody, she thought it was only her and [redacted] that knew. She was embarrassed and didn't want anybody to know that.

Q Did she become visually upset?

A Yes, she began crying when we asked her about [redacted]. When she realized that we knew about that, she became very upset and concerned about her father. She mentioned that her father has read a lot of the reports in the State of Florida, and has followed the state's case. She was concerned about even telling us, afraid that he would be able to read in our reports about this.

We explained to her that the FBI's reporting is a little bit different than the way the state -- those are public records, and ours is part of our case file.

Q In addition to the fact that she had these concerns about her father and she was embarrassed, in your experience of interviewing victims of sexual abuse, is it typical for them to not disclose all of the sexual activity?

A Yes, it's very typical. And young girls, they don't want to talk about it. This is just another case of her not wanting to tell exactly what took place.

Q After that first visit to Mr. Epstein's house, and the interviews with detective [redacted], did detective

Q On April 1, the following day, did [redacted] make calls to [redacted]?

A From the Palm Beach police department, they were able to take voice mail messages left by [redacted] on [redacted] phone stating that [redacted] could come and work on Saturday around 11:00.

Q I think you mentioned this last time, but in case you didn't, did the Palm Beach police department do trash pulls at Mr. Epstein's house?

A Yes, they did.

Q Was there anything of value related to this series of calls that were recovered?

A Yes. There was a trash pull done in the beginning of April, and in the trash there was a piece of paper that on it had [redacted] name, [redacted] name, and I believe it was 10:30 listed on the piece of paper.

Q It said [redacted] with [redacted] on Saturday at 10:30?

A Yes, it did.

Q In addition to the actual recordings of those phone calls and voice mail messages, do you also have telephone records from both [redacted] cell phone and [redacted] cell phone that match up?

A Yes.

Q Just to go back to something that you mentioned. Who actually gave the $300 cash to [redacted] at the day she was

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at Mr. Epstein's house?

A Mr. Epstein.

Q You mentioned a girl named [redacted]?

A Yes.

Q Was [redacted] also interviewed?

A Yes, she was.

Q Was she asked about going with [redacted] to take girls to Mr. Epstein's house?

A Yes.

Q Was she asked who the youngest-looking girl was?

A Yes.

Q What did she say?

A She discussed [redacted] looking young in her interview with the Palm Beach police department.

[redacted] [redacted]: Those are all of my questions for you now. If you could please step outside, I'll see if the grand jurors have any.

(Witness excused, and then returned.)

BY [redacted] [redacted]:

Q Agent [redacted], we have just a few questions. One relates to the conversation between Mr. Epstein and [redacted] about his exploits with other girls. Did Mr. Epstein say anything about the age of those girls?

A He said that -- in particular on one case he talked about a young girl that he was in the back seat

[redacted] ask [redacted] to make what are called controlled calls?

A Yes.

Q Can you explain to the grand jury what a controlled call is?

A A controlled call is where we actually have a listening device, where we have an individual place a call to somebody and we are able to record the other person's voice and the conversation that takes place between the person that we're having make the call and the person that they are calling.

Q Who did detective [redacted] ask [redacted] to call?

A [redacted] was asked to call [redacted] on the phone.

Q And did she do so?

A Yes, she did.

Q Can you tell the grand jury when the calls were?

A I believe the first call was made towards the end of March, I believe it was March 30. [redacted] called [redacted] at the Olive Garden where [redacted] works. [redacted] was concerned that [redacted] father had found out somehow and that they knew about it. And she refers to him as Jeffrey, but Mr. Epstein.

[redacted] told her that they did not know about Mr. Epstein. Later in the conversation [redacted] tells her that Mr. Epstein would like her to come back and work for him, and that maybe she could work for him tomorrow. So

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they agreed that there would be a call between [redacted] and [redacted] tomorrow, that [redacted] will call [redacted] tomorrow.

Q Were there calls also made on March 31 of 2006?

A There were two calls made on March 31. The first one she doesn't connect to [redacted]. The second call that was made a short time later, [redacted] answers the phone. Again, there is a discussion about [redacted] coming to work for Mr. Epstein. [redacted] tells [redacted] -- one of the comments that is made is, "The more you do, the more you make." [redacted] is asking her how much can I make.

Again, detective [redacted] is there, and [redacted] is asking [redacted], how much can I make. [redacted] is telling [redacted] that she'll have to ask Mr. Epstein that, that she is going to see Mr. Epstein tomorrow and that she'll talk to Mr. Epstein. There is conversation about [redacted] and her twin sister possibly coming to Mr. Epstein's house. There is some discussion about her coming to work for Mr. Epstein.

Q Just so it's clear, because there were a lot of shes, [redacted] is telling [redacted] that [redacted] is going to see Epstein the following day?

A Yes.

Q And that [redacted] is going to set up a schedule with Mr. Epstein for [redacted] and her sister to work for him?

A Yes.

with, and her parents were in the front seat. He told [redacted] that they were having sex in the back seat -- were doing sexual things in the back seat while he was carrying on a conversation with the parents in the front seat. I guess they were on their way home from a business party. This was one of the stories that he had talked about.

Q But at no time did he provide any specific ages about any of those girls?

A No.

Q What was [redacted] age at the time she took [redacted] to Mr. Epstein's house?

A She was 18.

Q Did Mr. Epstein ask [redacted] anything about her age?

A He did. He asked her how old she was, she said she was 18. He asked her what grade she was in, she said she was in the 12th grade. He asked her where she went to school, and she said she went to [redacted].

Q I know we will be doing a lot more discussion about [redacted] later. But could you tell us briefly how [redacted] was recruited to go to Mr. Epstein's house?

A [redacted] was at the beach, and two individuals approached her about making money and giving a massage to Mr. Epstein.

Q How old was [redacted] when she first went to Mr. Epstein's house?

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A Through phone records, we have contact between [redacted] and [redacted] [redacted] starting at age 17.

[redacted] [redacted]: Those are all the questions. Thank you.

(Witness excused, and then returned.)

BY [redacted] [redacted]:

Q The question was, was there any particular evidence to suggest that Mr. Epstein knew that [redacted] was under the age of 18?

A I would say through the interviews of the multiple girls that went to Mr. Epstein's house -- the way that having seen [redacted] last night, and now she's 16 -- this was two years ago -- that [redacted] age and behavior -- and again, is that more circumstantial evidence? As far as concrete evidence, no. But just by her appearance and her mannerisms and how I observed her last night at age 16.

Q And that's consistent with what [redacted] said during her statement, correct?

A Yes, it is.

MS. [redacted]: Any other questions?

JUROR: Did she look 18?

THE WITNESS: Does [redacted] look 18? Not in my opinion, sir.

MS. [redacted]: All right. Any other questions? Okay, thank you, very much.

(Witness excused.)

CERTIFICATE OF REPORTER

I CERTIFY pages 1 to 28 is a true transcript of my shorthand notes of the testimony of [redacted] before the Federal Grand Jury, West Palm Beach, Florida, on the 27th day of February, 2007.

Dated at West Palm Beach, Florida this 18th day of March, 2007.

Philip W. May

Philip W. May, Court Reporter

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

ORIGINAL

RE: OPERATION LEAP YEAR

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- - -

TESTIMONY

OF

SPECIAL AGENT [redacted]

- - -

Federal Grand Jury 07-103
Federal Building
U.S. Courthouse
West Palm Beach, Florida
Tuesday, March 20, 2007

APPEARANCES:

[redacted],
Assistant United States Attorney

HELENA JOSETTE JONES-PARSONS,
Foreperson

The sworn testimony of SPECIAL AGENT E. [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, Federal Building, U.S. Courthouse, Palm Beach County, State of Florida, on Tuesday, March 20, 2007. [redacted], Certified Court Reporter and Notary Public, State of Florida, Official Reporting Service, LLC, 524 South Andrews Avenue, Suite 302N, Fort Lauderdale, Florida, 33301, was authorized to and did report the sworn testimony.

(Witness enters the Grand Jury Room.)

THE FOREPERSON: You do solemnly swear that the testimony you give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE FOREPERSON: Thank you. Please be seated.

EXAMINATION

BY [redacted]:

Q Special Agent [redacted], could you please state and spell your name for the record?

A It's [redacted]. It's [redacted].

Q Now Special Agent [redacted], last week or the last time that we met, we discussed two girls, correct?

A Yes.

Q Who visited Mr. Epstein's home?

A Yes.

Q And those were [redacted]. and [redacted].?

A Yes.

Q Did you obtain photographs of those girls?

A Yes, I did.

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Q And do you know approximately when those photographs were taken?

A They were taken during the same time period that we are investigating, '04 and '05. There may have been a few in '03, but it was within a year's time of six months within the activity that we are investigating.

Q All right. Let me show you what has been marked as Grand Jury Exhibits 1 and 2, and can you tell us what Exhibit 1 is?

A Exhibit 1 is [redacted]. and it's a photograph of her with her date of birth listed.

Q And what is Exhibit 2?

A A photograph of [redacted]. with her date of birth as well on it.

MS. [redacted]: And I will just pass those to the grand jury.

BY MS. [redacted]:

Q Now the last time that we were here, you had described how [redacted]. had brought [redacted]. to Mr. Epstein's home?

A Yes.

Q Did [redacted]. bring other girls to the Epstein house?

A Yes, she did.

Q And is one of those girls [redacted].?
A Yes.
Q And what is the date of birth of [redacted].?
A She was born [redacted].
Q And where did [redacted]. go to high school?
A [redacted].
Q And is that the same school that [redacted]. went to?
A Yes.
Q And was [redacted]. ever a student at that school?
A Yes, she was.
Q Tell us a little bit about -- well, first of all, did the Palm Beach Police Department have a chance to interview [redacted].?
A Yes, they did.
Q And what about yourself?
A And I did as well.
Q Okay. Tell us, if you will, how [redacted]. started going to Mr. Epstein's house?
A [redacted] was the one who brought [redacted] to Mr. Epstein's house. [redacted] told [redacted] that she may have to remove her clothing and that she could

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makes $200 if she performed a massage for Mr. Epstein.

She also was told by [redacted] that he may try to touch you, but if you are uncomfortable, just tell him no, and she also said that if Epstein asked her age, she was to say she was 18.

Q Now that information that you just relayed, who provided that information?

A [redacted].

Q And what did [redacted] --

A I'm sorry. [redacted] provided in the interview to me that information.

Q Did [redacted] also admit that she brought [redacted] to Mr. Epstein's home?

A Yes.

Q When did this first occur?

A This occurred in -- we believe the first time period was when [redacted] was 16.

Q And is there any telephone records that show communications between [redacted] and [redacted]. and [redacted]. and [redacted]?

A Yes.

Q And when are those phone records?

A Those phone records show up in March of '04 when [redacted] would be 16.

Q Let me show what has been marked as Grand Jury Exhibit Number 3, and what is Exhibit 3?

A This is a photograph of [redacted]. with her date of birth, [redacted].

Q Now you mentioned that in March of 2004 and April of 2004, there are these records of phone calls and did [redacted] say how old she was when she first went to Mr. Epstein's house?

A I'm sorry. Did [redacted] say how old she was?

Q Did she tell you or the police officers how old she was?

A Yes. I'm sorry. I thought your question was did she tell Mr. Epstein.

She told me that she was 16 when she went to Mr. Epstein's house.

Q Okay. That is consistent with those phones calls?

A Yes, it is.

Q Okay. Now during her first visit with Mr. Epstein, what happened?

A She went to Mr. Epstein's house. [redacted] took her there. [redacted] told her she didn't have her driver's license at that time, which she told

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her she got her driver's license when she was 17.

So [redacted] drove her to Mr. Epstein's house. She provided Mr. Epstein with a few massages. She remained clothed both times that she gave him a massage. At this time, she kept her clothes on.

I think one time she was wearing shorts and a T-shirt, maybe the second time she was wearing jeans and a T-shirt. That he constantly grabbed and pulled at her during the massage trying to draw her closer to him, but at that time, you know, there was no sexual activity other than the grabbing and pulling.

There was no sexual activity that took place on those first couple of massages, and she remained clothed at that time.

Q Now after those first few massages, was there a break in time before [redacted] returns to the Epstein house?

A [redacted] told us that she and [redacted] had had some kind of a [redacted], a [redacted], so there was a time period where she did not go back to Mr. Epstein's house.

Q And when -- did there then come a time

when she returned to the Epstein house?

A Yes. We have phone activity between [redacted] and [redacted]. beginning in December of '04.

Q And how old was [redacted]. in December of '04?

A She had turned 17 at that time. In fact, through the course of the phone records beginning in December of '04 to October of 2005, we have over 150 phone calls between [redacted] Z. and [redacted], Mr. Epstein's assistant.

Q What did [redacted] Z. tell you about the activity that occurred when she started returning in late '04?

A When she started giving Mr. Epstein massages after that break, the massages became much more sexual in nature. Mr. Epstein continued to push and there were many times when [redacted] would perform massages completely nude.

Several times, she would stay in her underwear with no bra on, but stated to me that many occasions she performed the massages to Mr. Epstein in the nude.

Q In addition to being unclothed, was there other sexual activity?

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A Yes, there was. [redacted], during my interview with [redacted], she became very upset when discussing the sexual activity that took place at that time.

She stated that Mr. Epstein had [redacted] her. It began first by [redacted] and then on more than one occasion actually [redacted].

He would request her to pinch his [redacted]. He rubbed her [redacted] as well. She stated that there was a [redacted] that was [redacted] as well, did not penetrate her, but that she described the [redacted], and several of the other victims have said the same thing, described it similar to that.

Q And just before I forget, when you testified about [redacted], did [redacted]. also report having a [redacted]?

A Yes.

Q And, again, so the record is clear, when you are talking about these [redacted], they are the [redacted]?

A We have had some girls just describe

them as a [redacted]. We have had some girls just describe them as a [redacted] and then we also had girls describe them as both, because of the [redacted] of it, I think some girls are more aware of what a [redacted] would look like due to their ages.

You know, I don't know that everybody knew exactly what a [redacted] looked like, but they all [redacted], and we have actually had that described, and [redacted] described it as both, a [redacted], saying that it was, you know, [redacted] in nature.

Q Okay. Now in addition to using that [redacted], was there other sexual activity?

A Yes. Several times during the massages, Mr. Epstein would have [redacted] straddle him while he laid on his stomach and then he would reach [redacted] and occasionally --

Q And this is when he was laying on his back not his stomach?

A I'm sorry. Did I say that?

Q You said on his stomach.

A He is laying on his back. She's on top of him straddled, and he is reaching [redacted]

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[redacted], but that was what was described to us by [redacted].

Q Now when was [redacted] first interviewed by the Palm Beach Police?

A She was interviewed October 6th of 2005.

Q And at that time, did she say when her last visit was to Mr. Epstein's house?

A Yes, she said October 1st, 2005, was the last massage that she had given Mr. Epstein.

Q Is there any other evidence that was recovered from Mr. Epstein's or his household items that would confirm that statement?

A We have a message pad. During the search warrant, several of the message pads -- I don't know if we referred to them at this stage. We may not have.

We recovered -- well, I shouldn't say we, the Palm Beach Police Department recovered several message pads. They were carbon copy message pads.

So we have several of those books from their search warrant and in there, there is a message on October 1st confirming [redacted] appointment for the massage as well as another

girl, [redacted].

Q And is there also evidence that [redacted] and [redacted] actually spoke on October 1st before that message?

A We have cell phone calls between [redacted] and [redacted] as well as the message which was from [redacted] to Jeffrey regarding -- confirming the appointment for [redacted], but we have a cell phone call I believe it was a little bit earlier from [redacted] to [redacted] or maybe it was [redacted] to [redacted], but it is definitely between the two of them on that same day.

Q All right. When [redacted] was interviewed by the Palm Beach Police Department, did she describe all of the sexual activity?

A No, she did not. She did not tell them about the [redacted] or the -- she didn't tell them about the [redacted].

Q And, again, you said that when you brought up -- did you sort of confront her with the idea that more had occurred?

A I did, and she was very embarrassed about the [redacted]. I asked her at one point if Mr. Epstein had given her any gifts and she got very red in the face and began to tear up and you

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could see that she was very embarrassed.

So we took a little bit of a break, but then she was able to say that Mr. Epstein had provided her as a birthday present a [redacted]. So not only was there a [redacted] used on her, but at this time -- and I think that's kind of what got [redacted] talking about the sexual activity that she was able to tell me that, and she was very, very embarrassed, but that Mr. Epstein had given her for her eighteenth birthday a [redacted].

Q Now you mentioned that that happened on her eighteenth birthday?

A Yes.

Q And was she able to tell you whether Mr. Epstein knew it was her eighteenth birthday?

A She stated that Mr. Epstein provided to her on her eighteenth birthday the [redacted] and shortly -- well --

Q So before you had said that [redacted] had instructed [redacted] to tell everyone that she was 18; do you remember that?

A Yes.

Q But at some point, the people in the Epstein household learned that she hadn't turned

18 yet and her birthday was coming up?
A Her birthday was coming up.
Q And at some point, was a car provided for [redacted]?
A Yes. In October of '05, [redacted] was having -- [redacted] asked Mr. Epstein is she could borrow one of his cars to go to Orlando and he stated that -- at first he said yes, and then he said he would get her a rental car.
So [redacted] contacted [redacted] a few days later and said that a car had been rented for [redacted] and that the house manager used the company credit card and [redacted] picked up that car, and actually when the police interviewed her on October 6th, which was five or six days after the last massage, they were able to see that that Nissan Sentra that had been rented by Mr. Epstein, [redacted] had that in her possession for at least through January 1st of 2006 and that car was rented by Mr. Epstein for at least that amount of time.
Q Did [redacted] describe how the massage appointments would be made?
A Yes, she did.
Q And how was that?

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A She stated that [redacted], that [redacted], Jeffrey's assistant, would call her and set up appointments, and that sometimes she would call her on her cell phone from New York, from the Islands, and say that they were coming into town, was she available.

She would also call [redacted] while they were in town to see if she was available for massages, to give massages to Mr. Epstein, and stated that [redacted], who we have identified as [redacted], called her a few times as well to set appointments up.

Q And when those appointments were made how would [redacted] reach [redacted]?

A By phone.

Q All right. And whether she was in town or out of town, she would call [redacted] cell phone?

A Yes.

Q All right. Now was there any -- during the interview with the police department, did the police department ask [redacted] about what she discussed with Jeffrey Epstein during the massages?

A I would have to check the police reports

to give specifics on that.

Q All right.

A My answer to your question is yes.

Q Okay. And what did she say were some of the topics of discussion?

A Mr. Epstein asked her questions about herself, asked her if she was a [redacted] or that -- Jeffrey knew that she was a [redacted] and asked questions about her college, about where she was going to school.

[redacted] is currently going to [redacted], and she had advised Mr. Epstein that she would be attending college at [redacted].

Q So that was a -- but that was her future plan?

A Yes.

Q So in other words, did Mr. Epstein know that she was in high school at the time?

A Yes, he did. And the Palm Beach Police asked [redacted] if Jeffrey knew her age and [redacted] told the Palm Beach Police Department, he didn't care what my age was.

Q Now did [redacted] describe either to you or to the police department how she would be paid for these massages?

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A She stated she was paid $200 and that she received anywhere from two to $300.

Q With every visit?

A With each visit.

Q Okay. Did she say who would provide her with that money?

A She said that Jeffrey paid her at the end of the massage.

Q All right. You mentioned the gift of the vibrator. Were there other gifts that were given to [redacted]?

A Yes. The time period is unclear, but the [redacted] was given to her for her eighteenth birthday. There were three sets of bra and underwear, panties, Victoria Secret bra and underwear sets that were also given to [redacted] as gifts from Mr. Epstein.

Q Now I know that we talked earlier about the fact that [redacted] is the person who brought [redacted] to Mr. Epstein's house. Did [redacted] ever bring anyone to Mr. Epstein's house?

A [redacted] brought a female by the name of [redacted]. and that was a friend of [redacted].

Q And let me show you what has been marked as Grand Jury Exhibit 4, and what is Grand Jury

Exhibit 4?

A It's a photograph of [redacted]. with a date of birth of [redacted].

Q How old was [redacted]. when [redacted] took her to Mr. Epstein's house?

A [redacted] took her there in the spring of 2005 and [redacted] was 18 at that time.

Q Now can you tell us now [redacted] went about bringing [redacted] to the house?

A [redacted] told [redacted] that she could make some money giving a massage to Mr. Epstein and [redacted] and [redacted] went to Mr. Epstein's house together.

The first time that [redacted] went there, she did not go upstairs and give him a massage. [redacted] was working that day. But in talking to [redacted] further, [redacted] stated that she probably over the period of time between the spring of '05 and October of '05, performed around five to ten massages for Mr. Epstein.

The first few of those he did not do anything as far as no [redacted], no sexual activity. She would just perform a massage.

Q And did that change over time?

A Yes, it did. She stated that she

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performed two to three massages out of those five or ten and in her underwear and bra only, and that he would push her each time.

He would just push her to do more and on the third -- I believe she stated the third or fourth massage, he told her that she could make more money if she removed her clothing, because she stayed clothed during the first few massages, and she was paid $200 for each of those massages.

On the third or fourth massage, Mr. Epstein said that she could make more money if she removed her clothing. So around the fourth or fifth time, she did start taking off her clothing down to her underwear and bra only.

Q And then what happened when she was at that point of being unclothed?

A She would perform the massage. He attempted to touch her, but she always would say no. At one point, her bra does get undone by Mr. Epstein, but she does keep it up.

Q Now that was the extent of his touching [redacted]. At some point, did he [redacted] in front of her?

A Yes, he did. Not in the very beginning, but throughout this he did. Now I should tell you

that [redacted] stated to us that because she was kind of reserved or held back as he made advances towards her, she was able to see Mr. Epstein's [redacted] and that he [redacted], but that he [redacted], that he [redacted]. She did not feel that Mr. Epstein liked her very much.

Q But just to sort of compare what [redacted] said with what [redacted] said, they both said that at the beginning they remained clothed?

A Yes.

Q And that Mr. Epstein progressively pushed and pushed and pushed for more sexual activity?

A Yes.

Q Now what was the period of time that [redacted] went to Mr. Epstein's home?

A March of -- I'm sorry, spring of '05 is when [redacted] said that she went there and around, you know, the investigation is heating up with Palm Beach, so we know that in September of '05, there was a trash pull done, and in that trash pull there was a message and that was found and it stated -- it had [redacted] phone number on it and it stated, for a good time call [redacted] and [redacted].

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EFTA00009498

Q And whose stationery was that?
A It was on Jeffrey Epstein's stationery.
Q And had Jeffrey Epstein been in a Palm Beach resident close to those dates?
A Yes.
Q Now is there evidence of telephone calls between [redacted] and [redacted] [redacted]?
A Yes.
Q And how many phone calls have you been able to identify?
A At this time, there have been 14 phone calls.
Q All right. And just to compare that to the number of phone calls with [redacted]?
A With [redacted], there was over 150 phone calls between [redacted] and [redacted] [redacted].
Q And that is sort of consistent with the number of massages that [redacted] did versus the number of massages that [redacted] did?
A It is consistent with especially the activity that [redacted] was providing Mr. Epstein compared to the activity that [redacted] would provide.

(Thereupon, knocking is heard at the Grand Jury door.)

[redacted]: Let me just step out for one moment.

([redacted] exits the Grand Jury Room.)

([redacted] enters the Grand Jury Room.)

[redacted]: Ladies and gentlemen, I am going to have to take a break now and we will be back either next week or the following week. Thank you very much. You are done for the day.

(Witness was excused.)

CERTIFICATE OF REPORTER

I, [redacted], Certified Court Reporter and Notary Public, do certify that the transcript is a true and correct transcription of my stenotype notes of the testimony of SPECIAL AGENT [redacted], taken before the Federal Grand Jury, West Palm Beach, Florida

[redacted]

Certified Court Reporter

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

COPY

RE: OPERATION LEAP YEAR

_____/

- - -

TESTIMONY

OF

SPECIAL AGENT [redacted]

- - -

Federal Grand Jury 07-103
Federal Building
U.S. Courthouse
West Palm Beach, Florida
Tuesday, April 24, 2007

APPEARANCES:

[redacted]
Assistant United States Attorney

[redacted],
Foreperson

EFTA00009502

The sworn testimony of SPECIAL AGENT [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, Federal Building, U.S. Courthouse, Palm Beach County, State of Florida, on Tuesday, April 24, 2007.

Paula E. Angelocci, Certified Court Reporter and Notary Public, State of Florida, Official Reporting Service, LLC, [redacted], Fort Lauderdale, Florida, 33301, was authorized to and did report the sworn testimony.

(Witness enters the Grand Jury Room.)

THE FOREPERSON: You do solemnly swear that the testimony you give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE FOREPERSON: Thank you. Please be seated.

EXAMINATION

BY [redacted]:

Q Special Agent [redacted], would you just remind the grand jurors who you are and who you work for?

A My name is [redacted] and I am a special agent with the FBI and I work here in Palm Beach.

Q Special Agent [redacted], can you tell the grand jurors who will be appearing before them this afternoon?

A One of our victims, [redacted], who was a minor at the time that she met Mr. Epstein.

Q And have you previously testified about [redacted]?

A Yes, I have.

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Q Did you attempt to interview her? She's going to be coming in, and she is not a minor anymore, so what is her full name?

A Her name is [redacted] and I did attempt to interview [redacted], and [redacted] was interviewed by Palm Beach Police Department and because of the statements she provided to the police department, she felt as if she needed a lawyer. So when I attempted to interview her, we ended up going through her lawyer.

Q And just so the grand jury has a little bit of background, the interview with the Palm Beach Police Department was quite some time ago?

A Yes, it was, in the fall of '05.

Q And when Ms. [redacted] started that conversation with the police, she was very forthcoming?

A Yes, she was.

Q Fully cooperative?

A Yes.

Q And what happened in the middle of that interview with the police?

A The police just let [redacted] know that she could be charged because [redacted] brought some of the girls to Mr. Epstein and the police -- she was

very cooperative, but the police at that point had to let [redacted] know that what she had done that she could be facing charges.

Q And that was after they had told her earlier that she didn't need an attorney present, correct?

A Exactly.

Q Okay. So this happens to her with the Palm Beach Police Department and did the Palm Beach Police actually present or propose charging [redacted]?

A They did get a probable cause affidavit against [redacted].

Q And is that why Ms. [redacted] and her attorney were concerned about her testimony here?

A Yes.

Q Now was a subpoena issued for Ms. [redacted] on behalf of this grand jury?

A Yes, it was.

Q And before Ms. [redacted] would comply with that, did she -- did her attorney request some sort of order?

A Yes.

Q And what did he ask for?

A He asked for immunity for [redacted].

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Q And let me show you the order, that is a sealed order in these grand jury proceedings. Now the immunity that has been provided for Ms. [redacted] keeps her statements that are made here from being used against her?

A Yes, it does.

Q It doesn't -- if she commits perjury and she lies to the grand jury, can she still be charged?

A Yes, she can.

Q Okay. Could you read that? I know it is only two pages.

A Sealed order, on application of the United States Attorneys for the Southern District of Florida and it appearing to the satisfaction of the court that [redacted] has been called to testify and to provide other information before the United States District Court, the Southern District of Florida, including a grand jury impaneled therein.

And number two, that in a judgment of the said United States Attorneys, [redacted] has refused to testify and provide other information on the basis of her privilege against self incrimination.

And that number three, in the judgment of the United States Attorneys, the testimony and other information from [redacted] made necessary to the public interest.

And number four, that the aforesaid application has been made with the approval of the Assistant Attorney General in charge of the criminal division of the Department of Justice or a duly designated acting Assistant Attorney General pursuant to the authority vested in him by Title 18, United States Code, Section 6003, and Title 28, Code of Federal Regulations, Section 0.175 and 0.132, small e.

Now, therefore, it is ordered pursuant to Title 18, United States Code, Section 6002, that [redacted] give testimony and provide other information which she refuses to give or to provide on the basis of her privilege against self incrimination as to all matters about which she may be interrogated before said United States District Court including a grand jury impaneled therein as well as any subsequent proceeding or trial.

However, no testimony or other information compelled under this order or any

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information directly or indirectly derived from such testimony or other information may be used against [redacted] in any criminal case except a prosecution for perjury giving a false statement or otherwise failing to comply with this order.

It is further ordered that this order shall be sealed in accordance with said Federal Regulations Criminal.

BY [redacted]:

Q Federal Rule of Criminal Procedure.

A Federal Rule of Criminal Procedure, it's abbreviated, 6, little e, 6, except that a copy of this order shall be provided to counsel for the United States who may disclose the existence of the order to members of the grand jury, to the witness, to the counsel for the witness, and to law enforcement officers engaged in the investigation pending before the grand jury.

Those persons may review the order, but may not retain a copy of the order nor may it disclose the existence of the order to any others. Done and ordered the 16th day of April 2007, at West Palm Beach, Florida. The United States District Judge Donald M. Middlebrook, [redacted], AUSA.

Q All right. So has a copy or has this document been shown to counsel for Ms. [redacted]?

A Yes, it has.

Q And to Ms. [redacted]?

A Yes.

Q And will Ms. [redacted] be here this afternoon?

A Yes, she will.

Q Have you had a chance to sit with her?

A Yes, we have.

Q And she has been very forthcoming?

A She's very cooperative.

Q Okay.

MS. [redacted]: I don't have any further questions for the witness. Do you have any questions? All right. Seeing no questions, you are excused and I think that right now you are set to come back at 1:15. How does 1:30 sound? Is that all right?

THE FOREPERSON: Fine.

(Witness was excused.)

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CERTIFICATE OF REPORTER

I, Paula E. Angelocci, Certified Court Reporter and Notary Public, do certify that the transcript is a true and correct transcription of my stenotype notes of the testimony of SPECIAL AGENT [redacted], taken before the Federal Grand Jury, West Palm Beach, Florida.

Paula E. Angelocci

PAULA E. ANGELOCCI, CSR #4869
Certified Court Reporter

EFTA00009511

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH

IN RE: OPERATION LEAP YEAR

----------/

Grand Jury #07-103 (TUES-WPB)
West Palm Beach, Florida
Tuesday, May 15, 2007

TESTIMONY

OF

[redacted]

APPEARANCE:

[redacted], ASSISTANT U. S. ATTORNEY

NANCY SIEGEL, COURT REPORTER

OFFICIAL REPORTING SERVICE [redacted]

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PROCEEDINGS

- - -

The sworn testimony of [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, 701 Clematis Street, West Palm Beach, Palm Beach County, State of Florida, on the 15th day of May, 2007.

NANCY SIEGEL, Registered Merit Reporter and Notary Public was authorized to and did report the sworn testimony.

Thereupon,

[redacted],

a witness of lawful age, having been first duly sworn by the foreperson, testified on her oath as follows:

BY [redacted]:

Q Good morning, Special Agent. Could you state and spell your name for the record.

A Special Agent [redacted].

Q And with whom do you work?

A The FBI here in West Palm Beach.

Q And are you here today on the continuing investigation known as Operation Leap Year?

A Yes, I am.

Q And you are one of the case agents on this investigation, correct?

A Yes, I am.

Q The last time you were here we were discussing the evidence supporting various overt acts and charges related to Jane Does number 1 and 2?

A Yes.

Q Today we are going to start with Jane Doe number 3. Can you tell the Grand Jury who that is and summarize briefly your previous testimony about her.

A Jane Doe number 3 is [redacted] and she first started, we have first phone contact with [redacted] starting in December of 2004, [redacted] would have been 16 or 17 at that time, let me do the math real quick, she would have been 16 -- sorry, I am sorry, she would have been at that time 17, let's get it right, so she started phone contact, [redacted] started calling her in September of 2004.

From testimony we know that [redacted] went there earlier, much earlier. [redacted], which was Jane Doe number 4 you will hear about next, they were good friends and they both went in the spring of '04, prior to [redacted] 17th birthday, so [redacted] did start giving Mr. Epstein massages when she was 16, she performed a few massages for Mr. Epstein and then took kind of a little bit of a break.

The sexual activity that occurred with

Mr. Epstein when [redacted] was under the age of 18 included [redacted], [redacted] she was given gifts by Mr. Epstein, she was given a [redacted], she was given Victoria Secret underwear, she was also given a car that Mr. Epstein rented for her for a number of months, she was paid $200 by Mr. Epstein and [redacted] was the one that primarily called [redacted] to set up appointments and as you can see that began in December of '04.

[redacted] was also one of Mr. Epstein's favorites, according to several of the other girls.

Q Just so the Grand Jury has an idea, how does that translate into the number of phone calls between [redacted] and [redacted] that you were able to calculate?

A [redacted] called her, I guess calls between the two of them ranged around 125 phone calls from December 6th, 2004 until October, 2005.

Q And just briefly can you remind the Grand Jury did [redacted] ever tell Mr. Epstein her age?

A No, they did not ever discuss, she did not tell him how old she was, but she did tell him where she planned on going to school and that she was in [redacted].

She stated that when it came to her age that Mr. Epstein didn't care. As I mentioned earlier, [redacted]

and [redacted] were very good friends and [redacted] would talk about [redacted] and Mr. Epstein would ask questions about [redacted] when [redacted] was providing massages and as we will talk about when we talk about Jane Doe number 4, which is [redacted], she told Mr. Epstein that she was a junior in high school and that [redacted] and her were in the [redacted] and that they were [redacted] and [redacted] told us that at one point [redacted] had come to her because she had slipped about prom and she was worried because Epstein was supposed to think she was 18 and she had talked about the prom and [redacted] said she never heard anything else about it and they never brought it up.

Q Because, according to [redacted], Mr. Epstein didn't care really how old the girls were?

A Exactly.

Q And she never mentioned he asked her for her age or asked for any form of identification to show whether she was or was not over 18?

A No.

Q Now, if you could turn to the proposed indictment and if I could ask you to look at overt act number 59.

A We had a little knock at the door. Do you want me to get it?

Q Yes.

(Thereupon, there was a brief pause.)

A I will let you see a picture of Jane Doe number 4, [redacted], who we were talking about earlier, and this is [redacted]. Is there anyplace you want to put it right down here in front?

Q And just so the record is clear, those are the photographs that we showed to the Grand Jury last week?

A Yes, it is.

Q So if you could turn to overt act number 59 which appears on page 12, and if you could explain to the Grand Jury the evidence we have related to that phone call or phone calls on December 6th, 2004.

A On December 6th, 2004 a review of the phone records indicate that there was telephonic phone contact between the numbers belonging to [redacted] and [redacted], as well as we have evidence with [redacted] statements of the phone calls being made to her by [redacted].

Q And overt act number 60?

A A review of the phone records indicate telephonic contact between the numbers belonging to [redacted] and [redacted] on December 12, 2004.

Q And overt act number 64?

A A review of the phone records indicate

telephonic contact between numbers belonging to [redacted] and [redacted] on December 14th, 2004.

Q And just so that it is clear to the Grand Jury, when the overt acts says that defendant [redacted] made one or more telephone calls, that means that the call is originating from [redacted] phone, is that correct?

A Yes, it does.

Q And if you could turn to overt act number 71.

A On December 20th a review of the phone records indicate that there was telephonic contact between [redacted] and [redacted].

Q And overt act number 79?

A On January 6th, 2005 a review of phone records indicate there was telephone contact between numbers belonging to [redacted] and [redacted].

Q And number 83?

A On January 14th, 2005 a review of the phone records indicate telephonic contact between numbers belonging to [redacted] and [redacted].

Q And with respect to the other overt acts related to the phone calls which would be 94, 100, 102, 104, 112, 118, 125, 129 and 132 is the evidence the same?

A Yes, on or about each of those dates a review

of the phone records indicated telephonic contact between the numbers belonging to [redacted] and [redacted] as well as [redacted] statements.

Q Now, if I could direct your attention to Count number 7 which appears on page 26 of the draft indictment, that is a charge of indictment of a minor during the period of December 6th, 2004 through June 2nd of 2005, could you summarize for the Grand Jury the evidence related to that count.

A On or about these dates the facility of interstate commerce, the telephone, specifically [redacted] and [redacted] were utilized to set up appointments, massage appointments for Epstein.

During the massages and on more than one occasion Epstein [redacted], he used a [redacted] and Epstein directed [redacted] to straddle him while he [redacted] and [redacted], he would [redacted], he would [redacted] as she was straddling him, there was [redacted], though.

He touched [redacted] breasts, he would [redacted]. He paid [redacted] on multiple occasions $200. Both [redacted] and Jeffrey Epstein have escorted [redacted] upstairs for these massages and Mr. Epstein gave

[redacted] a [redacted], Victoria Secret bra and panty sets and he also rented her a car for several months.

Q And just so that it is clear, you mentioned he paid her on several occasions, he paid her every time she performed these lewd acts, correct?

A Yes, $200.

Q And [redacted] is listed as a defendant with respect to Jane Doe number 3 as well, and can you explain to the Grand Jury a little bit more about who [redacted] is and why she is charged in this count?

A [redacted] is one of Mr. Epstein's personal assistants as well and she made appointments for him for these massages.

We have contact between [redacted] phone and [redacted] phone, she contacted [redacted] approximately 25 times.

Q And that's why she is also charged with someone who is either an aider or abetter or a coconspirator with respect to this?

A Yes.

Q Okay. If I could direct your attention to Count number 32 which appears on page 30, Count number 32.

A I got 32.

Q What is the evidence related to?

A I am sorry, I didn't hear you ask me the question, I thought you said refer to it.

The evidence is we have flight records that indicate on December 13th, 2004 Epstein traveled to Palm Beach County on the Gulfstream, there was telephonic contact between [redacted] and [redacted] the day before or the day of travel, we also have the sexual conduct between Jeffrey Epstein and [redacted] as we described earlier in Count 7.

Q And just to refresh the recollection of the Grand Jury, the Gulfstream aircraft is the one owned by Hyperion?

A Air, Inc.

Q And when you said that there was telephone contact, you recall that in overt act number 60 that we discussed phone calls on December 12th, correct?

A We did.

Q Okay. If I could direct you to Count number 35 and if you could tell the Grand Jury about the evidence according to that count.

A Again, we have flight records that indicate that on January 6th, 2005 Epstein traveled to Palm Beach County on the Gulfstream again, there was telephonic contact between [redacted] and [redacted] the day before, the day of that travel, we also talked about the sexual

conduct between Jeffrey and [redacted], between Epstein and [redacted].

Q And can you tell us again what aircraft they flew on on January 6th?

A That was the Gulfstream which was owned by Hyperion Air, Inc.

Q Okay. If I could direct you to Count 36 and again if you could summarize that evidence.

A We have flight records that indicate that on January 14th, 2005 Epstein, [redacted] and [redacted] traveled to Palm Beach County on the Boeing 727 that Mr. Epstein owns, there was telephonic contact between [redacted] and [redacted] the day before, the day of that travel, as well as we have the sexual conduct between Jeffrey Epstein and [redacted] as we described earlier, and I will tell you that [redacted] is -- [redacted], Mr. Epstein's personal assistant, and [redacted] is [redacted] we talked about just a few minutes ago, Mr. Epstein, another of Mr. Epstein's personal assistants.

Q And if I could direct your attention to Count 37 and ask you to summarize the evidence related to that count.

A We have flight records that indicate that on February 3rd, 2005 Mr. Epstein and [redacted] traveled

to Palm Beach County on the Boeing 727, there was telephonic contact between [redacted] and [redacted] the day before or the day of travel and we have the sexual conduct between Epstein and [redacted].

Q And if I could direct your attention to Count number 38.

A In Count number 38 we have flight records that indicate on February 10th, 2005 Mr. Epstein, [redacted], [redacted] and [redacted] traveled to Palm Beach County on the Gulfstream, there was telephone contact between [redacted] and [redacted] the day before or the day of travel, we also have the sexual conduct between Mr. Epstein and [redacted].

Q Now, I am sorry, on Count number 38, which airline were they on?

A They were on the Gulfstream.

Q Can I ask you to double-check that? There is an inconsistency between the chart and the indictment or we can save that for a later date.

A It is right here.

Q I will mark that we need to check on Count number 38.

A I have the flight manifest with me if you want me to check, I don't know if you want me to do that now.

Q Yes, if you don't mind.

(Thereupon, there was a brief pause.)

A In Count 38, flight records indicate on February 10th, 2005 that Mr. Epstein, [redacted], [redacted] and [redacted] were in fact on the Boeing 727.

Q So the draft indictment contains the correct information?

A Yes, it does.

Q What company owns the Boeing 727?

A JEGE, Inc., Incorporated.

Q And if I could take you to Count number 39.

A Evidence shows through flight records that on February 21st, 2005 Epstein, [redacted], [redacted] and [redacted] traveled to Palm Beach County on the Boeing 727, there was telephonic contact between [redacted] and [redacted] the day before or the day of travel, there was also the sexual conduct between Epstein and [redacted].

Q And if I could take you to Count number 40, please.

A We have flight records that indicate on February 24th, 2005 Epstein, [redacted], [redacted] traveled to Palm Beach County on the Boeing 727, there was telephonic contact between [redacted] and [redacted] the day before, the day of travel, and

there was sexual conduct between Jeffrey Epstein and [redacted] as we described earlier in Count 7.

Q And if you could do Count 42.

A We have evidence that shows flight records, that flight records indicate that on March 18th, 2005 Epstein traveled to Palm Beach County on the Boeing 727, there was telephonic contact between [redacted] and [redacted] the day of or the day before travel, we have the sexual conduct between Mr. Epstein and [redacted].

Q And just referring to that count, [redacted] is named, although she was not on the flight that day, is that correct?

A Yes.

Q And you said that she made the telephone calls with [redacted], correct?

A Yes, and we also do have -- we have interviewed Mr. Epstein's pilots and one of the pilots indicated that [redacted] was the one that arranged all of Mr. Epstein's travel arrangements and so she is responsible for making his arrangements to travel to Palm Beach as well as call the girls for the appointments.

Q If I could take you to Count number 43, please.

A Flight records indicate that on March 31st,

2005 Mr. Epstein traveled to Palm Beach County on the Boeing 727, there was telephonic contact between [redacted] and [redacted] the day before or the day of travel, we also have the sexual conduct between Epstein as [redacted] described earlier in Count 7.

Q Again, in Count 44, what is the evidence related to that?

A Flight records indicate that on April 8th, 2005 Epstein and [redacted] traveled to Palm Beach County on the Gulfstream and there was telephonic contact between [redacted] and [redacted] on the day before or the day of travel, we also have the sexual conduct between Mr. Epstein and [redacted].

Q And if you could go through 45, 46 and 47.

A Count 45 we have flight records that indicate on April 27th, 2005 Epstein and [redacted] traveled to Palm Beach County on the Gulfstream, there is telephone contact between [redacted] and [redacted] the day before or the day of travel and we have the sexual conduct between Jeffrey and [redacted].

In Count 46 we have flight records that indicate that on May 6th, 2005 Epstein, [redacted] and [redacted] traveled to Palm Beach County on the Gulfstream.

We have also telephonic contact between [redacted]

[redacted] and [redacted] either the day before or the day of travel and we have the sexual conduct between Epstein and [redacted], and in Count 47 on May 19th, 2005 we have flight records that indicate Epstein, [redacted] and [redacted] traveled to Palm Beach County on the Gulfstream and we have telephone contact between [redacted] and [redacted] the day before or the day of travel.

We also have the sexual conduct between Epstein and [redacted] as described in the earlier count, Count 7.

Q Now, if I could direct your attention to Count number 51 which appears on page 33, that is the sex trafficking of a minor involving Jane Doe number 3, and could you briefly summarize that, the evidence related to that.

A As we discussed earlier in Count 7, I told you guys about the sexual conduct between Epstein and [redacted], the monies that were paid to [redacted] by Mr. Epstein, the phone activity we discussed between [redacted] and [redacted], it began in December, and we also have phone calls beginning in January from [redacted] to [redacted], at that time [redacted] was 17 years of age, and we also have statements from [redacted] and [redacted] regarding Mr. Epstein's knowledge of their

ages.

Q And with respect to the affect on interstate commerce related to that count we have both the telephone calls, correct?

A Yes.

Q As well as Mr. Epstein actually traveling in interstate commerce to engage in this activity, correct?

A Yes, we do.

Q Is there anything else that you would like to mention about Jane Doe number 3?

A Not at this time, no.

Q If I could direct you to Jane Doe number 4 and if you could summarize for the Grand Jury the information related to Jane Doe number 4's activities.

A Jane Doe number 4 is [redacted], I think you wanted their birth dates, her birth date is [redacted], she was 16 years old and attended [redacted].

We first have contact through phone calls from [redacted] to [redacted] on April 25th, 2004 which indicates and shows that [redacted] was clearly 16 years of age when she started going to Mr. Epstein's and performing massages for Mr. Epstein.

[redacted], our Jane Doe number 1, was the one who recruited [redacted], she basically told [redacted] that she

could make $200, she needed to dress cute, he might try to touch you, but if you feel uncomfortable just let him know and he will stop, and the first massage that [redacted] did he repeatedly told [redacted], and I mentioned this to you in the last Grand Jury session, she was very shy and he would repeatedly tell her not to be so shy, that she didn't have to be so shy.

Epstein asked her to remove her clothing and she told him no, and throughout the massage he would repeatedly grab at her, [redacted] he did [redacted] through this first massage and pulled her clothes, she would pull away and she was paid $200 for that.

Upon leaving the first massage Mr. Epstein told [redacted] that if [redacted] was willing to do more she would get paid more. He also informed [redacted] that if she would bring her pretty friends he would also pay her for bringing her pretty friends. He told [redacted] that [redacted] would get her phone number.

[redacted] says that she performed three to four massages for Mr. Epstein. We have with [redacted] approximately a hundred phone calls between [redacted] [redacted] and [redacted].

When I interviewed [redacted] she became very upset when we got to the sexual massages that she did for

Mr. Epstein. At this point, this is as much as we know at this point of what occurred with Mr. Epstein and [redacted].

She did three to four massages and those last massages they became more sexual in nature, he asked her again to remove her clothing, this time she took her shirt off, he asked her to take her bra off, she said no.

He again would [redacted], he did continue [redacted], this time she [redacted]. He continued to compliment her, tell her she had a nice body and that she was pretty.

[redacted] says that he was very nice and engaged her in conversation, asked her, you know, if she had a boyfriend. In the last massage she discusses with me, and this massage Mr. Epstein told her to stop being shy and asked her to take her clothes off and [redacted] said that she had a boyfriend and she didn't feel comfortable taking her clothes off and he told her you should know what to expect by now when you come here, and he jerked on her pants as to like jerk them down, so she did on this last massage get down to her bra and underwear.

She describes his tone at this time being frustrated and irritated, she stayed in her bra and

underwear, but during the massage he grabbed her bra and pulled it down and [redacted], he had instructed her to [redacted] while she was massaging his chest, he tried to grab her all over, he knew that she was upset with this massage.

At one point Mr. Epstein asked her if she had sex with her boyfriend, [redacted] informs him that she is still a virgin and he responds what, you don't like sex? And that's pretty much the way that last massage went.

Q Now, Special Agent [redacted], just to interrupt you, you mentioned that Jane Doe number 4 became very upset as you were asking her about the massages, correct?

A Yes.

Q And when she was describing this incident with him grabbing at her breast and trying to pull her pants down and instructing her to remove her pants, correct?

A Yes.

Q You had talked last week about the expert that you had spoken with about interviewing victims of these types of offenses?

A Right.

Q And you had told us about how a victim may be reticent at first to tell the entire story until a rapport is built?

A Right.

Q Can you tell the Grand Jury your impressions of your interview with [redacted]?

A She became so visibly upset, and a lot of the girls are embarrassed of what took place, but when she talked about the last massage and him grabbing her breasts and fondling her breasts she was in tears and we stopped the massage and we calmed her down, trying to go back there was just too difficult, I could not get her back to discussing anything further that had taken place.

I have since then -- I have since talked to [redacted] again and I feel there is more there, but I just don't think she is ready to disclose what took place.

Q So based upon the more than 60 telephone calls as well as --

A Approximately a hundred.

Q -- 100 telephone calls and your conversations with [redacted] you think there is probably more than four massages that happened?

A Yes, I do.

Q Was there anything else that you wanted to discuss with the Grand Jury?

A Just, as I stated in the beginning of those massages, they engaged in conversation and throughout

that conversation, you know, she did inform Mr. Epstein that she was a junior in high school and again she is one of the girls that talks about [redacted] being Mr. Epstein's favorite, so because Mr. Epstein knew they were friends they would engage in conversation about [redacted], and [redacted] would mention they were in the [redacted] and they would discuss the friendship they had between the two girls with Mr. Epstein and I think that's it.

Q All right. If we could turn to the post-indictment to overt act number 4 which appears on page number 5.

Did you obtain telephone records for Jane Doe number 4?

A Yes.

Q And did you compare those with the phone records of [redacted] and others?

A Yes, I did.

Q And can you tell us with respect to overt act number 4 what evidence you have related to that?

A A review of the phone records indicate that there was telephonic contact between the numbers belonging to [redacted] and [redacted] as well as [redacted] statements that [redacted] would call her to make appointments.

Q And if we could go through overt acts 6, 8, 9 and 11, all of which appear on page 6.

A A review of the phone records on May 3rd, 2004, May 14th, 2004, May 20th, 2004 and June 3rd, 2004, a review of those phone records indicate that there was telephonic contact between numbers belonging to [redacted] and [redacted] as well as [redacted] statements.

Q If I could take you to overt acts 14, 15 and 19 which appear on page 7.

A A review of the phone records on June 11th, 2004, June 20th, 2004 and July 10th, 2004, they indicate that there is telephonic contact between the numbers belonging to [redacted] and [redacted].

Q And if I could ask you to turn to page 8 and if you could address overt acts 24 and 25.

A A review of the phone records on July 18th, 2004 and July 22nd, 2004, a review of [redacted] and [redacted] phone records indicate there is telephonic contact belonging to both of them as well as [redacted] statements that [redacted] would arrange appointments with her.

Q If I could take you to page 9 of the draft proposed indictment and ask about overt acts 29 and 30.

A A review of the phone records indicate there is telephonic contact on July 22nd, 2004 and August 4th,

2004 between numbers belonging to [redacted] and [redacted] as well as [redacted] statements.

Q If I could take you to page 10 of the draft proposed indictment and ask you about overt acts 37 and 43.

A A review of phone records indicate telephonic contact on August 25th, 2004 and October 3rd, 2004 between numbers belonging to [redacted].

Q And if you could turn to page 11 of the draft proposed indictment and if you would address overt acts 47 and 48.

A A review of the phone records indicate telephonic contact on October 30th, 2004 and November 4th, 2004 between numbers belonging to [redacted], as well [redacted] statements.

Q Okay. And if you could go to page 14 of the draft proposed indictment and address overt act number 77.

A A review of phone records indicate that on January 4th, 2005 there was telephonic contact between [redacted] and [redacted] as well as [redacted] statements.

Q I'm sorry. If you could turn to page 16 of the draft proposed indictment and address overt act

number 87.

A A review of the phone records indicate that on January 22, 2005 there is telephonic phone contact between numbers belonging to [redacted] and [redacted] and I believe I said on January 22nd, 2005.

Q Okay. And if you could go to page 17 and address overt act number 101.

A On February 14th, 2005 a review of the phone records indicate that there was telephonic contact on that day between numbers belonging to [redacted] and [redacted], as well as [redacted] statements.

Q If you could turn to pages 18 and 19 and if you would address overt acts 106, 114 and 116.

A A review of the phone records indicate that there is telephonic contact between [redacted] and [redacted] on February 24th, 2005 as well as [redacted] statements.

Q Overt act number 114 says on March 18th, 2005 defendant [redacted] prepared a written message to defendant Epstein regarding Jane Doe number 4, could you tell the Grand Jury what the evidence is related to that?

A We have a review of the message pads that were recovered during the search warrant that the State served that showed that [redacted] wrote a message to Epstein regarding [redacted] and that was done on March 18th,

2005.

Q Do you happen to remember what the message said?

A I have those with me.

Q Would you mind getting them out?

A Do you want to mark it?

Q If you could just read it to the Grand Jury.

A It is a message written by [redacted] for Jeffrey on 3/18/2005, it looks like 4:21 p.m., and the message reads is it okay if [redacted] will come at 5:00 and there is a question mark.

Q And if I could direct you to overt act number 116, what the evidence is related to that.

A A review of the phone records on March 29th, 2005 indicate that there is telephonic contact between [redacted] and [redacted] as well as her -- [redacted] statements.

Q And if I could take you to overt act number 127 which is on page 20.

A A review of phone records on April 11th, 2005 indicate that there is telephonic phone contact between the numbers belonging to [redacted] and [redacted] as well as [redacted] statements.

Q Now, if you could go to Count number 8, which alleges that between April 25th, 2004 and June 29th,

2005 Jeffrey Epstein, [redacted] enticed Jane Doe number 4 to engage in sexual activity or prostitution.

A On or about these dates we have a facility of interstate commerce, specifically the telephones, [redacted] and [redacted], which were utilized to set up, arrange massage appointments for Epstein, we have [redacted] taking [redacted] upstairs to set up the massage table, she would set the massage table up as well as set up the lotions and the oils, we have during those massages Epstein would grab and pull [redacted] closer to him as he [redacted], he repeatedly would ask her to remove her clothing, wearing her bra and underwear, Epstein would pull down her bra and [redacted] he attempted to [redacted] at one point but she stopped him, he [redacted], she believes that [redacted], he paid her $200, he told her that he would pay her to bring her pretty friends and would pay her more if she would do more.

Q And just so that this is clear to the Grand Jury, June 29th of 2005 is the day before Jane Doe number 4 turned 18, is that correct?

A Yes.

Q So was there activity that continued past her 18th birthday?

A Yes.

Q If I could direct you to Count number 17, which appears on page 28, and tell us about the evidence related to that.

A We have evidence through flight records that indicate on May 21st, 2004 that Epstein and [redacted] traveled to Palm Beach County on the Gulfstream, we have telephonic contact between [redacted] and [redacted] the day before or the day of travel and we have the sexual conduct between Epstein and [redacted] as we described earlier in Count 8.

Q And if you could go through Counts 18 and 19.

A We have flight records that indicate on June 4th, 2004 Epstein and [redacted] traveled to Palm Beach County on the Gulfstream, we have telephone contact between [redacted] and [redacted] the day before, the day of travel, we have sexual conduct between Mr. Epstein and [redacted] as discussed earlier.

We have also Count 19 on June 20th, 2004 we have flight records that indicate that Epstein and [redacted] traveled to Palm Beach County on the Boeing 727.

We have the telephone contacts between [redacted] and [redacted] the day before, the day of travel, we also have the sexual conduct between Jeffrey and [redacted]

as we described earlier in Count 8.

Q Could you do the same for Counts 22 and 23, please.

A Count 22 we have flight records that indicate on July 22nd, 2004 Epstein, [redacted] traveled to Palm Beach County on the Boeing 727, we have the telephonic phone contact between [redacted] and [redacted] the day before or the day of travel, we also have the sexual conduct between Jeffrey Epstein and [redacted] as we described earlier, and Count 23 we have flight records that indicate on August 6th, 2004 Epstein and [redacted] traveled to Palm Beach County on the Boeing 727, we have telephonic contact between [redacted] and [redacted] two days prior to Epstein and [redacted] traveling to Palm Beach County, we have sexual conduct between Jeffrey Epstein and [redacted] as we described earlier.

Q And if you could do the same for Count number 28, please.

A Count number 28 we have flight records that indicate on November 5th, 2004 Epstein, [redacted] traveled to Palm Beach County on the Gulfstream, we have telephonic contact between [redacted] and [redacted] the day before or the day of travel, we have the sexual conduct between Epstein and [redacted].

Q And if I could direct you to Count number 35, you testified previously about the people who were aboard the plane.

Was there also telephone contact on January 6th -- excuse me, shortly before the flight on January 6th, 2005 between [redacted] and this Jane Doe?

A Yes, two days before.

Q And if you look at Count number 40, again, you had previously told us about who was on board the plane. Can you tell us whether there was also telephone contact shortly before that?

A There was telephone contact the day of or the day before.

Q All right. Between who and who?

A Between [redacted] and [redacted].

Q Okay. And if you could look at Count 43, you also had testified previously about who was aboard the plane on that day.

Was there also telephone contact between Jane Doe number 4 -- excuse me, Jane Doe number 4 and [redacted]?

A Yes, two days before.

Q And if I could direct you to Count number 52, which is the sex trafficking offense, and if you could summarize again for the Grand Jury the evidence related

to that.

A We discussed in Count 8 the sexual conduct that occurred between [redacted] and Epstein during the massages that took place, we talked about the money that was paid to her by Mr. Epstein and the offer of more money if she would do more as well as if she would bring her friends.

Through [redacted] statements we have also that [redacted] has paid her in the past for bringing a friend, we have the phone activity between [redacted] and [redacted] which started in April, 2004, we know [redacted] was 16 at the time, we also have phone activity between [redacted] and [redacted] beginning in the spring of 2005 when [redacted] would be 17, with the statements of [redacted] and [redacted], the knowledge that Mr. Epstein knew their age, and we have gone through that regarding [redacted] informing Mr. Epstein that she was a junior in high school, that she was [redacted], and then [redacted] statements that [redacted] was concerned because she was discussing prom with Mr. Epstein, and both girls at that time of the phone calls were under the age of 18.

Q Just again so it is clear for the Grand Jury, neither [redacted] nor [redacted] ever specifically said hey, Jeffrey, I am 17, but they provided information that should have caused him to try to figure out whether in

fact they were adults?

A Yes.

Q Any questions about Jane Doe number 4 before we turn to Jane Doe number 5? Yes, [redacted].

A GRAND JUROR: I have to say something here, if it is a stupid question forgive me if it is, from what I heard, maybe I heard wrong, there were three to four massages that Jane Doe, [redacted] or [redacted] said that she had and you enumerated quite a few sexual contact.

How do you know about this, do you have records, how do you know they were sexual contact?

THE WITNESS: Through interviewing [redacted].

A GRAND JUROR: She said she only had three to four massages.

A GRAND JUROR: Her question is more like there is 20 phone calls.

A GRAND JUROR: There is tons of them.

THE WITNESS: Exactly, that is what we were discussing earlier when we discussed that there is more than what [redacted] is willing to admit at this time.

A GRAND JUROR: I got it. So she said she only had three to four.

A GRAND JUROR: There is a hundred phone

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calls.

A GRAND JUROR: You said you found out through [redacted], I am a little bit confused about that.

THE WITNESS: Through interviewing [redacted], she stated that she had three or four massages from Mr. Epstein.

BY [redacted]:

Q Special Agent [redacted], the sexual activity that you described that [redacted] went through, that is what she said happened during those three to four massages, correct?

A Right.

Q Does that answer your question?

A GRAND JUROR: Not really. How do we know like about all these 25, 30?

A GRAND JUROR: There is more dates that match up with the amount of massages.

A GRAND JUROR: There were a hundred phone calls.

A GRAND JUROR: Are we supposed to assume a phone call was made each time they had sexual contact?

THE WITNESS: No. There are lots of phone calls made arranging appointments between the girls, that doesn't mean that every phone call that

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was made was a trip over to Mr. Epstein's house to perform a massage.

[redacted]: Yes, ma'am.

A GRAND JUROR: Couldn't they put anything in this indictment about stalking her, are there any rules against stalking children?

[redacted]: I will address -- that is a legal question that I will address when the Special Agent is outside of the Grand Jury. Any other factual questions related?

A GRAND JUROR: I don't have a question relating to Jane Doe number 4, it was a question I asked last week, what does Mr. Epstein do for work, how does he make his money? I asked that late, late in the game last week.

[redacted]: Okay, I guess we can just address that now.

BY [redacted]:

Q What is Mr. Epstein's state of profession?

A He is an investor.

Q And he manages portfolios valued at about a billion or more?

A Yes.

Q Who is his best known client?

A The owner of the Limited and Victoria Secret.

Q And you mentioned that as gifts Mr. Epstein tended to give Victoria Secrets panties and bra sets?

A Yes.

Q Does that answer the question?

A GRAND JUROR: Yes.

[redacted]: Yes, ma'am.

A GRAND JUROR: Count 28 I thought I heard that -- I thought I heard the detective say that it was the Gulfstream rather than the Boeing 727 on flight records, just for your info.

[redacted]: Count number 28, let's go back there.

BY [redacted]:

Q Could you restate for the Grand Jury which company owns the Gulfstream?

A The Gulfstream is owned by Hyperion Air, Inc.

Q And the Boeing is owned by whom?

A JEGE, Inc.

Q Any other questions before we go on to Jane Doe number 5? We have four minutes.

Special Agent [redacted], why don't I ask you to step outside so I can answer that question for the Grand Jury and address some issues.

(The witness was excused from the Grand Jury room.)

(Questions posed by the Grand Jury.)

(The testimony of the witness was concluded before the Grand Jury.)

CERTIFICATE OF REPORTER

I certify pages 2 through 36 are a true transcript of my shorthand notes of the testimony of [redacted] before the Federal Grand Jury, West Palm Beach, Florida on the 15th day of Tuesday, 2007.

Nancy Siegel

Nancy Siegel-Notary Public

Commission #DD0282274

Expires May 8, 2008

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

IN RE: OPERATION LEAP YEAR

COPY

Federal Grand Jury, 07-103

West Palm Beach, Florida

May 8, 2007

APPEARANCES:

[redacted], ESQUIRE

Assistant United States Attorney

[redacted], Foreperson

TESTIMONY

OF

[redacted]

The sworn testimony of E. [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, West Palm Beach, Palm Beach County, State of Florida, on the 8th day of May, 2007.

Philip W. May, Court Reporter, was authorized to and did report the sworn testimony.

(The witness entered the grand jury room.)

[redacted],

having been duly sworn by the grand jury foreperson, was examined and testified on her oath as follows:

EXAMINATION

BY [redacted]:

Q Could you start by reminding us of your name and where you're employed.

A [redacted]. I work for the FBI here in West Palm Beach on their violent crimes squad.

Q And you are one of the case agents in Operation Leap Year?

A Yes, I am.

Q Did you recently participate in an interview of [redacted]?

A Yes.

Q Can you tell us [redacted] date of birth?

A [redacted] was born on [redacted].

Q And you spoke with her recently?

A Yes, we did.

Q So she was 18 at the time of the interview?

A Yes, I believe she was.

Q Who is [redacted]?

A [redacted] was identified by the Palm Beach

Police Department as one of the girls who had frequented Mr. Epstein's house.

Q How exactly did the Palm Beach Police Department determine that she was one of those girls?

A When they did their search warrant at Mr. Epstein's residence, some message pads were obtained at his residence, and they had several calls from a girl named [redacted], and phone numbers. So they were able to track back those messages back to [redacted] [redacted].

Q Did the Palm Beach Police Department try to interview Miss [redacted]?

A They did.

Q Did she agree to speak with them?

A No. She stated that she loved Jeffrey Epstein, and that she would not say anything positive or negative about what occurred.

Q After the FBI became involved in this investigation, did you try to interview Miss [redacted]?

A We did, as well, with no such luck, as well.

Q How long ago was it that you first made contact with Miss [redacted]?

A It was back in November of '06.

Q Did you try to serve her with a subpoena issued on behalf of this grand jury?

A Yes, we did.

Q What happened?

A She refused service of the grand jury subpoena. But she was notified of when her appearance was expected here, and a subpoena was left with her.

Q After that, did she obtain an attorney?

A Yes, she did.

Q Who was that?

A Jim Eisenberg. He's a well-known defense attorney here in West Palm Beach.

Q Who paid for that attorney?

A Mr. Epstein is paying for [redacted] attorney.

Q Now once Miss [redacted] secured the attorney, did she agree to be interviewed?

A Yes, she did, after she was granted 6001 immunity. She requested immunity.

Q Did the justice department authorize that grant of immunity?

A Yes, they did.

Q After that, did she agree to be interviewed?

A Yeah. It was only after she was given that immunity that she would talk with us.

Q When did the interview take place?

A It took place at the end of April of this year, so just a few weeks ago.

Q Who was present at that interview?

A Myself; my partner, agent [redacted]; the AUSA, [redacted]; her attorney, Jim Eisenberg, and his investigator; as well as [redacted].

Q What did Miss [redacted] tell you about Jeffrey Epstein?

A She stated that she had met an individual by the name of [redacted] at a party who had asked her if she wanted to make a few bucks by giving a man a massage. She was told that Mr. Epstein preferred them to be topless, and she agreed to go to his house to give him a massage.

Q How old did Miss [redacted] tell you she was at that time?

A She stated she was 16 when she first started giving Mr. Epstein massages.

Q Based upon your review of the evidence, is that correct?

A No. We have phone records where [redacted] (phonetic), Mr. Epstein's assistant, is contacting [redacted] on her cell phone, or using her cell phone to call [redacted] cell phone starting in April of 2004, which makes [redacted] 15.

Q So she said that she was 16, but your evidence shows that she was 15, and she said that she was told she could make a few bucks giving a topless massage?

A Yes.

Q What else did Miss [redacted] tell you?

A That she went to Mr. Epstein's residence, that [redacted] took her there the first time, that when she went upstairs she was paid $200 when she first got there by [redacted]. Then she goes upstairs, and Mr. Epstein comes in, he disrobes, puts on a towel, lays down on the massage table and she begins to massage him.

She tells Epstein that she heard he likes topless massages, and he told her that he did. And she said, "Who wouldn't?" And she ended up taking off her top during the first massage. But [redacted] is clear that Mr. Epstein did not at any point touch her during the massage.

Q But does she admit that he [redacted]?

A Yes. On the second massage, Mr. Epstein asked her to leave her phone number with [redacted]. Her phone number was left there. On the second massage, she returned the very next day and gave him another massage. This time, Mr. Epstein [redacted].

Q Did Miss [redacted] admit that [redacted]?

A Yes, [redacted]. And I think her term was that [redacted] meaning that [redacted].

Q How long of a period of time did Miss [redacted] tell you that she performed massages?

A She wasn't able to give us a number of massages,

but just said that it was a lot, and that she had been giving him massages for a year.

Q You mentioned to the grand jury that Miss [redacted] said that Mr. Epstein never touched her, correct?

A Yes.

Q And she was very adamant about that?

A Yes, she was.

Q Were there other things that she was adamant about in her interview with you?

A Well, she talked about what she would tell the girls that -- and that she told Mr. Epstein that she was 18. I'm sorry, I take that back. She was told to say that she was 18, and she told us that she had a fake I.D. showing that she was 18.

So she passed that information along to the other girls when she brought -- eventually she brought other girls to perform massages, and that was one of the things that she told -- she told us first that she brought 18- to 20-year old girls. And then she stated that if the girls lied, and they were underage, she told them that they needed to tell Epstein that they were 18.

Q Have you been able to identify some of the girls that Miss [redacted] brought to Mr. Epstein's home?

A Yes.

Q Were any of those girls over 18?

A No, not that we found so far.

Q Have any of the girls told investigators about what Mr. Epstein knew about their ages?

A I'm sorry, say that again.

Q Have any of the girls who came through [redacted] [redacted] been interviewed about what Mr. Epstein knew about their ages?

A We did interview them regarding that, and I'm not sure if he asked them. They were all told to say they were 18, but not on every occasion would Mr. Epstein inquire about their age.

Q Do you want to check your records on that?

A Yes, could I do that?

Q Yes, please do.

A I can tell you that one of the girls that she brought -- this girl told Mr. Epstein that she was in high school, and actually told him her true age, which was under 18.

Q So what [redacted] [redacted] told you about, that wasn't really the case?

A No, that wasn't. Sorry.

Q That's all right, I just wanted to make sure it's clear.

So Miss [redacted] told you that she had been told to say she was 18, and she also told you that she had a

fake I.D.?

A Yes.

Q Did she ever say that Mr. Epstein either asked for her age or asked to see her I.D.?

A No, the topic never came up.

Q Did you also ask her about how appointments were made?

A Yes. She was very clear in the fact that [redacted] would call her to arrange the appointments, but that [redacted] would call her once Jeffrey was in town.

Q So she was adamant that the calls only happened when she was already here?

A Yes.

Q Were you made aware that Epstein's counsel was informed that he was being investigated for traveling to engage in prostitution, which means that the appointments would have been made before the traveling?

A Yes.

Q Was there anything else, besides the issue of age and the issue of when the appointments were made, that sounded coached or that she was especially adamant about?

A No, I wouldn't say coached. I mean, we talked about the preferences that Jeffrey discussed, as far as which girls he would like [redacted] to bring.

Once [redacted] started giving massages to Epstein,

[redacted] told us that he liked different faces, so he would ask her to bring other girls. We asked her if he ever gave any preferences of what he preferred, and her response was that Epstein liked girls like her, which is thin and blond and attractive.

Q And how old was she at the time?

A She was 15.

Q So thin, blonde, attractive and --

A Young, girls like her. I guess we asked if she ever made a mistake, or ever brought somebody that Mr. Epstein didn't take to. She said that she had screwed up and that she had brought a black girl to Mr. Epstein, and that Epstein was not interested in black girls. But he did pay her, and said that he wasn't a racist. He paid her the $200 for her time, but did not want her to perform a massage for him.

Q And he didn't allow that girl to perform a massage?

A No.

Q Was there anything else that Miss [redacted] talked about in the interview that you want to share with the grand jury?

A I did ask her at the end of the interview if she was in love with Mr. Epstein. She looked into the camera and said that she loved him like a friend. But then she

kind of looked into the camera and gave a wink and a smile and said, "But with your money, I'd marry you any time, Jeffrey."

Q Did she also say that she considered him to be an "awesome guy"?

A Several times she referred to him as an "awesome guy". She said that the girls begged her to come and that the girls didn't have a complaint, and the girls would share with her everything that happened after the massage, and that Jeffrey never touched any of the girls. But as I informed you, we did interview some of the girls that she took, and he has touched them.

Q In preparation for your testimony today, did you also speak with someone who is considered to be an expert in these cases?

A Yes.

Q And what is that person's name?

A [redacted].

Q Has Mr. [redacted] been qualified to testify as an expert in federal and state courts in cases that involve what he calls "compliant victims"?

A Yes.

Q What does he mean by the term "compliant victims"?

A A compliant victim is when a victim is not

necessarily forced into the conduct that the offender wants them to engage into, that they actually consent to that kind of activity.

Q So that would include minors who are subjected to sexual activity but weren't necessarily kidnapped or forced at gunpoint, or something like that?

A Exactly.

Q Did he discuss with you the difficulties that exist when you interview those types of victims?

A Yes. He stated that a compliant victim is often times embarrassed that they went along with the behavior. They are also likely to deny the behavior, especially when being interviewed by investigators, that they'll deny it or they'll minimize it. Sometimes it takes two, three or multiple interviews to get compliant victims to either trust their interviewer or realize that their interviewer is not going to be judgemental.

Q In this case, have you found that to be the case with some of the interviews?

A Yes, I have.

Q In addition to being embarrassed, sometimes these victims feel guilty about the fact that they were involved in this type of activity?

A Oh, yes.

Q Does Mr. [redacted] also have expertise in sexual

preference of offenders?

A Yes, he does.

Q Did he explain why an offender would select the types of victims that are involved in this case, girls between 14 and 17-years-old?

A This type of offender, the sexual preference he has is for post-pubescent females that are physically developed but not necessarily mentally matured. The girls ranging in this age are sometimes inexperienced, they are possibly naive, not as worldly.

An offender of this type could also maybe not feel sexually adequate or feel competent dealing with his own age group. So knowing that these girls are less experienced, may focus on them as well.

Q In addition to their emotional immaturity, did Mr. [redacted] talk about whether or not younger girls are easier to manipulate than grown women?

A Yes.

Q Did he talk to you about "grooming"?

A Yeah. That's what an offender will use with a compliant victim. He told us that grooming is a technique where you gain the cooperation of those victims by focusing on their interests and playing up to those interests. It's a type of seduction, he called it. That was his words for it. And we actually see this in this

case.

Q Can you give us an example of some of the types of grooming that Mr. Epstein used?

A With one of the girls we're going to talk about today, [redacted], it's very apparent interviewing her how Epstein groomed her. She only went to three or four massages at this time, that she's admitted to. We feel that due to her phone conversations, the multiple calls, that there may be more there. At this point she has stated to us that she has performed three or four massages for Mr. Epstein.

What he did is when she first went there he played upon -- she was very shy, and he would play upon that shyness. He told her that she was pretty. He asked her to remove her clothing, and she would not. So he kind of kidded around with her shyness and complimented her, showed interest in her, talked about her boyfriend and different interests she had.

At the end of that interview, because she did not take off her clothes, he tells her that if she's willing to do more, she will make more. He also tells her that he would pay her if she would bring other girls. As the massages increased, you can see that the next time she comes he plays again to that shyness, but he gets a little bit more -- I guess he sees that it's not working. This

time she does comply and takes off her -- he asked her to disrobe on the second massage. She takes off her blouse, but she refuses to take off the bra after Mr. Epstein asked her to.

So you can see that he tries through showing interest. And then he actually -- when he sees that this isn't working, he takes a more authoritative role with her in the last massage. She said that throughout all of these massages he was very nice, and then at the end he was much more frustrated and irritated. She does get down to her bra and panties on that one, he's just much more authoritative.

So he started with the grooming process, tried to get her interest, tried to use that to get her to comply with removing her clothes. But as often happens, at the end of this, he took over and was much more forceful with his requests.

Q Have other girls described that same situation where every time they went back, he tried to push it one step further and one step further?

A Yes. Several of the girls have said that he would always push for more and more.

Q Did Mr. [redacted] explain why it is that a compliant child victim cannot legally consent to the sexual conduct?

A Yeah. He stated that -- you know, we talked about how the law protects children, and stated that we hold adults accountable. When it comes to adolescents, they go through normal tendencies that mature offenders may try to take advantage of. But the law is in place for that reason, to protect -- in the federal law, to protect those individuals under the age of 18.

Q And that's because of the different maturity levels of the --

A The offender versus the victims, exactly.

Q Did you put together the photographs of the defendants in this case?

A Yes, I did.

Q Are these photographs of the four human defendants who are named in the proposed indictment?

A Yes.

Q With their names underneath them?

A Yes.

Q Agent, who is in the top left-hand corner?

A That's Jeffrey Epstein.

Q When was this photograph taken?

A Recently. There was an article that just came out regarding Mr. Epstein and his connection, or his personal relationship with Prince Andrew, and that was a picture that was in that article.

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Q Who is in the top right-hand corner?

A That's [redacted].

Q Again, this is a relatively recent photograph?

A Yes, that's his personal assistant.

Q And the bottom left-hand corner?

A Again, that is one of Mr. Epstein's personal assistants, that's [redacted] (phonetic).

Q Has Miss [redacted] since gotten married?

A Yes, her name now is [redacted].

Q And the bottom right-hand corner?

A That is [redacted]. She is, again, a personal assistant to Mr. Epstein. There has been some talk that she is also romantically -- or I should say sexually involved with Mr. Epstein.

Q How old are the defendants?

A Jeffrey is in his mid-fifties, and the three girls are in their early twenties.

Q Do you have a copy of the draft indictment in front of you?

A Yes, I do.

Q You mentioned when we were looking at the photographs that the three females work as personal assistants for Mr. Epstein, is that correct?

A Yes.

Q So he is their employer?

A Yes.

Q Are you familiar with the property located at 358 El Brillo Way in Palm Beach?

A That's Mr. Epstein residence.

Q And he owns that residence?

A Yes, he does.

Q Are you familiar with Defendant J.E.G.E., Inc.?

A Yes. J.E.G.E., Inc. is owned by Jeffrey Epstein. He is the president, the owner, the sole director. It's a business that is solely used for the activities of one of Mr. Epstein's airplanes, which is his Boeing 727. Its tail number is N908JE.

Q And you mentioned that he is the president and the sole director. Is he also the sole shareholder?

A Yes, he is.

Q Are you familiar with Hyperion Air, Inc.?

A Yes. Hyperion Air, Inc. is also a business owned by Mr. Epstein. He is also the president, the director and the sole shareholder of that company as well. That company solely does business with his other aircraft, which is a Gulf Stream G-1159B. It bears a tail number N909JE.

Q Is that a smaller aircraft than the Boeing?

A Yes.

Q Just to briefly remind the grand jury about

where the evidence has been collected in this case, was the start of your investigation information that you received from the Palm Beach Police Department?

A Yes, it was.

Q And that included evidence seized during a search of Mr. Epstein's home at El Brillo Way?

A Yes.

Q Also controlled calls that the Palm Beach Police Department placed?

A Yes.

Q And interviews of girls and other people by the Palm Beach Police Department?

A Yes, as well as trash pulls that the Palm Beach Police Department conducted on Mr. Epstein's residence.

Q Then when the FBI became involved, the FBI did additional interviews of girls and of recruiters?

A Yes.

Q They obtained phone records?

A Yes, we have.

Q And records of payments?

A Yes.

Q Did this grand jury also subpoena travel records?

A Yes.

Q Including the flight manifests of the planes

owned by Hyperion and J.E.G.E.?

A Yes.

Q Did you also get corporate documents related to those two planes?

A Yes, we have.

Q Once you had obtained all of this information, did the FBI analyze the data, specifically the call information and the flight information to put together a pattern of activity by the defendants?

A Yes, we did.

Q So you have a series of phone calls coming from these three assistants who were on the board, the two girls who have been identified through this investigation?

A Yes.

Q When you spoke with those girls, did any of them tell you that they had developed some sort of a personal relationship with the assistants so that they were just chatting over the telephone?

A No, not at all.

Q All of them said what about the phone calls?

A Said that the phone calls were made to set up appointments for Mr. Epstein.

Q And the girls referred to it as appointments to work, is that right?

A Yes, they were appointments to work. There is

one exception, [redacted]. We're going to talk about her probably next week. She did say on one or two occasions that [redacted] had called her when she had gone out to California on a trip, I believe. But that is the only time that that was ever mentioned. In fact, we asked, and those phone calls were made for the purpose of setting up appointments for Mr. Epstein.

Q Is the investigation continuing?

A Yes, it is.

Q Are you still trying to locate and interview more girls?

A Yes.

Q Let's turn to the specific evidence reporting the overt acts and offenses relating to Jane Doe's 1 through 5. I know that every member of the grand jury has a copy of the draft indictment before them, and also a chart.

Do you have a copy of that chart as well?

A I do.

Q Do you have photographs of the five girls that we are going to talk about today?

A Yes.

Q And these are photographs of the people that we are calling Jane Doe's 1 through 5?

A Yes.

Q And Jane Doe Number 1, you have previously testified about her?

A Yes, I have, that's [redacted].

Q Jane Doe Number 2?

A That is [redacted].

Q Jane Doe Number 3?

A That is [redacted].

Q Jane Doe Number 4?

A [redacted].

Q And Jane Doe Number 5?

A That is [redacted].

JUROR: The purpose of Epstein's business with his planes, did he transport?

THE WITNESS: To travel around.

JUROR: So it wasn't like a business of transporting other people?

THE WITNESS: He flew other guests, sometimes unaccompanied, sometimes accompanied.

JUROR: [redacted], [redacted] and [redacted], do you have any evidence that they started young, like the rest of the recruits?

THE WITNESS: We have evidence that they are his personal assistants employed by him, not that it was anything like what we were discussing.

JUROR: There was an allegation that was made

earlier, back in February, during one of these discussions, about a specific act that was performed. Can I ask about that? We were told back in February that one of the girls when interviewed had alleged rape, and I hadn't heard about that allegation recently.

THE WITNESS: That's probably Jane Doe Number 6. We're going to talk about her, that he forcibly put her on the table and [redacted]. Yeah, she will be coming up. We're going to do her probably next week. She'll be the first one we'll talk about.

BY MS. [redacted]:

Q So turning to Jane Doe Number 1, [redacted]. You testified about her earlier before this grand jury, correct?

A Yes, I did.

Q And she also testified before this grand jury, correct?

A Yes.

Q Can you remind us of her date of birth?

A She was born on [redacted].

Q Could you briefly refresh the grand jury's recollection of how she was recruited?

A She was approached on a beach by [redacted] and [redacted] (phonetic). They approached her on a beach

and asked her if she wanted to perform massages for Mr. Epstein and make some money.

Q From the review of the phone records that you have received, were you able to identify a telephone number associated with [redacted]?

A Yes.

Q In fact, has [redacted] been interviewed?

A Yes, he has.

Q And has he admitted to being a recruiter for Mr. Epstein?

A Yes, recruiter and driver.

Q If you could take a look at Overt Act Number 2, which appears on page five. That states, "On or about March 12, 2004, defendants Jeffrey Epstein and [redacted] caused Jane Doe Number 1 to travel to 358 Brillo Way of Palm Beach, Florida."

Can you tell us what evidence you have regarding that?

A We have reviewed phone records for [redacted] and [redacted] that indicate the calls took place, as well as phone records for [redacted] and [redacted] and calls that took place on or about those dates. We've also looked at a flight manifest, and were able to show that Mr. Epstein arrived the day before, on the 11th. We also have [redacted] statement where she describes the sexual activity that

took place.

Q On that date, March 12 of 2004, [redacted] described going to Mr. Epstein's house and performing a sexual massage?

A Yes, on or about that day.

Q On or about that date, what did [redacted] state about being paid?

A She was paid $200.

Q And that relates to Overt Act Number 3?

A Yes.

Q And she stated that Mr. Epstein is the person who gave her that?

A She told us that in her statement.

Q If you could take a look at Overt Act Number 95, which is on page 17. On or about February 6, 2005, Epstein had Jane Doe Number 1 to make one or more telephone calls to Jane Doe Number 2.

First of all, who is Jane Doe Number 2?

A That would be [redacted], our youngest victim.

Q Can you tell us what evidence you have related to that overt act?

A We have the girl's statements that calls were made. We also reviewed the phone records that indicated that there was telephonic contact between the numbers belonging to [redacted] and [redacted].

Q And in the statement of both girls, did they describe that [redacted] is the person who called [redacted] looking for someone to come and work at Mr. Epstein's house?

A Yes.

Q Looking at Overt Act Number 96. On or about February 6, 2005, Epstein caused Jane Doe Number 1 to transport Jane Doe Number 2 to 358 El Brillo Way.

What is the evidence related to that?

A Again, the statements of [redacted] and [redacted] support that as further evidence, and also reviewing the phone records they indicate that there was telephonic contact between [redacted] and [redacted] and [redacted] and [redacted].

Q Overt Act Number 97, on or about February 6, 2005, Epstein made a payment of $300 to Jane Doe Number 2 and a payment of $200 to Jane Doe Number 1.

What was the evidence of that?

A Both [redacted] and [redacted] stated in their statements that [redacted] was paid $300, and [redacted] was paid $200 for bringing [redacted].

Q Did [redacted] explain why she was paid $300?

A Yes, she was paid $300 because she performed her massage. Mr. Epstein [redacted] and [redacted] a [redacted] on [redacted].

Q After this date, after February 6, 2005, was

$300 found in [redacted]'s purse when it was searched at her school?

A Yes, it was, by a school administrator.

Q If you could look at Overt Act Number 117, which is on page 19, and that states that on or about March 30, 2005, [redacted] caused one or more calls to be made to a telephone used by Jane Doe Number 1.

What evidence do you have related to that?

A We reviewed the phone records of [redacted] and [redacted] that indicate this.

Q And Overt Act 120, on or about March 31, [redacted] caused one or more calls to be made to a telephone used by Jane Doe Number 1.

A Again, we reviewed the phone records that indicated there was telephonic contact between the numbers belonging to [redacted] and [redacted].

Q Then we have Overt Act Number 122, which is also March 31, that Epstein and [redacted] caused Jane Doe Number 1 to make a call to a telephone used by Jane Doe Number 2.

What evidence do you have related to that?

A We have phone records that we have reviewed belonging to [redacted] and [redacted]. In this case, we also have a voice mail that was provided to us by the Palm Beach Police Department, a voice mail of [redacted] leaving a voice mail message on [redacted] phone.

Q And Overt Act Number 123 refers to April 1st. What evidence do you have related to that?

A We have reviewed the phone records of [redacted] and [redacted] that indicate telephonic contact was made on this day. We also again have another recorded voice mail by [redacted], left on [redacted] phone.

Q These later calls, the March-April calls, are those the controlled calls that the Palm Beach Police Department was involved in?

A There was controlled calls placed to [redacted] cell phone and to [redacted] place of work by [redacted], under the supervision of the Palm Beach Police Department.

Q And the voice mail message that you referred to of [redacted] calling [redacted], what information was [redacted] leaving in that voice mail message?

A [redacted] was asking for [redacted] to get back in touch, that she had set up an appointment for [redacted] at Epstein's house on the following day, on that Saturday at around 10:30 or 11:00.

Q In addition to the phone records, was there anything that the Palm Beach Police Department found that also confirmed that this appointment actually was made.

A As I mentioned earlier, the Palm Beach Police Department was doing trash pulls on Mr. Epstein's residence. In there, there were two messages or notes in

there on Epstein's personalized stationary. On it it said, "[redacted] with [redacted] on Saturday at 10:30, and [redacted] on Saturday with [redacted] at 10:30." That's the exact message on the two notes that were found in his trash when they retrieved it on April 8.

Q If I could direct your attention to Count Number Five, which appears on page 26. That is the charge of enticement of a minor, referring to Jane Doe Number 1, and Mr. Epstein and [redacted] [redacted] are charged.

I know that you talked about the telephone traffic. The calls between [redacted] and [redacted], did they fall within that March 7 through March 11 time period?

A A review of their telephone records do indicate that there were phone calls made during that time.

Q And Jane Doe Number 1 actually went to Mr. Epstein's home?

A Yes, and performed a massage for him in the nude.

Q And she was paid for that?

A Yes, she was paid $200.

Q And he [redacted], correct?

A Yes, he did. I would like to include that [redacted] [redacted] took [redacted] upstairs for that massage, and she also set up the massage table and arranged the oil and lotions

for [redacted] to do that massage.

Q And also, just so it's clear, how old was [redacted] at that time?

A She was 17.

[redacted]: Are there any questions about either how that evidence was presented or about the charges related to Jane Doe Number 1? Seeing no questions, we'll turn to Jane Doe Number 2.

BY [redacted]:

Q You previously mentioned that that was [redacted]?

A Yes.

Q Let's turn to Count Number Six, which is on page 26, which is the enticement of [redacted] If you could tell the grand jury about the evidence related to that.

A [redacted] date of birth is [redacted].

Q So during this period of February 5, 2005 to the 6th, how old was she?

A She was 14.

Q Can you remind the grand jury about the evidence related to the enticement of [redacted].

A As we stated earlier, we talked about the telephone calls. We have shown that the facility of interstate commerce was used by the telephone calls made by their cell phones. We examined specifically [redacted], [redacted] and [redacted]. Those calls were made to

set up and arrange appointments for Mr. Epstein to have his massages.

Pertaining to [redacted], during the massage that occurred on those dates, February 6, in particular, I think I have discussed with you before what occurred on that, that he [redacted] -- and that was his term for it -- and that he [redacted].

He did [redacted] during that massage, and she [redacted]. She was paid $300, and we know that she was 14 at the time.

Q If we could turn to Count Number 43, which appears on page 31. Count 43 is one of the travel counts. If you could tell the grand jury, did a trip occur on March 31, 2005?

A Yes, we have flight records that indicate a flight occurred on that date.

Q What type of plane was used?

A I'm going to refer to the J.E.G.E., Incorporated aircraft as just the Boeing 727. If we talk about the Hyperion Air, Incorporated aircraft, which is the Gulf Stream, I will just say the Gulf Stream. So on that date he did travel on his Boeing 727, on 3-31.

Q And Mr. Epstein was aboard the plane on that day?

A Yes, he was.

Q With respect to the March 31st trip, was there evidence of him setting up the appointment with [redacted] prior to that trip?

A We do have telephonic contact between [redacted] and [redacted], as well as [redacted] and [redacted] on the day before and the day of travel.

Q And even though that appointment was never kept, that [redacted] never went to that appointment, you have the notes that were retrieved from the garbage that showed that Mr. Epstein was expecting [redacted] to show up for that appointment?

A Yes.

Q Anything else with respect to that particular count?

A We also have the controlled calls and the voice mails.

Q Turning to Count Number 60, which appears on page 34, that is the attempted enticement of [redacted] during the period of March 30 to April 1.

Again, at that point, [redacted] was how old?

A She was 14.

Q And we had talked about the telephone calls that were used. One of the things that is relevant to this particular count was that in addition to the fact that

[redacted] was 14, did you interview a girl who went with [redacted] when she went to Mr. Epstein's house back in February?

A Yes, we did, that would be [redacted]

Q And [redacted] was interviewed?

A Yes, she was interviewed by the Palm Beach Police Department.

Q What did [redacted] say about [redacted] appearance?

A That she was the youngest looking girl that came.

Q When you talked with [redacted], did [redacted] talk about girls that Mr. Epstein liked in particular?

A Yes.

Q And was [redacted] one of those girls?

A Yes, she was one of his preferences. [redacted] also told us that Mr. Epstein said to her on one occasion, "The younger, the better."

Q And there was never any attempt to get [redacted] I.D. or to confirm her actual age?

A No.

Q As we discussed before, [redacted] never actually went to that point, right, so that is just an attempt?

A Yes.

[redacted]: Are there any questions from the grand jury? Seeing no questions, we'll see you next

week. Thank you.

(Witness excused.)

CERTIFICATE OF REPORTER

I CERTIFY pages 1 to 35 is a true transcript of my shorthand notes of the testimony of [redacted], before the Federal Grand Jury, West Palm Beach, Florida, on the 8th day of May, 2007.

Dated at West Palm Beach, Florida this 23rd day of May, 2007.

Philip W. May

Philip W. May, Court Reporter

FULL SET
OF GJ
TRANSCRIPTS —
FOR SCANNING

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EFTA00009586

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

COPY

RE: OPERATION LEAP YEAR

_____/

- - -

TESTIMONY

OF

[redacted]

- - -

Federal Grand Jury 07-103
Federal Building
U.S. Courthouse
West Palm Beach, Florida
Tuesday, April 24, 2007

APPEARANCES:

[redacted],
Assistant United States Attorney

[redacted],
Foreperson

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EFTA00009587

The sworn testimony of [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, Federal Building, U.S. Courthouse, Palm Beach County, State of Florida, on Tuesday, April 24, 2007.

Paula E. Angelocci, Certified Court Reporter and Notary Public, State of Florida, Official Reporting Service, LLC, 524 South Andrews Avenue, Suite 302N, Fort Lauderdale, Florida, 33301, was authorized to and did report the sworn testimony.

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(Witness enters the Grand Jury Room.)

THE FOREPERSON: You do solemnly swear that the testimony you give will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE FOREPERSON: Thank you. Please be seated.

EXAMINATION

BY [redacted]:

Q Good afternoon, Ms. [redacted]. Could you state and spell your name for the record?

A [redacted].

Q And where do you currently live?

A I live -- do you want me to give the address?

Q Sure.

A [redacted], West Palm Beach, Florida 33412.

Q Okay. And you are living with your parents now?

A Yes.

Q Were you served with a subpoena to appear before the grand jury today?

A Yes.

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Q And do you understand that an order was signed by a judge compelling you to appear and answer questions?
A Yes.
Q And that order states that what you tell the grand jury won't be used against unless you perjure yourself?
A Yes.
Q Do you understand that you are under oath, and if you don't tell the truth --
A I can go to jail, yes.
Q Okay. Let's start with where you went to high school.
A [redacted].
Q How old are you today?
A Twenty-one.
Q And what is your date of birth?
A [redacted].
Q What year did you graduate from [redacted]?
A 2004.
Q And where are you currently working?
A I currently am not working.
Q But you are [redacted]?
A [redacted].

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Q Where will that be?
A Fort Lauderdale, Coral Springs.
Q What type of position will that be?
A [redacted].
Q Have you worked since the time that you graduated from high school?
A Uh-huh.
Q Can you tell the grand jury what type of jobs you have had?
A I worked at [redacted]. I worked in a club up in Orlando as [redacted] as well. I have also worked at a sports bar as a waitress.
Q When you were in high school, where did you work?
A [redacted] and [redacted].
Q And do you know Jeffrey Epstein?
A Yes, I do.
Q Can you tell the grand jury how you first came to meet Mr. Epstein?
A I met Epstein through two acquaintances, [redacted] and [redacted], and I met them at a beach resort. They made a proposition to me. Later then I picked them up and they gave me directions to the house and that's where I was formerly introduced

to Mr. Epstein.

Q. Okay. And let me just go back over that a little bit. You mentioned that you had two acquaintances, [redacted] and [redacted], and you met them at a beach resort, correct?

A Yes.

Q And you said that they made a proposition to you. What was that exactly?

A [redacted] had asked me if I wanted to make money and she was working for this guy, Epstein, in Palm Beach. So I told her I was interested and she further went into detail about massaging him, that you would have to take off articles of clothing and there would be touching and fondling involved.

Q How old were you when this happened?

A About 16.

Q And how old was [redacted]?

A Same age.

Q And how did you know [redacted]?

A We went to [redacted] together.

Q And she was in your same grade in high school?

A Yeah.

Q And you mentioned that [redacted] had

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previously worked for Epstein or was currently working for Epstein?

A Yes, that's right.

Q So they explained this proposal to you and you said that you would be interested?

A Yes.

Q What happened next?

A Within a couple of days to a week I picked them up and I went to his house to work for him and I was introduced to [redacted], who is his assistant. She took me upstairs to Epstein's bedroom and that's where the massage took place.

I was naked and he tried fondling me and I wouldn't have it, so after the massage he gave me another proposition to bring girls to the house and for every girl that I brought I would make $200.

Q All right. We'll go back over that a little more slowly. I know this is a lot of information. So let's go back to the proposition that [redacted] and [redacted] made to you.

Did they say you would be paid for massaging Mr. Epstein?

A Yes.

Q And how much would you be paid?

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A $200.
Q Now you said that they had told you that you might have to take your clothing off?
A They told me that I was expected to take my clothing off and that there would be fondling.
Q Okay. And what -- did they explain what fondling meant?
A Just that he'd be touching me.
Q Okay. And so you agreed to do that and you went to Mr. Epstein's home?
A Correct.
Q And where was that located?
A Palm Beach, Brillo Way.
Q B-R-I-L-L-O?
A Yes.
Q And when you arrived at the home, you said that you were driving with [redacted] and [redacted]?
A That is correct.
Q Tell us how you got into the house.
A We went through a gate on the side of the house that led to the back and we just rang the doorbell and [redacted] answered the door and we were standing in the kitchen and then [redacted] brought me upstairs.
Q Okay. Now did you have any -- did [redacted]

tell you anything about what you would do when you got upstairs?

A No, she never discussed that with me.

Q Did she say anything to you about taking your clothes off?

A No, she never discussed that with me.

Q Okay. When you arrived upstairs, you said that you went into a bedroom?

A That is correct.

Q What was in the bedroom?

A It was a bedroom that had a door that led to then I want to say a bigger more than just a bathroom. It was a bigger room with like a pretty large size walk-in closet, a shower, a steam shower, and then two sinks on the right, and in the middle laid the massage table, and then to the left there was two couches.

Q And so the massage table was already set up when you arrived?

A That is correct.

Q Okay. And after [redacted] led you up to the bedroom, what did she do?

A She had left and that's when Epstein came in.

Q Okay. And when Mr. Epstein came in,

what was he wearing?
A He was wearing a towel.
Q Okay. And nothing else?
A Nothing else.
Q And what did he do?
A He laid on the table and that's when the massage began and later on he -- when he got in, I took off my clothes and I was just wearing my bottoms, and he later tried to touch me and he grabbed my butt, and that's when I had a problem. I told him that I didn't feel comfortable.
So later he took the towel off and he was laying on his back and he [redacted] asking me to [redacted] and then after that everything was done.
Q Okay. So when Mr. Epstein [redacted] then the massage or whatever was over?
A Yes, it was.
Q And once that happened, what did he do?
A Just got up and dried himself off and then walked me downstairs.
Q And you got dressed as well?
A That's right.
Q And when you got back downstairs, what

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happened?
A I went back into the kitchen and he pulled [redacted] and [redacted] aside and then we just left. Of course, I got paid.
Q Okay. And tell us where you got paid, who paid you, and how much you received?
A Epstein paid me. I received 200, but I cannot recall if it was upstairs that he paid me or if he waited until I got back downstairs.
Q Okay. And when he paid you the $200, was it in small bills, large bills?
A Big bills, 100s.
Q Okay. So two 100 dollar bills. And you said that he pulled [redacted] and [redacted] aside. Do you know what that was about?
A He would never pay them in front of me. He always was funny about that. So I'm sure it was just paying them for bringing me.
Q Okay. And you mentioned that you told Mr. Epstein that you were uncomfortable with him touching you?
A That's correct.
Q And what became of that?
A Later on before I left he had addressed me to not massage him anymore, but asked me if I

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could bring girls over and for every girl that I brought to the table he would pay me $200.

Q Okay. So you weren't comfortable with him touching you, so you weren't going to do any more massages?

A No.

Q He wanted you to find other girls?

A That's correct.

Q And he wanted girls that would let him touch them?

A Uh-huh.

Q After that first massage, did you perform any other massages at his house?

A Absolutely not..

Q Did you bring girls?

A That's correct.

Q Tell us how you started to bring girls to Mr. Epstein's house.

A Just girls that I met in high school, acquaintances, people that I just said hi and bye to. A lot of them actually heard about it through a couple of girls that I brought and they were interested.

Some of the girls asked me about it. Just girls in school I'd talk to, just get on the

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subject. They had no problem with it.

Q Okay. So when you found a girl that you thought would be interested, what exactly would you tell her?

A I asked them if they were interested in making extra money and that I knew an older wealthier man in Palm Beach who liked to have massages and they would get paid $200.

The more they did, the more they make, and I would explain to them in detail what was expected of them when they showed up at the house and I also told them that if they are under age just lie about it and tell him that you are 18.

Q Let's talk first about what you said that you tell them what was expected of them.

A Yes.

Q First of all, why did you tell them that?

A Because that's what I was told.

Q By whom?

A [redacted] and [redacted].

Q Okay. And did Jeffrey Epstein ever address you about don't bring girls over here if they don't know what's going to happen?

A Absolutely.

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Q Okay. So all the girls were supposed to know that when they got there they would be undressing?

A They would be undressing. There would be touching. There would be fondling. He was very big on that. He told me never to bring a girl over unless they knew what was expected.

Q Okay. And did you also tell them that he would [redacted]?

A I didn't really talk to them about that. I didn't know if he did it with everybody or it was just with me that he did that.

Q But you told them that they all would have to be partially naked or fully naked?

A Partially to fully naked and there would be touching and fondling.

Q Okay. How many girls do you think you took to Mr. Epstein's house?

A Seven, between seven to ten.

Q Okay. And were there any -- in addition to this rule about the girls had to know what was expected, did Mr. Epstein have any other rules in terms of what the girls looked like or what he liked?

A No.

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Q Okay. Were there girls that you brought that he didn't like?

A There were a few girls he wasn't crazy about. He didn't really like. He didn't favor. [redacted], for instance, 23, he thought she was kind of too old.

Q Okay. So you brought a girl named [redacted], who was 23 years old?

A Yes.

Q And you were told that she was too old?

A Yes.

Q Did you ever bring her back?

A No.

Q What about any other girls that he didn't like?

A This other girl I went to high school with, [redacted], she was maybe a year younger, and him and her got [redacted]. I told her in detail what was expected and she, to me, was all for it and then when she got there, decided she didn't want to perform what was necessary. So they got [redacted] and after that I never really brought her back.

Q Okay. And did either Jeffrey Epstein

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or [redacted] say anything to you about what happened with [redacted]?

A He had made a comment just about -- I had asked -- he had asked me for someone to come over and work and when I suggested [redacted], he kind of nodded, not really interested. He told me to find somebody else. So I assumed that meant he really didn't care for her.

Q Okay. Now the -- you mentioned [redacted], who was 23. What was the age range of the other girls that you brought to Mr. Epstein's home?

A High school, 16 to 18.

Q Were there any girls who were younger than that?

A Yes.

Q Who was that?

A [redacted].

Q And how was she?

A She was 14.

Q Okay. Now you were interviewed by the Palm Beach Police Department?

A That's correct.

Q And during that interview, you told them that there were two ways to make money with Jeffrey Epstein. Can you explain to the grand

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jury what those two ways are?

A The more you did is the more you make. Basically, the more clothes that come off, the more you let him touch you, the more you just let him have his way with you is the more that you would make, otherwise, you would be demoted down to bringing girls over and just making money that way.

Q And that's what you were doing?

A That's correct.

Q Was bringing girls?

A That's correct.

Q If you could explain to the grand jury how you would go about making an appointment for a girl to come and give a massage?

A His assistant there would call me either before they got into town or while he was in town and either she would ask me for a particular girl, preferably one that he favored, or if I couldn't get a hold of that girl just bring somebody over to work.

I would call the girl. She would okay it. I would call [redacted] back, confirm it, set an appointment, and then the next couple of days we'd go.

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Q And was [redacted] the person that you always made the appointment with?

A Always.

Q Do you remember ever talking to Jeffrey Epstein on the telephone?

A Never. The only time I talked to him was physically in person at his house.

Q Okay. [redacted] was really the person that you had to--

A Deal with.

Q Okay. Now you mentioned that sometimes [redacted] would request a specific girl?

A That's correct.

Q Did she give you any reason why he really liked this girl or just is this girl available? What would happen on those calls?

A If it was a specific girl, she would call me and just ask: Can this girl work? She would never give me a reason. She would never go into detail. It was just: Can she work, yes or no?

Q And [redacted] was saying to you can she work?

A I can't recall if those were her exact words. I can't remember if it was: Can she come

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over and massage or can she work? I don't recall the exact words.

Q Okay. And once you made those appointments then who would normally take you and the girls to the house?

A I would.

Q Okay. And you would drive?

A I would drive.

Q And were all -- was this always taking place at Mr. Epstein's home?

A Yes.

Q On Brillo Way?

A That's correct.

Q When you spoke with [redacted] [redacted] on the telephone, did you -- were all of these conversations about setting up these appointments?

A When I would talk to [redacted]?

Q Yes.

A Yes. It would be pure business whenever I talked to [redacted].

Q So you didn't have any sort of friendly relationship?

A No friendly relationship, never socialized unless I was at the house. It wasn't like that at all.

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Q Okay. Now when you would bring a new girl over to the house, what would you do?

A Walk up the same way towards the back of the house. They would let us in. I could sit in the kitchen with the girl. I would either wait for [redacted] to come in or Jeffrey. Most of the time it was [redacted].

[redacted] would bring the girl upstairs while I waited downstairs. After the massage, the girl would come downstairs. I would get paid and then we would leave.

Q Tell us how you would get paid when you were the person who brought the girls.

A What do you mean how I would get paid?

Q Who would pay you?

A Jeffrey Epstein would pull me aside whether it be in his, I guess, living room slash office. He would just make sure that when he paid me, it was just me and him, nobody else was around.

Q And how much would you get paid for each girl?

A $200.

Q And again with the two 100 dollar bills?

A Always 100 dollar bills.

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Q Did you ever see the girl who actually did the massages get paid?
A No, I never saw them get paid. He never paid us in front of each other.
Q Okay. Did the girls ever tell you that they did get paid or how much they got paid?
A Most of the time.
Q Okay. And how much money would each girl get paid?
A It ranges.
Q From?
A It ranges from 200 to some got paid 300. Like I said, the more you do, the more you make. There were a couple of girls that got paid 300, 400, and then there were a couple of girls that got paid 200 maybe even 100.
Q Now you mentioned that usually [redacted] would take the girl upstairs?
A That's correct.
Q Were there ever instances where you took the girl upstairs?
A Very rarely. I think it happened once or twice where [redacted] was doing something or she would need me to go upstairs and set up. I would just go upstairs. I would show her where the

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massage table was.

I would set it up for them. I would show them where the towels were, put the towels on the massage table and then I would tell them Jeffrey would be in, in a minute and then I would walk back downstairs and wait in the kitchen.

Q Okay. And when you were in these other instances where you led the girl upstairs, besides the massage table, did you ever see any other implements that were used during the massage?

A I think there were maybe a few occasions where I would walk upstairs to show the girl or maybe it was even when I first massaged him, there was like a white [redacted] on the table or a white [redacted].

Q And can you describe that to the grand jury?

A What it looked like?

Q What it looked like, yes.

A It was like a [redacted]. It was really [redacted]. The [redacted]. It was white. I think the top of it was maybe like pink. It was [redacted], that's all I remember.

Q Okay. And did any of the girls ever tell you that that [redacted]?

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A Yes.
Q Okay. Now I'm going to run through the names of some girls that you brought just to confirm with the grand jury that you brought them.
A Okay.
Q [redacted]?
A That's correct.
Q [redacted]?
A Correct.
Q [redacted]?
A Correct.
Q [redacted]?
A Yes.
Q [redacted]?
A Yes.
Q [redacted]?
A Yes.
Q And then there is another girl, [redacted]?
A [redacted] never, ever, ever worked for Jeffrey. She accompanied me to his house I think once or twice and waited in the kitchen with me, but she never worked for him.
Q Okay. But she was somebody that you brought along with you?

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A That is correct.
Q On visits?
A Yes.
Q Okay. In addition to those girls that -- who I just named, you mentioned a woman, [redacted], who is 23?
A Uh-huh.
Q Were there any other girls that you recall bringing to Jeffrey Epstein's house?
A I cannot recall bringing anybody else.
Q Okay. Now one of those girls that we mentioned was [redacted] [redacted], correct?
A Yes.
Q And you told the police that Jeffrey liked [redacted] the best?
A Yes.
Q How old was [redacted]?
A She was around the same age as me, maybe a grade lower than me.
Q Okay. So she was under age?
A Yes, correct.
Q And all of those girls who names I read were under age when you brought them there?
A Except for [redacted].
Q Okay. What did [redacted] look like?

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A [redacted] was [redacted]. She kind of looks [redacted], but she's [redacted], maybe. She had a [redacted]. She had [redacted] [redacted].

Q Was she thin or heavy?

A No. She was maybe -- she had a [redacted] [redacted] figure, maybe a little [redacted] than me.

Q And how tall do you think she was?

A About 5'5, 5'6.

Q Okay. And you knew that Jeffrey liked [redacted] because he would specifically request her?

A There was a few occasions that he would specifically ask for her, correct.

Q Okay. And you mentioned that some of the girls told you about the [redacted], correct?

A Yes.

Q Did some of girls tell you what happened inside of that bedroom?

A A few of them did.

Q Let's talk first about [redacted] [redacted].

A Okay.

Q Did she tell you what happened?

A All that she really told me was that they got into [redacted]. He had tried

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fondling her. She wasn't having it, and then she only got paid $100 and she felt like she was being ripped off.

Q Okay. What about [redacted], did she tell you about what happened?

A Yes.

Q What did she explain to you?

A [redacted], on the way home, had told me she got paid $300, and basically let him [redacted] and [redacted].

Q Okay. And she told you those things?

A She told me those things.

Q That he had [redacted] and had [redacted]?

A That's correct.

Q Okay. And that was -- when did she tell you that?

A Right when we got outside into the truck.

Q As you were driving away?

A That's correct.

Q Do you remember which other girls told you about the [redacted]?

A I can't recall. I know there was another one that said something about the

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massager, but I wasn't really paying attention.
Q Now when you first went and gave Mr. Epstein the massage, did he ask for your telephone number after you were finished?
A No, [redacted] did.
Q [redacted] did. And she took down your telephone number?
A She took down my name and my telephone number.
Q After that, how was all contact made with you?
A [redacted].
Q Directly to you?
A Directly toward me.
Q Okay. So were there any more instances where she went either through [redacted] or [redacted] to reach you?
A Absolutely not.
Q Okay. Now when you brought girls over was it the same thing where they would ask for the girl's name and number?
A Yes.
Q And when that happened, would they continue to go through you to set up appointments?
A Most of time they went through me.

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Actually 99.9 percent of the time they went through me. On a few occasions, the girls that they liked the best, for instance, [redacted], after a while me and [redacted] stopped contact with each other and Jeffrey just went strictly through her.

Q Okay. And when an appointment was made directly with the girl, you wouldn't necessarily know about it?

A I would not necessarily know about it.

Q And when the appointment was made directly with the girl then you wouldn't get paid, correct?

A Correct.

Q Did you hear or do you know whether some girls that you brought, brought more girls?

A Yeah, I'm sure of it.

Q Okay. When did you first meet [redacted]? Was it that day that you went to give the massage?

A That's correct.

Q And how did you first meet her?

A Just walking in the kitchen and waiting for somebody whether it be Epstein or [redacted]. [redacted] came and introduced herself as [redacted] and I learned that she was Epstein's assistant.

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Q And you said that she was the one who took you upstairs on the first day?

A That's correct.

Q And we were talking earlier about how appointments would be made for you to bring additional girls, correct?

A Yes.

Q How far in advance would [redacted] call you to make appointments?

A It depends. Sometimes she would call me a few days in advance. Jeffrey is going to be in town tomorrow or this weekend, have a couple of girls lined up or have a girl lined up. So it would be anywhere between a couple of days to a weekend.

Q Okay. Did you ever talk with [redacted] or did [redacted] ever tell you anything about what Jeffrey liked to do with the girls?

A Absolutely not. We never discussed that.

Q Did you ever talk with her about a rumor that you had heard that a girl had intercourse with Jeffrey?

A One day I was talking on the phone with [redacted] and I addressed her with it, asking her

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about a rumor I heard of a girl sleeping with Jeffrey, having intercourse, and making $1,000, and she denied it and said that he doesn't do that kind of thing, he just plays with them.

Q Okay. So she said that he didn't have intercourse, he just liked to play with the girls?

A That's correct.

Q And when you spoke with the police, you said that Jeffrey liked to [redacted]?

A That's correct.

Q What led you to believe that?

A He just did it. I just learned that Epstein just [redacted]. It was like the new thing for him, and it just started happening and more and more girls were making comments.

Q So did [redacted] know that he was [redacted]?

A Not that I know of. I didn't say anything and I don't think she had an idea. I think she knew there was playing going on. I don't think she knew of what sort.

Q Okay. So she knew that something sexual was going on, but not necessarily what that

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entailed?

A Correct.

Q Okay. Did Jeffrey or [redacted] or anyone else who worked for Mr. Epstein ever ask you for proof of someone's age?

A Never.

Q Did they ever specifically instruct you that you shouldn't bring girls who were under age to the house?

A Never.

Q And when you spoke with the police department you said that at some point Jeffrey said the younger the better?

A That's correct.

Q And even after that he never said to you but make sure that they are over 18?

A We never discussed age. He never made a comment about age except for [redacted] that one time about her being too old. He never told me to go find under aged girls, but at the same time never said make sure they are over 18. It was never discussed.

Q Okay. All right.

[redacted]: I'm going to ask you to step outside for a minute and I will find out

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if the grand jury has questions. Thank you very much.

(Witness exits the Grand Jury Room.)

* * *

(Witness enters the Grand Jury Room.)

BY [redacted]:

Q Ms. [redacted], I have to remind you that you are still under oath. There were just two follow-up questions. The first one is something that I think you spoke about earlier, but who first asked you to find other girls?

A Who first asked me to first other girls?

Q Yes.

A That would be Epstein.

Q Okay. So Jeffrey asked you himself, Jeffrey Epstein himself asked you?

A Yes.

Q Okay. And then the other question was: Are you currently in contact with anyone who works for Mr. Epstein or himself?

A I don't talk to any of the females that I once brought over there. I haven't been in contact with Epstein for years. He tried contacting me a few times.

I haven't contacted him back. I refuse

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to talk to him. I refuse to talk to any of the girls that were involved. However, I did live with one of the girls in Orlando for a couple months to a year. I haven't spoken to her in over a year either.

Q Okay. So after -- and just so the grand jury has a sense here, we are talking about the 2004 to 2005 period is when you were bringing girls over?

A That's correct.

Q So since then --

A I don't -- to be honest with you, I think it was more 2003, 2004.

Q Okay.

A My junior senior year.

Q Okay. But anyhow it was a couple of years ago?

A Several years ago.

Q Okay.

[redacted]: Is there any follow up on either of those points? Yes, [redacted].

A GRAND JUROR: Was it Jeffrey Epstein himself trying to contact you or [redacted]?

THE WITNESS: I don't know if it was him directly. I know that his number showed up

on my house phone. I'm assuming because [redacted] was there, I'm assuming that she is the one that has been trying to contact me in the past years. Epstein never talked directly to me on the phone.

[redacted]: Any other follow up? Okay. Thank you, [redacted]. Thank you for coming.

(Witness was excused.)

CERTIFICATE OF REPORTER

I, Paula E. Angelocci, Certified Court Reporter and Notary Public, do certify that the transcript is a true and correct transcription of my stenotype notes of the testimony of [redacted], taken before the Federal Grand Jury, West Palm Beach, Florida.

Paula E. Angelocci

PAULA E. ANGELOCCI, CSR #4869
Certified Court Reporter

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[redacted] > GJ Test. 7/19/2006

[redacted] dob 16yoa

[redacted] - Loxahatchee

2005 [redacted] 9th grade

[redacted] was outside

18 or 19

asked to date [redacted]

~~talked to her~~ ~~met~~ for first time the night before went to JE

11:30 ish 10

do you want to make 200.00

met my friend Jeff Righouse

but you have to give massage 45 min & that's all you have to do get 200.00

[redacted] told [redacted] [redacted] & [redacted] went to Bathroom to argue

case back out [redacted] called Jeffs on the phone. Assistant answered the phone

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Jeffrey asst answered phone - [redacted] had someone to give message
Lady asked how old I was

she told the lady 18 & went to [redacted]

Its 200.00 didnt care what

[redacted] - Lady trying to verify 18
Yes

Graduated from [redacted] KNOWN [redacted] for along time

the next morning

[redacted] & another girl - going to Mall
he didnt care

[redacted] asked dad for 5th yeh sure give him
Hour in Palm Beach

all got out of car gate at back door security guard
He saw us He asked us why we

EFTA00009623

[redacted] said Jeffrey

Went to kitchen waited 15 min

JE + asst walked in back door

shook hands met both JE asst.

① JE chose gonna go first

JE said how About you

[redacted] upstairs "asst lady"

walked me up there she was pointing out all this picture

She pulled out massage table in front of couch blanket over table opened drawer whole bunch of lotions + pick some out

She told me keep bra + panties on + get undress

No [redacted] told her I thought a massage keep your clothing

stay in the room

I came in the room [redacted] shirt heels

came back in the room

JE did soish

initially going golfy. khaki pants pullover

t-shirt & jeans thong bra

hesitant thinking what is going on. I didn't care
cause I wanted 200.00

He laid on massage table He said grab any
3 lotions

Started to give him

What M.S. did you go to
told him she was LE
What do you like to do small talk
[redacted]

sat on table 15-20 minute
conversation another house in NY

EFTA00009625

He asked if I wanted to make an extra 300.00.

Straddling him

massage over -

but if you're not going to give a massage can I [redacted] or you [redacted] said ok

TE left + came back

[redacted] kind of like a [redacted]

grabbed that + layed down back on table

Give me a massage on chest use the [redacted] 10 minutes or so

(after a couple minutes on [redacted]

[redacted] said if he did that he would have to pay her extra money if he >

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[redacted] didnt tell her that she would have to
~~get naked~~ take her
clothes off
He [redacted] you get paid
[redacted]
Yes sir [redacted]

He opened wallet got ~~the~~ 300.00
He told her to write Name ##
after that left the room
I didnt see him [redacted]

I was scared to tell
[redacted] her body
Not his body

Went down by herself
left They didnt do anything but [redacted] got 200.00 dollars

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EFTA00009627

I figure it was probably because she brought me

- What happened I got 300.00
I was exited

What did you have to do with him

If you do this you get that

Laughing Thanks for telling me I was going to
touch his thing Oh sorry.

Didnt plan it

If you ever need money

Oh yeh - everybody

I did not ever go back to house

- at school my best friend I told her if you ever want to make 300.00 massage

Told [redacted]

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EFTA00009628

[redacted] telling everybody
I confronted her altercation get into
a fight [redacted]

Spreading rumors about me
let me see in your purse
you dont have to lie to Shelond
I worked at [redacted]

I didnt think it was her business
and why would tell on myself

- You dont have to lie I know what
happen
- Everything come out
- [redacted] then
I didnt want to tell them what
had happened,
- I [redacted]
[redacted] -
Family Getty along problems
- No the only [redacted] sometimes

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EFTA00009629

[redacted] Have you ever done [redacted]

Survey – Yeh

[redacted] not anymore

14 birthday my dad

I did [redacted] lots of time

$250,000 its a joke

tall skinny blonde hair

Control Call [redacted] / [redacted]

8/31/2005
3:44pm

[redacted]

4:26pm

Im going tomorrow I'll +
I dont
What
The more you do the more you make
put a schedule tomorrow for
you + [redacted]

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE: OPERATION LEAP YEAR

----------/

Grand Jury #07-103 (WPB)
West Palm Beach, Florida
Tuesday, February 6, 2007

TESTIMONY

OF

[redacted]

APPEARANCE:

[redacted], ASSISTANT U. S. ATTORNEY
[redacted], FOREPERSON
[redacted], COURT REPORTER

OFFICIAL REPORTING SERVICE [redacted]

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PROCEEDINGS

- - -

The sworn testimony of [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, 701 Clematis Street, West Palm Beach, Palm Beach County, State of Florida, on the 6th day of February, 2007.

[redacted], Registered Merit Reporter and Notary Public was authorized to and did report the sworn testimony.

Thereupon,

[redacted],

a witness of lawful age, having been first duly sworn by the foreperson, testified on her oath as follows:

BY MS. [redacted]:

Q Special Agent [redacted], please state and spell your name for the record.

A It is [redacted] and I work for the FBI in Palm Beach County.

Q Can you spell your last name, please.

A I'm sorry, it is [redacted]

Q And I know we have some people in the back having trouble hearing you. You said that you work for the FBI. Can you tell the Grand Jury what particular group you are employed with?

A I am with the Violent Crimes Squad here in

EFTA00009633

Palm Beach County, I work primarily crimes against children, but have been an agent for the last approximately 10 years.

Q Have you received specialized training in the area of crimes against children?

A Yes, I have.

Q As part of your employment with the FBI have you been involved in an investigation of Jeffrey Epstein?

A Yes, I have.

Q And can you tell us who Jeffrey Epstein is?

A Jeffrey Epstein is an investment advisor who has a part-time residence in the town of Palm Beach, he has got multiple residences across the country to include a ranch in New Mexico, an island in the Virgin Isles, and multiple aircrafts, two airplanes and a helicopter to be exact, and --

Q And where is his primary residence?

A His primary residence, he has an office in New York, but his primary residence I believe is the island.

Q In the Virgin Islands?

A Yes.

Q He also has a home in New York, correct?

A Yes.

Q How is it that you started investigating

Mr. Epstein?

A The Palm Beach Police Department in March of 2005 initiated an investigation on Mr. Epstein involving multiple underage females that had visited Mr. Epstein's residence and had performed sexual massages or massages for Mr. Epstein of a sexual nature.

Mr. Epstein paid the underage females anywhere from 200 to $400, that investigation was around an 8 to 10-month investigation, and at that point we became involved in about July of 2006.

Q And once the case was presented to you by the Palm Beach Police Department did the FBI open its own investigation?

A Yes, yes, we initiated our investigation in July of 2006, we took a look at focusing in on the underage minors and in our investigation we interviewed many of the girls that were underage and we did an independent investigation issuing Grand Jury subpoenas as well as administrative subpoenas getting different documents of financial records, telephone analysis, flight manifests, looking to see if Mr. Epstein engaged in sexual activity with these females.

Q All right. And just so the Grand Jury is clear, were some of the girls who went to Mr. Epstein's house 18 or older?

A Yes.
Q And then there were some that were under the age of 18, correct?
A Yes.
Q And as part of the federal investigation did you have to investigate what we call the interstate nexus aspect of the case?
A Yes.
Q And can you explain to the Grand Jury what that is?
A We looked at -- Mr. Epstein, as I mentioned earlier, has two aircrafts, and we focused in on the year 2004, 2005, he took approximately 60 trips to his residence in Palm Beach, the majority of that time focusing in on his assistant's cell phone, which his assistant's name is [redacted], we took a look at her cell phone records and the majority of the times that Mr. Epstein would fly into Palm Beach Mrs. -- Ms. [redacted] would contact many of our underage victims either prior to coming into Palm Beach, the day of, the day before, even the day after, and certainly throughout the time that Mr. Epstein was at his residence in Palm Beach.
Q And from the interviews of the girls that have been conducted, what was the subject of those telephone calls?

EFTA00009636

A Can you restate the question?

Q Sure. From the interviews of the girls that have been conducted, what was the subject matter of the telephone calls from [redacted]?

A [redacted] would schedule the underage girls to come and work, perform the massages for Mr. Epstein, so she was responsible, she as well as another assistant, [redacted], they were his personal assistants who would set up appointments for Mr. Epstein for the girls to come and perform their sexual massages.

Q All right. Is [redacted] also considered a target of this investigation?

A Yes, she is.

Q And I will just -- I will spell [redacted] for the Grand Jury. The first name is [redacted] and the last name is spelled [redacted], and does Ms. [redacted] have a new last name?

A Yes, she does, she is married and her name is [redacted].

Q [redacted]. Is Ms. [redacted] at least a subject of this investigation, in other words, you are investigating her activity?

A We are looking at that.

Q In addition to those two assistants, from the

interviews of the girls, is there anyone else who is associated with Mr. Epstein who is thought to be involved in this activity?

A [redacted] has been referred to as his companion, girl friend, personal assistant, she through the testimony of the girls has engaged in sexual activity with at least three of the underage minors.

Q And [redacted] is [redacted]. So Ms. [redacted] is also at least a subject of the investigation, correct?

A Yes, she is.

Q Now, as part of this investigation you mentioned that subpoenas were issued on behalf of either the old Grand Jury or this Grand Jury.

Can you run through what subpoenas have been issued and what documents have been received in response to that?

A Sure. We issued a Grand Jury subpoena to Colonial Bank and we received financial records on credit card accounts and individuals.

We subpoenaed Washington Mutual and they did a search and were unable to locate records at this time. We issued a Grand Jury subpoena for Capital One and served that and that is still unresolved at this time as far as them providing documents to us.

We have subpoenaed Chase Credit Card and we have received documents from Chase. We have subpoenaed two businesses that Mr. Epstein has at least partial ownership or associated to, Hyperion Air, Inc. and JEGE, Inc., they were issued subpoenas and they have provided documentation to us.

We have subpoenaed Mr. [redacted], who is a pilot of Mr. Epstein's, and we have received documentation from Mr. [redacted]. We have subpoenaed DTG Operations, who is doing business as Dollar Rent-A-Car, and we have received car rental agreements and financial records from that business.

We have subpoenaed Royal Palm Beach High School and have received documentation regarding the students' records. We have subpoenaed three or four of the victims, [redacted] being the first, and we have received a bathing suit from [redacted].

We issued a Grand Jury subpoena to [redacted], we actually have issued [redacted] three subpoenas, and we are still working on resolving her Grand Jury material as well as testimony.

We have issued [redacted] [redacted] a subpoena, we have issued -- she also is one of our underage victims. We've issued Reimer Employment Agency a Grand Jury subpoena and we have received documentation, that is an

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employment agency located on the island of Palm Beach.

We have subpoenaed the Palm Beach Police Department for their evidence in this case and we have received that. By the way, that is the only thing that I did not bring with me today, I brought everything else, but it is rather a lot of evidence, so we will probably be bringing that to you another time.

We have issued the Clerk of Courts of the State of Florida for Grand Jury transcripts in the state matter and we have received those. We have issued the Good Samaritan Hospital for billing records and we have received those.

We have issued a Grand Jury subpoena to the Dalton School located in New York and at this time they do not have the records we have requested or could not locate those.

We have issued a Grand Jury subpoena to Extra Touch Flowers located here in West Palm Beach and we have received documentation from them. We issued a Grand Jury subpoena to Bill Hammond, another pilot for Mr. Epstein, we have spoken with him.

We have issued a Grand Jury subpoena to [redacted], another one of Mr. Epstein's pilots, and we have received documentation as well as spoken to him.

We have issued a Grand Jury subpoena to [redacted]

[redacted], who is the property manager currently for Mr. Epstein at his Palm Beach residence, and we have received documentation as well as spoken to him, and we have issued a Grand Jury subpoena to [redacted] [redacted] and have received some documentation and are still awaiting a response.

Q Now, you mentioned that you didn't bring with you the evidence that you received from the Palm Beach Police Department, but did you bring with you all of the other evidence that was received in response to the subpoenas?

A I have.

Q And is that evidence in the two boxes that are here in the front?

A Yes.

Q We will bring all of this back to you when we present the indictment, but would anyone like to look at any of the documentation today?

A GRAND JUROR: What does the documentation constitute, basically, the subpoenas?

THE WITNESS: It is primarily business records, flight manifests, stuff that came from him traveling to and from Palm Beach, credit card records, the businesses as far as the rental agreement which involves some of the underage girls

with the rental cars, and flower shop, you know.

A GRAND JUROR: Will we have an opportunity later to go through these if we need to?

MS. [redacted]: Yes, we will bring them when we present the indictment. Yes, ma'am.

A GRAND JUROR: If I should hold this for later let me know, she mentioned the hospital records were subpoenaed, could more information about why they were subpoenaed be provided at this time?

BY MS. [redacted]:

Q You can answer that.

A One of the girls that was an underage -- that was underage at the time that is involved with Mr. Epstein has had a baby and we were interested and wondering if possibly he was the father of that baby, which at this time we do not believe he was.

A GRAND JUROR: Thank you.

MS. [redacted]: A question?

A GRAND JUROR: Did the flight manifest show passengers on the plane?

THE WITNESS: Yes, they do.

A GRAND JUROR: Were any of the passengers the underage girls that were a target of the investigation?

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THE WITNESS: At this time we have not associated any of these underage girls as being the passengers. The flight manifests, sometimes the pilot if they did not know who the passenger was would put one passenger or one female, one male, these were private planes and they, you know, may not have felt like they can go up and ask, but we don't have any evidence at this time to believe that they were any of our victims.

MS. [redacted]: Any follow-up? Any other questions from the Grand Jury? Yes, ma'am.

A GRAND JUROR: The records that you subpoenaed from the high school, what were they used for or why were they instrumental in the investigation?

THE WITNESS: Those are the girls' school records and we are just looking at the girls' records.

A GRAND JUROR: Absenteeism?

THE WITNESS: Just looking at some of their grades and performances and how they did in school.

MS. [redacted]: Ladies and gentlemen, before we continue, the witness has mentioned a few names of the minors and that is confidential information, obviously everything that you hear within these

walls is confidential.

BY MS. [redacted]:

Q Now, Special Agent [redacted], after -- in addition to issuing the subpoenas, you mentioned that one of the subpoenas was to the Palm Beach Police Department. Did you review any of the evidence that they collected?

A Yes.

Q And can you, for example, did the Palm Beach Police Department interview any girls?

A Yes, they did, they interviewed several of the girls, most of the girls, they took taped statements from the girls either in the form of a tape-recorder or through video.

Q And you have reviewed some of those interviews, correct?

A Yes, we have.

Q And has the FBI performed any interviews?

A Yes, we have, we have performed interviews of past and current employees of Mr. Epstein as well as focusing in on the girls, the girls that were underage at the time of the sexual activity, we wanted to determine with these girls, again, the sexual activity that took place with Mr. Epstein as well as how old they were at the time, if they traveled with Mr. Epstein, any

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gifts that they may have gotten, so we did reach out to several of the underage minors and gathered more information from them.

Q And through the FBI's investigation has the FBI identified additional victims that perhaps the state police officers did not know about?

A Yes, we are still trying to identify, get first names of girls and going back and looking through school yearbooks and attempting to try to locate friends of friends, so we are still in the process, when you interview one of the girls and you ask if any of their friends went, they sometimes will give you other names, so we are in the process of still uncovering victims and reaching out and interviewing additional girls that we believe possibly were underage at the time of this sexual activity.

Q If I could ask you to step outside.

(The witness was excused from the Grand Jury room.)

(Questions posed by the Grand Jury.)

(The witness was recalled to testify before the Grand Jury.)

BY MS. [redacted]:

Q Special Agent [redacted], one of the Grand Jurors asked whether there was any evidence of force or

coercion.

A When talking to the girls they were told that they may have to -- they were going there to perform a massage, possibly model lingerie, they went there sometimes on multiple occasions and they may start off wearing their clothing and then he would instruct them [redacted] far as coercion, they were paid $200 to $400 to perform these massages.

They are not trained in performing massages, they don't -- they are not masseuses, but yet if you ask if they were coerced, they were paid quite a bit of money for 30 to 45 minutes work.

Some of the girls, being that they were minors going to his residence, got in over their heads and did not always return or come back, some of our victims did not come back after, you know, they did go down to their [redacted]

[redacted]

Q And was there one instance where Mr. Epstein actually engaged in vaginal intercourse with a girl against her will?

[redacted]

Q A Grand Juror asked how old Mr. Epstein is.

A He was 45 at the time that we are looking at him at that time period.

Q A Grand Juror asked if you know the proportion of girls who were underage versus 18 or older.

A The majority of the girls that we are looking at are victims, well, all of our victims that we are looking at were under the age of 18.

As far as all of the girls that have been interviewed, the majority definitely were under 18. To give you a number, I would have to go and count, but I would say in the state investigation there were over 25

girls identified and more than a majority would have been under the age of 18.

Q A Grand Juror asked whether we have obtained Mr. Epstein's DNA and whether there was any DNA testing of the baby that you spoke of earlier.

A No, we have not.

Q A Grand Juror asked how Mr. Epstein would make contact with the girls, was this done via computer or in some other method?

A I am sorry, [redacted], his personal assistant, would contact, or on some occasions [redacted] would also contact the girls via their cell phone and we have message pads from the residents that also indicate the girls calling the home in response to some of those phone calls, so they would call, [redacted] would call, the majority of the calls were made by [redacted] to the girls arranging for these, you know, can you come at this time, can you come at that time.

Q And is the cellular telephone a facility of interstate commerce?

A Yes, it is.

Q And then one of the Grand Jurors asked whether the assistants knew that the girls were underage or committed sex acts.

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Did anybody, have you interviewed anybody who affirmatively told you that they told [redacted] [redacted] their age or what was going on behind closed doors?

A No, no, not at this time, not at this time.

Q And what leads you to believe that she, for example, [redacted] [redacted] knew or should have known what was going on?

A There are so many girls that [redacted] [redacted] contacted to give Mr. Epstein massages that have no training in massages, and that [redacted] [redacted] was aware that girls were bringing other girls, you know, their friends to do these massages.

[redacted] [redacted] was also making appointments for legitimate massages for Mr. Epstein from legitimate masseuses that would come and give him massages, so the number of girls, their appearances at the time would lead us to believe that [redacted] [redacted] had knowledge that these girls were underage.

Q All right. Thank you very much. Those were all the questions from the Grand Jury.

A GRAND JUROR: Actually, I have two more, but.

MS. [redacted]: Okay.

A GRAND JUROR: What was the actual age range of these girls?

THE WITNESS: 14 to I mean.

A GRAND JUROR: The other one was, how did Ms. [redacted] actually originally get these girls, how were they brought in, I mean how were they, you know, because you said she called them when he was arriving, but how did these girls come into this in the first place?

A GRAND JUROR: Could she speak louder?

MS. [redacted]: Special Agent [redacted], we just had a request that you speak louder.

A GRAND JUROR: 14 and what?

THE WITNESS: Our victims were 14 to 17, but we have girls that are 18, we have girls that are 20, we have girls that are in their early 20s, and your question was?

A GRAND JUROR: How did she originally get them in in the first place?

THE WITNESS: We are focusing in on 2004, 2005, we have some evidence to show that this activity was taking place even earlier than that, certainly to include 2003 if you look at the message pads, but focusing in on 2004, 2005, the chain started with one of our minors and from that minor who goes to the house, Mr. Epstein tells her -- sees that she is maybe not comfortable with

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doing the massage the way he would like it and tells her that she could bring other girls to do the massages and she in fact if she brought another girl she would be paid $200 for just bringing another girl, so there starts the chain, and Mr. Epstein would ask the girls or [redacted] would ask the girls for their phone numbers so each time, you know, if one of the girls brought a girl and he liked her he would ask for her phone number, ask her to leave the phone number, or [redacted] would get the phone number and then that girl would maybe bring, because if you brought somebody you didn't have to do the massage, but you also got paid for bringing a new person, so not only if you did the massage would you get anywhere from 200 to 400, but if you brought a new female you would receive 200 or $400.

A GRAND JUROR: Do you know how she solicited that original minor?

THE WITNESS: I don't. Well, I know that minor was approached by two individuals and we have interviewed one of those individuals who we can connect back to Mr. Epstein four years, possibly, prior to this, and stated that his job was actually to drive some of the girls to the residence and

that's pretty much where we start off.

MS. [redacted]: Would the Grand Jury like Special Agent [redacted] to maintain the records that we received in response to the subpoenas?

A GRAND JUROR: Maintain versus what?

A GRAND JUROR: What is our choice?

MS. [redacted]: I don't know that there is. I guess I could maintain them, but I don't believe we have secure storage in here.

Would you like Special Agent [redacted] to maintain custody?

A GRAND JUROR: Yes.

MS. [redacted]: You should have something to swear her in as a custodian.

(The witness was sworn in as the custodian of records.)

MS. [redacted]: Thank you, ladies and gentlemen, I am the last person for today, so you guys are free to go and we will see you probably in a couple of weeks, we will be seeing a lot of you.

(The witness was excused from the Grand Jury room.)

(The testimony of the witness concluded before the Grand Jury.)

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CERTIFICATE OF REPORTER

I certify pages 2 through 21 are a true transcript of my shorthand notes of the testimony of [redacted] before the Federal Grand Jury, West Palm Beach, Florida on the 6th day of February, 2007.

[redacted]-Notary Public
Commission #DD0282274
Expires May 8, 2008

OFFICIAL REPORTING SERVICE [redacted]

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/24/21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

GHISLAINE MAXWELL,

Defendant.

~~[PROPOSED]~~
PROTECTIVE ORDER

20 Cr. 330 (AJN)

ALISON J. NATHAN, United States District Judge:

WHEREAS the Court has ordered production of materials from the Epstein Victims' Compensation Fund to the Court pursuant to Fed. R. Crim. P. 17(c) (the "Rule 17 Materials") (*see* Dkt. No. 496);

WHEREAS those materials are likely to contain information that would (i) affect the privacy and confidentiality of individuals, (ii) would risk prejudicial pretrial publicity if publicly disseminated, and (iii) are not authorized to be disclosed to the public or disclosed beyond that which is necessary for the trial in this action;

WHEREAS the Court has directed the parties to negotiate and submit a proposed protective order;

IT HEREBY IS ORDERED:

1. Any and all Rule 17 Materials disclosed to the Government, the defendant ("Defendant"), and/or to the defendant's criminal defense attorneys ("Defense Counsel," and

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collectively with the Government, "the Parties") shall be treated as "Confidential Information" within the meaning of the Protective Order (Dkt. No. 36 ¶ 7) and shall be subject to the provisions thereof.

2. At the discretion of the Court, the Court may designate certain materials as "Highly Confidential" within the meaning of the Protective Order (Dkt. No. 36 ¶ 11) and subject to the provisions thereof.

SO ORDERED:

Dated: New York, New York
November 24, 2021

HONORABLE ALISON J. NATHAN
United States District Judge

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: July 25, 2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - x

UNITED STATES OF AMERICA

- v. -

JEFFREY EPSTEIN,

Defendant.

- - - - - - - - - - - - - - - - - - - x

PROTECTIVE ORDER

19 Cr. 490 (RMB)

RICHARD M. BERMAN, United States District Judge:

WHEREAS the Government intends to produce to JEFFREY EPSTEIN, the defendant, certain documents and materials that (i) affect the privacy and confidentiality of individuals, (ii) would impede, if prematurely disclosed, the Government's ongoing investigation of uncharged individuals; (iii) would risk prejudicial pretrial publicity if publicly disseminated, and (iv) is not authorized to be disclosed to the public or disclosed beyond that which is necessary for the defense of this action, and other materials pursuant to Federal Rule of Criminal Procedure 16 ("Rule 16") and pursuant to any other disclosure obligations (collectively, the "Discovery"), which contain sensitive, confidential, or personal identifying information;

WHEREAS, the Government seeks to protect sensitive, confidential, or personal identifying information contained in the materials it produces consistent with Rule 16 or other disclosure obligations;

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e) May be shown to, but not disseminated to or provided copies of to, prospective witnesses and their counsel (collectively, "Potential Witnesses"), to the extent deemed necessary by defense counsel, for trial preparation.

2. To the extent the Discovery is disclosed to Defense Staff, Defense Experts/Advisors, Other Authorized Persons, or Potential Witnesses, Defense Counsel shall instruct such individual(s) of the terms of this Order and that such individual(s) are bound by this Order. To the extent that Discovery is disseminated to Defense Staff, Defense Experts/Advisors, or Other Authorized Persons, Defense Counsel shall encrypt and/or password protect the Discovery. The provisions of this paragraph do not apply to communications exclusively between and among Defense Counsel.

3. The Government, the Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Witnesses, and Other Authorized Persons are prohibited from posting or causing to be posted any of the Discovery or information contained in the Discovery on the Internet, including any social media website.

4. The Government (other than in the discharge of their professional obligations in this matter), Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Witnesses, and Other Authorized Persons are precluded from publicly

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other identifying designation, are deemed "Confidential Information."

7. Confidential Information may contain personal identification information of specific individuals who are not parties to this action, and other confidential information; as well as information that identifies, or could lead to the identification of, witnesses in this matter. The Government's designation of material as Confidential Information will be controlling absent contrary order of the Court.

8. Confidential Information disclosed to the defendant, or Defense Counsel, respectively, during the course of proceedings in this action:

a) Shall be used by the defendant or his counsel only for purposes of the defense of this action;

b) Shall be maintained in a safe and secure manner solely by Defense Counsel;

c) Shall be reviewed by the Defendant solely in the presence of Defense Counsel;

d) Shall not be possessed outside the presence of Defense Counsel, or maintained, by the Defendant;

e) May be disclosed only by Defense Counsel and only to Designated Persons;

f) May be shown to, but not disseminated to or provided copies of to, Potential Witnesses, to the extent deemed

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c) Shall not be possessed outside the presence of Defense Counsel, or maintained, by the Defendant;

d) Shall be made available for inspection by Defense Counsel and the Defendant, under the protection of law enforcement officers or employees; and

e) Shall not be copied or otherwise duplicated by Defense Counsel or the Defendant during such inspections.

11. The Defendant and Defense Counsel shall provide a copy of this Order to Designated Persons to whom they disclose Confidential Information or Highly Confidential Information. Prior to disclosure of such information to Designated Persons, any such Designated Person shall agree to be subject to the terms of this Order by signing a copy hereof and stating that they "Agree to be bound by the terms herein," and providing such copy to the defendant's counsel. However, the defendant and his or her respective counsel need not obtain signatures from any member of the defense team (*i.e.*, attorneys, experts, consultants, paralegals, investigators, support personnel, and secretarial staff involved in the representation of the defendants in this case), all of whom are nonetheless bound by this Protective Order.

12. Except for Discovery that has been made part of the record of this case, Defense Counsel shall return to the Government or securely destroy or delete all Discovery,

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13. The foregoing provisions shall remain in effect unless and until either (a) the Government and Defense Counsel mutually agree otherwise, or (b) this Order is modified by further order of the Court.

SO ORDERED:

Dated: New York, New York
July 25, 2019

Richard M. Berman /AP
HONORABLE RICHARD M. BERMAN
United States District Judge

AGREED AND CONSENTED TO:

Dated: July 24, 2019
New York, New York

GEOFFREY S. BERMAN
United States Attorney
Southern District of New York

By: /s/ [redacted]
Assistant United States Attorneys

Dated: July 25, 2019
New York, New York

JEFFREY EPSTEIN

By: [signature]
Martin Weinberg, Esq.
Reid Weingarten, Esq.
Counsel for Jeffrey Epstein

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/30/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA - v. - GHISLAINE MAXWELL, Defendant.	**PROTECTIVE ORDER** 20 Cr. 330 (AJN)

ALISON J. NATHAN, United States District Judge:

WHEREAS the Government intends to produce to GHISLAINE MAXWELL, the defendant, certain documents and materials that (i) affect the privacy and confidentiality of individuals, (ii) would impede, if prematurely disclosed, the Government's ongoing investigation; (iii) would risk prejudicial pretrial publicity if publicly disseminated, and (iv) is not authorized to be disclosed to the public or disclosed beyond that which is necessary for the defense of this action, and other materials pursuant to Federal Rule of Criminal Procedure 16 ("Rule 16") and pursuant to any other disclosure obligations (collectively, the "Discovery"), which contain sensitive, confidential, or personal identifying information;

WHEREAS, the Government seeks to protect sensitive, confidential, or personal identifying information contained in the materials it produces consistent with Rule 16 or other disclosure obligations;

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WHEREAS the Government has applied for the entry of this Order;

IT HEREBY IS ORDERED:

1. The Discovery disclosed to the defendant ("Defendant") and/or to the defendant's criminal defense attorneys ("Defense Counsel") during the course of proceedings in this action:

a) Shall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, and not for any civil proceeding or any purpose other than the defense of this action;

b) Shall not be copied or otherwise recorded or transmitted by the Defendant, except to Defense Counsel, or except as necessary for the Defendant to take notes, which are not to be further transmitted to anyone other than Defense Counsel;

c) Shall not be disclosed or distributed in any form by the Defendant or her counsel except as set forth in paragraph 1(d) below;

d) May be disclosed only by Defense Counsel and only to the following persons ("Designated Persons"):

i. investigative, secretarial, clerical, or paralegal personnel employed full-time, part-time, or as

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independent contractors by the defendant's counsel ("Defense Staff");

ii. any expert or potential expert, legal advisor, consultant, or any other individual retained or employed by the Defendant and Defense Counsel for the purpose of assisting in the defense of this case ("Defense Experts/Advisors");

iii. such other persons as hereafter may be authorized by Order of the Court ("Other Authorized Persons");

e) May be provided to prospective witnesses and their counsel (collectively, "Potential Defense Witnesses"), to the extent deemed necessary by defense counsel, for trial preparation. To the extent Discovery materials are disclosed to Potential Defense Witnesses, they agree that any such materials will not be further copied, distributed, or otherwise transmitted to individuals other than the recipient Potential Defense Witnesses.

2. The Defendant and Defense Counsel shall provide a copy of this Order to any Designated Persons to whom they disclose Discovery materials. Prior to disclosure of Discovery materials to Designated Persons, any such Designated Person shall agree to be subject to the terms of this Order by signing a copy hereof and stating that they "Agree to be bound by the terms herein," and providing such copy to Defense Counsel. All

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such acknowledgments shall be retained by Defense Counsel and shall be subject to *in camera* review by the Court if good cause for review is demonstrated. The Defendant and her counsel need not obtain signatures from any member of the defense team (*i.e.*, attorneys, experts, consultants, paralegals, investigators, support personnel, and secretarial staff involved in the representation of the defendants in this case), all of whom are nonetheless bound by this Protective Order.

3. To the extent that Discovery is disseminated to Defense Experts/Advisors, Other Authorized Persons, or Potential Defense Witnesses, via means other than electronic mail, Defense Counsel shall encrypt and/or password protect the Discovery.

4. The Government, the Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses and their counsel, and Other Authorized Persons are prohibited from posting or causing to be posted any of the Discovery or information contained in the Discovery on the Internet, including any social media website or other publicly available medium.

5. The Government (other than in the discharge of their professional obligations in this matter), the Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses and their counsel, and Other Authorized Persons are strictly prohibited from publicly

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disclosing or disseminating the identity of any victims or witnesses referenced in the Discovery. This Order does not prohibit Defense Counsel or Defense Staff from referencing the identities of individuals they believe may be relevant to the defense to Potential Defense Witnesses and their counsel during the course of the investigation and preparation of the defense case at trial. Any Potential Defense Witnesses and their counsel who are provided identifying information by Defense Counsel or Defense Staff are prohibited from further disclosing or disseminating such identifying information. This Order does not prohibit Defense Counsel from publicly referencing individuals who have spoken by name on the public record in this case.

6. The Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses, and Other Authorized Persons are prohibited from filing publicly as an attachment to a filing or excerpted within a filing the identity of any victims or witnesses referenced in the Discovery, who have not spoken by name on the public record in this case, unless authorized by the Government in writing or by Order of the Court. Any such filings must be filed under seal, unless authorized by the Government in writing or by Order of the Court.

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7. Copies of Discovery or other materials produced by the Government in this action bearing "confidential" stamps, or designated as "confidential" as described below, and/or electronic Discovery materials designated as "confidential" by the Government, including such materials marked as "confidential" either on the documents or materials themselves, or designated as "confidential" in a folder or document title, are deemed "Confidential Information." The Government shall clearly mark all pages or electronic materials containing Confidential Information, or folder or document titles as necessary, with "confidential" designations.

8. Confidential Information may contain personal identification information of victims, witnesses, or other specific individuals who are not parties to this action, and other confidential information; as well as information that identifies, or could lead to the identification of, witnesses in this matter. The identity of an alleged victim or witness who has identified herself or himself publicly as such on the record in this case shall not be treated as Confidential Information.

9. Defense Counsel may, at any time, notify the Government that Defense Counsel does not concur in the designation of documents or other materials as Confidential Information. If the Government does not agree to de-designate such documents or materials, Defense Counsel may thereafter move

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the Court for an Order de-designating such documents or materials. The Government's designation of such documents and materials as Confidential Information will be controlling absent contrary order of the Court.

10. Confidential Information disclosed to the defendant, or Defense Counsel, respectively, during the course of proceedings in this action:

a) Shall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, and not for any civil proceeding or any purpose other than the defense of this action;

b) Shall be maintained in a safe and secure manner;

c) Shall be reviewed and possessed by the Defendant in hard copy solely in the presence of Defense Counsel;

d) Shall be possessed in electronic format only by Defense Counsel and by appropriate officials of the Bureau of Prisons ("BOP"), who shall provide the defendant with electronic access to the Discovery, including Confidential Information, consistent with the rules and regulations of the BOP, for the Defendant's review;

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e) Shall be reviewed by the Defendant solely in the presence of Defense Counsel or when provided access to Discovery materials in electronic format by BOP officials;

f) May be disclosed only by Defense Counsel and only to Designated Persons;

g) May be shown to, either in person, by videoconference, or via a read-only document review platform, but not disseminated to or provided copies of to, Potential Defense Witnesses, to the extent deemed necessary by Defense Counsel, for trial preparation, and after such individual(s) have read and signed this Order acknowledging that such individual(s) are bound by this Order.

11. Copies of Discovery or other materials produced by the Government in this action bearing "highly confidential" stamps or otherwise specifically designated as "highly confidential," and/or electronic Discovery materials designated as "highly confidential" by the Government, including such materials marked as "highly confidential" either on the documents or materials themselves, or designated as "highly confidential" in an index, folder title, or document title, are deemed "Highly Confidential Information." To the extent any Highly Confidential Information is physically produced to the Defendant and Defense Counsel, rather than being made available to the Defendant and Defense Counsel for on-site review, the

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Government shall clearly mark all such pages or electronic materials containing Highly Confidential Information with "highly confidential" stamps on the documents or materials themselves.

12. Highly Confidential Information contains nude, partially-nude, or otherwise sexualized images, videos, or other depictions of individuals.

13. Defense Counsel may, at any time, notify the Government that Defense Counsel does not concur in the designation of documents or other materials as Highly Confidential Information. If the Government does not agree to de-designate such documents or materials, Defense Counsel may thereafter move the Court for an Order de-designating such documents or materials. The Government's designation of such documents and materials as Highly Confidential Information will be controlling absent contrary order of the Court.

14. Highly Confidential Information disclosed to Defense Counsel during the course of proceedings in this action:

a) Shall be used by the Defendant or her Defense Counsel solely for purposes of the defense of this criminal action, and not for any civil proceeding or any purpose other than the defense of this action;

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b) Shall not be disseminated, transmitted, or otherwise copied and provided to Defense Counsel or the Defendant;

c) Shall be reviewed by the Defendant solely in the presence of Defense Counsel;

d) Shall not be possessed outside the presence of Defense Counsel, or maintained, by the Defendant;

e) Shall be made available for inspection by Defense Counsel and the Defendant, under the protection of law enforcement officers or employees; and

f) Shall not be copied or otherwise duplicated by Defense Counsel or the Defendant during such inspections.

15. The Defendant, Defense Counsel, Defense Staff, Defense Experts/Advisors, Potential Defense Witnesses, and Other Authorized Persons are prohibited from filing publicly as an attachment to a filing or excerpted within a filing any Confidential Information or Highly Confidential Information referenced in the Discovery, unless authorized by the Government in writing or by Order of the Court. Any such filings must be filed under seal, unless authorized by the Government in writing or by Order of the Court.

16. The provisions of this Order shall not be construed as preventing disclosure of any information, with the exception of victim or witness identifying information, that is

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publicly available or obtained by the Defendant or her Defense Counsel from a source other than the Government.

17. Except for Discovery that has been made part of the record of this case, Defense Counsel shall return to the Government or securely destroy or delete all Discovery, including but not limited to Confidential Information, within 30 days of the expiration of the period for direct appeal from any verdict in the above-captioned case; the period of direct appeal from any order dismissing any of the charges in the above-captioned case; the expiration of the period for a petition pursuant to 28 U.S.C. § 2255; any period of time required by the federal or state ethics rules applicable to any attorney of record in this case; or the granting of any motion made on behalf of the Government dismissing any charges in the above-captioned case, whichever date is later.

18. The foregoing provisions shall remain in effect unless and until either (a) the Government and Defense Counsel mutually agree in writing otherwise, or (b) this Order is modified by further order of the Court.

19. The Government and Defense Counsel agree to meet and confer in advance of any hearings or trial to discuss and agree to any modifications necessary for the presentation of evidence at those proceedings. In the absence of agreement,

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Defense Counsel may make an appropriate application to the Court for any such modifications.

SO ORDERED:

Dated: New York, New York
July 30, 2020

HONORABLE ALISON J. NATHAN
United States District Judge

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