U.S. Department of Justice
United States Attorney
Southern District of New York

Prosecution Memorandum

Privileged and Confidential -- Attorney Work Product
Do Not Disseminate Outside of the SDNY USAO

USAO #: [redacted]	*United States* v. *Epstein*, 19 Cr. ___ ( )	June 11, 2019

This memorandum seeks authorization to charge JEFFREY EPSTEIN with one count of sex trafficking of children and one count of conspiracy to commit sex trafficking of children. These charges arise from a years-long scheme to recruit and entice minor girls into engaging in commercial sex acts, specifically sexualized massages and related sexual activity in exchange for money, in locations including Manhattan and Palm Beach, Florida. The proposed indictment is attached hereto, and this memorandum is submitted to provide additional factual background and relevant legal analysis.

I. Overview

The Scheme

For a period of years, from at least 2002 through approximately 2005, Epstein engaged in a pattern of enticing minor girls to engage in paid sex acts.[1] This conduct was in part revealed through a previous federal investigation into Epstein by the U.S. Attorney's Office and FBI in the Southern District of Florida ("SDFL"), which resulted in a 2007 non-prosecution agreement,[2] and was further investigated and revealed thorough our investigation, which began in late 2018. As detailed below, the SDNY is not bound by the SDFL non-prosecution agreement; moreover, while our investigation and charges cover some conduct and victims initially identified by the SDFL investigation, our charges also include conduct and victims who were not interviewed during that prior investigation, including individuals who were victimized solely in New York.

---

[1] Based on our review of interview reports from the historical case file and from victim interviews in media, we have reason to believe that Epstein's conduct traces back at least to the 1990s. However, because the victims we have interviewed were not abused during that time [redacted] we have not focused on that period.

[2] Epstein's conduct became the subject of an investigation by the Palm Beach Police Department, and then the FBI, in approximately 2005, after the parents of a victim reported to law enforcement that Epstein had abused their daughter. Those investigations spanned approximately two years and included, among other things, interviews with approximately 35 victims; a search warrant executed on Epstein's Florida residence; and detailed analysis of various phone and flight records. As detailed below, the terms of the 2007 non-prosecution agreement required Epstein to plead guilty in Florida state court to soliciting prostitution, which he did in 2008. He was sentenced to 18 months in jail, was permitted to serve his sentence in a facility where he was released during the day to work, and was released from his sentence after serving approximately 13 months.

In both Florida and New York, the scheme operated in a nearly identical fashion: Epstein essentially operated a pyramid scheme of sexual exploitation, victimizing minor girls who were brought to his homes to give Epstein erotic "massages," in exchange for hundreds of dollars, and then paying those individuals to recruit additional minor victims. Once the victims were alone with Epstein, the "massages" became increasingly sexual. The identified victims ranged from approximately 14 to 17 years old when their abuse began, with the majority having been approximately 15 or 16 when they were recruited to perform sex acts with Epstein. Epstein's conduct included masturbating in front of victims; fondling their breasts; placing a vibrator on their genitals; and/or directly touching their genitals. Some victims also continued to engage in such acts with Epstein after they were no longer minors. Victims and recruiters in New York and Florida generally were paid $300 and $200 per visit, respectively. The victims were typically paid by Epstein or his employees in cash, in hundred dollar bills.

After their first visit to Epstein's residences, victims in New York and Florida usually were contacted via telephone by individuals who worked for Epstein to arrange additional massages. In New York, one of those individuals was Leslie Groff, one of Epstein's assistants; in Florida, the primary contact for the girls was [redacted] who was Epstein's employee and often accompanied him on travel, including to New York. Several victims reported that when they arrived at the Florida residence for massage appointments, [redacted] was present at the house and escorted them to the massage room to meet Epstein.

In order to maintain a steady stream of underage girls to perform sexual acts, Epstein also directed others, including some of his victims, to recruit other minor girls to engage in sexualized massages. Some victims brought just one or two friends, while others become prolific recruiters, bringing Epstein dozens of other girls. Epstein and his employees, including [redacted] typically paid the recruiters hundreds of dollars for each girl they brought to Epstein's residences.

The SDNY investigation has focused principally on conduct occurring in New York or with connections to New York, although, as detailed herein, through our review of information gathered through the prior investigation we have also developed considerable familiarity with—and plan to charge—conduct that occurred in Florida.

Epstein Background

Epstein has had significant connections to New York City for many years. According to press reporting over the past approximately 20 years, he owns what is reportedly the largest private residence in Manhattan, on East 71st street, and his professional career was initially centered in New York. He was raised in Coney Island, and he taught calculus and physics at the Dalton School after dropping out of Cooper Union. From Dalton, he was hired at Bear Sterns, where he worked from approximately 1976 to 1981 before reportedly starting his own wealth management business. The source of his reportedly-vast wealth is opaque; most concretely, he has worked closely with multi-billionaire Leslie Wexner, founder of the Limited chain of women's clothing stores, who also either gave or sold Epstein the Manhattan mansion. In the 1990s and 2000s, Epstein apparently managed money, engaged in various philanthropy, and was briefly more publicly known for providing use of his aircraft to—and accompanying—Bill Clinton, Kevin Spacey, and Chris Tucker for a philanthropic trip to Africa. Since the Florida investigations, he has maintained a lower profile, residing primarily on his private island in the U.S. Virgin Islands.

II. Victim Interviews and Corroborating Evidence

New York and Victim-1

Epstein spent significant time in Manhattan during the relevant period. As described by at least one individual who was victimized in—and, as discussed further below, recruited other minor victims in—New York City ("Victim-1"), Epstein victimized at least dozens of girls in New York, in addition to the dozens of girls he victimized in Florida.

In particular, we have met with Victim-1, who has been cooperative with the investigation and is represented by counsel. In several proffers, Victim-1 has described how she was recruited to engage in sexual contact with Epstein in approximately 2002, at the age of approximately 14. While at a New York City club, Victim-1 met another teenager who described having worked for a rich man, giving topless massages—and recruiting other girls to do the same—and invited Victim-1 to make money this way. At the time, Victim-1 was living by herself and supporting herself financially, having moved away from a difficult home life. As further detailed below, Victim-1 ultimately visited Epstein's Manhattan mansion to engage in sexual massages and other sex acts at least dozens of times between approximately 2002 and 2005.

During her visits to the mansion, Victim-1 performed erotic massages on Epstein, including being partially or fully nude while she massaged him. Most or all of the massages performed by Victim-1 would end with Epstein masturbating and ejaculating; during some of the massages, Epstein touched the genitals of Victim-1 with his hand or with a vibrator or sex toy. He also commonly asked Victim-1 to pinch or twist his nipples. Epstein ordinarily paid Victim-1 $300 in cash after a massage was completed. All of these interactions with Epstein occurred while Victim-1 was a minor, including times when Epstein touched her genitals.

After Victim-1's initial meetings with Epstein, he asked her, in sum and substance, to recruit other girls for the same activity. Over approximately two years, Victim-1 estimates that she brought dozens of girls to Epstein to provide massages, starting with girls she knew from her community and eventually strangers whom Victim-1 met at bars, clubs, or other locations. Victim-1 would describe to the girls what was expected, *i.e.*, that they would provide erotic massages to Epstein, while nude, and that Epstein might touch them or ask them to touch him. Victim-1 would schedule appointments for the girls by phone with Epstein's assistant, "Leslie." Based on the investigation, we have identified "Leslie" as Leslie Groff.

Each time Victim-1 brought a girl to Epstein, Victim-1 was paid $300, and the other girl also would receive $300, always in cash. Victim-1 states that Epstein knew that she was under the age of 18, and that he knew other girls she brought were under 18. In particular, Victim-1 recalls Epstein having asked her how old she was and her truthfully telling Epstein that she was 14 years old. After Victim-1 brought a girl to Epstein, he would sometimes either tell Victim-1 to bring the girl again, if he liked her, or tell Victim-1 not to bring the girl again. Victim-1 noticed that the girls Epstein liked were generally younger and more petite. Epstein would tell Victim-1: "you know what I like," which she took to mean underage, petite girls. Epstein would occasionally indicate his displeasure with Victim-1 for bringing a particular girl, including expressing to Victim-1 that he did not like dark-skinned girls. Later on, as Victim-1 grew older and knew fewer young girls to bring, she brought older girls, which Epstein expressed displeasure about. Victim-1 recalls at least one occasion when she saw a girl show Epstein an ID to prove she was under 18.

Corroboration of Victim-1

Corroboration of Victim-1's account exists through contemporaneous records, as well as through other victims we have already approached. We also expect to develop additional corroboration through interviews of victims we plan as well as likely through additional victims we expect to approach immediately after the investigation is overt, *i.e.*, after charging.

In our review of the evidence from the initial investigation, we have identified a written phone message that was obtained from a trash pull from Epstein's Florida residence. The message is from a 646 area code, and the person listed is Victim-1's first name, [redacted] Victim-1 does not recognize the phone number, and has told us she cycled through many different phones when she was a teenager, but contemporaneous phone records of an associate of Victim-1 reflect tolls with the 646 number, which strongly suggests the 646 number was being used by Victim-1.

With respect to corroborating witnesses, two individuals who were introduced to Epstein by Victim-1 and were paid by Epstein to perform erotic massages ("Individual-1" and "Individual-2," respectively) were interviewed in connection with the prior Florida investigations. In those interviews, Individual-1 stated that when she was approximately 18, she met Victim-1 (known to her only by first name) through a mutual friend. Victim-1 told Individual-1 she knew a man named Jeffrey who would pay girls $300 for massages. Victim-1 made an appointment for Individual-1 to go to Epstein's house, which she did. After Individual-1 was brought to Epstein's massage room, he asked her to strip down to her underwear and massage him; Individual-1 agreed only to strip down to a shirt and underwear. Individual-1 massaged Epstein's back for approximately 20 minutes before Epstein got off the table, handed her $300, and told her he did not want her to massage him again, because she reminded him of his niece, and that he wanted her to bring him other girls instead. Individual-1 recalls that later she and Victim-1 brought Individual-2 to Epstein's house to perform a massage. Individual-1 recalled bringing Individual-2 approximately two additional times, and recalled receiving calls from "Leslie" regarding scheduling. Individual-2 generally confirmed this account, telling FBI agents that during massages with Epstein she removed her clothes and he masturbated in front of her. She said Epstein attempted to use a vibrator on her, but she refused. Individual-2 confirmed that Victim-1 (known to her only by first name) and Individual-1 had recruited her to give massages to Epstein.

The case agents in our investigation have approached Individual-1 and Individual-2, both of whom preferred not to speak to law enforcement at this time and emphasized that they believed they were 18 years old during the relevant time period. However, while they would not be considered statutory victims given their age at the time, if called to testify they could corroborate that Victim-1 worked as a recruiter for Epstein as a minor. To our knowledge, Victim-1 has not spoken to Individual-1 or Individual-2 in the many years since they each interacted with Epstein.

Victim-1 also has described Epstein's Upper East Side residence in great detail, including describing the artwork in the massage room, a stuffed dog in the living room, and a library that she compared to the one in "Beauty and the Beast." It would be extraordinarily unlikely that Victim-1 could describe these aspects of the residence in such detail if she had not spent significant time there. Finally, the account from Victim-1 is nearly identical to that of another victim who became a recruiter for Epstein in Florida ("Victim-2"), with whom Victim-1 has had no contact or communications. Victim-2 is further described below.

Finally, Victim-1 also has identified several other girls she recruited, including at least one who was a victim and recruiter. We intend to approach additional such victims when the case is overt, after charging. One of those victims has agreed to speak with us, but we are unlikely to be able to meet with her for several weeks because she is about to give birth.

[redacted] he has met with us for five lengthy interviews, during which she has provided detailed information [redacted].

[redacted]

Florida Victims

We have also met with and interviewed two primary Florida-based victims, each of whom has described a generally similar course of abuse. In speaking with them we have focused on individuals who we believe, based on their own accounts and/or phone records, were contacted by co-conspirators located in New York in connection with their abuse, *i.e.*, to schedule massages.

Victim-2

Victim-2 was recruited to be a victim when she was approximately 14 years old; she currently recalls having been 14 when she met Epstein, though she stated in a 2007 FBI interview that she believed her interactions with him began when she was 15. Victim-2 estimates that she herself performed more than ten sexualized massages and that she also recruited approximately 20-30 additional girls who were similarly abused by Epstein in Florida.

When Victim-2 first encountered Epstein, she was a high school dropout, living away from home and supporting herself financially. She recalls being recruited by a young girl at a party who told her she could make $200 by giving a massage to an older man. Victim-2 agreed to go to Epstein's residence in Palm Beach, and she ultimately participated in at least ten massages, which became increasingly sexual over time. She recalled that Epstein would instruct her to pinch his nipples while he masturbated, and that she was often instructed to take her clothes off and perform the massage while nude. During the massages, Epstein would use a vibrating massager on her vagina, and during at least one incident he put his hand on her genitals. She recounted that Epstein would frequently push things further to see how far he could go.

[redacted]

Epstein asked Victim-2 to bring other girls for massages, which she did. Initially, Epstein simply asked her to "bring a friend" and told her he would pay her to bring other girls. Later, after a few experiences of Victim-2 bringing victims who balked at the sexual nature of the massages, Epstein told her not to bring girls unless they knew what to expect. Victim-2 understood this to mean she should warn girls to expect they would need to take off their clothes, and that Epstein would touch them and masturbate. She then conveyed as much in recruiting victims.

Victim-2 estimates she recruited approximately 20 to 30 girls for Epstein, all of whom were approximately 15 to 20 years old. Victim-2 believes that most of the girls she brought were minors. This continued for approximately two to three years. Although Epstein did not expressly tell Victim-2 to bring minors, the girls she knew—and thus the girls she could recruit—were all minors at the time. Epstein would occasionally indicate to Victim-2 which girls he liked and which girls he disliked, and she noticed he preferred the younger minors she brought, and that he preferred petite blonde girls. Victim-2 usually coordinated these appointments with [redacted] Victim-2 specifically recalls that [redacted] would occasionally call Victim-2 and say that she was in New York, that Epstein would be arriving in Florida soon, and that she wanted to know if Victim-2 could "work" when he arrived.

When Victim-2 first met Epstein, she told him she was 18 because her friend had told her to lie about her age. In truth, she was approximately 14 or 15 at the time, and was wearing braces, and recalls that it would have been obvious that she was very young. Initially, Victim-2 similarly told other girls she brought to Epstein to say they were older because her friend had given her that instruction. Over time, however, based on her observations of the girls that Epstein seemed to prefer—and the sheer number of minors she brought to the house without issue—Victim-2 came to believe that Epstein wanted younger girls, and did not care if the girls told him their true ages. For this reason, Victim-2 stopped telling the girls she recruited to lie about their ages. She stated that the girls she recruited looked very young, and she believes it would have been obvious to anyone that they were underage.

When the Florida investigations became public, after Victim-2 had stopped visiting Epstein, she recalls having a phone conversation with [redacted] in which [redacted] stated, in sum and substance, that Victim-2 would be taken care of if she didn't say anything.

Corroboration of Victim-2

The full name and phone number of Victim-2 appear on message pads recovered from Epstein's house during a search conducted as part of the prior investigations. The messages appear to refer to scheduling appointments and recruiting other girls, *e.g.*: "She has a female friend for you, please call back as soon as possible." These messages strongly corroborate that Victim-2 worked as a recruiter for Epstein. Additionally, the message pads appear to include messages with names of individuals Victim-2 has identified as other victims, and who were interviewed during the previous investigation (and who confirmed at the time that they were victimized in a matter consistent with the pattern of conduct victims have described in our investigation). Although we have not yet been able to interview those victims, we intend to approach them after charging.

Contemporaneous phone records also reflect numerous phone calls between Victim-2 and [redacted] corroborating Victim-2's account that [redacted] was her primary contact for scheduling massages for Epstein.

Victim-3

Victim-3 recalls that between in or around 2003 and 2005, she went to Epstein's Florida residence approximately 20 times to participate in sexualized massages, receiving payments of $200 for each visit. Victim-3 recalls that she told Epstein her true age, and that she was 17. However, we believe it is possible that Victim-3 may be mistaken as to her age at the time, and indeed may have begun engaging with Epstein at the age of 16. Specifically, Victim-3 explained that she would typically deposit cash from Epstein in her bank account right away. Victim-3 provided a notebook in which she noted deposits she made; based on her dates of deposits, it appears the abuse began in approximately June 2003, weeks past her sixteenth birthday. The records also appear to show that cash payments from Epstein continued through January 2005, several months before her eighteenth birthday.

Similar to other victims, Victim-3 was recruited by a high school friend, who told her she could make money by giving a massage. She recalls Epstein telling her that they could travel together after she turned 18, and that once she turned 18 he would be able to help her with a modeling career. She ultimately stopped going to Epstein's residence because she felt disgusted by her interactions with him.

Victim-3 generally scheduled the massages through [redacted] Victim-3 recalled that [redacted] would sometimes call from New York to schedule massages in advance of Epstein's arrival in Florida, and Victim-3 specifically recalls [redacted] mentioning on calls that [redacted] was in New York at the time. She also reported that Epstein asked her to bring girls that looked like her, which she took to mean blonde girls her age. Victim-3 brought two seventeen-year-old girls to Epstein's house for massages, for which Victim-3 was also paid. Victim-3 has reported that the massages became increasingly sexual over time, and included Epstein touching her genitals and using a vibrator on her genital area, including under her underwear. Victim-3 also recalled that Epstein asked her for intercourse, but she refused.

Corroboration of Victim-3

A review of tolls for [redacted] cell phone reflect several calls with Victim-3, when Victim-3 was a minor, corroborating her recollection that [redacted] would call her to schedule massages with Epstein. A comparison of call records against logs of Epstein's flights on his private jet reflects several sets of calls during times when [redacted] appears to have been in New York City with Epstein. For example, on September 16, 2004, [redacted] and Victim-3 had three calls spread throughout the afternoon; later that night, flight records reflect that [redacted] and Epstein flew from JFK Airport to West Palm Beach. This corroborates Victim-3's recollection that [redacted] said that she was in New York during some of their phone conversations to set up massages.

[redacted]

Investigative Leads from Florida Investigation

During the Florida investigation, the FBI interviewed dozens of victims who described a pattern of abuse virtually identical to the experiences that victims have described to us. During our investigation, we approached a small, targeted group of these individuals; in some instances, victims declined to speak with us until charges were brought, given the history of this case.[4] We intend to approach additional victims identified during the Florida investigation after charging, but have not approached them at this stage for fear of leak concerns. Given the benefits of charging from a covert posture, we plan to hold off on approaching these individuals until after charging.

---

[4] One additional individual who did speak to us, Victim-4, stated that when she was approximately 17 years old, a friend brought her to Epstein's house to perform a massage for $200. During the massage, Epstein attempted to touch Victim-4's buttocks. She told him not to touch her; he tried to again; and she pushed his hands away. Epstein said, in sum and substance, "you're done" and took money from a drawer and put it on the table. Victim-4 was upset and left the house, and subsequently had no additional contact with Epstein. However, she does not recall discussing her age with Epstein, and in an interview in the Florida state investigation she recalled having been 18 years old during this incident. Notably, Victim-4 later became aware that some high school friends had gone to Epstein's house, including a friend named [redacted]. [redacted] told Victim-4 that Epstein would get angry if [redacted] brought girls who did not want to do more than just give a massage, and that Epstein wanted young girls.

III. Proposed Charges, Elements of the Offenses, and Venue

A draft indictment is attached as an exhibit. We propose to charge Epstein with one count of sex trafficking, in violation of 18 U.S.C. §§ 1591 and 2, and one count of conspiracy to commit the same, in violation of 18 U.S.C. §§ 371. The first count covers Epstein's abuse of victims in New York. The second count covers all three victims along with dozens of others in both New York and Florida. By having a freestanding New York count, the indictment will make clear that this case goes beyond the Florida investigation, and that New York is a significant stakeholder in the equities of this case. It also provides a freestanding count we believe will be immune to arguments that the NPA bars prosecution. At the same time, we think it is important to charge a conspiracy count that covers all of the conduct, so that Epstein can be held accountable for the harm he caused to all of his victims.

Count One,[5] 18 U.S.C. §§ 1591 (*Sex Trafficking of Children*) and 2
Charged period: 2002 to 2005

Statute	*Elements*	*Proof as to Each Element*
18 U.S.C. § 1591(a) & (b)(2)	1) Knowingly recruited, enticed, harbored, transported, provided, or obtained by any means a person;	• [redacted]
	2) In or affecting interstate or foreign commerce;	• [redacted]
	3) Knowing the fact that the victim had not yet attained the age of 18 years old; and	• [redacted]

[redacted]

	4) Knowing the victim will be caused to engage in a commercial sex act.	• [redacted]
	Venue	• [redacted]

We discuss the elements as follows:

[redacted]

[redacted]

a separable offense, may be charged in a single count if those acts can be characterized as part of

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

naturally, the word 'any' has an expansive meaning, that is, 'one or some

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Count Two, 18 U.S.C. § 371 (*Conspiracy, with the object to commit 18 U.S.C. § 1591*)
Charged period: 2002 to 2005

STATUTE	*ELEMENTS*	*PROOF AS TO EACH ELEMENT*
18 U.S.C. § 371	1) Two or more persons unlawfully agreed to violate section 1591;	• [redacted]
	2) Defendant knowingly and willfully became a member of the conspiracy; and	• [redacted]
	3) An overt act in furtherance of the conspiracy.	• [redacted]

[redacted]

	Venue	• [redacted] [redacted]

[redacted]

[redacted]

[redacted]

IV. Cooperating Defendants

None currently. Following the filing of the initial indictment charging Epstein, we hope to approach other suspected and alleged co-conspirators, and to further develop evidence against such individuals through the overt investigation, with the possibility of utilizing certain such individuals as cooperating defendants.

V. Legal Context

Separate from anticipated defenses, which are addressed further below, we expect there are two legal issues that might be raised in connection with a prosecution of Epstein in SDNY.

A. The Florida Non-Prosecution Agreement

Prior to opening our investigation, we examined the question whether Epstein's prior non-prosecution agreement with the SDFL would bar prosecution against Epstein or his co-conspirators in the SDNY, including for conduct that occurred in part in SDFL. For the reasons set forth below, we believe that it would not. In particular, we believe that the Agreement—which was signed only by representatives of SDFL and spoke, in relevant part, only to binding that Office—would not preclude another federal district from bringing properly-venued charges based on the same conduct.

Background

Following the SDFL and state investigations into Epstein's conduct from approximately 2005 through 2007, Epstein entered into a non-prosecution agreement (the "NPA," a copy of which is attached) with the SDFL in September 2007.[11] As discussed further below, the terms of the NPA required, among other things, that Epstein plead guilty to state charges of soliciting prostitution from a single victim. In exchange, the SDFL agreed not to prosecute Epstein for "any offenses that arose" from the SDFL investigation, including trafficking and enticement offenses. The NPA further purported to commit the SDFL to not bringing charges against "any potential co-conspirators of Epstein, including but not limited to [redacted] Lesley Groff, or [redacted] none of whom were signatories to the NPA.[12] [redacted] and Groff are believed to have worked for Epstein to schedule massages, and [redacted] and [redacted] are believed to have recruited Epstein's victims. As noted, only Epstein himself and the SDFL were parties to the NPA.

Substance and Language of the NPA

The language of the NPA overwhelmingly refers to the SDFL, and the core terms and text of the agreement appear to be limited to the SDFL. The prefatory language states: "THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution ***in this District for these offenses***[13] shall be deferred in favor of

---

[11] On February 21, 2019, following litigation initiated in 2008 by certain of the Victims, a court in the Southern District of Florida found that the SDFL violated the Crime Victims' Rights Act in connection with its entrance into, and notification regarding, the NPA. A decision on the appropriate remedy currently is pending.

[12] As discussed above, [redacted] and Groff worked for Epstein and scheduled appointments for victims. [redacted] also worked as an assistant to Epstein during the relevant period, but appears to have had minimal contact with victims. [redacted] lived with Epstein during the relevant period and appears to have had some kind of sexual relationship with him.

[13] All emphases relating to the NPA are added unless otherwise specified.

prosecution by the State of Florida." The final paragraph of the prefatory language also states, among other things, that after fulfilling the terms of the agreement, "no prosecution for the [sex abuse] offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted ***in this District***."

In its terms section, the NPA further states that Epstein's signature "is not to be construed as an admission of civil ***or criminal liability*** or a waiver of any jurisdictional or other defense" as to any victim whose identity was not disclosed by SDFL to Epstein, as provided for in the NPA, and additionally states that neither Epstein's signature nor any resulting waivers or civil settlements "are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person." These provisions strongly suggest that the parties contemplated possible criminal prosecutions in other jurisdictions and/or based on victims not initially identified in the Florida investigations (whether in Florida or elsewhere). The final substantive paragraph of the NPA states that "Epstein hereby requests that the United States Attorney for the Southern District of Florida defer [. . .] prosecution."

Applicability of NPA Immunity Provisions to Other Jurisdictions

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

The Independent Interests of the Southern District of New York

[redacted]

[redacted]

Accordingly, we believe this SDNY prosecution is in the interests of justice.

B. Statute of Limitations

The conduct we expect to charge spanned from approximately 2002 through approximately 2005.

Evolving Statutes of Limitations for Sex Crimes Involving Children

Although a federal criminal case ordinarily is subject to a five-year statute of limitations, since at least 1994 there have been expanded statutes of limitations for sexual offenses against children.

In 1994, the statute of limitations in effect for sexual offenses against children ran until "the child reaches the age of 25 years." 18 U.S.C. § 3509(k) (1990), *amended* 18 U.S.C. § 3283 (1994) ("No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25.").

In April 2003, Section 3283 was revised to permit the prosecution of sex offenses against minors at any time during the lifetime of the minor victim. 18 U.S.C. § 3283 (2003) ("No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnaping, of a child under the age of 18 years shall preclude such prosecution during the life of the child.").[18]

---

[18] Section 3283 was further revised in January 2006 to permit the prosecution of such offenses during the lifetime of the victim or ten years after the offense, whichever is longer. Additionally, in July 2006, a separate but partially overlapping provision, 18 U.S.C. § 3299, was enacted. Section 3299 eliminated the statute of limitation for certain specified sex crimes and/or crimes against children, including 18 U.S.C. § 1591.

Application of Statute of Limitations

[19] The term "sexual abuse" is defined as including "the employment, use, persuasion, inducement, or coercion of a child to engage in, or assist or another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children." 18 U.S.C. § 3509(8). The term "sexually explicit conduct" means "actual or simulated (A) sexual intercourse [. . .] (C) masturbation; [or] (D) lascivious exhibition of the genitals or pubic area of a person[.]"

[redacted]

[redacted]

[redacted]

[redacted]

VI. Anticipated Defenses

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

VII. Discovery Issues

We have reviewed the SDNY Discovery and Disclosure Policy and believe we will be able to provide all necessary discovery materials to the defense on a timely basis. We nevertheless note that discovery in this case will be significant, due to the prior investigations.

[redacted]

We are aware of two substantial and historical sets of materials (in addition to materials we have obtained as part of our current investigation) that will require discovery and disclosure processes: files maintained by the Department of Justice FOIA office, and files maintained by the FBI in Florida in connection with the initial investigations. In addition, we are in the process of obtaining the physical evidence obtained in connection with the Florida investigation so we can log and store it in evidence in New York. The evidence currently remains in FBI custody in Florida.

Separate from those two sources of materials, although we believe that the FBI file contains all materials from the initial state investigation, to the extent that is not correct, we may need to obtain certain materials from local police. We have held off on contacting local police but will do so once the investigation is overt. Additionally, while unlikely, at an appropriate time we will need to ascertain whether SDFL has any materials separate and in addition to the FBI case files, and, if so, to obtain copies of any such materials.

We also expect to need to determine what protections should cover discovery materials, potentially including the need for significant redactions, including of victim identifying information.

VIII. Forfeiture / Restitution

We expect to seek both forfeiture and restitution in this case.

Restitution is mandatory under the Victims of Trafficking and Violence Protection Act of 2000 (the "TVPA"), and includes "the full amount of the victim's losses" including "any costs incurred by the victim for—(A) medical services relating to physical, psychiatric, or psychological care; (B) physical and occupational therapy or rehabilitation; (C) necessary transportation, temporary housing, and child care expenses; (D) lost income; (E) attorney's fees, as well as other costs incurred; and (F) any other losses suffered by the victim as a proximate result of the offense." 18 U.S.C. § 1593(b)(3) (incorporating by reference 18 U.S.C. § 2259(b)(3)). The statutory language is circumscribed by a requirement of a causal connection between the offense of conviction and victim's harm, but "mathematical precision" is not required.

Forfeiture is also specifically provided for under the TVPA. 18 U.S.C. § 1594 provides, in relevant part: "The court, in imposing sentence on any person convicted of [an involuntary servitude offense, including 18 U.S.C. § 1591] shall order . . . that such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation." 18 U.S.C. § 1594(b)(1). This includes residential property in which such crimes are committed. [redacted]

[redacted]

IX. Coordinated Proceedings

Does the offense conduct involve fraud/false claims on a federally funded program, or fraud on or committed by a federally insured financial institution? **No**.

X. Victim Issues

Does the case involve victims? **Yes**. The case involves at least dozens of potential victim-witnesses, many of whom have been identified and likely many more who have not yet been identified. [redacted] We will be highly attuned to victims' rights and associated processes, and we will coordinate with the SDNY victims and witness coordinators as well as with the FBI victims liaisons.

XI. Speedy Trial Act Calculations & Deadline

The defendant has not yet been indicted.

XII. Statute of Limitations

See above analysis of statute of limitations.

XIII. Plans for Arrest

We expect to arrest the defendant following the filing of the proposed indictment. [redacted]

By: [redacted]
Assistant United States Attorneys