# *United States District Court*

***SOUTHERN DISTRICT OF FLORIDA***

TO: [redacted]

**SUBPOENA TO TESTIFY BEFORE GRAND JURY**

FGJ 05-02(WPB)-Fri./No. OLY-24

**SUBPOENA FOR:**

[X] **PERSON** [X] **DOCUMENTS OR OBJECT[S]**

**YOU ARE HEREBY COMMANDED** to appear and testify before the Grand Jury of the United States District Court at the place, date and time specified below.

| PLACE: | ROOM: |
|---|---|
| United States District Courthouse<br>701 Clematis Street<br>West Palm Beach, Florida 33401 | Grand Jury Room |
| | DATE AND TIME:<br>December 1, 2006<br>9:30 am |

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**Any and all records related to your employment with Jeffrey Epstein, including but not limited to paystubs, W-2 forms, correspondence, employment applications, and employment reviews. Any and all information regarding methods to contact Jeffrey Epstein directly or via any secretaries/assistants from 1/1/2004 to the present, including but not limited to, telephone numbers, cellular telephone numbers, Blackberry addresses, e-mail addresses, and mailing addresses. Any and all information regarding appointments for massages performed on Jeffrey Epstein in Palm Beach, Florida or elsewhere.**

**Please coordinate your compliance with this subpoena and confirm the date and time , and location of your appearance with Special Agent [redacted], Federal Bureau of Investigation, Telephone: (561) 822-5946.**

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

| CLERK | DATE: |
|---|---|
| (BY) DEPUTY CLERK | November 13, 2006 |

| This subpoena is issued upon application of the United States of America [redacted] | Name, Address and Phone Number of Assistant U.S. Attorney [redacted] 15 |
|---|---|

*If not applicable, enter "none."

To be used in lieu of AO110

FORM ORD-227
JAN.86

Case No. [redacted]-CV-[redacted]

P-000213

EFTA00226396

## *RETURN OF SERVICE*[1]

| | | |
|---|---|---|
| RECEIVED BY SERVER | DATE | PLACE |
| SERVED | DATE | PLACE |
| SERVED ON (NAME) | | |
| SERVED BY | | TITLE |

## *STATEMENT OF SERVICE FEES*

| TRAVEL | SERVICES | TOTAL |
|---|---|---|
| | | |

## *DECLARATION OF SERVICE*[2]

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____ _____
DATE Signature of Server

_____
Address of Server

ADDITIONAL INFORMATION

1.As to who may serve a subpoena and the manner of its service see Rule 17(d). Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

2."Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)"



EFTA00226397

# *United States District Court*

***SOUTHERN DISTRICT OF FLORIDA***

TO: [redacted]

## SUBPOENA TO TESTIFY BEFORE GRAND JURY

FGJ 05-02(WPB)-Fri./No. OLY-24

**SUBPOENA FOR:**

[X] **PERSON** [X] **DOCUMENTS OR OBJECT[S]**

**YOU ARE HEREBY COMMANDED** to appear and testify before the Grand Jury of the United States District Court at the place, date and time specified below.

| PLACE: | ROOM: |
|---|---|
| United States District Courthouse<br>701 Clematis Street<br>West Palm Beach, Florida 33401 | Grand Jury Room |
| | DATE AND TIME:<br>December 1, 2006<br>9:30 am |

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**Any and all records related to your employment with Jeffrey Epstein, including but not limited to paystubs, W-2 forms, correspondence, employment applications, and employment reviews. Any and all information regarding methods to contact Jeffrey Epstein directly or via any secretaries/assistants from 1/1/2004 to the present, including but not limited to, telephone numbers, cellular telephone numbers, Blackberry addresses, e-mail addresses, and mailing addresses. Any and all information regarding appointments for massages performed on Jeffrey Epstein in Palm Beach, Florida or elsewhere.**

**Please coordinate your compliance with this subpoena and confirm the date and time , and location of your appearance with Special Agent [redacted], Federal Bureau of Investigation, Telephone: (561) 822-5946.**

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

| CLERK | DATE: |
|---|---|
| (BY) DEPUTY CLERK | November 13, 2006 |

| This subpoena is issued upon application | Name, Address and Phone Number of Assistant U.S. Attorney |
|---|---|
| [redacted] | [redacted] |

*If not applicable, enter "none."

To be used in lieu of AO110

FORM ORD-227
JAN.86

Case No. [redacted]-CV-[redacted]

P-000216

EFTA00226398

# *United States District Court*

*SOUTHERN DISTRICT OF FLORIDA*

TO: [redacted]

## SUBPOENA TO TESTIFY BEFORE GRAND JURY

FGJ 05-02(WPB)-Fri./No. OLY-24-2

**SUBPOENA FOR:**

[X] **PERSON** [X] **DOCUMENTS OR OBJECT[S]**

**YOU ARE HEREBY COMMANDED** to appear and testify before the Grand Jury of the United States District Court at the place, date and time specified below.

| PLACE: | ROOM: |
|---|---|
| United States District Courthouse<br>701 Clematis Street<br>West Palm Beach, Florida 33401 | Grand Jury Room |
| | DATE AND TIME:<br>January 12, 2007<br>9:30 am* |

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**Any and all records related to your employment with Jeffrey Epstein, including but not limited to paystubs, W-2 forms, correspondence, employment applications, and employment reviews. Any and all information regarding methods to contact Jeffrey Epstein directly or via any secretaries/assistants from 1/1/2004 to the present, including but not limited to, telephone numbers, cellular telephone numbers, Blackberry addresses, e-mail addresses, and mailing addresses. Any and all information regarding appointments for massages performed on Jeffrey Epstein in Palm Beach, Florida or elsewhere.**

***Please coordinate your compliance with this subpoena and confirm the date and time , and location of your appearance with Special Agent [redacted], Federal Bureau of Investigation, Telephone: (561) 822-5946.**

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

| CLERK | DATE: |
|---|---|
| (BY) DEPUTY CLERK | December 18, 2006 |

This subpoena is issued upon application of the United States of America

[redacted]

[redacted]

*If not applicable, enter "none."

To be used in lieu of AO110

FORM ORD-227
JAN.86

Case No. 08-80736-CV-[redacted]

P-000219

EFTA00226399

LAW OFFICES

**LYONS AND SANDERS**

CHARTERED

DALE R. SANDERS *
BRUCE M. LYONS **
HOWARD L. GREITZER

EDWARD D. BERGER
(1959-1987)

*ALSO ADMITTED IN WYOMING
**ALSO ADMITTED IN COLORADO

600 NORTHEAST 3RD AVENUE
FORT LAUDERDALE, [redacted]LORIDA 33304
TELEPHONE (954) 467-8700
TELEFAX (954) 763-4856

MAILING ADDRESS
P. O. BOX 1778
FORT LAUDERDALE, FL 33302-1778

February 14, 2007

**VIA US MA[redacted]**

[redacted]

***Re:*** [redacted] ***Grand Jury Subpoena***

Dear Ms. Villafana:

By agreement, on January 25, 2007, Agents Slater and [redacted] served me with a grand jury subpoena for my client, [redacted] to appear on February 13, 2007. I indicated that Ms. [redacted] would assert her rights under the Fifth Amendment and on consent, the appearance has been extended. You have asked me to set out the basis for my request and that you apply through appropriate channels for a formal grant of use immunity for Ms. [redacted] I do so here.

As I indicated to you when we conversed last week, Ms. [redacted] is no longer employed by Mr. Epstein, but has read much of what can be found on the Internet about the investigation of Mr. Epstein. From that review, she is aware that the police considered charging several persons close to Mr. Epstein, including at least one employee. Given that, and the seemingly broad scope of the investigation, Ms. [redacted] asserts her rights under the Fifth Amendment.

Indeed, considering that both the state authorities in Palm Beach County and your office are conducting investigations, there is every reason for her to be concerned and therefore to assert her constitutional rights. If you continue to want her to appear before a grand jury, be advised that she will assert



EFTA00226400

her rights under the Fifth Amendment unless there is a formal grant of immunity.

If you should have any questions regarding the above, please feel free to contact me.

Very truly yours,

BRUCE M. LYONS
BML/md





EFTA00226401

**9-27.600 Entering into Non-prosecution Agreements in Return for Cooperation -- Generally**

A. Except as hereafter provided, the attorney for the government may, with supervisory approval, enter into a non-prosecution agreement in exchange for a person's cooperation when, in his/her judgment, the person's timely cooperation appears to be necessary to the public interest and other means of obtaining the desired cooperation are unavailable or would not be effective.

B. Comment.

1. In many cases, it may be important to the success of an investigation or prosecution to obtain the testimonial or other cooperation of a person who is himself/herself implicated in the criminal conduct being investigated or prosecuted. However, because of his/her involvement, the person may refuse to cooperate on the basis of his/her Fifth Amendment privilege against compulsory self-incrimination. In this situation, there are several possible approaches the prosecutor can take to render the privilege inapplicable or to induce its waiver.

   a. First, if time permits, the person may be charged, tried, and convicted before his/her cooperation is sought in the investigation or prosecution of others. Having already been convicted himself/herself, the person ordinarily will no longer have a valid privilege to refuse to testify and will have a strong incentive to reveal the truth in order to induce the sentencing judge to impose a lesser sentence than that which otherwise might be found appropriate.

   b. Second, the person may be willing to cooperate if the charges or potential charge against him/her are reduced in number or degree in return for his/her cooperation and his/her entry of a guilty plea to the remaining charges. An agreement to file a motion pursuant to Sentencing Guideline 5K1.1 or Rule 35 of the Federal Rules of Criminal Procedure after the defendant gives full and complete cooperation is the preferred method for securing such cooperation. Usually such a concession by the government will be all that is necessary, or warranted, to secure the cooperation sought. Since it is certainly desirable as a matter of policy that an offender be required to incur at least some liability for his/her criminal conduct, government attorneys should attempt to secure this result in all appropriate cases, following the principles set forth in USAM 9-27.430 to the extent practicable.

   c. The third method for securing the cooperation of a potential defendant is by means of a court order under 18 U.S.C. §§ 6001-6003. Those statutory provisions govern the conditions under which uncooperative witnesses may be compelled to testify or provide information notwithstanding their invocation of the privilege against compulsory self incrimination. In brief, under the so-called "use immunity" provisions of those statutes, the court may order the person to testify or provide other information, but neither his/her testimony nor the information he/she provides may be used against him/her, directly or indirectly, in any criminal case except a prosecution for perjury or other failure to comply with the order. Ordinarily, these "use immunity" provisions should be relied on in cases in which attorneys for the government need to obtain sworn testimony or the production of information before a grand jury or at trial, and in which there is reason to believe that the person will refuse to testify or provide the information on the basis of his/her privilege against compulsory self-incrimination. *See* USAM 9-23.000. Offers of immunity and immunity agreements should be in writing. Consideration should be given to documenting the evidence available prior to the immunity offer.

   d. Finally, there may be cases in which it is impossible or impractical to employ the methods described above to secure the necessary information or other assistance, and in which the person is willing to cooperate only in return for an agreement that he/she will not be prosecuted at all for what he/she has done. The provisions set forth hereafter describe the conditions that should be met before such an agreement is made, as well as the procedures recommended for such cases.

**Exhibit 15**



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It is important to note that these provisions apply only if the case involves an agreement with a person who might otherwise be prosecuted. If the person reasonably is viewed only as a potential witness rather than a potential defendant, and the person is willing to cooperate, there is no need to consult these provisions.

USAM 9-27.600 describes three circumstances that should exist before government attorneys enter into non-prosecution agreements in return for cooperation: the unavailability or ineffectiveness of other means of obtaining the desired cooperation; the apparent necessity of the cooperation to the public interest; and the approval of such a course of action by an appropriate supervisory official

2. **Unavailability or Ineffectiveness of Other Means.** As indicated above, non-prosecution agreements are only one of several methods by which the prosecutor can obtain the cooperation of a person whose criminal involvement makes him/her a potential subject of prosecution. Each of the other methods--seeking cooperation after trial and conviction, bargaining for cooperation as part of a plea agreement, and compelling cooperation under a "use immunity" order--involves prosecuting the person or at least leaving open the possibility of prosecuting him/her on the basis of independently obtained evidence. Since these outcomes are clearly preferable to permitting an offender to avoid any liability for his/her conduct, the possible use of an alternative to a non-prosecution agreement should be given serious consideration in the first instance.

   Another reason for using an alternative to a non-prosecution agreement to obtain cooperation concerns the practical advantage in terms of the person's credibility if he/she testifies at trial. If the person already has been convicted, either after trial or upon a guilty plea, for participating in the events about which he/she testifies, his/her testimony is apt to be far more credible than if it appears to the trier of fact that he/she is getting off "scot free." Similarly, if his/her testimony is compelled by a court order, he/she cannot properly be portrayed by the defense as a person who has made a "deal" with the government and whose testimony is, therefore, suspect; his/her testimony will have been forced from him/her, not bargained for.

   In some cases, however, there may be no effective means of obtaining the person's timely cooperation short of entering into a non-prosecution agreement. The person may be unwilling to cooperate fully in return for a reduction of charges, the delay involved in bringing him/her to trial might prejudice the investigation or prosecution in connection with which his/her cooperation is sought and it may be impossible or impractical to rely on the statutory provisions for compulsion of testimony or production of evidence. One example of the latter situation is a case in which the cooperation needed does not consist of testimony under oath or the production of information before a grand jury or at trial. Other examples are cases in which time is critical, or where use of the procedures of 18 U.S.C. §?-6003 would unreasonably disrupt the presentation of evidence to the grand jury or the expeditious development of an investigation, or where compliance with the statute of limitat ions or the Speedy Trial Act precludes timely application for a court order.

   Only when it appears that the person's timely cooperation cannot be obtained by other means, or cannot be obtained effectively, should the attorney for the government consider entering into a non-prosecution agreement.

3. **Public Interest.** If he/she concludes that a non-prosecution agreement would be the only effective method for obtaining cooperation, the attorney for the government should consider whether, balancing the cost of foregoing prosecution against the potential benefit of the person's cooperation, the cooperation sought appears necessary to the public interest. This "public interest" determination is one of the conditions precedent to an application under 18 U.S.C. § 6003 for a court order compelling testimony. Like a compulsion order, a non-prosecution agreement limits the government's ability to undertake a subsequent prosecution of the witness. Accordingly, the same "public interest" test should be applied in this situation as well. Some of the considerations that may be relevant to the application of this test are set forth in USAM 9-27.620.



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4. **Supervisory Approval.** Finally, the prosecutor should secure supervisory approval before entering into a non-prosecution agreement. Prosecutors working under the direction of a United States Attorney must seek the approval of the United States Attorney or a supervisory Assistant United States Attorney. Departmental attorneys not supervised by a United States Attorney should obtain the approval of the appropriate Assistant Attorney General or his/her designee, and should notify the United States Attorney or Attorneys concerned. The requirement of approval by a superior is designed to provide review by an attorney experienced in such matters, and to ensure uniformity of policy and practice with respect to such agreements. This section should be read in conjunction with USAM 9-27.640, concerning particular types of cases in which an Assistant Attorney General or his/her designee must concur in or approve an agreement not to prosecute in ret urn for cooperation.

**9-27.620 Entering into Non-prosecution Agreements in Return for Cooperation -- Considerations to be Weighed**

A. In determining whether, a person's cooperation may be necessary to the public interest, the attorney for the government, and those whose approval is necessary, should weigh all relevant considerations, including:

1. The importance of the investigation or prosecution to an effective program of law enforcement;

2. The value of the person's cooperation to the investigation or prosecution; and

3. The person's relative culpability in connection with the offense or offenses being investigated or prosecuted and his/her history with respect to criminal activity.

B. Comment. This paragraph is intended to assist Federal prosecutors, and those whose approval they must secure, in deciding whether a person's cooperation appears to be necessary to the public interest. The considerations listed here are not intended to be all-inclusive or to require a particular decision in a particular case. Rather they are meant to focus the decision-maker's attention on factors that probably will be controlling in the majority of cases.

1. **Importance of Case.** Since the primary function of a Federal prosecutor is to enforce the criminal law, he/she should not routinely or indiscriminately enter into non-prosecution agreements, which are, in essence, agreements not to enforce the law under particular conditions. Rather, he/she should reserve the use of such agreements for cases in which the cooperation sought concerns the commission of a serious offense or in which successful prosecution is otherwise important in achieving effective enforcement of the criminal laws. The relative importance or unimportance of the contemplated case is therefore a significant threshold consideration.

2. **Value of Cooperation.** An agreement not to prosecute in return for a person's cooperation binds the government to the extent that the person carries out his/her part of the bargain. *See Santobello v. New York* 404 U.S. 257 (1971); *Wade v. United States*, 112 S. Ct. 1840 (1992). Since such an agreement forecloses enforcement of the criminal law against a person who otherwise may be liable to prosecution, it should not be entered into without a clear understanding of the nature of the quid pro quo and a careful assessment of its probable value to the government. In order to be in a position adequately to assess the potential value of a person's cooperation, the prosecutor should insist on an "offer of proof" or its equivalent from the person or his/her attorney. The prosecutor can then weigh the offer in terms of the investigation or prosecution in connection with which cooperation is sought. In doing so, he/she should consider [redacted] questions as whether the cooperation will in fact be forthcoming, whether the testimony or other information provided will be credible, whether it can be corroborated by other evidence, whether it will materially assist the investigation or prosecution, and whether substantially the same benefit can be obtained from someone else without an agreement not to prosecute. After assessing all of these factors, together with any others that may be relevant, the prosecutor can judge the strength of his/her case with and without the person's cooperation, and determine whether it may be in the public interest to agree to forego prosecution under the circumstances.



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3. **Relative Culpability and Criminal History.** In determining whether it may be necessary to the public interest to agree to forego prosecution of a person who may have violated the law in return for that person's cooperation, it is also important to consider the degree of his/her apparent culpability relative to others who are subjects of the investigation or prosecution as well as his/her history of criminal involvement. Of course, ordinarily it would not be in the public interest to forego prosecution of a high-ranking member of a criminal enterprise in exchange for his/her cooperation against one of his/her subordinates, nor would the public interest be served by bargaining away the opportunity to prosecute a person with a long history of serious criminal involvement in order to obtain the conviction of someone else on less serious charges. These are matters with regard to which the attorney for the government may find it helpful to consult with the investigating agenc y or with other prosecuting authorities who may have an interest in the person or his/her associates.

It is also important to consider whether the person has a background of cooperation with law enforcement officials, either as a witness or an informant, and whether he/she has previously been the subject of a compulsion order under 18 U.S.C. §?-6003 or has escaped prosecution by virtue of an agreement not to prosecute. The information regarding compulsion orders may be available by telephone from the Immunity Unit in the Office of Enforcement Operations of the Criminal Division.

**9-27.630 Entering into Non-prosecution Agreements in Return for Cooperation -- Limiting the Scope of Commitment**

A. In entering into a non-prosecution agreement, the attorney for the government should, if practicable, explicitly limit the scope of the government's commitment to:

   1. Non-prosecution based directly or indirectly on the testimony or other information provided; or

   2. Non-prosecution within his/her district with respect to a pending charge, or to a specific offense then known to have been committed by the person.

B. Comment. The attorney for the government should exercise extreme caution to ensure that his/her non-prosecution agreement does not confer "blanket" immunity on the witness. To this end, he/she should, in the first instance, attempt to limit his/her agreement to non-prosecution based on the testimony or information provided. Such an "informal use immunity" agreement has two advantages over an agreement not to prosecute the person in connection with a particular transaction: first, it preserves the prosecutor's option to prosecute on the basis of independently obtained evidence if it later appears that the person's criminal involvement was more serious than it originally appeared to be; and second, it encourages the witness to be as forthright as possible since the more he/she reveals the more protection he/she will have against a future prosecution. To further encourage full disclosure by the witness, it should be made clear in the agreement that the government's forbearance from prosecution is conditioned upon the witness's testimony or production of information being complete and truthful, and that failure to testify truthfully may result in a perjury prosecution.

Even if it is not practicable to obtain the desired cooperation pursuant to an "informal use immunity" agreement, the attorney for the government should attempt to limit the scope of the agreement in terms of the testimony and transactions covered, bearing in mind the possible effect of his/her agreement on prosecutions in other districts.

It is important that non-prosecution agreements be drawn in terms that will not bind other Federal prosecutors or agencies without their consent. Thus, if practicable, the attorney for the government should explicitly limit the scope of his/her agreement to non-prosecution within his/her district. If such a limitation is not practicable and it can reasonably be anticipated that the agreement may affect prosecution of the person in other districts, the attorney for the government contemplating such an agreement shall communicate the relevant facts to the Assistant Attorney General with supervisory responsibility for the subject matter. United States Attorneys may not make agreements which prejudice civil or tax liability without the express agreement of all affected Divisions and/or agencies. See also 9-16.000 et seq. for more information regarding plea agreements.



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Finally, the attorney for the government should make it clear that his/her agreement relates only to non-prosecution and that he/she has no independent authority to promise that the witness will be admitted into the Department's Witness Security program or that the Marshal's Service will provide any benefits to the witness in exchange for his/her cooperation. This does not mean, of course, that the prosecutor should not cooperate in making arrangements with the Marshal's Service necessary for the protection of the witness in appropriate cases. The procedures to be followed in such cases are set forth in USAM 9-21.000.

**9-27.640 Agreements Requiring Assistant Attorney General Approval**

A. The attorney for the government should not enter into a non-prosecution agreement in exchange for a person's cooperation without first obtaining the approval of the Assistant Attorney General with supervisory responsibility over the subject matter, or his/her designee, when:

   1. Prior consultation or approval would be required by a statute or by Departmental policy for a declination of prosecution or dismissal of a charge with regard to which the agreement is to be made; or

   2. The person is:

      a. A high-level Federal, state, or local official;

      b. An official or agent of a Federal investigative or law enforcement agency; or

      c. A person who otherwise is, or is likely to become of major public interest.

B. Comment. USAM 9-27.640 sets forth special cases that require approval of non-prosecution agreements by the responsible Assistant Attorney General or his/her designee. Subparagraph (1) covers cases in which existing statutory provisions and departmental policies require that, with respect to certain types of offenses, the Attorney General or an Assistant Attorney General be consulted or give his/her approval before prosecution is declined or charges are dismissed. For example, *see* USAM 6-4.245 (tax offenses); USAM 9-41.010 (bankruptcy frauds); USAM 9-90.020 (internal security offenses); (see USAM 9-2.400 for a complete listing of all prior approval and consultation requirements). An agreement not to prosecute resembles a declination of prosecution or the dismissal of a charge in that the end resu lt in each case is similar: a person who has engaged in criminal activity is not prosecuted or is not prosecuted fully for his/her offense. Accordingly, attorneys for the government should obtain the approval of the appropriate Assistant Attorney General, or his/her designee, before agreeing not to prosecute in any case in which consultation or approval would be required for a declination of prosecution or dismissal of a charge.

Subparagraph (2) sets forth other situations in which the attorney for the government should obtain the approval of an Assistant Attorney General, or his/her designee, of a proposed agreement not to prosecute in exchange for cooperation. Generally speaking, the situations described will be cases of an exceptional or extremely sensitive nature, or cases involving individuals or matters of major public interest. In a case covered by this provision that appears to be of an especially sensitive nature, the Assistant Attorney General should, in turn, consider whether it would be appropriate to notify the Attorney General or the Deputy Attorney General.



EFTA00226406

# PART V—IMMUNITY OF WITNESSES


Chapter | Section
601. Immunity of witnesses ..... 6001


HISTORICAL AND STATUTORY NOTES

1970 Amendment

Pub.L. 91-452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 926, added part V and items 6001 to 6005.

## CHAPTER 601—IMMUNITY OF WITNESSES


Sec.
6001. Definitions.
6002. Immunity generally.
6003. Court and grand jury proceedings.
6004. Certain administrative proceedings.
6005. Congressional proceedings.


HISTORICAL AND STATUTORY NOTES

1994 Amendments

Pub.L. 103-322, Title XXXIII, § 330013(1), Sept. 13, 1994, 108 Stat. 2146, added chapter heading.

### § 6001. Definitions

As used in this chapter—

(1) "agency of the United States" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, the Nuclear Regulatory Commission, the Board of Governors of the Federal Reserve System, the China Trade Act registrar appointed under 53 Stat. 1432 (15 U.S.C. sec. 143), the Commodity Futures Trading Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Surface Transportation Board, the National Labor Relations Board, the National Transportation Safety Board, the Railroad Retirement Board, an arbitration board established under 48 Stat. 1193 (45 U.S.C. sec. 157), the Securities and Exchange Commission, or a board established under 49 Stat. 31 (15 U.S.C. sec. 715d);

(2) "other information" includes any book, paper, document, record, recording, or other material;

(3) "proceeding before an agency of the United States" means any proceeding before such an agency with respect to which it is authorized to issue subpenas and to take testimony or receive other information from witnesses under oath; and

(4) "court of the United States" means any of the following courts: the Supreme Court of the United States, a United States court of appeals, a United States district court established under chapter 5, title 28, United States Code, a United States bankruptcy court established under chapter 6, title 28, United States Code, the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Federal Claims, the Tax Court of the United States, the Court of International Trade, and the Court of Appeals for the Armed Forces.

(Added Pub.L. 91-452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 926, and amended Pub.L. 95-405, § 25, Sept. 30, 1978, 92 Stat. 877; Pub.L. 95-598, Title III, § 314(*l*), Nov. 6, 1978, 92 Stat. 2678; Pub.L. 96-417, Title VI, § 601(1), Oct. 10, 1980, 94 Stat. 1744; Pub.L. 97-164, Title I, § 164(1), Apr. 2, 1982, 96 Stat. 50; Pub.L. 102-550, Title XV, § 1543, Oct. 28, 1992, 106 Stat. 4069; Pub.L. 102-572, Title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4519; Pub.L. 103-272, § 4(d), July 5, 1994, 108 Stat. 1361; Pub.L. 103-322, Title XXXIII, § 330013(2), (3), Sept. 13, 1994, 108 Stat. 2146; Pub.L. 103-337, Div. A, Title IX, § 924(d)(1)(B), Oct. 5, 1994, 108 Stat. 2832; Pub.L. 104-88, Title III, § 303(2), Dec. 29, 1995, 109 Stat. 943.)

HISTORICAL AND STATUTORY NOTES

Effective and Applicability Provisions

1995 Acts. Amendment by Pub.L. 104-88 effective Jan. 1, 1996, see section 2 of Pub.L. 104-88, set out as a note under section 701 of Title 49, Transportation.

1992 Acts. Except as otherwise provided, amendment by Pub.L. 102-550 effective Oct. 28, 1992, see section 2 of Pub.L. 102-550, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

1982 Acts. Amendment by Pub.L. 97-164 effective Oct. 1, 1982, see section 402 of Pub.L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of Title 28, Judiciary and Judicial Procedure.

1980 Acts. Amendment by Pub.L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub.L. 96-417, set out as an Effective Date of 1980 Amendment note under section 251 of Title 28, Judiciary and Judicial Procedure.

1978 Acts. Amendment by Pub.L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub.L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

Amendment by Pub.L. 95-405 effective Oct. 1, 1978, see section 28 of Pub.L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of Title 7, Agriculture.




EFTA00226407

1970 Acts. Section 260 of Pub.L. 91–452 provided that: "The provisions of part V of title 18, United States Code, added by title II of this Act [this part], and the amendments and repeals made by title II of this Act [sections 835, 895, 1406, 1954, 2424, 2514 and 3486 of this title, sections 15, 87(b), 135c, 499m(f), and 2115 of Title 7, Agriculture, section 25 of former Title 11, Bankruptcy, section 1820 of Title 12, Banks and Banking, sections 32, 33, 49, 77v, 78u(d), 79r(e), 80a–41, 80b–9, 155, 717m, 1271, and 1714 of Title 15, Commerce and Trade, section 825f of Title 16, Conservation, section 1333 of Title 19, Customs Duties, section 373 of Title 21, Food and Drugs, sections 4874 and 7493 of Title 26, Internal Revenue Code, section 161(3) of Title 29, Labor, section 506 of Title 33, Navigation and Navigable Waters, sections 405(f) and 2201 of Title 42, The Public Health and Welfare, sections 157 and 362 of Title 45, Railroads, sections 827 and 1124 of Title 46, Shipping, section 409(*l*) of Title 47, Telegraphs, Telephones, and Radiotelegraphs, sections 9, 43, 46, 47, 48, 916, and 1017 of former Title 49, Transportation, and section 1484 of Title 49, Appendix, section 792 of Title 50, War and National Defense, and sections 643a, 1152, 2026, and 2155(b) of Title 50, Appendix], shall take effect on the sixtieth day following the date of the enactment of this Act [Oct. 15, 1970]. No amendment to or repeal of any provision of law under title II of this Act shall affect any immunity to which any individual is entitled under such provision by reason of any testimony or other information given before such day."

**Change of Name**

References to United States Claims Court deemed to refer to United States Court of Federal Claims and references to Claims Court deemed to refer to Court of Federal Claims, see section 902(b) of Pub.L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

**Savings Provisions**

Amendment by section 314 of Pub.L. 95–598 not to affect the application of chapter 9 [§ 151 et seq.], chapter 96 [§ 1961 et seq.], or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub.L. 95–598, set out preceding section 101 of Title 11, Bankruptcy.

**Amendment or Repeal of Inconsistent Provisions**

Section 259 of Pub.L. 91–452 provided that: "In addition to the provisions of law specifically amended or specifically repealed by this title [see Effective Date note set out under this section], any other provision of law inconsistent with the provisions of part V of title 18, United States Code (added by title II of this Act) [this part], is to that extent amended or repealed."

**Abolition of the Atomic Energy Commission**

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

**Termination of Civil Aeronautics Board and Transfer of Certain Functions**

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by former section 1551 of Title 49, Transportation, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

**Termination of Federal Power Commission**

The Federal Power Commission, referred to in par. (1) was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

**Subversive Activities Control Board**

The Subversive Activities Control Board was established by Act Sept. 23, 1950, c. 1024, § 12, 64 Stat. 997, and ceased to operate June 30, 1973.

## § 6002. Immunity generally

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

(1) a court or grand jury of the United States,

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this title, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order. (Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

## § 6003. Court and grand jury proceedings

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a court of the United States or a grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, in accordance with subsection (b) of this section, upon the request of the United States attorney for such district, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.



EFTA00226408

(b) A United States attorney may, with the approval of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any designated Assistant Attorney General or Deputy Assistant Attorney General, request an order under subsection (a) of this section when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub.L. 100–690, Title VII, § 7020(e), Nov. 18, 1988, 102 Stat. 4396; Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

## § 6004. Certain administrative proceedings

(a) In the case of any individual who has been or who may be called to testify or provide other information at any proceeding before an agency of the United States, the agency may, with the approval of the Attorney General, issue, in accordance with subsection (b) of this section, an order requiring the individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.

(b) An agency of the United States may issue an order under subsection (a) of this section only if in its judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

## § 6005. Congressional proceedings

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

(1) in the case of a proceeding before or ancillary to either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

(2) in the case of a proceeding before or ancillary to a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 928, and amended Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146; Pub.L. 104–292, § 5, Oct. 11, 1996, 110 Stat. 3460; Pub.L. 104–294, Title VI, § 605(o), Oct. 11, 1996, 110 Stat. 3510.)



EFTA00226409

# *United States District Court*

***SOUTHERN DISTRICT OF FLORIDA***

TO: [redacted]

**SUBPOENA TO TESTIFY BEFORE GRAND JURY**

FGJ 05-02(WPB)-Fri./No. OLY-24

**SUBPOENA FOR:**

[X] **PERSON** [X] **DOCUMENTS OR OBJECT[S]**

**YOU ARE HEREBY COMMANDED** to appear and testify before the Grand Jury of the United States District Court at the place, date and time specified below.

| PLACE: | ROOM: |
|---|---|
| United States District Courthouse<br>701 Clematis Street<br>West Palm Beach, Florida 33401 | Grand Jury Room |
| | DATE AND TIME:<br>December 1, 2006<br>9:30 am |

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**Any and all records related to your employment with Jeffrey Epstein, including but not limited to paystubs, W-2 forms, correspondence, employment applications, and employment reviews. Any and all information regarding methods to contact Jeffrey Epstein directly or via any secretaries/assistants from 1/1/2004 to the present, including but not limited to, telephone numbers, cellular telephone numbers, Blackberry addresses, e-mail addresses, and mailing addresses. Any and all information regarding appointments for massages performed on Jeffrey Epstein in Palm Beach, Florida or elsewhere.**

**Please coordinate your compliance with this subpoena and confirm the date and time , and location of your appearance with Special Agent [redacted], Federal Bureau of Investigation, Telephone: (561) 822-5946.**

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

| CLERK | DATE: |
|---|---|
| (BY) DEPUTY CLERK | November 13, 2006 |

| This subpoena is issued upon application | Name, Address and Phone Number of Assistant U.S. Attorney |
|---|---|
| [redacted] | [redacted] |

*If not applicable, enter "none."

To be used in lieu of AO 110

FORM ORD-227
JAN.86

Case No. 08-80736-CV-[redacted]

P-000213

EFTA00226410

## *RETURN OF SERVICE*[1]

| | | |
|---|---|---|
| RECEIVED BY SERVER | DATE | PLACE |
| SERVED | DATE | PLACE |
| SERVED ON (NAME) | | |
| SERVED BY | | TITLE |

## *STATEMENT OF SERVICE FEES*

| TRAVEL | SERVICES | TOTAL |
|---|---|---|
| | | |

## *DECLARATION OF SERVICE*[2]

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____ _____
DATE Signature of Server

_____
Address of Server

ADDITIONAL INFORMATION

1.As to who may serve a subpoena and the manner of its service see Rule 17(d). Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

2."Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)"



EFTA00226411

# *United States District Court*

***SOUTHERN DISTRICT OF FLORIDA***

TO: [redacted]

## SUBPOENA TO TESTIFY BEFORE GRAND JURY

FGJ 05-02(WPB)-Fri./No. OLY-24

**SUBPOENA FOR:**

[X] **PERSON** [X] **DOCUMENTS OR OBJECT[S]**

**YOU ARE HEREBY COMMANDED** to appear and testify before the Grand Jury of the United States District Court at the place, date and time specified below.

| PLACE: | ROOM: |
|---|---|
| United States District Courthouse<br>701 Clematis Street<br>West Palm Beach, Florida 33401 | Grand Jury Room |
| | DATE AND TIME:<br>December 1, 2006<br>9:30 am |

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**Any and all records related to your employment with Jeffrey Epstein, including but not limited to paystubs, W-2 forms, correspondence, employment applications, and employment reviews. Any and all information regarding methods to contact Jeffrey Epstein directly or via any secretaries/assistants from 1/1/2004 to the present, including but not limited to, telephone numbers, cellular telephone numbers, Blackberry addresses, e-mail addresses, and mailing addresses. Any and all information regarding appointments for massages performed on Jeffrey Epstein in Palm Beach, Florida or elsewhere.**

**Please coordinate your compliance with this subpoena and confirm the date and time , and location of your appearance with Special Agent [redacted], Federal Bureau of Investigation, Telephone: (561) 822-5946.**

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

| CLERK | DATE: |
|---|---|
| (BY) DEPUTY CLERK | November 13, 2006 |

| This subpoena is issued upon application of the United States of America | Name, Address and Phone Number of Assistant U.S. Attorney |
|---|---|
| [redacted] | [redacted] |

*If not applicable, enter "none."

To be used in lieu of AO110

FORM ORD-227
JAN.86

Case No. [redacted]-CV-[redacted]

P-000216

EFTA00226412

# *United States District Court*

*SOUTHERN DISTRICT OF FLORIDA*

TO: [redacted]

## SUBPOENA TO TESTIFY BEFORE GRAND JURY

FGJ 05-02(WPB)-Fri./No. OLY-24-2

**SUBPOENA FOR:**

[X] **PERSON** [X] **DOCUMENTS OR OBJECT[S]**

**YOU ARE HEREBY COMMANDED** to appear and testify before the Grand Jury of the United States District Court at the place, date and time specified below.

| PLACE: | ROOM: |
|---|---|
| United States District Courthouse<br>701 Clematis Street<br>West Palm Beach, Florida 33401 | Grand Jury Room |
| | DATE AND TIME:<br>January 12, 2007<br>9:30 am* |

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**Any and all records related to your employment with Jeffrey Epstein, including but not limited to paystubs, W-2 forms, correspondence, employment applications, and employment reviews. Any and all information regarding methods to contact Jeffrey Epstein directly or via any secretaries/assistants from 1/1/2004 to the present, including but not limited to, telephone numbers, cellular telephone numbers, Blackberry addresses, e-mail addresses, and mailing addresses. Any and all information regarding appointments for massages performed on Jeffrey Epstein in Palm Beach, Florida or elsewhere.**

***Please coordinate your compliance with this subpoena and confirm the date and time , and location of your appearance with Special Agent [redacted], Federal Bureau of Investigation, Telephone: (561) 822-5946.**

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

| CLERK | DATE: |
|---|---|
| (BY) DEPUTY CLERK | December 18, 2006 |

| This subpoena is issued upon application of the United States of America | Name, Address and Phone Number of Assistant U.S. Attorney |
|---|---|
| [redacted] | [redacted] |

*If not applicable, enter "none."

To be used in lieu of AO110

FORM ORD-227
JAN.86

Case No. 08-80736-CV-[redacted]

P-000219

EFTA00226413

LAW OFFICES

**LYONS AND SANDERS**

CHARTERED

DALE R. SANDERS *
BRUCE M. LYONS **
HOWARD L. GREITZER

EDWARD D. BERGER
(1959-1987)

*ALSO ADMITTED IN WYOMING
**ALSO ADMITTED IN COLORADO

600 NORTHEAST 3RD AVENUE
FORT LAUDERDALE, FLORIDA 33304
TELEPHONE (954) 467-8700
TELEFAX (954) 763-4856

MAILING ADDRESS
P. O. BOX 1778
FORT LAUDERDALE, FL 33302-1778

February 14, 2007

VIA US MAI[redacted]

[redacted]

***Re: Adriana [redacted] Grand Jury Subpoena***

Dear Ms. Villafana:

By agreement, on January 25, 2007, [redacted] and [redacted] with a grand jury subpoena for my client, [redacted] appear on February 13, 2007. I indicated that Ms. [redacted] would assert her rights under the Fifth Amendment and on consent, the appearance has been extended. You have asked me to set out the basis for my request and that you apply through appropriate channels for a formal grant of use immunity for [redacted] I do so here.

As I indicated to you when we conversed last week, [redacted] is no longer employed by Mr. Epstein, but has read much of what can be found on the Internet about the investigation of Mr. Epstein. From that review, she is aware that the police considered charging several persons close to Mr. Epstein, including at least one employee. Given [redacted], and the seemingly broad scope of the investigation, Ms. [redacted] asserts her rights under the Fifth Amendment.

Indeed, considering that both the state authorities in Palm Beach County and your office are conducting investigations, there is every reason for her to be concerned and therefore to assert her constitutional rights. If you continue to want her to appear before a grand jury, be advised that she will assert



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her rights under the Fifth Amendment unless there is a formal grant of immunity.

If you should have any questions regarding the above, please feel free to contact me.

Very truly yours,

BRUCE M. LYONS
BML/md





EFTA00226415

**9-27.600 Entering into Non-prosecution Agreements in Return for Cooperation -- Generally**

A. Except as hereafter provided, the attorney for the government may, with supervisory approval, enter into a non-prosecution agreement in exchange for a person's cooperation when, in his/her judgment, the person's timely cooperation appears to be necessary to the public interest and other means of obtaining the desired cooperation are unavailable or would not be effective.

B. Comment.

1. In many cases, it may be important to the success of an investigation or prosecution to obtain the testimonial or other cooperation of a person who is himself/herself implicated in the criminal conduct being investigated or prosecuted. However, because of his/her involvement, the person may refuse to cooperate on the basis of his/her Fifth Amendment privilege against compulsory self-incrimination. In this situation, there are several possible approaches the prosecutor can take to render the privilege inapplicable or to induce its waiver.

   a. First, if time permits, the person may be charged, tried, and convicted before his/her cooperation is sought in the investigation or prosecution of others. Having already been convicted himself/herself, the person ordinarily will no longer have a valid privilege to refuse to testify and will have a strong incentive to reveal the truth in order to induce the sentencing judge to impose a lesser sentence than that which otherwise might be found appropriate.

   b. Second, the person may be willing to cooperate if the charges or potential charge against him/her are reduced in number or degree in return for his/her cooperation and his/her entry of a guilty plea to the remaining charges. An agreement to file a motion pursuant to Sentencing Guideline 5K1.1 or Rule 35 of the Federal Rules of Criminal Procedure after the defendant gives full and complete cooperation is the preferred method for securing such cooperation. Usually such a concession by the government will be all that is necessary, or warranted, to secure the cooperation sought. Since it is certainly desirable as a matter of policy that an offender be required to incur at least some liability for his/her criminal conduct, government attorneys should attempt to secure this result in all appropriate cases, following the principles set forth in USAM 9-27.430 to the extent practicable.

   c. The third method for securing the cooperation of a potential defendant is by means of a court order under 18 U.S.C. §§ 6001-6003. Those statutory provisions govern the conditions under which uncooperative witnesses may be compelled to testify or provide information notwithstanding their invocation of the privilege against compulsory self incrimination. In brief, under the so-called "use immunity" provisions of those statutes, the court may order the person to testify or provide other information, but neither his/her testimony nor the information he/she provides may be used against him/her, directly or indirectly, in any criminal case except a prosecution for perjury or other failure to comply with the order. Ordinarily, these "use immunity" provisions should be relied on in cases in which attorneys for the government need to obtain sworn testimony or the production of information before a grand jury or at trial, and in which there is reason to believe that the person will refuse to testify or provide the information on the basis of his/her privilege against compulsory self-incrimination. *See* USAM 9-23.000. Offers of immunity and immunity agreements should be in writing. Consideration should be given to documenting the evidence available prior to the immunity offer.

   d. Finally, there may be cases in which it is impossible or impractical to employ the methods described above to secure the necessary information or other assistance, and in which the person is willing to cooperate only in return for an agreement that he/she will not be prosecuted at all for what he/she has done. The provisions set forth hereafter describe the conditions that should be met before such an agreement is made, as well as the procedures recommended for such cases.

**Exhibit 15**



EFTA00226416

It is important to note that these provisions apply only if the case involves an agreement with a person who might otherwise be prosecuted. If the person reasonably is viewed only as a potential witness rather than a potential defendant, and the person is willing to cooperate, there is no need to consult these provisions.

USAM 9-27.600 describes three circumstances that should exist before government attorneys enter into non-prosecution agreements in return for cooperation: the unavailability or ineffectiveness of other means of obtaining the desired cooperation; the apparent necessity of the cooperation to the public interest; and the approval of such a course of action by an appropriate supervisory official

2. **Unavailability or Ineffectiveness of Other Means.** As indicated above, non-prosecution agreements are only one of several methods by which the prosecutor can obtain the cooperation of a person whose criminal involvement makes him/her a potential subject of prosecution. Each of the other methods--seeking cooperation after trial and conviction, bargaining for cooperation as part of a plea agreement, and compelling cooperation under a "use immunity" order--involves prosecuting the person or at least leaving open the possibility of prosecuting him/her on the basis of independently obtained evidence. Since these outcomes are clearly preferable to permitting an offender to avoid any liability for his/her conduct, the possible use of an alternative to a non-prosecution agreement should be given serious consideration in the first instance.

   Another reason for using an alternative to a non-prosecution agreement to obtain cooperation concerns the practical advantage in terms of the person's credibility if he/she testifies at trial. If the person already has been convicted, either after trial or upon a guilty plea, for participating in the events about which he/she testifies, his/her testimony is apt to be far more credible than if it appears to the trier of fact that he/she is getting off "scot free." Similarly, if his/her testimony is compelled by a court order, he/she cannot properly be portrayed by the defense as a person who has made a "deal" with the government and whose testimony is, therefore, suspect; his/her testimony will have been forced from him/her, not bargained for.

   In some cases, however, there may be no effective means of obtaining the person's timely cooperation short of entering into a non-prosecution agreement. The person may be unwilling to cooperate fully in return for a reduction of charges, the delay involved in bringing him/her to trial might prejudice the investigation or prosecution in connection with which his/her cooperation is sought and it may be impossible or impractical to rely on the statutory provisions for compulsion of testimony or production of evidence. One example of the latter situation is a case in which the cooperation needed does not consist of testimony under oath or the production of information before a grand jury or at trial. Other examples are cases in which time is critical, or where use of the procedures of 18 U.S.C. §?-6003 would unreasonably disrupt the presentation of evidence to the grand jury or the expeditious development of an investigation, or where compliance with the statute of limitat ions or the Speedy Trial Act precludes timely application for a court order.

   Only when it appears that the person's timely cooperation cannot be obtained by other means, or cannot be obtained effectively, should the attorney for the government consider entering into a non-prosecution agreement.

3. **Public Interest.** If he/she concludes that a non-prosecution agreement would be the only effective method for obtaining cooperation, the attorney for the government should consider whether, balancing the cost of foregoing prosecution against the potential benefit of the person's cooperation, the cooperation sought appears necessary to the public interest. This "public interest" determination is one of the conditions precedent to an application under 18 U.S.C. § 6003 for a court order compelling testimony. Like a compulsion order, a non-prosecution agreement limits the government's ability to undertake a subsequent prosecution of the witness. Accordingly, the same "public interest" test should be applied in this situation as well. Some of the considerations that may be relevant to the application of this test are set forth in USAM 9-27.620.



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4. **Supervisory Approval.** Finally, the prosecutor should secure supervisory approval before entering into a non-prosecution agreement. Prosecutors working under the direction of a United States Attorney must seek the approval of the United States Attorney or a supervisory Assistant United States Attorney. Departmental attorneys not supervised by a United States Attorney should obtain the approval of the appropriate Assistant Attorney General or his/her designee, and should notify the United States Attorney or Attorneys concerned. The requirement of approval by a superior is designed to provide review by an attorney experienced in such matters, and to ensure uniformity of policy and practice with respect to such agreements. This section should be read in conjunction with USAM 9-27.640, concerning particular types of cases in which an Assistant Attorney General or his/her designee must concur in or approve an agreement not to prosecute in ret urn for cooperation.

**9-27.620 Entering into Non-prosecution Agreements in Return for Cooperation -- Considerations to be Weighed**

A. In determining whether, a person's cooperation may be necessary to the public interest, the attorney for the government, and those whose approval is necessary, should weigh all relevant considerations, including:

1. The importance of the investigation or prosecution to an effective program of law enforcement;

2. The value of the person's cooperation to the investigation or prosecution; and

3. The person's relative culpability in connection with the offense or offenses being investigated or prosecuted and his/her history with respect to criminal activity.

B. Comment. This paragraph is intended to assist Federal prosecutors, and those whose approval they must secure, in deciding whether a person's cooperation appears to be necessary to the public interest. The considerations listed here are not intended to be all-inclusive or to require a particular decision in a particular case. Rather they are meant to focus the decision-maker's attention on factors that probably will be controlling in the majority of cases.

1. **Importance of Case.** Since the primary function of a Federal prosecutor is to enforce the criminal law, he/she should not routinely or indiscriminately enter into non-prosecution agreements, which are, in essence, agreements not to enforce the law under particular conditions. Rather, he/she should reserve the use of such agreements for cases in which the cooperation sought concerns the commission of a serious offense or in which successful prosecution is otherwise important in achieving effective enforcement of the criminal laws. The relative importance or unimportance of the contemplated case is therefore a significant threshold consideration.

2. **Value of Cooperation.** An agreement not to prosecute in return for a person's cooperation binds the government to the extent that the person carries out his/her part of the bargain. *See Santobello v. New York* 404 U.S. 257 (1971); *Wade v. United States*, 112 S. Ct. 1840 (1992). Since such an agreement forecloses enforcement of the criminal law against a person who otherwise may be liable to prosecution, it should not be entered into without a clear understanding of the nature of the quid pro quo and a careful assessment of its probable value to the government. In order to be in a position adequately to assess the potential value of a person's cooperation, the prosecutor should insist on an "offer of proof" or its equivalent from the person or his/her attorney. The prosecutor can then weigh the offer in terms of the investigation or prosecution in connection with which cooperation is sought. In doing so, he/she should consider such questions as whether the cooperation will in fact be forthcoming, whether the testimony or other information provided will be credible, whether it can be corroborated by other evidence, whether it will materially assist the investigation or prosecution, and whether substantially the same benefit can be obtained from someone else without an agreement not to prosecute. After assessing all of these factors, together with any others that may be relevant, the prosecutor can judge the strength of his/her case with and without the person's cooperation, and determine whether it may be in the public interest to agree to forego prosecution under the circumstances.



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3. **Relative Culpability and Criminal History.** In determining whether it may be necessary to the public interest to agree to forego prosecution of a person who may have violated the law in return for that person's cooperation, it is also important to consider the degree of his/her apparent culpability relative to others who are subjects of the investigation or prosecution as well as his/her history of criminal involvement. Of course, ordinarily it would not be in the public interest to forego prosecution of a high-ranking member of a criminal enterprise in exchange for his/her cooperation against one of his/her subordinates, nor would the public interest be served by bargaining away the opportunity to prosecute a person with a long history of serious criminal involvement in order to obtain the conviction of someone else on less serious charges. These are matters with regard to which the attorney for the government may find it helpful to consult with the investigating agenc y or with other prosecuting authorities who may have an interest in the person or his/her associates.

It is also important to consider whether the person has a background of cooperation with law enforcement officials, either as a witness or an informant, and whether he/she has previously been the subject of a compulsion order under 18 U.S.C. §?-6003 or has escaped prosecution by virtue of an agreement not to prosecute. The information regarding compulsion orders may be available by telephone from the Immunity Unit in the Office of Enforcement Operations of the Criminal Division.

**9-27.630 Entering into Non-prosecution Agreements in Return for Cooperation -- Limiting the Scope of Commitment**

A. In entering into a non-prosecution agreement, the attorney for the government should, if practicable, explicitly limit the scope of the government's commitment to:

   1. Non-prosecution based directly or indirectly on the testimony or other information provided; or

   2. Non-prosecution within his/her district with respect to a pending charge, or to a specific offense then known to have been committed by the person.

B. Comment. The attorney for the government should exercise extreme caution to ensure that his/her non-prosecution agreement does not confer "blanket" immunity on the witness. To this end, he/she should, in the first instance, attempt to limit his/her agreement to non-prosecution based on the testimony or information provided. Such an "informal use immunity" agreement has two advantages over an agreement not to prosecute the person in connection with a particular transaction: first, it preserves the prosecutor's option to prosecute on the basis of independently obtained evidence if it later appears that the person's criminal involvement was more serious than it originally appeared to be; and second, it encourages the witness to be as forthright as possible since the more he/she reveals the more protection he/she will have against a future prosecution. To further encourage full disclosure by the witness, it should be made clear in the agreement that the government's forbearance from prosecution is conditioned upon the witness's testimony or production of information being complete and truthful, and that failure to testify truthfully may result in a perjury prosecution.

Even if it is not practicable to obtain the desired cooperation pursuant to an "informal use immunity" agreement, the attorney for the government should attempt to limit the scope of the agreement in terms of the testimony and transactions covered, bearing in mind the possible effect of his/her agreement on prosecutions in other districts.

It is important that non-prosecution agreements be drawn in terms that will not bind other Federal prosecutors or agencies without their consent. Thus, if practicable, the attorney for the government should explicitly limit the scope of his/her agreement to non-prosecution within his/her district. If such a limitation is not practicable and it can reasonably be anticipated that the agreement may affect prosecution of the person in other districts, the attorney for the government contemplating such an agreement shall communicate the relevant facts to the Assistant Attorney General with supervisory responsibility for the subject matter. United States Attorneys may not make agreements which prejudice civil or tax liability without the express agreement of all affected Divisions and/or agencies. See also 9-16.000 et seq. for more information regarding plea agreements.



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Finally, the attorney for the government should make it clear that his/her agreement relates only to non-prosecution and that he/she has no independent authority to promise that the witness will be admitted into the Department's Witness Security program or that the Marshal's Service will provide any benefits to the witness in exchange for his/her cooperation. This does not mean, of course, that the prosecutor should not cooperate in making arrangements with the Marshal's Service necessary for the protection of the witness in appropriate cases. The procedures to be followed in such cases are set forth in USAM 9-21.000.

**9-27.640 Agreements Requiring Assistant Attorney General Approval**

A. The attorney for the government should not enter into a non-prosecution agreement in exchange for a person's cooperation without first obtaining the approval of the Assistant Attorney General with supervisory responsibility over the subject matter, or his/her designee, when:

1. Prior consultation or approval would be required by a statute or by Departmental policy for a declination of prosecution or dismissal of a charge with regard to which the agreement is to be made; or

2. The person is:

a. A high-level Federal, state, or local official;

b. An official or agent of a Federal investigative or law enforcement agency; or

c. A person who otherwise is, or is likely to become of major public interest.

B. Comment. USAM 9-27.640 sets forth special cases that require approval of non-prosecution agreements by the responsible Assistant Attorney General or his/her designee. Subparagraph (1) covers cases in which existing statutory provisions and departmental policies require that, with respect to certain types of offenses, the Attorney General or an Assistant Attorney General be consulted or give his/her approval before prosecution is declined or charges are dismissed. For example, *see* USAM 6-4.245 (tax offenses); USAM 9-41.010 (bankruptcy frauds); USAM 9-90.020 (internal security offenses); (see USAM 9-2.400 for a complete listing of all prior approval and consultation requirements). An agreement not to prosecute resembles a declination of prosecution or the dismissal of a charge in that the end resu lt in each case is similar: a person who has engaged in criminal activity is not prosecuted or is not prosecuted fully for his/her offense. Accordingly, attorneys for the government should obtain the approval of the appropriate Assistant Attorney General, or his/her designee, before agreeing not to prosecute in any case in which consultation or approval would be required for a declination of prosecution or dismissal of a charge.

Subparagraph (2) sets forth other situations in which the attorney for the government should obtain the approval of an Assistant Attorney General, or his/her designee, of a proposed agreement not to prosecute in exchange for cooperation. Generally speaking, the situations described will be cases of an exceptional or extremely sensitive nature, or cases involving individuals or matters of major public interest. In a case covered by this provision that appears to be of an especially sensitive nature, the Assistant Attorney General should, in turn, consider whether it would be appropriate to notify the Attorney General or the Deputy Attorney General.



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# PART V—IMMUNITY OF WITNESSES


Chapter | Section
601. Immunity of witnesses ..... 6001


HISTORICAL AND STATUTORY NOTES

1970 Amendment

Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 926, added Part V and items 6001 to 6005.

## CHAPTER 601—IMMUNITY OF WITNESSES


Sec.
6001. Definitions.
6002. Immunity generally.
6003. Court and grand jury proceedings.
6004. Certain administrative proceedings.
6005. Congressional proceedings.


HISTORICAL AND STATUTORY NOTES

1994 Amendments

Pub.L. 103–322, Title XXXIII, § 330013(1), Sept. 13, 1994, 108 Stat. 2146, added chapter heading.

### § 6001. Definitions

As used in this chapter—

(1) "agency of the United States" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, the Nuclear Regulatory Commission, the Board of Governors of the Federal Reserve System, the China Trade Act registrar appointed under 53 Stat. 1432 (15 U.S.C. sec. 143), the Commodity Futures Trading Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Surface Transportation Board, the National Labor Relations Board, the National Transportation Safety Board, the Railroad Retirement Board, an arbitration board established under 48 Stat. 1193 (45 U.S.C. sec. 157), the Securities and Exchange Commission, or a board established under 49 Stat. 31 (15 U.S.C. sec. 715d);

(2) "other information" includes any book, paper, document, record, recording, or other material;

(3) "proceeding before an agency of the United States" means any proceeding before such an agency with respect to which it is authorized to issue subpenas and to take testimony or receive other information from witnesses under oath; and

(4) "court of the United States" means any of the following courts: the Supreme Court of the United States, a United States court of appeals, a United States district court established under chapter 5, title 28, United States Code, a United States bankruptcy court established under chapter 6, title 28, United States Code, the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Federal Claims, the Tax Court of the United States, the Court of International Trade, and the Court of Appeals for the Armed Forces.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 926, and amended Pub.L. 95–405, § 25, Sept. 30, 1978, 92 Stat. 877; Pub.L. 95–598, Title III, § 314(*l*), Nov. 6, 1978, 92 Stat. 2678; Pub.L. 96–417, Title VI, § 601(1), Oct. 10, 1980, 94 Stat. 1744; Pub.L. 97–164, Title I, § 164(1), Apr. 2, 1982, 96 Stat. 50; Pub.L. 102–550, Title XV, § 1543, Oct. 28, 1992, 106 Stat. 4069; Pub.L. 102–572, Title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4519; Pub.L. 103–272, § 4(d), July 5, 1994, 108 Stat. 1361; Pub.L. 103–322, Title XXXIII, § 330013(2), (3), Sept. 13, 1994, 108 Stat. 2146; Pub.L. 103–337, Div. A, Title IX, § 924(d)(1)(B), Oct. 5, 1994, 108 Stat. 2832; Pub.L. 104–88, Title III, § 303(2), Dec. 29, 1995, 109 Stat. 943.)

HISTORICAL AND STATUTORY NOTES

Effective and Applicability Provisions

1995 Acts. Amendment by Pub.L. 104–88 effective Jan. 1, 1996, see section 2 of Pub.L. 104–88, set out as a note under section 701 of Title 49, Transportation.

1992 Acts. Except as otherwise provided, amendment by Pub.L. 102–550 effective Oct. 28, 1992, see section 2 of Pub.L. 102–550, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

1982 Acts. Amendment by Pub.L. 97–164 effective Oct. 1, 1982, see section 402 of Pub.L. 97–164, set out as an Effective Date of 1982 Amendment note under section 171 of Title 28, Judiciary and Judicial Procedure.

1980 Acts. Amendment by Pub.L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub.L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of Title 28, Judiciary and Judicial Procedure.

1978 Acts. Amendment by Pub.L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub.L. 95–598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

Amendment by Pub.L. 95–405 effective Oct. 1, 1978, see section 28 of Pub.L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of Title 7, Agriculture.




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1970 Acts. Section 260 of Pub.L. 91–452 provided that: "The provisions of part [redacted] of title 18, United States Code, added by title II of this Act [this part], and the amendments and repeals made by title II of this Act [sections 835, 895, 1406, 1954, 2424, 2514 and 3486 of this title, sections 15, 87(f), 135c, 499m(f), and 2115 of Title 7, Agriculture, section 25 of former Title 11, Bankruptcy, section 1820 of Title 12, Banks and Banking, sections 32, 33, 49, 77[redacted] 78u(d), 79r(e), 80a–41, 80b–9, 155, 717m, 1271, and 1714 of Title 15, Commerce and Trade, section 825f of Title 16, Conservation, section 1333 of Title 19, Customs Duties, section 373 of Title 21, Food and Drugs, sections 4874 and 7493 of Title 26, Internal Revenue Code, section 161(3) of Title 29, Labor, section 506 of Title 33, Navigation and Navigable Waters, sections 405(f) and 2201 of Title 42, The Public Health and Welfare, sections 157 and 362 of Title 45, Railroads, sections 827 and 1124 of Title 46, Shipping, section 409(*l*) of Title 47, Telegraphs, Telephones, and Radiotelegraphs, sections 9, 43, 46, 47, 48, 916, and 1017 of former Title 49, Transportation, and section 1484 of Title 49, Appendix, section 792 of Title 50, War and National Defense, and sections 643a, 1152, 2026, and 2155(b) of Title 50, Appendix], shall take effect on the sixtieth day following the date of the enactment of this Act [Oct. 15, 1970]. No amendment to or repeal of any provision of law under title II of this Act shall affect any immunity to which any individual is entitled under such provision by reason of any testimony or other information given before such day."

**Change of Name**

References to United States Claims Court deemed to refer to United States Court of Federal Claims and references to Claims Court deemed to refer to Court of Federal Claims, see section 902(b) of Pub.L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

**Savings Provisions**

Amendment by section 314 of Pub.L. 95–598 not to affect the application of chapter 9 [§ 151 et seq.], chapter 96 [§ 1961 et seq.], or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub.L. 95–598, set out preceding section 101 of Title 11, Bankruptcy.

**Amendment or Repeal of Inconsistent Provisions**

Section 259 of Pub.L. 91–452 provided that: "In addition to the provisions of law specifically amended or specifically repealed by this title [see Effective Date note set out under this section], any other provision of law inconsistent with the provisions of part V of title 18, United States Code (added by title II of this Act) [this part], is to that extent amended or repealed."

**Abolition of the Atomic Energy Commission**

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

**Termination of Civil Aeronautics Board and Transfer of Certain Functions**

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by former section 1551 of Title 49, Transportation, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

**Termination of Federal Power Commission**

The Federal Power Commission, referred to in par. (1) was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy [redacted]or certain functions which were transferred to the [redacted] Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

**Subversive Activities Control Board**

The Subversive Activities Control Board was established by Act Sept. 23, 1950, c. 1024, § 12, 64 Stat. 997, and ceased to operate June 30, 1973.

## § 6002. Immunity generally

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

(1) a court or grand jury of the United States,

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this title, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order. (Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

## § 6003. Court and grand jury proceedings

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a court of the United States or a grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, in accordance with subsection (b) of this section, upon the request of the United States attorney for such district, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.



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(b) A United States attorney may, with the approval of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any designated Assistant Attorney General or Deputy Assistant Attorney General, request an order under subsection (a) of this section when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub.L. 100–690, Title VII, § 7020(e), Nov. 18, 1988, 102 Stat. 4396; Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

## § 6004. Certain administrative proceedings

(a) In the case of any individual who has been or who may be called to testify or provide other information at any proceeding before an agency of the United States, the agency may, with the approval of the Attorney General, issue, in accordance with subsection (b) of this section, an order requiring the individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.

(b) An agency of the United States may issue an order under subsection (a) of this section only if in its judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

## § 6005. Congressional proceedings

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

(1) in the case of a proceeding before or ancillary to either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

(2) in the case of a proceeding before or ancillary to a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify.

(Added Pub.L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 928, and amended Pub.L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146; Pub.L. 104–292, § 5, Oct. 11, 1996, 110 Stat. 3460; Pub.L. 104–294, Title VI, § 605(o), Oct. 11, 1996, 110 Stat. 3510.)



EFTA00226423

# Memorandum

| Subject | Date |
|---|---|
| **Changes to Child Exploitation Statutes in Title 18** | September 26, 2006 |

To

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From

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cc: [redacted]

On July 27, 2006, Congress enacted the Adam Walsh Child Protection and Safety Act of 2006. President Bush signed the Act into law on the same day. The Act made some dramatic changes to a number of sections in Title 18 - both sections that traditionally fall within "child exploitation" laws and other seemingly unrelated sections. The Act also created a series of new crimes that are expected to have a large impact on the District.

This memo is meant to update you on the most pressing issue which is the changes that impact child exploitation crimes committed after July 27, 2006[1].

**A. Changes to Mandatory Minimum and Maximum Sentences.**

**1. 18 U.S.C. § 1001 - False Statements**

The statutory maximum of 5 years' imprisonment has been increased to 8 years if "the matter relates to an offense under chapter 109A [§§ 2241-2248], 109B [new § 2250], 110 [§§2251 - 2260], or 117 [§§ 2421-2427], or Section 1591 [sex trafficking of children]".

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[1] The Act immediately became effective, but the changes do not appear in the pocket part for West's Federal Criminal Code and Rules. Because that book is most frequently referred to by AUSAs, many prosecutors may be unaware of the changes.

Exhibit 16

**2. 18 U.S.C. § 1591 - Sex Trafficking of Children**

There are new statutory minimums and maximums for all of the categories of violations of Section 1591:

(a) if the offense was effected by force, fraud, or coercion, or if the minor was under the age of 14, the minimum sentence is 15 years, up to a maximum of life;
(b) if force, fraud, and coercion were not used and the minor was between 14 and 17, the minimum sentence is 10 years, up to a maximum of life.

**3. 18 U.S.C. § 2241 - Aggravated Sexual Abuse**

Whoever crosses a state line with the intent to engage in a sexual act with a child under 12, or whoever, in the special maritime or territorial jurisdiction of the United States or in a federal prison, engages in a sexual act with a child between the ages of 12 and 15 by force, threat of force, rendering the victim unconscious, or by administering a drug or intoxicant to the victim, shall be imprisoned not less than 30 years, up to a maximum of life. 18 U.S.C. § 2241(c).

**4. 18 U.S.C. § 2242 - Sexual Abuse**

Whoever, in the special maritime and territorial jurisdiction of the United States or in a federal prison, engages in a sexual act with an adult by force, threat of force, or with a person mentally incapable of appraising the nature of the situation or a person physically incapable of refusing to participate, faces a maximum term of life imprisonment.

**5. 18 U.S.C. § 2243 - Sexual Abuse of a Minor or Ward**

Whoever, in the special jurisdiction of the United States, engages in a sexual act with a person between 12 and 15 or with a prisoner, faces up to 15 years' imprisonment.

**6. 18 U.S.C. § 2244 - Abusive Sexual Contact**

If a person engages in "sexual contact" in the special jurisdiction of the United States, he or she faces the following sentences:

(a) with a child under 12 or with a child between 12 and 15 by force, threats, or by incapacitating the victim, up to life imprisonment;
(b) with an adult by force, threats, or with a person incapable of consenting, up to 3 years' imprisonment;
(c) with a child between 12 and 15 or with a prisoner, up to 2 years' imprisonment.



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### 7. 18 U.S.C. § 2245 - Offenses Resulting in Death

The death penalty now applies to a person who commits murder in the course of an offense under Chapter 109A, or section 1591, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425.

### 8. 18 U.S.C. § 2251 - Sexual Exploitation of Children

Section 2251 addresses the sexual exploitation of children for the production of child pornography (subsection (a)); allowing one's child or ward to engage in sexual conduct for the production of child pornography (subsection (b)); sexually exploiting a child outside the United States to create child pornography for importation into the United States (subsection (c)); and posting or publishing an advertisement or notice offering to receive, exchange, buy, produce, create, or distribute child pornography (subsection (d)). The statutory sentencing limits have remained the same (15 to 30 years for a first offense, 25 to 50 years for a second offense, and 35 to life for a third offense), but Congress now imposes a range of 30 years to life or death if the offense results in the death of a person.

### 9. 18 U.S.C. § 2252 - Activities Relating to Material Involving the Sexual Exploitation of Minors

Violations of 2252(a)(1), 2252(a)(2) and 2252(a)(3), which cover transporting, distributing, receiving, selling, or possessing with intent to sell, still carry statutory imprisonment ranges of 5 to 20 years for the first offense, and 15 to 40 years for a second offense. Violations of 2252(a)(4), which addresses possession of child pornography keeps the statutory range of 0 to 10 years for a first offense and 10 to 20 years for a second offense. The penalty provisions of 2252(b)(1) and 2252(b)(2) have been amended to expand the definitions of "prior conviction" to include sex trafficking of children.

### 10. 18 U.S.C. § 2252A - Activities Relating to Child Pornography

The statutory sentencing ranges have not changed, but this section also was amended to include sex trafficking of children as a "prior conviction."

### 11. 18 U.S.C. § 2252B - Misleading Domain Names on the Internet

The statutory maximum sentence for a violation of §2252B(b) - the knowing use of a misleading domain name with the intent to deceive a minor into viewing harmful material - has been increased to 10 years.

### 12. 18 U.S.C. § 2258 - Failure to Report Child Abuse

The failure of a professional who works on federal land or a federally-operated facility to report child abuse now faces a maximum of 1 year in prison.



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### 13. 18 U.S.C. § 2260 - Production of Child Pornography for Importation into the United States

Violations of Section 2260(a) - use of a minor outside the United States to create child pornography meant to be imported into the United States - will now be punished under the sentencing scheme in 18 U.S.C. § 2251(e) - 15 to 30 for the first offense, 25 to 50 for the second, and 35 to life for the third, and death or 30 to life if the offense results in the death of a person.

Violations of 2260(b) - receiving, distributing, transporting, selling or possessing with intent to distribute child pornography meant for importation into the United States - is punished under the sentencing scheme in 18 U.S.C. § 2252(b)(1) - 5 to 20 for the first offense and 15 to 40 for a second offense.

### 14. 18 U.S.C. § 2422 - Coercion and Enticement

The statutory sentence limits for using the mail or any facility of interstate or foreign commerce to persuade a minor to engage in prostitution or other sexual activity, in violation of 18 U.S.C. § 2422(b), have increased to 10 years to life.

### 15. 18 U.S.C. § 2423 - Transportation of Minors

The mandatory minimum and maximum sentences for violations of 2423(a) - transportation of a minor with the intent that the minor engage in prostitution or other criminal sexual activity - also has been raised to 10 years to life.

## B. Changes to Sentencing Enhancements and Classification.

### 1. 18 U.S.C. § 2260A - New Enhancement for Registered Sex Offenders

The Act created a new section, 2260A, which creates a ten-year consecutive sentence for a violation "involving a minor" under 18 U.S.C. §§ 1201, 1466A, 1470, 1591, 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2260, 2421, 2422, 2423, and 2425, if the crime was committed while the defendant was required to register as a sex offender. Although not explicitly stated in the Amendment, this enhancement probably applies only to crimes of conviction involving a real minor (as opposed to an undercover officer) and, as a best practice, the AUSA should file a Sentencing Notice similar to a 21 U.S.C. § 851 Notice.

### 2. 18 U.S.C. § 3559 - Sentencing Classification of Offenses

Section 3559(d) was added in 2004 mandating death or life imprisonment for the commission of a violent felony or a violation of Section 2422, 2423, or 2251, if the victim was less than 14 years old, the victim died, and the defendant acted with the intent, to kill or seriously injure the victim or in reckless disregard for human life.



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3559(e) also was added in 2004 to impose mandatory life imprisonment if the defendant has a prior sex conviction with a real minor victim and the crime of conviction is a sex offense with a real minor victim. The Adam Walsh Act added 18 U.S.C. § 1591 (sex trafficking of children) to the definition of "sex offense."

The Adam Walsh Act also added 3559(f) which creates mandatory minimum sentences for violent crimes against children under 18. These mandatory minimums override the maximums and minimums in the statute creating the offense unless the sentence there is greater. If the offense is the murder of a minor, the defendant must be sentenced between 30 years and life, unless death is imposed. 18 U.S.C. § 3559(f)(1). If the offense is kidnapping or maiming, the defendant must be sentenced between 25 years and life. 18 U.S.C. § 3559(f)(2). And if the crime of violence results in serious bodily injury, or if a dangerous weapon was used during and in the relation to the offense, the defendant must be sentenced between 10 years and life. 18 U.S.C. § 3559(f)(3).

### 3. 18 U.S.C. § 3563 - Conditions of Probation

The Act changed one mandatory condition of probation and added a discretionary condition. Section 3563(a)(8) now mandates that, for any person required to register under the Sex Offender Registration and Notification Act, the Court must impose the condition that the person comply with the requirements of that Act. Section 3563(b)(23) creates a new discretionary condition to allow probation officers and law enforcement officers to search the person, residence, vehicle, and computer of any registered sex offender at any time upon reasonable suspicion of a violation of probation or other unlawful conduct.

### 4. 18 U.S.C. § 3583 - Supervised Release

The Act made four significant changes to supervised release. First, the sexual offense defendant's compliance with the Sex Offender Registration and Notification Act is a mandatory condition. § 3583(d). Second, the Court can order, as a discretionary condition of supervised release, that the sexual offense defendant submit to a search at any time based upon a reasonable suspicion of a violation of supervised release or other criminal activity. § 3583(d)(3). Third, in 2003, Section 3583(k) was amended to provide a maximum of lifetime supervised release for certain child exploitation offense. **The Adam Walsh Act expands the crimes for which lifetime supervised release applies and also imposes a mandatory minimum of five years' supervised release for these offenses of conviction:** 18 U.S.C. §§ 1591, 2241, 2242, 2243, 2244, 2245, 2250, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, and 2425. Fourth, if a sex offender violates his supervised release by committing one of a list of offenses, the Court must revoke the term of supervised release and impose a term of at least 5 years' imprisonment. §3583(k).

**[NB: BECAUSE SECTIONS 3563 AND 3583 NOW MAKE SEX OFFENDER REGISTRATION A MANDATORY SENTENCING TERM, AS A BEST PRACTICE PLEA AGREEMENTS AND THE PLEA COLLOQUY SHOULD INFORM DEFENDANTS THAT THIS WILL BE PART OF THEIR SENTENCE.]**



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### 5. 18 U.S.C. § 3592 - Mitigating and Aggravating Factors in Determining Whether to Impose a Sentence of Death

Section 3592 (c)(1) has been amended to included a violation of 18 U.S.C. § 2245 as an aggravating factor for a homicide case.

## C. Creation or Expansion of Federal Offenses

### 1. 18 U.S.C. § 1201 - Kidnapping

The Adam Walsh Act filled a jurisdictional gap in Section 1201. Now there is federal jurisdiction over a kidnapping offense if the victim was transported in interstate or foreign commerce, whether or not the victim was alive when the transportation began, or if the perpetrator travels in interstate or foreign commerce, during or in furtherance of the offense, or if the perpetrator uses the mail or any means, facility, or instrumentality of interstate of foreign commerce during or in furtherance of the offense.

### 2. 18 U.S.C. § 1465 - Production and Distribution of Obscene Materials

Section 1465 has been expanded to prohibit producing obscene materials "with the intent to transport, distribute, or transmit in interstate or foreign commerce."

### 3. 18 U.S.C. § 2250 - Failure to Register as a Sex Offender

The enactment of Section 2250 now makes it a federal criminal offense for certain sex offenders to fail to register or to update their sex offender registrations. To avoid jurisdictional problems, Section 2250 only applies to sex offenders who either:

(a) is a sex offender due to a conviction under federal law, the Uniform Code of Military Justice, the law of the District of Columbia, Indian tribal law, or the law of a U.S. territory or possession,

or (b) is a sex offender due to a conviction under state, local, or foreign[2] law and travels in interstate or foreign commerce, or enters, leaves, or resides in Indian Country.

The punishment for violating Section 2250 is up to 10 years' imprisonment, but if the offender is found to have committed a crime of violence, then he must serve a consecutive term of 5 to 30 years' imprisonment.

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[2]A foreign conviction cannot be the basis if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused.



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### 4. 18 U.S.C. § 2252C - Misleading Words or Images on the Internet

This new offense is an analog to § 2252B, which prohibits the use of misleading domain names to induce someone to view obscene material. Section 2252C expands the prohibition to "embedding" words or digital images into the source code of a website." If those words or images deceive an adult into viewing obscene material, the penalty is up to 10 years' imprisonment. If the words or images are meant to deceive a minor into viewing material harmful to minors, the penalty is up to 20 years' imprisonment.

### 5. 18 U.S.C. § 2257 and 2257A - Record Keeping Requirements for Producers of Pornography

Section 2257 was enacted several years ago to require the producers of adult pornography to keep records of the names, ages, and other information related to the persons appearing in the pornography. The Adam Walsh Act amended Section 2257 to make clear that the record-keeping requirements also apply to internet-based pornography websites and digital images that are never printed on "film" or "videotape." The Act also criminalized a producer's refusal to allow an inspection of these records by the Attorney General or his designee. § 2257(f)(5).

The Act also created Section 2257A, which extends these record keeping requirements to producers of "simulated sexually explicit conduct." § 2257A(a)(1).

## D. Changes to Court Procedures

### 1. 18 U.S.C. § 2255 - Civil Remedy for Personal Injuries

Section 2255 has been expanded to allow a person who, while a minor, was a victim of various child exploitation offenses, to pursue a civil action for personal injury damages - regardless of when the personal injury occurred. It also raises the presumptive damage amount to $150,000.

### 2. 18 U.S.C. § 3142 - Release or Detention Pending Trial

Section 3142 has been amended several times in recent years to create a presumption of detention in child exploitation cases. The Adam Walsh Act makes three changes to Section 3142. First, if a defendant charged with a child exploitation offense or a failure to register as a sex offender is released on bond, **the release order must contain: (1) a condition of electronic monitoring,** (2) restrictions on personal associations, residence, and travel, (3) restraints from contact with victims and witnesses, (4) reporting requirements, (5) a curfew, and (6) prohibitions on possessing a firearm, destructive device, or other dangerous weapon. § 3142(c).

Second, an AUSA can make a motion for detention based upon risk of flight and danger to the community in any case involving a crime of violence (which includes crimes in Chapters 109A, 110, and 117), an offense with a maximum sentence of life imprisonment or death, and "any felony



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that is not otherwise a crime of violence that involves a minor victim or that involves the possession or use of a firearm or destructive device, or involves a failure to register" as a sex offender. § 3142(f).

Third, the factors that the Court is supposed to consider in making its decision on detention now include whether the offense involved a minor victim or a firearm, explosive, or destructive device. § 3142(g)(1).

**3. 18 U.S.C. § 3299 - Limitations Period**

The Act rescinded the statute of limitations for any offense under Section 1201 (kidnapping) involving a minor victim, and for any felony under chapters 109A, 110 (except Sections 2257 and 2257A), and 117, and under Section 1591.

**4. 18 U.S.C. § 3509 - Child Victims' and Child Witnesses' Rights**

The Adam Walsh Act provides a specific instruction regarding the handling and disclosure of child pornography. The child pornography must remain in the care, custody, and control of the Government or the Court. § 3509 (m)(1). **Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a Court shall deny any request by the defense to copy or duplicate any child pornography, so long as the Government makes the material reasonably available to the defense, including defense experts. § 3509(m)(2).**

**5. 18 U.S.C. § 4042 - Duties of Bureau of Prisons**

BOP is mandated to provide notice to prisoners about to be released of their obligations to register as Sex Offenders, and to notify state and local law enforcement of the pending release of a sex offender.



EFTA00226431

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE: OPERATION LEAP YEAR

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Grand Jury #07-103 (WPB)
West Palm Beach, Florida
Tuesday, February 6, 2007

TESTIMONY

OF

[redacted]

APPEARANCE:

[redacted]



Exhibit 17

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.

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 [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



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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



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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 [redacted] 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. -- [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?



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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 [redacted] have a new last name?

A Yes, she does, she is married and her name is [redacted]

Q [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



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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]. So [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.



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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. David Rogers, who is a pilot of Mr. Epstein's, and we have received documentation from Mr. Rogers. 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 [redacted] 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] 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 [redacted] 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 Larry Visoski, 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 Janusz



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Banasiak, 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] 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 [redacted] 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



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with the rental cars, and flower shop, you know.

A GRAND JUROR: Will we have an opportunity later to go through these i[redacted] we need to?

[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 [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.

[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.

[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.

[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



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walls is confidential.

BY [redacted]

Q Now, [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 [redacted]rom 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 [redacted]

Q [redacted] one of the Grand Jurors asked whether there was any evidence of force or



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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 of[redacted] wearing their clothing and then he would instruct them to remove their clothing, the girls either performed these massages in the nude or keeping their underwear on.

As they went back again and again on some of the occasions the girls would take off more and more of their clothing, so when they first started they may be fully clothed and then when they came back he would instruct them to remove more of their clothing, so as 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 i[redacted] 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 thong underwear and Mr. Epstein did perform sexual acts



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either by -- and I didn't get into that, but either by stroking their vagina on the outside of their panties or sometimes inside their panties as well as fondling them, and the girls, many of our victims did not realize that that was what was going to happen.

Q And was there one instance where Mr. Epstein actually engaged in vaginal intercourse with a girl against her will?

A Yes, he did, one of our victims who had been going there over a lengthy period of time had told Mr. Epstein on several occasions that he was not to do that and he did turn her around, threw her on the massage table and penetrated her.

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



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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] 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] knew or should have known what was going on?

A There are so many girls that [redacted] contacted to give Mr. Epstein massages that have no training in massages, and that [redacted] was aware that girls were bringing other girls, you know, their friends to do these massages.

[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] 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.

[redacted] Okay.

A GRAND JUROR: What was the actual age range of these girls?



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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?

[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



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that's pretty much where we start off.

[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?

[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 [redacted] to maintain custody?

A GRAND JUROR: Yes.

[redacted] You should have something to swear her in as a custodian.

(The witness was sworn in as the custodian of records.)

[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]



EFTA00226453

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

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TESTIMONY

OF

[redacted]

---

ORIGINAL

Exhibit 18

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.

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(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

[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 [redacted] 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 [redacted] told you he was 45. So at the time we're looking during this investigation, he is 51 or 52.

Q [redacted] how did this case first come to the attention of the police?

A In March of 2005, [redacted], our youngest identified victim -- her stepmother 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].

Q And you mentioned that the call came in from [redacted] stepmother 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 Loxahatchee-Royal Palm Beach 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 stepmother 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 High Ridge 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] 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

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]ouse, [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] overhear [redacted] on the phone describing [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] 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] boyfriend, and [redacted] is also [redacted] cousin, 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

massage that was going to take place?

A Yes.

Q So [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] 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], I should tell you, is Jeffrey's assistant.

So on Sunday a call was placed to [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] 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

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] 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]

A Yes, she did.

Q So even though [redacted] doesn't know her name, [redacted] knew [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 [redacted]irst time she had on her bra and her pants.

When he comes back in, he tells her that she needs to take her pants of[redacted]. So she took her pants of[redacted]. 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 moaning or groaning, and states that she believes he was, in her words, "wacking off" or masturbating. She didn't say masturbating, she said "wacking off." [redacted] am going to use that she believes he was masturbating.

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 moves his hand up and down his penis. So he continued to masturbate on the table. He asked [redacted] at some point during this time, if she would like to make an

extra $100. He tells her that it would not involve doing a massage. [redacted] agrees. He asked her if he could use a vibrator on her, and she does agree. [redacted] describes it as a purple vibrator that was used on her vagina, and she said this goes on for about ten minutes.

At some point during that massage the vibrator is not used anymore and digital penetration takes place. [redacted] describes him as fingering her.

Q What did she say happened when Mr. Epstein digitally penetrated her?

A The vibrator is used. At some point he does digitally penetrate her. 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 the digital penetration. In the last three to [redacted]our minutes of that, he begins to masturbate again.

At the conclusion of the sexual activity, Mr. Epstein wipes his penis of[redacted] with a towel. [redacted] was asked if he ejaculated. She did not see him ejaculate, but saw him wipe his penis off with a towel.

Q Was [redacted] able to provide a physical description of Mr. Epstein?

A Yes.

Q Including of his penis?

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 wiped himself off, what happened?

A He told [redacted] that she was getting the extra hundred dollars because he was allowed to use the vibrator on her and had fingered her. 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

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] eave 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 fingered her, as well as used a vibrator.

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

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] had been fingered 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 of[redacted] 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 using the vibrator and digitally penetrating her.

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 of[redacted] 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 of[redacted] 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 [redacted]'ll tell you, when we talked about the sexual activity, and it comes out that she wasn't wearing her underwear when he was digitally penetrating her and using the vibrator, 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 vibrator or being digitally penetrated. When detective [redacted] comes and sees her again a few weeks later, she does tell her at that time that a vibrator was used on her. She also says that to the grand jury, she talks about the purple vibrator being used on her.

Last night she told us about the purple vibrator being used on her. When we asked her about him digitally penetrating her, and that [redacted] had told the police department that she had been fingered, [redacted] told us last night that she was fingered 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 he had fingered her. She didn't want anybody to know, but she especially didn't want her father to know, that that was her business. That

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 being digitally penetrated. 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 [redacted]irst visit to Mr. Epstein's house, and the interviews with detective [redacted] did detective

[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 [redacted] believe the first call was made towards the end of March, I believe it was March 30. [redacted] called [redacted] at the [redacted] 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

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.

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]s 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

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] 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]:

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

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 [redacted]ront 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?

A Through phone records, we have contact between [redacted] starting at age 17. [redacted] Those are all the questions. Thank you.

(Witness excused, and then returned.)

BY [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.

[redacted] All right. Any other questions? Okay, thank you, very much.

(Witness excused.)

CERTIFICATE OF REPORTER

[redacted] 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.

[redacted]

[redacted], Court Reporter

**U.S. Department of Justice**

*United States Attorney*
*Southern District of Florida*

*500 South Australian Ave., Suite 400*
*West Palm Beach, FL 33401*
*(561) 820-8711*
*Facsimile: (561) 820-8777*

March 15, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [redacted]:

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

(1) The right to be reasonably protected from the accused.
(2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
(3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
(5) The reasonable right to confer with the attorney for the United States in the case.
(6) The right to full and timely restitution as provided in law.
(7) The right to proceedings free from unreasonable delay.
(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [redacted], or Special Agent [redacted] from the Federal Bureau of Investigation at [redacted]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at 202-307-5983. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

**Exhibit 19**

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, March 20, 2007

APPEARANCES:

[redacted]
Assistant United States Attorney

[redacted]
n



Exhibit 20

EFTA00226484

The sworn testimony of SPECIAL AGENT [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, [redacted] Building, U.S. Courthouse, Palm Beach County, State of Florida, on Tuesday, March 20, 2007. [redacted]i, 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.



EFTA00226485

(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.



EFTA00226486

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.

[redacted] And I will just pass those to the grand jury.

BY [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.



EFTA00226487

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



EFTA00226488

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]?

A Yes.

Q And when are those phone records?

A Those phone records show up in March of '04 when [redacted] would be 16.



EFTA00226489

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 fight or a disagreement, a breakup in their relationship, 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



EFTA00226491

when she returned to the Epstein house?

A Yes. We have phone activity between [redacted] Kellen 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] and [redacted] Mr. Epstein's assistant.

Q What did [redacted] 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?

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 digitally penetrated her. It began first by rubbing her on the outside of her vagina and then on more than one occasion actually penetrating her with his fingers.

He would request her to pinch his nipples. He rubbed her breasts as well. She stated that there was a vibrator that was used on her vagina as well, did not penetrate her, but that she described the vibrator as being a white vibrator with a gray head, 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 vibrator used on her?

A Yes.

Q And, again, so the record is clear, when you are talking about these vibrators, they are the large back massager type vibrator?

A We have had some girls just describe

them as a vibrator. We have had some girls just describe them as a back massager and then we also had girls describe them as both, because of the size of it, I think some girls are more aware of what a vibrator would look like due to their ages.

You know, I don't know that everybody knew exactly what a sexual vibrator looked like, but they all vibrated, and we have actually had that described, and [redacted] described it as both, a vibrator slash massager, saying that it was, you know, large in nature.

Q Okay. Now in addition to using that massager and digitally penetrating [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 between her legs and masturbate 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 between her



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masturbating, and he has attempted to put his penis on her vagina, never penetrating her, 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



EFTA00226495

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] Kellen 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 vibrator or the -- she didn't tell them about the vibrator or the penetration.

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 vibrator. 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

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 vibrator. So not only was there a vibrator back massager 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 vibrator.

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 vibrator 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



EFTA00226497

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]'s 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



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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 soccer player or that -- Jeffrey knew that she was a soccer player and asked questions about her college, about where she was going to school.

[redacted] is currently going to [redacted]ty, and she had advised Mr. Epstein that she would be attending college at [redacted] [redacted]ty.

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?

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 vibrator was given to her for her eighteenth birthday. There were three sets of bra and underwear, panties, [redacted]ia 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]'s.

Q And let me show you what has been marked as Grand Jury Exhibit 4, and what is Grand Jury



EFTA00226501

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 masturbating, 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 [redacted]irst [redacted]ew 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 i[redacted] 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 Lauren. At some point, did he begin masturbating in front of her?

A Yes, he did. Not in the very beginning, but throughout this he did. Now I should tell you



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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 penis and that he was masturbating, but that he never finished, that he never ejaculated. 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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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.)



EFTA00226505

[redacted] Let me just step out for one moment.

([redacted]a exits the Grand Jury Room.)

([redacted] enters the Grand Jury Room.)

MS. [redacted] Ladies and gentlemen, I am going to have to take a break now and we will be back either next week or the [redacted]ollowing week. Thank you very much. You are done for the day.

(Witness was excused.)

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CERTIFICATE OF REPORTER

I, [redacted]i, 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



EFTA00226506

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]n



Exhibit 21

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.

[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.



EFTA00226508

(Witness enters the Grand Jury Room.)

THE [redacted]OREPERSON: 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]l 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 [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 o[redacted] 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



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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 [redacted] and her attorney were concerned about her testimony here?

A Yes.

Q Now was a subpoena issued for [redacted] on behal[redacted] of this grand jury?

A Yes, it was.

Q And before [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 [redacted] or [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 [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.



EFTA00226512

And that number three, in the judgment of the United States Attorneys, the testimony and other information from Haley [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



EFTA00226513

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 [redacted]ailing 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, Marie Villafana, AUSA.



EFTA00226514

Q All right. So has a copy or has this document been shown to counsel for [redacted]?

A Yes, it has.

Q And to [redacted]?

A Yes.

Q And will [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.

[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.)



EFTA00226515

CERTIFICATE OF REPORTER

I, [redacted]i, 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



EFTA00226516

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:

MARIE [redacted],
Assistant United States Attorney

[redacted],

[redacted]n

The sworn testimony of [redacted] was taken before the Federal Grand Jury, West Palm Beach Division, [redacted] Building, U.S. Courthouse, Palm Beach County, State of Florida, on Tuesday, April 24, 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.



EFTA00226518

(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: [redacted] do.

THE FOREPERSON: Thank you. Please be seated.

EXAMINATION

BY [redacted]:

Q Good afternoon, [redacted]. Could you state and spell your name for the record?

A [redacted], [redacted], [redacted].

Q And where do you currently live?

A I live -- do you want me to give the address?

Q Sure.

A [redacted], [redacted], [redacted]

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 i[redacted] you don't tell the truth --

A [redacted] 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]l [redacted].

Q What year did you graduate from Royal Palm?

A [redacted].

Q And where are you currently working?

A I currently am not working.

Q But you are starting a new job?

A Thursday.



EFTA00226520

[redacted] Where will that be?
A Fort Lauderdale, Coral Springs.
Q What type of position will that be?
A [redacted]g.
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?
[redacted]
Q When you were in high school, where did you work?
A [redacted].
Q And do you know Jeffrey Epstein?
A Yes, I do.
Q Can you tell the grand jury how you [redacted]irst 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



EFTA00226521

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 [redacted]urther 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 middle school together.

Q And she was in your same grade in high school?

A Yeah.

Q And you mentioned that [redacted] had



EFTA00226522

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 [redacted] 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. [redacted] 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?

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]



EFTA00226524

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, [redacted]ou 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,



EFTA00226525

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 started to masturbate asking me to squeeze his nipples really hard to ejaculation and then after that everything was done.

Q Okay. So when Mr. Epstein ejaculated 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



EFTA00226526

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 [redacted]ront 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



EFTA00226527

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



EFTA00226528

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 [redacted]irst 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 i[redacted] they don't know what's going to happen?

A Absolutely.



EFTA00226529

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 [redacted]ondling. 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 be masturbating?

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.



EFTA00226530

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 [redacted]avor. [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 [redacted] went to high school with, [redacted] she was maybe a year younger, and him and her got into an argument about money. 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 into an argument about money and after that [redacted] never really brought her back.

Q Okay. And did either Jeffrey Epstein



EFTA00226531

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 [redacted] 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 [redacted].

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



EFTA00226532

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.



EFTA00226533

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 I[redacted] 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



EFTA00226534

over and massage or can she work? [redacted] 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 [redacted] 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] on the telephone, did you -- were all o[redacted] these conversations about setting up these appointments?

A When [redacted] would talk to [redacted]?

Q Yes.

A Yes. It would be pure business whenever [redacted] talked to [redacted].

Q So you didn't have any sort of friendly relationship?

A No friendly relationship, never socialized unless [redacted] was at the house. It wasn't like that at all.



EFTA00226535

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.



EFTA00226536

Q Did you ever see the girl who actually did the massages get paid?

A No, [redacted] 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 [redacted] 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



EFTA00226537

massage table was.

[redacted] 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 [redacted] first massaged him, there was like a white massager on the table or a white vibrator.

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 cylinder. It was really big. The head was bigger. It was white. I think the top of it was maybe like pink. It was big, that's all I remember.

Q Okay. And did any of the girls ever tell you that that was used on them?



EFTA00226538

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] P[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?

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?



EFTA00226539

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 [redacted]?
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], 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?



EFTA00226540

A [redacted] was Hispanic. She kind of looks Korean, but she's Hispanic, Hawaiian, maybe. She had a dark complexion. She had hair down to the middle of her back, long, highlights.

Q Was she thin or heavy?

A No. She was maybe -- she had a boxy type figure, maybe a little lighter 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 massager being used, 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]

A Okay.

Q Did she tell you what happened?

A All that she really told me was that they got into a money fight. He had tried



EFTA00226541

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 insert fingers in her and use the massager on her.

Q Okay. And she told you those things?

A She told me those things.

Q That he had digitally penetrated her and had used the massager?

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 massager being used?

A I can't recall. I know there was another one that said something about the



EFTA00226542

massager, but I wasn't really paying attention.

Q Now when you [redacted]irst 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.



EFTA00226543

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.



EFTA00226544

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 [redacted]ew days in advance. Jef[redacted]rey 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



EFTA00226545

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 masturbate in front of the girls but not have sex?

A That's correct.

Q What led you to believe that?

A He just did it. I just learned that Epstein just started masturbating in front of everybody. 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 masturbating in front of the girls?

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



EFTA00226546

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 [redacted]ind 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] going to ask you to step outside for a minute and I will find out

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 [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 [redacted] don't talk to any of the [redacted]emales 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



EFTA00226548

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 [redacted]ollow up on either of those points? Yes, ma'am.

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



EFTA00226549

on my house phone. I'm assuming because Sarah 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, ma'am. Thank you for coming.

(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 [redacted] taken before the Federal Grand Jury, West Palm Beach, Florida.

[redacted]

Certified Court Reporter



EFTA00226550

JASON RICHARDS

May 8, 2007 G.J. Presentation

Introduction

- Plans for Today
  - Return additional documents
  - [redacted] Begin directed presentation of evidence supporting indictment
  - INDICTMENT IS ONLY A DRAFT. FINAL WILL BE PRESENTED AT TIME OF VOTE
  - CHART - NUMBERED TO CORRESPOND TO DRAFT INDICTMENT. IF THERE ARE CHANGES TO THE INDICTMENT, I WILL GIVE YOU A NEW CHART WITH NOTATION OF WHAT THE CHANGES ARE.

- START WITH SOME INSTRUCTIONS. IF I AM GOING TOO FAST LET ME KNOW.

- GO THROUGH CONSPIRACY-TYPE CHARGES FIRST, THEN EVIDENCE ON EACH CHARGED GIRL

- COVER COUNTS + OVERT ACTS RELATED TO JANE DOES 1-6

---

CALL SPECIAL AGENT JASON RICHARDS

- NAME
- BY WHOM ARE YOU EMPLOYED? - POSITION?
- ARE YOU ONE OF THE AGENTS ASSIGNED TO THE INVESTIGATION KNOWN AS OPERATION LEAP YEAR?

- WERE SUBPOENAS CAUSED TO BE ISSUED IN BEHALF OF THIS GRAND JURY IN CONNECTION WITH THAT INVESTIGATION?

- AND HAVE DOCUMENTS BEEN RECEIVED IN RESPONSE TO THOSE SUBPOENAS?

- WHAT ADDITIONAL SUBPOENAS HAVE BEEN ISSUED? AND WHAT HAVE YOU RECEIVED IN RESPONSE?

- PLEASE LEAVE DOCUMENTS HERE



Exhibit 23

NEXT, I WILL CALL [redacted] TO TESTIFY ABOUT TWO ADDITIONAL INTERVIEWS BEFORE WE ADDRESS THE PROPOSED CHARGES.

- REMIND US OF YOUR NAME AND WITH WHOM YOU ARE EMPLOYED.
- YOU ARE ONE OF THE CASE AGENTS ASSIGNED TO OPERATION LEAP YEAR?
- DID YOU RECENTLY PARTICIPATE IN AN INTERVIEW OF [redacted] 7/26/88
  WHO IS THAT? — HOW OLD IS SHE NOW? [redacted]
  WHEN DID YOU INTERVIEW HER?
  HOW DID [redacted] COME TO THE ATTENTION OF LAW ENFORCEMENT.
  WHEN WAS THAT?
  DID THE PALM BEACH PD TRY TO INTERVIEW HER?
  WHAT HAPPENED?
- AFTER THE FBI BECAME INVOLVED, DID YOU TRY TO INTERVIEW [redacted] WHAT HAPPENED?
- DID YOU TRY TO SERVE HER WITH A SUBPOENA ISSUED ON BEHALF OF THIS GRAND JURY? WHAT HAPPENED?
- AFTER THAT, DID [redacted] OBTAIN AN ATTORNEY?
  WHO WAS THAT?
  WHO PAID FOR THAT ATTORNEY?
- ONCE SHE HAD AN ATTORNEY, DID [redacted] AGREE TO BE INTERVIEWED? WHY NOT?
- DID THE JUSTICE DEPARTMENT AUTHORIZE THE GRANT OF IMMUNITY?
- WAS SHE INTERVIEWED? WHO WAS PRESENT?
- WHAT DID SHE TELL YOU ABOUT JEFFREY EPSTEIN?
- HOW OLD DID SHE SAY SHE WAS WHEN SHE FIRST MET HIM? WHAT HAS YOUR REVIEW OF THE EVIDENCE SHOWN?

- WHAT DID SHE TELL YOU ABOUT WHAT OCCURRED DURING THE MASSAGES?
  - TOPLESS
  - NUDE
  - HE MASTURBATED
- PERIOD OF TIME OVER WHICH SHE PERFORMED MASSAGES
- SHE SAID NO TOUCHING - EMPHATIC ABOUT THIS
- AGE - CONTRADICTORY
  - HOW MANY GIRLS DOES SHE SAY SHE BROUGHT
  - OF THE ONES IDENTIFIED, HOW MANY WERE UNDERAGE
    - HAVE ANY OF THEM MADE STATEMENTS ABOUT THEIR AGES AT THE TIME?

ONLY IF TRUE

- HOW WERE APPOINTMENTS MADE?
  - DID THIS SOUND COACHED?
  - WERE YOU MADE AWARE THAT EPSTEIN'S COUNSEL WAS INFORMED THAT HE WAS BEING INVESTIGATED FOR TRAVELING TO ENGAGE IN PROSTITUTION WITH A MINOR, WHICH SUGGESTS MAKING APPOINTMENTS PRIOR TO THE TRAVEL?
- ANYTHING ELSE THAT SOUNDED COACHED?
- DID [redacted] DESCRIBE THE GIRLS THAT SHE BROUGHT OVER?
  GIRLS WHO LOOKED LIKE HER
  EPSTEIN LIKED GIRLS WHO LOOKED LIKE HER?
  HOW OLD WAS MS. MILLER AT THE TIME?
- SHE MENTIONED THAT SHE WAS TOLD TO SAY SHE WAS 18 AND THAT SHE HAD A FAKE ID.
  - DID [redacted] TELL YOU THAT EPSTEIN OR [redacted] ASKED ~~FOR~~ HER AGE? ASKED TO SEE ANY IDENTIFICATION

- ANY GIRLS HE DIDN'T LIKE?
  WHY NOT
  - SHE MADE A MISTAKE
    - HE STILL PAID THE GIRL, BUT HE WOULDN'T LET HER DO THE MASSAGE

KEN LANNING

- IN PREPATION FOR YOUR TESTIMONY TODAY, DID YOU SPEAK WITH ANYONE WHO IS CONSIDERED TO BE AN EXPERT IN THESE TYPES OF CASES?

- HAS HE BEEN QUALIFIED TO TESTIFY AS AN EXPERT IN FEDERAL AND STATE COURTS IN CASES THAT INVOLVE WHAT HE CALLS COMPLIANT VICTIMS?

  - WHAT DOES HE MEAN BY COMPLIANT VICTIMS

IN OTHER WORDS, MINORS WHO ARE SUBJECTED TO SEXUAL ACTIVITY, BUT WHO ARE NOT KIDNAPPED OR RAPED AT GUNPOINT OR SOMETHING LIKE THAT?

WHAT DIFFICULTIES ~~CHARACTERISTICS~~ ARE THERE ABOUT INTERVIEWING THESE TYPES OF VICTIMS?

- DENY
- MINIMIZE
- ONLY TELL EVERYTHING THAT HAPPENED AFTER DEVELOPING RAPPORT WITH INTERVIEWER
- CONSISTENT WITH INTERVIEWS IN THIS CASE?

II

DOES HE ALSO HAVE EXPERTISE IN SEXUAL PREFERENCES OF OFFENDERS?

~~WHAT REASONS~~

WHY WOULD AN OFFENDER SELECT THE TYPES OF VICTIMS THAT WE HAVE IN THIS CASE? (GIRLS 14-17 YEARS OLD?)

- ~~SEXUALLY MATURE~~ BUT
- EMOTIONALLY IMMATURE
- PHYSICALLY DEVELOPED
- NOT SEXUALLY EXPERIENCED
- EASY TO MANIPULATE

WHAT IS GROOMING? HOW IS GROOMING USED TO ~~MANIPULATE~~ VICTIMS?



EFTA00226554

~~How was~~

DID EPSTEIN USE GROOMING ON THE GIRLS INVOLVED IN THIS CASE?
- CAN YOU GIVE ~~SOME~~ AN EXAMPLE?

DID MR. LANNING EXPLAIN WHY IT IS THAT ~~THE LAW HAS DECIDED TO~~ A COMPLIANT CHILD VICTIM CANNOT LEGALLY CONSENT TO THE SEXUAL CONDUCT?

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INSTRUCTIONS

DRAFT INDICTMENT

---

INTRODUCTION
- JE
[redacted]
- JEGE
- HYPERION

- GATHERING OF EVIDENCE IN THIS CASE
  - INFO FROM PBPD
    - INCLUDING SEARCH OF JE'S HOME
    - INTERVIEWS BY PBPD
    - CONTROLLED CALLS
  - INFO GATHERED BY FBI
    - INTERVIEWS - GIRLS, RECRUITERS
    - PHONE RECORDS
    - RECORDS OF PAYMENTS/GIFTS
    - TRAVEL RECORDS - FLIGHT MANIFESTS
    - OTHER DOCUMENTARY EVIDENCE - CORPORATE DOCUMENTS RE JEGE + HYPERION
  - ANALYZE DATA
    - CALLS & FL[redacted]
    - KNOWN CALLERS [redacted] MAJKRA "BUSINESS"



EFTA00226555

IS THE INVESTIGATION CONTINUING?
- STILL TRYING TO LOCATE AND INTERVIEW MORE GIRLS?

LET'S TURN TO THE SPECIFIC EVIDENCE SUPPORTING THE OVERT ACTS, RELATED TO [redacted] AND OFFENSES

IN THIS DRAFT INDICTMENT.

[redacted]

YOU TESTIFIED EARLIER ABOUT HER
SHE TESTIFIED BEFORE THIS GRAND JURY
DOB
SHE DESCRIBED HOW SHE WAS RECRUITED TO PERFORM

1 or 2 more sessions
transcripts

Epstein paid for [redacted] + [redacted] + [redacted] phones

Stalking
what does Mr. Epstein

Case No. [redacted]V-MA[redacted] P-008548

Name
Flight Risk

Personal Relationships

[redacted] Hundreds & times

Filming issue
In Florida issue

Case No. [redacted]V-MA[redacted] P-008549

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

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TESTIMONY

OF

[redacted]

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**Exhibit 24**

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.

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(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], [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]s date of birth?

A Tatum was born on July 26, 1988.

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 Tatum Miller?

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]

Q Did the Palm Beach Police Department try to interview [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 [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 Miller?

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 [redacted] 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 [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, [redacted] 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 [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] Kellin (phonetic), Mr. Epstein's assistant, is contacting [redacted] on her cell phone, or using her cell phone to call Tatum's 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 of[redacted] 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 touched himself?

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 masturbated in [redacted]ront of her.

Q Did [redacted] admit that he masturbated on more than one occasion in her presence?

A Yes, masturbated. And I think her term was that he "released," meaning that he ejaculated.

Q How long of a period of time did [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 [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 [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] 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 [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 [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 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 Ken Lanning.

Q Has Mr. Lanning 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. Lanning 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. Lanning 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] P., 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. Lanning 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, [redacted] 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.

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]

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, [redacted] 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 [redacted] 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 [redacted]?

A Yes.

Q And [redacted] you have previously testified about her?

A Yes, I have, that's [redacted].

Q [redacted]?

A That is [redacted].

Q [redacted]?

A That is [redacted].

Q [redacted]?

A [redacted].

Q And [redacted]?

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] 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 [redacted] 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 [redacted]. We're going to talk about her, that he forcibly put her on the table and penetrated her. 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 [redacted]:

Q So turning to [redacted] [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] [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 [redacted] 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]'s 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 [redacted] to make one or more telephone calls to [redacted].

First of all, who is [redacted]?

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 [redacted] to transport [redacted] 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 [redacted] and a payment of $200 to [redacted].

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 digitally penetrated and used a massager on [redacted] vagina.

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 [redacted].

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 [redacted].

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 [redacted] to make a call to a telephone used by [redacted].

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]s 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]'s 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 Sage 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 [redacted] which appears on page 26. That is the charge of enticement of a minor, referring to [redacted] and Mr. Epstein and [redacted] are charged.

[redacted] 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 J[redacted] actually went to Mr. Epstein's home?

A Yes, and performed a massage for him in the nude.

Q And she was paid [redacted]or that?

A Yes, she was paid $200.

Q And he masturbated in front of her, correct?

A Yes, he did. I would like to include that [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 [redacted]? Seeing no questions, we'll turn to J[redacted].

BY MS. [redacted]:

Q You previously mentioned that that was [redacted]?

A Yes.

Q Let's turn to Count [redacted], 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 [redacted]

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]s, [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 fingered [redacted] -- and that was his term for it -- and that he used a massager on her.

He did masturbate during that massage, and she believed he ejaculated because he wiped off his penis with a towel. She was paid $300, and we know that she was [redacted] 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

EFTA00226591

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.

[redacted]

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

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TESTIMONY

OF

[redacted]

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**Exhibit 25**

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.

[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 his oath as follows:

EXAMINATION

BY [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?

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.

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.

[redacted]

[redacted]

**From:** [redacted] SAFLS)
**Sent:** Monday, [redacted] 10:52 AM
**To:** [redacted] (USAFLS)
**Subject:** Re: Operation Leap Year

[redacted]

You will not ha[redacted]pproval to go forward tomorrow with an indictment or to poceed by complaint. [redacted] has your memo and lefcourt's letter but he is out of the district at the US Attorney's conference for the next several days.

I'm having trouble understanding - given how long this case has b[redacted]pending - what the rush is. This is obviously a very significant case and [redacted] wants to take his time making sure he is comfortable before proceeding.

---

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

[redacted]S)

Sent: Mon May 14 10:38:15 2007
Subject: Operation Leap Year

Good morning: I just received a call that Epstein's plane is flying from the Virgin Islands to Newark now, so it looks like Epstein is going to show up for his court appearance tomorrow. Can you let me know if the indictment is going tomorrow or, if not, whether we are authorized to proceed by Complaint?

Thank you.

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]



**Exhibit 26**

EFTA00226600

[redacted]

**Sent:** Friday, May 18, 2007 4:58 PM
**To:** [redacted]
**Cc:**
**Subject:** Op. Leap Year GJ Subpoena

Hi [redacted] hought I should run this by you. As I mentioned in the pros memo, when the Palm Beach PD searched Epstein's home, they found computer monitors and equipment, but no CPUs. From the continued investigation, we know that the computers were removed by Paul Lavery, a private investigator, with the help of [redacted], one of our targets. Now that we know that Lavery removed the computers, I would like to subpoena the computers to the grand jury. Lavery is a private investigator and is believed to have been working for Roy Black at the time. Today I spoke with a CCIPS duty attorney who told me that grand jury subpoenas can be used to obtain computer equipment. I also spoke with the duty attorney in the Witness Immunity Section and explained the situation. She said that we do not need Justice approval to subpoena the private investigator, so long as his office is not located within the lawyer's office (it is not—Lavery is in Hialeah and Roy Black is downtown).

I was intending to ask the grand jury if they will authorize a forthwith subpoena, or I may just give a short lead time. I also intend to include a cover letter explaining that if Lavery turns over the equipment, he does not need to appear before the grand jury. If he no longer has the equipment, he can either tell the agents where the equipment currently is or he can appear before the grand jury to tell them. So, I am not looking for anything that could be considered "privileged information," (such as who told him to remove the equipment, what were the exact orders, etc.) just the location of physical evidence belonging to the target.

Any concerns/comments?

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone [redacted]
Fax [redacted]

**Tracking:**



EFTA00226601

[redacted]

**Sent:** Monday, May 21, 2007 4:30 PM
**To:** [redacted]
**Subject:** Leap Year

Hi all – I know [redacted] just got back, so I don't expect a signed indictment. I have time set aside with the grand jury tomorrow, and I am wondering if you have a sense of the direction where we are headed – i.e., approval of an indictment something like the current draft, a complaint to allow for pre-indictment negotiations, an indictment drastically different from the current draft? I am concerned about confusing the grand jury, which is never a good thing.

Any guidance?

Thank you.

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone [redacted]
Fax [redacted]

**Tracking:**



EFTA00226602

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], COURT REPORTER



Exhibit 27

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.

[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 [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, [redacted] am.

Q And you are one of the case agents on this investigation, correct?



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A Yes, I am.

Q The last time you were here we were discussing the evidence supporting various overt acts and charges related to [redacted] Does number 1 and 2?

A Yes.

Q Today we are going to start with [redacted] Can you tell the Grand Jury who that is and summarize briefly your previous testimony about her.

A [redacted] 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 [redacted] 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



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Mr. Epstein when [redacted] was under the age of 18 included digital penetration, the use of a vibrator on [redacted] grabbing and fondling of her breasts and her buttock, she was given gifts by Mr. Epstein, she was given a vibrator, she was given [redacted] 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 soccer.

She stated that when it came to her age that Mr. Epstein didn't care. As I mentioned earlier, [redacted]



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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 [redacted] which is [redacted] she told Mr. Epstein that she was a junior in high school and that [redacted] and her were in the same classes together and that they were very good friends 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?



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Q Yes.

(Thereupon, there was a brief pause.)

A I will let you see a picture of [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



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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]

Q And number 83?

A On January 14th, 2005 a review of the phone records indicate telephonic contact between numbers belonging to [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



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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] were utilized to set up appointments, massage appointments for Epstein.

During the massages and on more than one occasion Epstein digitally penetrated [redacted] he used a massager directly on her vagina and Epstein directed [redacted] to straddle him while he masturbated and rubbed his penis between her legs, he would masturbate, he would reach through her legs as she was straddling him, there was no penetration of his penis in her vagina, though.

He touched [redacted] breasts, he would masturbate. He paid [redacted] on multiple occasions $200. Both [redacted] and Jeffrey Epstein have escorted [redacted] upstairs for these massages and Mr. Epstein gave



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[redacted] a vibrator, [redacted] 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 [redacted] 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?



EFTA00226611

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



EFTA00226612

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] 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] 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] 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] 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,



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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]



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[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 [redacted] 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



EFTA00226618

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 [redacted]?

A Not at this time, no.

Q If I could direct you to [redacted] and if you could summarize for the Grand Jury the information related to [redacted] s activities.

A [redacted] 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 [redacted], was the one who recruited [redacted] she basically told [redacted] that she



EFTA00226619

could make $200, she needed to dress cute, he might try to touch you, but i[redacted] you [redacted]eel 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, he grabbed her butt, he did masturbate through this [redacted]irst 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 i[redacted] [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] and [redacted].

When I interviewed [redacted] she became very upset when we got to the sexual massages that she did for



EFTA00226620

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 touch her breasts, he would touch her butt, he did continue to masturbate, this time she believes he ejaculated. 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



EFTA00226621

underwear, but during the massage he grabbed her bra and pulled it down and fondled her breasts, he had instructed her to pinch his chest, his nipples 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 [redacted] 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?



EFTA00226622

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



EFTA00226623

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 same classes at school 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 [redacted] which appears on page [redacted].

Did you obtain telephone records for [redacted]?

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 [redacted] 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.



EFTA00226624

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 [redacted]une 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,



EFTA00226625

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] and [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] and [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



EFTA00226626

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 i[redacted] 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 i[redacted] you would address overt acts 106, 114 and 116.

A A review of the phone records indicate that there is telephonic contact between [redacted] Kellen 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 [redacted] 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,



EFTA00226627

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 i[redacted] 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,



EFTA00226628

2005 Jeffrey Epstein, [redacted], [redacted] enticed [redacted] 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 masturbated, he repeatedly would ask her to remove her clothing, wearing her bra and underwear, Epstein would pull down her bra and grabbed at her breast, he attempted to touch her vagina at one point but she stopped him, he masturbated, she believes that he ejaculated, 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 [redacted] turned 18, is that correct?

A Yes.

Q So was there activity that continued past her 18th birthday?



EFTA00226629

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]



EFTA00226630

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], [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 [redacted]?

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 [redacted] -- excuse me, [redacted] 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



EFTA00226632

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 classmates with [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



EFTA00226633

fact they were adults?

A Yes.

Q Any questions about [redacted] before we turn to [redacted] Yes, ma'am.

A GRAND JUROR: I have to say something here, i[redacted] 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 [redacted] or [redacted] P 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 wil[redacted]ing 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



EFTA00226634

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



EFTA00226635

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 [redacted] 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.



EFTA00226636

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 [redacted] 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.)



EFTA00226637

(Questions posed by the Grand Jury.)

(The testimony of the witness was concluded before the Grand Jury.)



EFTA00226638

CERTIFICATE OF REPORTER

I certify pages 2 through 36 are a true transcript of my shorthand notes of the testimony of [redacted] Kuyrkendall before the Federal Grand Jury, West Palm Beach, Florida on the 15th day of Tuesday, 2007.

[redacted]



EFTA00226639

LAW OFFICES OF
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May 22, 2007

VIA E-MAIL

[redacted] Esq.
Deputy Chief, Northern Region
Office of the United States Attorney
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

*Jeffrey Epstein*

Dear [redacted]

I write as counsel to Jeffrey Epstein, the subject of a grand jury investigation being conducted by your office.

I understand from you that in the next month or two a decision will be made by your office whether to seek an indictment of Mr. Epstein. This will confirm that, prior to any such decision being made, I and other attorneys on behalf of Mr. Epstein will be given an opportunity to meet with you.

Additionally, because we believe that any decision to indict requires both a complex legal analysis in a detailed factual context and resolution of significant policy concerns, if our meeting does not resolve the matter, we would like an opportunity to make a presentation first to Matthew Menchel, Chief of the Criminal Division, and Jeffrey Sloman, First Assistant United States Attorney, and then, again, if no resolution is reached, the opportunity to meet with United States

EXHIBIT 28

LAW OFFICES OF
GERALD B. LEFCOURT, P.C.

[redacted]sq.
Deputy Chief, Northern Region
Office of the United States Attorney
Southern District of Florida
May 22, 2007
Page 2

[redacted]

Thank you for your cooperation in this matter. If you have any questions, please do not hesitate to call.

Very truly yours,

[redacted]

cc: [redacted]

[redacted], [redacted] (USAFLS)

**From:** [redacted]
**Sent:**
**To:**
**Cc:** [redacted] (USAFLS)
**Subject:** FW: Jeffrey Epstein
**Attachments:** 2007-05-22 letter to AUSA Lourie.pdf

Gentlemen,

Marie and I have already met with Lefcourt, which is really the meeting I promised him. I spoke to him last week and he said he had more information they wanted to present. I told him he could make an appointment to come in again if he wanted to and that we would meet with him again, but I did not promise that we would wait to give him a meeting "before" we charged.

So, I think he is really ready for the next level rather than a second meeting with me. Mike Tein also mentioned to me at some point that they wanted to make a presentation on the law and I suggested to him that he contact Matt without telling him exactly what stage of review we were at. I don't know if Tein and Lefcourt have crossed wires or not.

In any event, I am forwarding this letter to you. I am going to suggest to Lefcourt the same thing that I suggested to Tein. I assume you would grant his attorneys a chance to make whatever presentation they desire. It would probably be helpful to us in any event to hear their legal arguments in case we have missed something. Whether [redacted] would be present or grant them another meeting after that is his call.

Andy

**From:** [redacted]
**Sent:** Tuesday, May 22, 2007 2:05 PM
**To:** [redacted]
**Cc:** [redacted]
**Subject:** Jeffrey Epstein

Andy, attached is a letter seeking meetings, as discussed with you, but with others if it is not resolved. Thanks for your attention. Could you email back so that I know you have received this letter?

Gerald B. Lefcourt
Gerald B. Lefcourt, P.C.
148 E. 78th Street
New York, New York 10021
Tel. [redacted]
Fax [redacted]



**Exhibit 28**

[redacted]

**From:** [redacted]
**Sent:** [redacted] PM
**To:** [redacted]
**Subject:** FW: Jeffrey Epstein

[redacted] you think?

[redacted] I just want to again voice my disagreement with promising to have a meeting or having a [redacted]ourt or any other of Epstein's attorneys. As I mentioned, this is not a case where we will be sitting down to negotiate whether a defendant will serve one year versus two years of probation. This is a case where the defendant is facing the possibility of dozens of years of prison time. Just as the defense will defend a case like that differently than they would handle a probation-type case, we need to handle this case differently. Part of our prosecution strategy was already disclosed at the last meeting, and I am concerned that more will be disclosed at a future meeting.

My co-chair, [redacted], who has prosecuted more of these cases than the rest of us combined, ~~and who actually worked on the drafting of some of the child exploitation statutes~~, also opposes a meeting. We have been accused of not being "strategic thinkers" because of our opposition to these meetings, but we are simply looking at this case as a violent crime prosecution involving stiff penalties rather than as a white collar or public corruption case where the parties can amicably work out a light sentence.

With respect to the "policy reasons" that Lefcourt wants to discuss, those were already raised in his letter (which is part of the indictment package) and during his meeting with Andy and myself. Those reasons are: (1) he wants the Petit policy to trump our ability to prosecute Epstein, (2) this shouldn't be a federal offense, and (3) the victims were willing participants so the crime shouldn't be prosecuted at all. Unless the Office thinks that any of those arguments will be persuasive, a meeting will not be beneficial to the prosecution, it will only benefit the defense. With respect to Lefcourt's promised legal analysis, that also has already been provided. The only way to get additional analysis is to expose to the defense the other charges that we are considering. In my opinion this would seriously undermine the prosecution.

The defense is anxious to have a meeting in order to delay the investigation/prosecution, to find out more about our investigation, and to use political pressure to stop the investigation.

I have no control over the Office's decisions regarding whether to meet with the defense or to whom the facts and analysis of the case will be disclosed. However, if you all do decide to go forward with these meetings in a way that is detrimental to the investigation, then I will have to ask to have the case reassigned to an AUSA who is in agreement with the handling of the case.

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

**Sent:** Tuesday, May 22, 2007 6:33 PM
**To:** [redacted]
**Subject:** FW: Jeffrey Epstein



EFTA00226643

fyi

**From:** [redacted]
**Sent:** Tuesday, May 22, 2007 6:32 PM
**To:** 'Gerald Lefcourt'
**Subject:** RE: Jeffrey Epstein

I have your letter. I think we are on the same page, but to be sure I do want to clarify that we spoke the other week and I did say that if you want to meet with me again, I am ready to do so. The wording of your letter, however, suggests implicitly that I agreed to contact you before a decision is made to seek an indictment of Mr. Epstein. If that was your understanding, then please allow me to clarify. Our investigation is ongoing and if we decide to seek an indictment, we don't intend to call Mr. Epstein's representatives to let him know that. Of course, in the interim, if you would like to make a presentation to us, we are willing to listen.

Along those lines, given the fact that we have already met once, with schedules being what they are, it makes sense for our criminal chief, Matt Menchel, to be included when you make another presentation, rather than working up the chain incrementally. I realize you were being respectful in not attempting to leapfrog over me, which I appreciate. I will pass on your request to meet with the U.S. Attorney as well, but can't commit for him one way or another. When you have some dates in mind, let me know and I will try to set up a meeting in Miami.

---

**From:** Gerald Lefcourt [mailto:GBL@lefcourtlaw.com]
**Sent:** Tuesday, May 22, 2007 2:05 PM
**To:** [redacted]
**Cc:** [redacted]
**Subject:** Jeffrey Epstein

[redacted] attached is a letter seeking meetings, as discussed with you, but with others if it is not resolved. Thanks for your attention. Could you email back so that I know you have received this letter?

---

Gerald B. Lefcourt
Gerald B. Lefcourt, P.C.
148 E. 78th Street
New York, New York 10021
Tel [redacted]
Fax [redacted]
[redacted]

**Tracking:**



EFTA00226644

[redacted] (USAFLS)

**From:** [redacted]
**Sent:** [redacted]
**To:** [redacted]
**Subject:** FW: Jeffrey Epstein

Please put in your file. thx

**From:** Gerald Lefcourt [redacted]
**Sent:** Wednesday, May 23, 2007 5:00 PM
**To:** [redacted]
**Subject:** RE: Jeffrey Epstein

Thanks for the email. I will get back to you as to timing of the meeting.

Gerald B. Lefcourt
Gerald B. Lefcourt, P.C.
148 E. 78th Street
New York, New York 10021
Tel. [redacted]
Fax 212.988.6192
[redacted]

**From** [redacted]
**Sent:** Tuesday, May 22, 2007 6:32 PM
**To:** Gerald Lefcourt
**Subject:** RE: Jeffrey Epstein

I have your letter. I think we are on the same page, but to be sure I do want to clarify that we spoke the other week and I did say that if you want to meet with me again, I am ready to do so. The wording of your letter, however, suggests implicitly that I agreed to contact you before a decision is made to seek an indictment of Mr. Epstein. If that was your understanding, then please allow me to clarify. Our investigation is ongoing and if we decide to seek an indictment, we don't intend to call Mr. Epstein's representatives to let him know that. Of course, in the interim, if you would like to make a presentation to us, we are willing to listen.

Along those lines, given the fact that we have already met once, with schedules being what they are, it makes sense for our criminal chief, [redacted], to be included when you make another presentation, rather than working up the chain incrementally. I realize you were being respectful in not attempting to leapfrog over me, which I appreciate. I will pass on your request to meet with the U.S. Attorney as well, but can't commit for him one way or another. When you have some dates in mind, let me know and I will try to set up a meeting in Miami.

**From:** Gerald Lefcourt [mailto:GBL@lefcourtlaw.com]
**Sent:** Tuesday, May 22, 2007 2:05 PM
**To:** [redacted]
**Cc:** [redacted]
**Subject:** Jeffrey Epstein



EFTA00226645

Andy, attached is a letter seeking meetings, as discussed with you, but with others if it is not resolved. Thanks for your attention. Could you email back so that I know you have received this letter?

Gerald B. Lefcourt
Gerald B. Lefcourt, P.C.
148 E. 78th Street
New York, New York 10021
Tel. [redacted].0400
Fax [redacted]



EFTA00226646

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, May 22, 2007

APPEARANCES:

[redacted]

Exhibit 29

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, May 22, 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.



EFTA00226648

(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, Special Agent.

A Good afternoon.

Q Could you remind the grand jury of your name and with whom you are employed?

A It's [redacted] I'm a special agent with the FBI here in West Palm Beach and I work violent crimes.

Q Are you the case agent on Operation Leap Year?

A Yes, I am.

Q Okay. Before we get back to our review of the draft proposed indictment, I know that a question was raised regarding whether the grand jury transcripts are being made available to

counsel for the defense, are they?

A No.

Q And is Mr. Epstein considered a high flight risk by the FBI and the U.S. Attorney's Office?

A Yes, he is.

Q So is the status of the investigation in terms of when an indictment might be returned considered highly confidential?

A Yes.

Q And are there any personal relationships between any members of the U.S. Attorney's Office and counsel for Mr. Epstein?

A Yes.

Q And is that one of the reasons why we have decided to use, In Re: Abbott, when referring to this case?

A Yes.

Q Okay. Now we had left off just prior to the beginning of the discussion of [redacted] Number Five. Could you tell the grand jury a little bit about [redacted] [redacted]?

A [redacted] is [redacted] Her date of birth is [redacted]. We have phone activity that began with [redacted] when she was 17

years old beginning in [redacted] going through to almost [redacted], I guess, to the end of [redacted]

We have contact, telephone contact between [redacted] with approximately 70 phone calls in that time period as well as approximately seven phone calls with [redacted] regarding the setting up of appointments to provide massages to Mr. Epstein.

Q Now did Felicia explain how she was first introduced to Mr. Epstein?

A Yes, she did. [redacted] was the one that approached [redacted] also attends [redacted] as well as our other first four girls on the board, the [redacted] up there.

[redacted] told her that she would need to wear something sexy, that she would be providing Mr. Epstein with a massage and that she would receive $200, and if she was asked she should tell Mr. Epstein that she was 18.

On the first massage that [redacted] went to Mr. Epstein's house, she removed her shirt at his request and she performed the massage. She was paid $300 for that massage.



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During that massage, she told Mr. Epstein that she was 18 years of age. He asked her age. They also discussed many things that [redacted] was interested in.

They talked about his ranch. They talked about horses. They actually also talked about cars. At one point later on, Mr. Epstein let's her drive a brand new Lexus, test drive a brand new Lexus. So those were some of her interests and Mr. Epstein talked to her about that.

[redacted] told us that the massages became more sexual in nature and she stated that she did more than ten massages, but that she couldn't quite put a number on how many massages she provided to Mr. Epstein, but it was definitely more than ten.

She was not -- when she was interviewed by the Palm Beach Police Department, she did tell them that it was more around five or six massages. She stated that she minimized to the detectives when they came to interview her.

They came to her house and her dad was due home any time and what was [redacted]oremost on her mind was my dad is going to be here any minute.

She cooperated.

She told them what had happened, but she minimized it more in an effort that she just wanted them to leave before her parents got home. At this point, her parents were not aware of what took place.

As the massages became more sexual in nature, she describes that the first sexual massage -- he always instructed her on what to do, and on the first massage he had asked her to remove her clothing.

She was down to her underwear at this point. He asked her to straddle him while he laid face up and continued to massage his chest and pinch his nipples and rub his chest. He at that point reached through her legs and masturbated.

On another occasion, she was completely nude and she did several of the massages in the nude for Mr. Epstein.

In this particular massage, she stated that Mr. Epstein licked his hand and went down and stroked her vagina and actually penetrated her vagina.

She pulled away and he said that he wanted to touch her and that he also wanted to



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taste her. He stopped at that time, but then before the massage was over, he digitally penetrated her again.

He had used a back massager on her on at least two occasions. She did not like that and she told him that and he responded something to the effect: What are you scared to have pleasure? And she told him she didn't like it.

On the second to the last massage that [redacted] gave Mr. Epstein, she was giving him a massage and he took her into the bedroom and asked her to get fully unclothed.

He actually took a phone call and told her that she should get undressed and lay on the bed completely naked. He just wanted to look at her. He took his phone call.

After the phone call was over, he ended up vaginally penetrating [redacted] as well as performing oral sex on [redacted] She said that she felt very dirty after that massage or after that time and she had decided that the next massage would be her last massage, that she did not want to go back.

During the last massage she gave, she kept looking at the clock. Mr. Epstein commented



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and noticed that she was looking at the clock and she made reference to that her boyfriend was waiting and Mr. Epstein said that, you know, she was ruining his massage and that if she didn't want to be here she should leave.

She told him at this time this would be her last massage. She was paid anywhere [redacted]rom $300 to $600 during the time that she worked for Mr. Epstein. It was [redacted] who took her upstairs that first time or took her upstairs and set up the massage table.

She was given some gifts by Mr. Epstein as well. She received bra and pantie sets [redacted]rom him, [redacted] Secret bra and pantie sets. She also received a book of poetry from Mr. Epstein.

She was Western Unioned a wire of $200 as a Christmas bonus to [redacted] from Mr. Epstein.

Q How did [redacted] get to and from Mr. Epstein's home?

A She had a vehicle that she would drive if she didn't ride with one of the other girls. If she was grounded and could not get to Mr. Epstein's house, he would send a car for her.

There was a local taxi service and she stated that on several occasions it was a Lincoln



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Town Car that was sent and there was an individual by the name of Dennis that she got to know pretty well on the drives to and [redacted]rom Mr. Epstein's house, but that even when she didn't have transportation on those particular times, that a car was sent for her to bring her to Mr. Epstein's house.

Q Is there anything else that you wanted to tell the grand jury about [redacted]

A That's it.

Q All right. If I could direct you to the proposed draft indictment, draft proposed indictment, and ask you to look at the Overt Acts that involve [redacted] and [redacted] Specifically Overt Acts 53, 58, 61, 65, 69, 74, 81, 91, 98, 107, and 111.

Can you explain to the grand jury what the evidence is supporting those Overt Acts?

A We have reviewed phone records that indicates that there was telephonic contact between [redacted]n and [redacted] on those dates as well as [redacted]'s statements that [redacted] was arranging the appointments.

Q All right. And if I can refer you to Overt Act Number 72, which states on or about



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December 23, 2004, Defendant Epstein caused a Western Union wire transfer order to be sent to [redacted].

What evidence do you have to support that?

A We have [redacted]'s statements and we also have the Western Union receipt showing that she received that amount of money.

Q And those were in response to a subpoena issued on behal[redacted] of this grand jury?

A Yes.

Q If [redacted] could direct you to Overt Act Number 82 involving [redacted]. What is the basis for that Overt Act?

A Again, a review of the phone records [redacted]rom [redacted] and [redacted] telephone indicate that they had contact at that time.

Q And Overt Act Number 88 states that on or about January 26, 2005, Defendant [redacted] reviewed a telephone message from [redacted]. What is the basis for that allegation?

A We have reviewed the message pads that were recovered during the execution of the state search warrant and recovered a message that [redacted] left for [redacted] confirming an appointment



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that I have a copy of that if you want me to read that to you.

Q Sure.

A It's a message for [redacted] dated January 26th, 2005, at 1:30 p.m. It's from [redacted] and it says, in parentheses, you know the number, and it says she is confirming 5:30 p.m.

Q All right. And then with respect to Overt Acts Numbers 108 and 115 related to [redacted], what is the evidence supporting those Overt Acts?

A Again, a review of the phone records of [redacted] and [redacted] We show that there was telephonic contact on those dates.

Q And then if I could refer you to substantive offense Count Number Nine, which is the enticement charge. Can you just remind the grand jury of the evidence supporting that allegation?

A On or about those dates, a facility of interstate commerce was used, specifically the telephone between [redacted], and [redacted]

Those telephones were used to set up and arrange appointments for Mr. Epstein. As we



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discussed earlier during the massage the sexual activity that took place, the straddling of him by [redacted] where he began to masturbate between his -- between her legs, excuse me, while she continued to massage him and rub his nipples, him asking her to become completely nude.

He digitally penetrated her, as we talked about. He used a back massager on her on at least two occasions, and he had sexual intercourse with [redacted] as well as performed oral sex on [redacted].

He paid [redacted] anywhere from $300 to $600. He provided her with gifts, a poetry book, Victoria Secret underwear. It was [redacted] [redacted] who had set up the room with the massage table and set out the oils.

And then, of course, we did discuss the private car that was sent to her when she wasn't available to drive herself. He did pay a -- I didn't mention this earlier -- he paid a truck payment for her when she was short on money. So that was another thing that Mr. Epstein provided to [redacted] and she was 17 during all of this activity.

Q All right. And if I could refer you to



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Count Number 53, which is the sex trafficking offense. Is the information that you just summarized the same information that supports that count?

A Yes. The only thing I wanted to tell you regarding her age, she told Mr. Epstein that she was 18 on the first visit. A couple of visits later they discussed her birthday. They were talking about her birthday and her plans for her birthday and Mr. Epstein asked her -- said something to the effect like: You are going to be 18? And she said yes.

And he said: So you are not 18? She laughed and said no and they kind of laughed and they continued on with the massage. So Mr. Epstein was aware through that conversation that [redacted] had not yet turned 18.

Q All right.

MS. [redacted] Are there any questions regarding [redacted] before we continue? All right. Let's turn now to [redacted].

THE WITNESS: Did we do the count, the traveling count?

[redacted] No, we are not going to



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do those today.

THE WITNESS: Okay.

BY MS. [redacted]:

Q And if you could tell us [redacted] [redacted]'s first name and her date of birth?

A [redacted] [redacted] is [redacted] She also attended [redacted] and her date of birth is [redacted]

Q How did [redacted] come to be introduced to Mr. Epstein?

A [redacted]. also contacted -- or told [redacted] about providing massages to Mr. Epstein. She told [redacted] -- which I'm going to refer to her as [redacted]. [redacted]s what she goes by, but her name is [redacted]. That he wanted cute girls to give him massages and that he would pay $200.

We had have contact starting with [redacted] in July of 2000 between [redacted]n and that phone contact continues until September 2005. Between this time period, we have over 200 -- approximately 225 calls between [redacted] [redacted] and [redacted] --

During [redacted]'s [redacted]irst massage, [redacted] brought [redacted] over there and was paid $200 by Mr. Epstein. She left. [redacted] performed the first



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massage topless. He asked her to take her skirt and her shirt of[redacted].

She said no at first and later in the massage, the way [redacted] puts it, is that he talked her into it and she removed her shirt, which she was not wearing a bra at the time.

Mr. Epstein fondled her breasts. He asked her to remove her panties and she said no. He masturbated and as soon as he ejaculated, the massage was over. She was paid $200 [redacted]or that.

She, at that point, she did start working for Epstein on a regular basis. She indicated that she had been there hundreds of times over this time period.

She told us -- and I'm going to read a quote to you that she said to me or said to not to me but to law enforcement -- she said -- and this is referring to after the first time that she went there.

She said I first told him that I had a problem with it, what happened the first time, but $200 for 45 minutes that was a lot for a 16-year-old girl making six bucks an hour.

Now that was a statement she made to law enforcement. Going through her phone records and



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during her interview with law enforcement, she goes back and forth on whether she is 16 or 17.

It's now over a year since she started working -- a year and a half since she started working for Mr. Epstein and going back and trying to retrace her age, she did say that, but we believe at that time she was 17 due to the phone contact.

So we are not sure when that first massage started, but the phone contact with [redacted] began in July of '04 when she would have been 17.

Q And just to be clear, during that interview with law enforcement, did Alex have access to her phone records?

A No.

Q And the interviewing officer also didn't have access to those records, correct?

A No.

Q So she was just saying she couldn't remember if she was 16 or 17 at the time?

A Right.

As I said, she became kind of a regular. He increased her pay to $300 to $400 as long as he could touch her. She stated that the massages



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would progress over time and at first she would not take off her panties, then she did.

She performed the massages naked. He would rub [redacted]s vagina. He also digitally penetrated [redacted]. He performed oral sex on [redacted]. He would masturbate while rubbing himself on [redacted]s breasts.

Later in the times that [redacted] was performing the massages, he requested that she become sexually involved with [redacted]. Mr. Epstein asked [redacted] to perform oral sex on [redacted] and [redacted] refused and Mr. Epstein told her that i[redacted] she was to perform oral sex on [redacted] for five minutes, he would give her another $200. So she did.

[redacted] and [redacted] engaged in sexual activity less than [redacted]ive times. Mr. Epstein would also partake in that sexual activity as well. On one occasion with all three of them, as we had mentioned earlier in a grand jury session, [redacted] -- the massage was over and [redacted] was standing up near the massage table and Mr. Epstein bent her face down and held her head and penetrated [redacted]s vagina.

I think she described it as that he went



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inside her four or five times with his penis and she had a rule with Mr. Epstein that at [redacted]irst was that he would not ever penetrate her with any object, anything.

And when he first digitally penetrated her on the first time, she, you know, asked him why he was doing that. He said: Oh, I thought we had done this before.

And later he continues to digitally penetrate her. On this occasion, she said: What are you doing? And he said that he just wanted [redacted] to see this.

Q So at the time that that occurred, she still had a rule with him, but the rule was that he would not penetrate her vagina with his penis?

A Right.

And Mr. Epstein gave [redacted] -- we'll talk about several gifts. One of the gifts that Mr. Epstein gave was a 2005 Dodge Neon. It only had seven miles on it.

[redacted] believes that that car was bought [redacted]or her. We have reason to believe it was most likely rented and we are determining that right now, but he gave her this.

It only had seven miles and she gave



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that back to him before she got out of high school. And she said, and this is her quote: It got too sticky for me. He wanted more than I was willing to give.

She stated that Epstein requested her to have sex with him multiple times and also wanted him to -- wanted her to perform oral sex on him and she refused to do that, and Mr. Epstein knew that that was not going to happen.

And, again, that's one of the reasons why she ended up giving back the car because it just was getting a little bit, as she referred to, sticky for her.

After that occasion, where he did penetrate her vagina, he paid her $1,000 after that. Some of the gifts that she received other than the car, she describes that as Victoria Secret underwear and a bra and pantie set she received.

She received Christmas bonuses, movie tickets, VIP show tickets. She went to the David Copperfield show. She met with him. She went to the after party. She received a Louis Vuitton bag.

[redacted] was in a play at her high school



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and Mr. Epstein sent her a dozen roses -- or two dozen roses, [redacted] believe, to her high school, had them delivered to her high school while she was performing at this play.

He also [redacted]or her 18th birthday, he [redacted]lew her to New York for her 18th birthday, and she was flown up there on her birthday and that was done because Mr. Epstein didn't want to have to deal with the parental consent needed to fly somebody under the age of 18 to New York.

So on her 18th birthday with his funding, she flew to New York. She received show tickets to the Phantom of the Opera. Epstein was not present in New York at this time. He was called away and was not there.

So she does have friends in New York and she stayed with those friends and attended the show that Mr. Epstein had purchased those tickets for. The other thing about [redacted] is she said that she would get paid every time she would go over there and she said she feels like she went over there hundreds of times.

She said that sometimes he would just have her naked watching TV or reading a book. He would sometimes just ask her to lay with him

naked. She was still always paid and he would invite her over for breakfast.

He would invite her to dinner and sometimes just to use the pool, but that she was always paid for coming over there.

Q Let me ask about a couple of other things. You mentioned the specific conversation about she could only fly up on her 18th birthday so that he wouldn't have to get parental consent for her flight?

A Yes.

Q And you mentioned the delivery of the roses to the high school. In addition to those, were other events that occurred that should have led Mr. Epstein or probably did lead Mr. Epstein to know that she was under the age of 18?

A Yes. One of the things that [redacted] told me is that she believed she stayed with him so long because she believed that he was going to help her get into New York University, NYU.

She provided him on multiple occasions paperwork. One being her transcript. Trying to, you know, do what she could to keep her grades up, do what she could in the hopes that Mr. Epstein with his influence residing in New York was going



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to be able to get her into NYU.

That again is one of the reasons why she stayed because she felt that if she held on for so long hoping that this dream would come true. She is currently attending [redacted] and doing very well.

Q Do we have any other documentation of [redacted] receiving payments from someone who worked for Mr. Epstein?

A We have Janusz Banasiak. It was a house manager for Mr. Epstein and we were able to get his petty cash receipts and in there is a payment that he paid out of his funds to [redacted].

Q Now was [redacted] ever shown any photo lineup?

A Yes, she was.

Q And was she able to identify any of the defendants?

A She identified [redacted].

Q And was that the photo array that was shown to her?

A Yes, it was.

Q Was [redacted] -- are counsel for the defendants aware of [redacted]s allegations against Mr. Epstein?



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A Yes.

Q And have they attempted to discredit her?

A Yes.

Q And is one of the bases for their attempt to discredit her the fact that she didn't appear before the State Grand Jury?

A Yes.

Q Are you aware of whether or not [redacted] was ever subpoenaed to appear before the State Grand Jury?

A There was a subpoena issued to her. [redacted] not sure i[redacted] she received that. Either she received it the day before or she didn't receive it at all and [redacted] would need to check my notes and she is up in Tallahassee, mind you.

So she was either served the day before that grand jury convened or she never received it and I would need to check with probably the detective for sure on that.

Q Okay. Let's talk about the allegations related to [redacted] [redacted] in the proposed indictment. If I could refer you to Overt Acts Numbers 21, 26, 34, 38, 49, 51, 52, 55, 62, 68, and 73.



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If you could tell the grand jury what the evidence is that supports those allegations?

A Review of those phone records on those dates indicate that there was telephonic contact between [redacted] and [redacted] as well as [redacted] statements that she was called by [redacted] prior to and while Mr. Epstein was in town.

Q All right. And if I could refer you to Overt Act Number 57, which states on or about December 4, 2004, Defendant [redacted] provided a written message to Defendant Epstein regarding [redacted] and [redacted].

Could you tell the grand jury about that?

A We have reviewed message pads that, again, were obtained in the execution of a state search warrant that indicates that [redacted] left a message for Mr. Epstein regarding [redacted] and [redacted]y, who is [redacted], and I have that here. If I can read it to you?

Q Sure.

A For Jeffrey, dated 12-4-2004. The time is 2:55 p.m. It's from [redacted]. [redacted] would like to work at 4 p.m. if possible. In parentheses, [redacted] is scheduled for 5:00 today. The movie is at

7:30.

Q Okay. And if [redacted] could refer you to Count Number Ten, and if you could summarize for the grand jury -- first, if you could refer to the dates contained in that count, on July 15th, 2004, until December 29th, 2004, what was the significance of those dates?

A This would be the time period that [redacted] is still under the age of 18.

Q That she was receiving phone calls from someone who worked for Mr. Epstein?

A Yes.

Q Okay. And then if you could just summarize the remainder of the evidence according to that count?

A Okay. On or about those dates a facility of interstate commerce was used, specifically the telephone, specifically [redacted] telephones were utilized to set up and arrange appointments for Mr. Epstein.

During the massages, Epstein [redacted]ondled [redacted]s breasts. Epstein used the back massager and vibrator directly on [redacted]s vagina. Epstein performed oral sex on [redacted] and Epstein penetrated [redacted]s vagina with his penis.



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Mr. Epstein introduced [redacted] into the sexual activity with [redacted]. [redacted] and [redacted] engaged in sexual activity while Epstein watched and masturbated.

Epstein asked [redacted] to perform oral sex on [redacted] and when she refused he offered her $200 for five minutes. [redacted] complied. There were different sex toys used on [redacted] including a strap-on dildo that [redacted] used.

Epstein paid [redacted] $200 up to $1,000 depending on the sexual activity that took place. [redacted] had taken [redacted] upstairs. She set up for the massage.

Epstein paid for a trip to New York for her 18th birthday, gave her Phantom of the Opera tickets. He rented or provided a car to [redacted]. He delivered roses to her high school, gave her a Louis Vuitton bag, gave her a Victoria Secret bra and pantie set.

He also provided her with a bathing suit on a return trip he had to Brazil. He told her that he was going to help her get into New York University. She believed that was the case. She provided him with her high school transcript and she was 17 at the time.



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Q And with respect to Count Number 54, is that the same evidence that supports that count?

A Yes, it does.

Q Okay. Before we go on, I know that you mentioned with respect to both [redacted] and [redacted] that they were introduced to Mr. Epstein by [redacted].

Is [redacted] another [redacted] who will be discussed at a later time?

A Yes.

[redacted] Any questions about [redacted]?

Yes.

A GRAND JUROR: I don't know if I'm allowed to ask this, and you don't have to answer it, but how did the parents -- do they ask where she got the car and a Louis Vuitton purse? I mean, how do they not know anything like a car?

BY [redacted]:

Q Did you -- have you interviewed [redacted]s parents?

A No.

[redacted]: Yes.

A GRAND JUROR: My question is that I



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noticed you are skipping all the travel. Is that something that you are going to discuss?

[redacted]: In the future. As I mentioned before, there's -- that question is pending and [redacted] want to get a definitive answer before we go through that.

A GRAND JUROR: [redacted] must have missed that.

A GRAND JUROR: I don't see a Count 54 on this.

A GRAND JUROR: Because it is on the next page.

A GRAND JUROR: Okay. I'm sorry. Thank you.

THE WITNESS: Just to answer a question. The Palm Beach Police Department -- [redacted] did tell the Palm Beach Police Department that her mother believed that she worked there, and I would need to go back and check, but I believe that she worked there as a -- [redacted] want to say like an assistant or answered the phones or something like that.

And at one point, her mother thought there might have been more going on and actually [redacted] did end going over there for a time period, but then she did resume later.



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A GRAND JUROR: Okay.

[redacted] Any other questions?

Okay.

BY [redacted]:

Q And we will turn to [redacted]. Could you tell the grand jury the first name of [redacted] and her date of birth?

A [redacted] is [redacted] and her date of birth is [redacted]

Q How did [redacted] come to go to Mr. Epstein's house?

A [redacted] worked at the mall, and that [redacted] through working at the mall, and [redacted] told [redacted] that she could make extra money by providing a massage to Mr. Epstein.

[redacted] told her that she may have to be naked for this massage, but if she didn't want to she didn't have to. We have the contact, the telephonic contact between [redacted] and [redacted] beginning in July 2004 and through November of 2005.

There is approximately 100 calls between [redacted] and [redacted] and there is around

seven calls, approximately seven calls to [redacted] in between [redacted] and [redacted] B. and approximately eight calls between [redacted] and [redacted]. [redacted]y stated that she went about 15 times to Mr. Epstein's house. [redacted] is the first [redacted] we have talked about that goes to [redacted] and does not attend [redacted].

On [redacted]'s first massage, [redacted] took [redacted]y upstairs for the first massage and set up the room. Epstein instructed [redacted] to leave the room. During the massage, Epstein asked [redacted] to remove her clothing. She removed only her shirt.

[redacted] described Epstein as being -- she described him as a respective guy, who would converse with her. She said that they discussed different life issues such as where [redacted] wanted to attend college in the future.

He also gave her advice. She didn't have the best credit, so he gave her advice on her credit. He also gives her advice on dealing with her parents. She performed this massage and she was paid $200 [redacted]or the massage.

[redacted] told us that as the massages

continued, they would then progress and become more sexual. Epstein would try to go further and further with [redacted]

By the third massage, [redacted] had completely removed all of her clothing. She was completely nude at Mr. Epstein's respect. Epstein would fondle [redacted]'s breasts.

He rubbed her vagina. He did not penetrate -- did not digitally penetrate her, but did stroke and rub her vagina on the outside. She would tell him no on occasions and she would also take his hand and remove his hand from places that she did not want him to touch.

Mr. Epstein did use a massager directly on [redacted]'s vagina while he continued to masturbate during these massages. On at least two occasions, Mr. Epstein -- at Mr. Epstein's direction, [redacted] assisted [redacted] in giving the massage.

And on -- the first time [redacted] tells us that [redacted] was setting up the room and she remained in the room and started to undress. [redacted] was surprised.

She was never asked or told this was going to happen. This is just kind of the way it



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went. [redacted] and [redacted] both massage Mr. Epstein. [redacted] and Epstein began performing sexual acts in front of [redacted].

Epstein used a massager on [redacted]s vagina in front of [redacted] as well as they both performed oral sex in front of [redacted] on each other. [redacted] also touched [redacted]'s breasts.

She touched her -- touched [redacted]s vagina. She took [redacted]'s hand and placed it on her vagina and [redacted]y pulled it back, pulled It away.

[redacted] did use the massager directly on [redacted]'s vagina. Some of the gifts that [redacted] received, she did receive also a bathing suit, which we have [redacted]rom Mr. Epstein's Brazilian trip.

She received four tickets for her 18th birthday. Mr. Epstein gave her David Copperfield tickets, and on two occasions Mr. Epstein and [redacted] [redacted] they wired money to [redacted]

In June of 2005, on [redacted] senior trip, her senior graduation trip, they went to Cancun, Mexico. She ran out of money and they sent her -- wired her, Western Unioned her $350, and then she took a trip in July of '05 to San Diego, California, and she also received $200 by



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Western Union.

Q All right.

MS. [redacted] Anything you want to ask before we go to the Overt Acts? No. All right.

BY [redacted]:

Q If I could refer you first to Overt Act Number 23, which says on July 16th, 2004, Defendant [redacted] caused [redacted] to make one or more telephone calls to a telephone used by [redacted].

Could you explain what the evidence is supporting that?

A Yes. A review of phone records from [redacted]s phone and [redacted] indicated they had telephonic contact at that time.

Q And that was following a telephone contact between [redacted] and [redacted]?

A Yes, it was.

Q All right. And is that consistent with what [redacted] told you about how she was recruited to go to Mr. Epstein's house?

A Yes.

Q Now with respect to Overt Acts 27, 32,



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39, 41, 44, 45, 66, 75, 85, 89, and 90, what is the evidence related to those Overt Acts?

A Can we skip 89?

Q Oh, yes. Let's skip 89.

A A review of the phone records indicate that there was telephonic contact between [redacted] and [redacted] on those specific dates as well as the statements of [redacted] that [redacted] would call her in advance or call her while Mr. Epstein was in town.

Q All right. And those records show that the phone calls originated with [redacted] telephone?

A Yes.

Q Now if I could direct you to Overt Act Number 57, which says on December 4, 2004, Defendant [redacted] provided a written message to Defendant Epstein regarding [redacted] and [redacted].

Is that the phone message that you mentioned earlier today?

A Yes, it is.

Q Now we skipped Overt Act Number 89, and can you tell the grand jury what the evidence is related to Overt Act Number 89?

A That would be a review of the phone records from [redacted] as well as a review of the phone records from [redacted] that there was telephonic contact on that day.

Q From Ms. [redacted] to [redacted]'s telephone?

A Yes.

Q And then Overt Act Number 92, can you tell us what the evidence is related to that?

A That is on that day a review of their phone records of [redacted] phone records and [redacted] indicates that there was telephonic contact between the two of them on that date.

Q Now if I could refer you to Count Number 11, and if you could summarize for the grand jury what the evidence is related to that count?

A On or about these dates, a facility of interstate commerce was used, specifically the telephone, between [redacted], and [redacted].

These phones were utilized to set up and arrange massage appointments for Mr. Epstein. During the massages, Epstein asked [redacted] to remove her clothing.

Starting with the third massage, [redacted] was completely nude and Epstein touched [redacted]'s



EFTA00226682

breasts. He stroked her vagina. He used a back massager on [redacted]'s vagina. He masturbated during the massages.

On at least two occasions Epstein involved [redacted] into the sexual activity. [redacted] stroked [redacted]'s vagina and used the massager on [redacted]'s vagina.

[redacted] also placed [redacted]'s hand on her vagina, which [redacted] pulled back. Epstein paid [redacted] $200 on each these occasions. Epstein also provided her with a bathing suit, four tickets to see David Copperfield on her 18th birthday, provided those tickets for her 18th birthday.

Epstein and [redacted] Western Unioned [redacted] on at least two occasions and Epstein provided [redacted] with advice dealing with her bad credit, with her parents, and her plans for going to college, and [redacted] was 17 when all this activity took place.

Q Okay. So the dates that appear in Count 11 run through the day before her 18th birthday, correct?

A Yes, they do.

Q Now with respect to Count Number 55, is

that the same evidence that relates to the sex trafficking charge?

A Yes.

Q Okay. And the date ranges between up until she turns 18?

A Yes, it is.

Q All right. [redacted]: Any questions about [redacted]? All right. We'll go on to [redacted].

BY [redacted]:

Q And if you could tell the grand jury [redacted] first name and her date of birth?

A [redacted] is [redacted]. She was born [redacted] She attended [redacted] and she had been to Mr. Epstein's house approximately 15 times.

Q And who first introduced [redacted] to Mr. Epstein?

A [redacted].

Q And tell us how that contact began.

A [redacted] told [redacted] that she could make $200 if she provided Mr. Epstein with a massage. She told her that she would have to take off her clothes, but that she could keep her underwear on.



EFTA00226684

[redacted], on the first massage, we have -- I guess I should tell you, we have phone contact between [redacted] and [redacted] starting February 25, 2005, and that phone contact continues through October of 2005.

We have over 50 calls between [redacted] and [redacted] and we have approximately 25 calls between [redacted] and [redacted]. On that first massage, [redacted] brought [redacted] and set up the massage table. [redacted] left the room.

Shortly after that, Mr. Epstein entered wearing only a towel. [redacted] massaged Mr. Epstein's leg and back. Mr. Epstein masturdated during this massage.

I should tell you that [redacted] told us that -- told law enforcement, that he has the girls take off their clothes, and in this massage she did remove her clothing down to her underwear. She kept her underwear on.

He would touch her breasts and he would also grab her buttock while he was masturbating. The massages became more sexual. Mr. Epstein used a massager on [redacted]s vagina, over her panties, and [redacted] told us that on one or two occasions she was completely nude and he did use the

massager directly on her vagina.

On one of the times that she was completely nude, Mr. Epstein had cracked [redacted]s back before and she -- Epstein told [redacted] to lay down and that he was going to crack her back like he had done before.

When she laid down, Mr. Epstein performed sexual intercourse on [redacted]. [redacted] stated that he did pull out and ejaculated outside of her vagina. He gave her an extra 100, $150. She had made $200 up to this point, so it would be 300, $350 that Mr. Epstein paid her.

On another occasion, [redacted] was brought into the massage. [redacted] and Mr. Epstein engaged in sexual acts while [redacted] would continue to massage Mr. Epstein.

Epstein did ask [redacted] and [redacted] to kiss and he watched as they touched each other. [redacted], I guess, touched -- I should say [redacted] touched [redacted]s breasts and continued to touch Mr. Epstein as well as this all went on.

As far as the gifts that Mr. Epstein provided to [redacted], he gave her a photography book as well as a digital camera. [redacted] told us that [redacted] actually gave her the camera, but it was per



EFTA00226686

Mr. Epstein's instructions. She was 17 at the time all this activity occurred.

Q And what did [redacted] say about Mr. Epstein's knowledge of her age?

A She told Mr. Epstein how old she was. She told him that she was 17.

Q Now [redacted] was interviewed shortly after the activity ended, correct?

A Yes.

Q Do you remember the approximate date when Mr. Epstein left Palm Beach County and has returned only for court appearances?

A I believe it was October 6th. It was the beginning of October was the last time we have him -- or when he left the area.

Q And [redacted] was interviewed by the police shortly after that time?

A Yes, she was interviewed on November 8.

Q And during that interview, did she explain when the last time was when she had seen Mr. Epstein?

A She had said shortly before her birthday.

Q And she said it was actually the first week in October?



EFTA00226687

A Yes.

Q Now was [redacted] later called to appear before the State Grand Jury?

A Yes.

Q And during that testimony, did she -- did she confuse the last day that she saw Mr. Epstein?

A Yes. She stated -- and this was done I believe in July of '06, so this would have been over a year and some months. She did state that the last time she saw Mr. Epstein was the day before her birthday and that is when the sexual intercourse took place.

Q Okay. So she thought it was the day before her birthday, but based on her earlier statement and the records that we have, we know it was a few days before her birthday?

A The first week of October.

Q Okay.

[redacted]S. [redacted] Let's -- actually, before we go to the Overt Acts, do you mind if I ask the agent a question outside? I think I caught another error. Excuse us for a moment.

([redacted]na and the witness exit the



EFTA00226688

Grand Jury Room.)

([redacted]na and the witness enter the Grand Jury Room.)

[redacted] There is a discrepancy in Overt Act Number 138. The chart that I provided to you says -- has the name [redacted] as the relevant defendant and in the indictment it says [redacted] So we are trying to confirm who the right caller was.

A GRAND JUROR: Can I ask a question?

[redacted] Sure.

A GRAND JUROR: You had said that he had not been in Florida?

[redacted] Uh-huh.

A GRAND JUROR: How do they know that he has not come into Florida?

[redacted] Okay. We can address that with~~out~~ the agent.

A GRAND JUROR: Could I ask a question?

[redacted] Sure.

A GRAND JUROR: Is there any way that he might have been filming this? Does anybody know about it, I mean, you know?

[redacted] Okay. We will answer those after we finish going through these



EFTA00226689

items.

A GRAND JUROR: I knew there was a reason you were hauling all those records back and forth.

A GRAND JUROR: After the case is over, how long do you actually have to keep all that?

[redacted] This is all on the record.

A GRAND JUROR: Yeah. It's curiosity.

[redacted] Okay. All right.

BY [redacted]:

Q So from your review of the phone records, Special Agent [redacted], Overt Act Number 138 relates to [redacted] Kellen?

A Yes.

Q Okay. All right. Now let's run through Overt Acts 110, 128, 133, 136, 138, 139, 141, 142, 145, 152, 154, and 156.

Could you let the grand jury know what the evidence is supporting those Overt Acts?

A A review of the phone records indicate on those dates there was telephonic contact between the [redacted] and [redacted] as well as [redacted]'s statements that [redacted] called her



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and in advance as to when Mr. Epstein was in town to set up appointments.

Q And if you could look at Overt Acts 124, 146, and 149.

A A review of phone records between Adriana [redacted] and [redacted] indicates there was telephonic phone contact on those dates.

Q Phone calls originating with [redacted] ending with [redacted]?

A Yes.

Q And Overt Act Number 147?

A Overt Act 147, a review of the phone records indicate that there was telephonic contact between [redacted] and [redacted] on that date as well.

Q And then Overt Act Number 150, says that on September 8, 2005, Defendant [redacted] received a telephone call from [redacted], and what is the evidence related to that?

A The evidence on that date is that a review of those phone records indicates that [redacted] contacted [redacted].

Q So with respect to that one, the phone call originated with [redacted] as opposed to being with [redacted]?

A Yes.

Q Okay. Now if you could turn to Count Number 12 and summarize for the grand jury the evidence supporting that charge of the enticement of a minor?

A On or about these dates, a facility of interstate commerce was used, specifically the telephone, specifically [redacted], and [redacted], phones were utilized to set and arrange massages, massage appointments for Mr. Epstein.

During the massages, Epstein would ask [redacted] to remove her clothing. She would perform the massages either in her underwear or completely nude. Epstein masturbated while [redacted] performed these massages.

Epstein used a massager on [redacted]s vagina with her panties on and with them off. Epstein had intercourse with [redacted]. He ejaculated outside her vagina.

On one occasion, Epstein brought [redacted] into the sexual activity, introduced [redacted] into the sexual activity. They performed sex acts on each other, that being [redacted] and Jeffrey Epstein, in front of



EFTA00226692

[redacted], and she continued to massage Mr. Epstein.

At Mr. Epstein's request, [redacted] and [redacted] did kiss as well as [redacted] touched [redacted]s breasts. Epstein paid 200 to 300 to $350 to [redacted] and that depended on the sexual activity.

Epstein gave [redacted] a book on photography as well as a digital camera provided to her by [redacted] as well as bra and underwear sets, and [redacted] told Mr. Epstein that she was 17 years of age.

Q All right. And is that the same evidence with respect to Count Number 56?

A Yes, it is.

Q Okay.

[redacted] Before we go to those other two questions that were posed, are there any questions that relates to [redacted]?

Yes, sir.

A GRAND JUROR: Is there any explanation from any of the girls about the number of calls versus the number of times they say they went there?

[redacted] I'm sorry. Say it one more time.

A GRAND JUROR: The number of times they went to visit versus the number of phone calls. There seems to be a big difference.

THE WITNESS: Yes. There's a lot of phone calls and we have phone calls showing up prior to his arrival and during his arrival and some of the phone calls are lengthy and some of them are, you know, seconds.

So either maybe they didn't get through. We are looking at a cell phone bill and getting those totals from looking at the cell phone bill and the calls just vary in time length and, you know, the only explanation I guess, you know, would be -- and that's just me giving you my opinion -- is that, you know, either they didn't reach each other, so they would continue to call back and forth.

There was a lot of calls between these teenage girls or these adolescent girls as well as the phone activity between [redacted] and [redacted] and [redacted] with the girls.

BY [redacted]:

Q All right. And also Special Agent [redacted] know that you testified about this



EFTA00226694

earlier in terms of the tendency of victims of this type of offense to minimize the number of visits, for example, minimize the conduct that they engaged in?

A That is true as well.

Q So it is possible that the girls went more than five times or ten times?

A Yes. I mean, it's difficult to try to get them to tell you an exact number and that's why we have approximated, and, again, they have minimized either with local law enforcement and now when we go back either through time or just being able to -- you know, the approach, they have been able to tell us a little more of what took place.

Again, [redacted] stated she went hundreds of times. Can we put her down to a number? Two hundred and twenty-five phone calls. You know, we just know that she went a lot of times.

You can look at the phone activity of seeing the phone calls that are made prior to his arrival and during his arrival to try to gage when they were there.

[redacted] All right. Any other questions related to [redacted]?



EFTA00226695

Okay.

BY [redacted]:

Q Then we have two questions that were raised earlier. One of which was whether there is any evidence to suggest that Mr. Epstein filmed any of these encounters?

A We don't have any evidence at this time. Some of girls were asked that question but there's no evidence to show that he did or indicate that he did.

Q All right. And then the second one was we had talked earlier about Mr. Epstein leaving Florida and not returning. What evidence do you have regarding where Mr. Epstein has been since October of 2005?

A He has -- and I may have misspoke if I said he has not ever come back. He has come back because of the state charges he has faced. He has had to come into Palm Beach County for that.

We do not believe that he has been here other than that since the investigation broke in October of '05, other than having to appear before the state charges.

We know where Mr. Epstein resides and we have a partner, ICE, Immigration and Customs



EFTA00226696

Enforcement, who can -- is helping us monitor his plane activity, and, although, we were not privy to all of his domestic flights when he comes in and out of the country, we are alerted to that.

Q And you mentioned earlier that you interviewed Janusz Banasiak, correct?

A Yes.

Q Who currently serves in what position of Mr. Epstein?

A He is currently the house manager for Mr. Epstein and maintains the property over in Palm Beach.

Q And what did he tell you about Mr. Epstein?

A He also said that Mr. Epstein has not been back.

Q Okay.

MR. [redacted] Any other questions? All right. You guys get a break next. All right. We will see you -- I will be out of town next week and I will probably see you the week after that.

(Witness was excused.)



EFTA00226697

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 E. [redacted] taken before the Federal Grand Jury, West Palm Beach, Florida, [redacted]



EFTA00226698

**U.S. Department of Justice**

*United States Attorney*
*Southern District of Florida*

*500 South Australian Ave., Suite 400*
*West Palm Beach, FL 33401*
*(561) 820-8711*
*Facsimile: (561) 820-8777*

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear [redacted]:

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

(1) The right to be reasonably protected from the accused.
(2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
(3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
(5) The reasonable right to confer with the attorney for the United States in the case.
(6) The right to full and timely restitution as provided in law.
(7) The right to proceedings free from unreasonable delay.
(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [redacted], or Special Agent [redacted] from the Federal Bureau of Investigation at [redacted] You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at 202-307-5983. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

**Exhibit 30**

**U.S. Department of Justice**

*United States Attorney*
*Southern District of Florida*

*500 South Australian Ave., Suite 400*
*West Palm Beach, FL 33401*
*(561) 820-8711*
*Facsimile:* [redacted]

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear [redacted]

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*(561) 820-8711*
*Facsimile: (561) 820-8777*

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear [redacted]

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*West Palm Beach, FL 33401*
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*Facsimile: (561) 820-8777*

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

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**U.S. Department of Justice**

*United States Attorney*
*Southern District of Florida*

*500 South Australian Ave., Suite 400*
*West Palm Beach, FL 33401*
*(561) 820-8711*
*Facsimile:* [redacted]

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear [redacted]

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EFTA00226703

**U.S. Department of Justice**

*United States Attorney*
*Southern District of Florida*

*500 South Australian Ave., Suite 400*
*West Palm Beach, FL 33401*
*(561) 820-8711*
*Facsimile: (561) 820-8777*

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear [redacted]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

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You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

[redacted], [redacted]

**From:** [redacted]
**Sent:** Thursday, June 14, 2007 2:14 PM
**To:** [redacted]
**Subject:** Addendum to Pros Memo

Hi all – I have attached hereto an addendum to the Pros Memo addressing some of the credibility concerns that you raised regarding [redacted] I have not sent this directly to [redacted], but I would ask [redacted] to add it to the book containing the pros memo and the attachments.

On another note, we have all discussed different strategies regarding how the final indictment should appear. At this time, I have not made any revisions to the indictment. Based upon the continued investigation there are some things that I would like to add (another [redacted] has been identified and interviewed) and, based upon your comments, some items that could be deleted. Do you want me to make those changes now or wait until we have received approval of the current charging strategy?

Thank you. If there is anything that you would like me to prepare in advance of the meeting on the 26th, please let me know.

Addendum to Pros Memo.pdf

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

**Tracking:**



Exhibit 31

EFTA00226705

| Recipient | Read |
| --- | --- |
| [redacted] | Read: 6/14/2007 2:22 PM<br>Read: 6/14/2007 3:48 PM |



EFTA00226706

[redacted]

**From:** [redacted]
**Sent:** Thursday, June 21, 2007 3:24 PM
**To:** [redacted]
**Subject:** RE: Meeting Next Week

Sounds good. I will stop by on Monday afternoon. Could you just let you assistant know that I may be stopping by to get a copy of whatever the defense sends over?

Thanks.

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

---

**From:** Menchel, Matthew (USAFLS)
**Sent:** Thursday, June 21, 2007 2:58 PM
**To:** [redacted], [redacted] (USAFLS)
**Cc:** Lourie, Andrew (USAFLS)
**Subject:** RE: Meeting Next Week

Meeting on Monday is fine. I have meetings with [redacted] and Jeff till around 11 but after that I'm free. As for who is going to be at the meeting from our side, I thought you, me, Andy, and Jeff. I thought it best to leave [redacted] out of it at this venture. As for the Epstein camp, I'm not entirely sure because I don't think Lily was sure last time we spoke. Probably her, Lefcourt, Black and maybe Lewis.

Lily told me that they wanted to present something in writing before the meeting which was why she was pushing us for the statutes. I view the meeting more as us listening and them presenting their position so I would say that you don't need to prepare anything (you are quite knowledgeable on the law in any event) but if you disagree we can discuss on Monday. As for the documents that they have yet to produce, I'll mention it to Lily if you like or we can raise it with them at the Tuesday meeting.

---

**From:** [redacted], [redacted] (USAFLS)
**Sent:** Thursday, June 21, 2007 1:37 PM
**To:** [redacted]
**Cc:** [redacted]
**Subject:** Meeting Next Week
**Importance:** High

Hi [redacted] I would like to prepare for next week's meeting, and I am wondering if you can tell me who will attend, both from our side and for Mr. Epstein. I am hoping that we can meet on Monday to discuss any issues and/or strategy before the meeting on Tuesday, so please let me know when you will be available on Monday.



EFTA00226707

Also, if there are any issues that you would like me to be prepared to address – either with you on Monday or with defense counsel on Tuesday – please give me a list and I will bring the appropriate items with me.

Since Lilly has been communicating with you directly about the meeting, and I have given them the list of statutes that they have requested, perhaps you could ask her to reciprocate by providing us with their written analysis (or documents they want us to consider) prior to the meeting so we can address any issues then and there. Also, during a previous meeting, I asked Lilly and Gerry for copies of Epstein (or his assistants') agendas and calendars to show that, as they claim, Epstein's travels to Florida were consciously coordinated so that he could maintain his Florida residency for tax purposes. Lilly said she would try to get them to us, but has never done so. I have subpoenaed all of the corporate entities with which Epstein is affiliated and they all claim that they do not have any responsive documents.

I will plan to be in Miami by around 10:00 on Monday morning, so any time after that is fine.

Thank you.

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax [redacted]

**Tracking:**



EFTA00226708

| Recipient | Read |
| --- | --- |
| [redacted] | Read: 6/21/2007 3:28 PM |



EFTA00226709

[redacted]

**From:** [redacted]
**Sent:** Thursday, June 21, 2007 1:37 PM
**To:** [redacted]
**Cc:** [redacted]
Jeff (USAFLS)
**Subject:** Meeting Next Week

**Importance:** High

Hi Matt: I would like to prepare for next week's meeting, and I am wondering if you can tell me who will attend, both from our side and for Mr. Epstein. I am hoping that we can meet on Monday to discuss any issues and/or strategy before the meeting on Tuesday, so please let me know when you will be available on Monday. Also, if there are any issues that you would like me to be prepared to address – either with you on Monday or with defense counsel on Tuesday – please give me a list and I will bring the appropriate items with me.

Since Lilly has been communicating with you directly about the meeting, and I have given them the list of statutes that they have requested, perhaps you could ask her to reciprocate by providing us with their written analysis (or documents they want us to consider) prior to the meeting so we can address any issues then and there. Also, during a previous meeting, I asked Lilly and Gerry for copies of Epstein (or his assistants') agendas and calendars to show that, as they claim, Epstein's travels to Florida were consciously coordinated so that he could maintain his Florida residency for tax purposes. Lilly said she would try to get them to us, but has never done so. I have subpoenaed all of the corporate entities with which Epstein is affiliated and they all claim that they do not have any responsive documents.

I will plan to be in Miami by around 10:00 on Monday morning, so any time after that is fine.

Thank you.

[redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone [redacted]
Fax [redacted]

**Tracking:**



EFTA00226710

| Recipient | Read |
| --- | --- |
| [redacted] | Read: 6/21/2007 1:52 PM |
| | Read: 6/21/2007 2:24 PM |
| | Read: 6/27/2007 4:43 PM |
| | Read: 6/21/2007 2:03 PM |



EFTA00226711

FOWLER WHITE BURNETT P.A.
Espirito Santo Plaza
Fourteenth Floor
1395 Brickell Avenue
Miami, Florida 33131-3302
(305) 789-9200

# FAX TRANSMITTAL

| | |
|---|---|
| Date: | Monday, July 16, 2007 Number of Pages: 3 |
| To: | [redacted] |
| Fax Number: | [redacted] |
| From: | Lilly Ann Sanchez |
| Fax Number: | (305) 789-9201 Telephone Number: (305) 789-9200 |
| Matter No: | 71200 - Epstein |
| Remarks: | [redacted] Please see attached correspondence from Roy Black on the Jeffrey Epstein matter and the letter in response of [redacted]. Gerald Lefcourt and I would like to speak to you further regarding same since we do not believe that Marie's letter was responsive to the issues raised by Roy Black. I am in my office at [redacted] |

Original documents will not follow by mail.

Time of Transmittal: _____ a.m./p.m. Transmitted By: _____

*Photocopy should be taken of this transmission if it is to be retained since facsimile paper has limited storage life.*

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**PLEASE NOTIFY US IMMEDIATELY BY CALLING (305) 789-9200, IF THERE IS ANY PROBLEM.**

**Exhibit 32**

Case No. [redacted] CV-[redacted]



EFTA00226712

ROY BLACK
HOWARD M. SREBNICK
SCOTT A. KORNSPAN
LARRY A. STUMPF
MARIA NEYRA
JACKIE PERCZEK
MARK A.J. SHAPIRO
JARED [redacted]

BLACK SREBNICK KORNSPAN & STUMPF P.A.

CHRISTINE M. NO
JESSICA FONSECA-NADER
KATHLEEN P. PHILLIPS
AARON ANTHON
MARCOS BEATON, JR.
MATTHEW P. O'BRIEN

E-Mail: *RBlack@RoyBlack.com*

July 13, 2007

**VIA FACSIMILE (561) 802-1787 AND U.S. MAIL**

[redacted]
Assistant United States Attorney
Office of the United States Attorney
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

Re: Grand Jury Subpoena - William Riley

Dear Ms. [redacted]

I represent Jeffrey Epstein, the target of a pending Grand Jury investigation. Prior to the initiation of this federal investigation, I represented Mr. Epstein on a Palm Beach Florida State Attorney's Office investigation and subsequently an Information, the factual basis of which is identical to, and gave rise to, the federal investigation presently underway.

In connection with my earlier representation of Mr. Epstein, I hired Mr. William Riley as a private investigator to act under my direction in anticipation of defending Mr. Epstein against possible criminal charges and any litigation which may have followed. All his investigations were done as my agent and thus are covered by the work product privilege, and all communications to him are protected by the attorney client privilege.

Though we are not conceding the existence of any computers that would be responsive to the subpoena served upon Mr. Riley, to the extent there are any such computers, they would contain documents that are privileged attorney-client communications and attorney work-product. Your subpoena also asks for materials describing the scope of his investigation and thus they are our work product.

201 S. Biscayne Boulevard, Suite 1300 • Miami, [redacted]lorida 33131 • Phone: 305-371-6421 • Fax: 305-358-2006 • www.RoyBlack.com



EFTA00226713

[redacted]

July 13, 2007
Page 2

As you know, the United States Attorney's Office Manual, Guidelines for Issuing Grand Jury and Trial Subpoenas to Attorneys for Information Relating to the Representation of Clients, requires that the attorney client and work-product privileged information sought by the Grand Jury subpoena issued to Mr. Riley must first be authorized by the Assistant Attorney General for the Criminal Division before it may issue.

Therefore, please advise me as to whether the applicable sections of the United States Attorney's Office Manual was complied with prior to the issuance of the Grand Jury subpoena to Mr. Riley. Please also advise as to the preliminary steps taken in advance of the issuance of the subpoena, as required by the Manual. Finally, please provide me with the name of the Assistant Attorney General of the Criminal Division who undertook the evaluation of the request for the Grand Jury subpoena, as required by the same section of the Manual and, if an evaluation was made, the basis upon which the Assistant determined that the information sought in the subpoena was not protected by a valid claim of privilege.

Sincerely,

Roy Black

RB/wg



EFTA00226714

**U.S. Department of Justice**

*United States Attorney*
*Southern District of Florida*

*500 South Australian Ave., Suite 400*
*West Palm Beach, FL 33401*
*(561) 820-8711*
*Facsimile: (561) 820-8777*

July 16, 2007

VIA FACSIMILE
Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, Suite 1300
Miami, FL 33131

Re: Correspondence Dated July 13, 2007

Dear Mr. Black:

Thank you for your letter of July 13, 2007. You and your firm are neither a subpoenaed party nor counsel to a subpoenaed party. Accordingly, pursuant to the Federal Rules of Criminal Procedure, I am not at liberty to discuss this matter with you. Moreover, it is not the practice of this Office to discuss internal Department of Justice policies with non-Justice Department personnel. If Mr. Riley believes he has cause to move to quash the subpoena, or if Mr. Epstein does for that matter, counsel for the respective parties should so move. Otherwise, we expect compliance by tomorrow, which includes a one-week extension already requested by Ms. Sanchez prior to Mr. Richey's appearance as counsel for Mr. Riley.

Sincerely,

By: [redacted]
Assistant United States Attorney

cc: [redacted]
William Richey, Esq.
Lilly Ann Sanchez, Esq.



EFTA00226715

LAW OFFICES OF
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June 25, 2007

BY HAND DELIVERY

Jeffrey Sloman, Esq., First Assistant United States Attorney
Matthew Menchel, Esq., Chief, Criminal Division
The United States Attorney's Office
Southern District of Florida
99 NE 4th Street
Miami, Florida 33132

Andrew Lourie, Deputy Chief, Northern Region
A. Marie Villafaña, Assistant United States Attorney
The United States Attorney's Office
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

*Re: Jeffrey E. Epstein*

Dear Messrs. Sloman, Menchel and Lourie and Ms. Villafaña:

As you are aware, we represent Jeffrey E. Epstein in connection with your ongoing investigation. We write to you in advance of our June 26, 2007, meeting to address some of the concerns that have been raised during our recent conversations. Although not exhaustive of all the issues we wish to discuss, or points we intend to raise, we believe this submission will facilitate a more productive meeting by giving you an overview of our position and the materials we plan to present in order to demonstrate that none of the statutes identified by you can rightly be applied to the conduct at issue here. We are prepared to discuss the issues raised herein further at tomorrow's meeting as well as to discuss additional concerns you may voice, all for the purpose of demonstrating why no federal prosecution should lie.

**The Federal Criminal Statutes Identified Should Not Be Applied Here**

It is clear from both the fundamental principles of federal criminal law and the specific statutes in question that federal law is not intended to prohibit, nor does it prohibit, all "wrongful" sexual activity. Indeed, there is no federal crime of sex with an underage person – False



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even assuming such an act took place in this case – nor could there be such a crime under the United States Constitution.[1] By and large, the delineation of such conduct (that is, determining what conduct is wrongful), and the prosecution for such conduct, have been delegated to the states. Such conduct is punishable under state laws, under which the age of consent varies from 14 to 18 with many states making sex with a 16 year old completely lawful regardless of the age of the other person.[2] In short, the role of federal law in this area is carefully circumscribed.

The legislative history of the federal "sex" statutes at issue evinces no federal concern with the prevalent local phenomenon of young adults – 16 or 17 years of age – voluntarily choosing to engage in sexual contact with anyone they desire. This is strictly a state concern, which some states have chosen to criminalize, while others have not, and some local prosecutors have chosen to prosecute, while others have not. It is not an accident that, as far as we have been able to determine, there is no federal case involving a defendant who maintains a reasonable mistake of fact defense, where that defendant reasonably believed the other person was 18 years of age. The federal statutes were not meant to apply in those circumstances as such conduct is a matter of state law. The federal statutes were intended to address those cases involving sexual activity with children. Indeed, the federal concerns intended to be redressed by these statutes, as evidenced by the legislative history; the advisory titles of the statutes; and even their sometimes broad language, are: the use of coercion and violence to lead *children* into a life of prostitution (12, 13, or 14 years old, or younger); sex trafficking and slavery of *children*; interstate or foreign travel to have sex with *children* (or engage in other illegal sexual activity); and trolling for *children* on the internet in order to have sex with them. None of these concerns is present here.[3]

not true

*These* constitute the paradigmatic federal concerns, mainly because the states are ill prepared to deal effectively with interstate and international trafficking of children. On the other hand, the states are fully capable of deciding how to deal with entirely local matters relating to men who allegedly have inappropriate sexual contact with local young women. To disregard these concerns, to ignore congressional purpose, and attempt to give the federal statutes their broadest possible interpretation would cause the undesired result of criminalizing federally virtually all acts of prostitution or sexual misconduct – a result not intended by Congress and

[1] *United States* [redacted] 514 U.S. 549 (1995).

[2] Notably, Chapter 109A statutes, *e.g.*, §§ 2241-2245, to which § 2423(b) inherently refers, each deal in terms of force and/or age. A review of these statues demonstrates that in each instance **unless force is involved,** the victim must be under 16 years old for a prosecution to lie.

prostitution ?

[3] We understand the Office has taken the view that Mr. Epstein targeted underage high school students. This was absolutely not the case and we will be prepared to discuss at our meeting the objective evidence demonstrating no such targeting occurred.



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unlikely to be sanctioned by the courts.[4] To stretch the statutes in the unprecedented way it appears is contemplated would do just that.

Although in this memo we have focused primarily on the federal sex statutes, in the same way that those statutes cannot logically be expanded to cover the conduct at issue, neither can the statutes governing monetary transactions. These latter statutes, designed to curb the use of what would appear to be otherwise innocent financial transactions to disguise proceeds of unlawful activity and avoid Internal Revenue Code requirements, have no place in this case. The ills sought to be remedied by these statutes are far removed from the conduct in which Mr. Epstein purportedly engaged.

We address each statute in turn, starting with those regulating monetary transactions.

**18 U.S.C. § 1956(a)(3) - The Money Laundering Statute - Does Not Apply to Mr. Epstein's Alleged Misconduct**

No reasonable reading of the money laundering statute can countenance such a charge against Mr. Epstein, for the statute on its face, or as even applied by the courts, has absolutely no application to the alleged misconduct. Under the facts of this case, to charge Mr. Epstein with violating the money laundering statute would be both unprecedented and inappropriate.

The money laundering statute was designed to be used and has been construed as a "concealment" statute, not a spending statute. *See United States v. Shepard*, 396 F.3d 1116 (10th Cir.), *cert. denied*, 545 U.S. 1110 (2005); *United States* [redacted], 434 F.3d 42 (1st Cir. 2006) (money laundering statute does not criminalize the mere spending or investing of illegally obtained assets. Instead, at least one purpose for the expenditure must be to conceal or disguise the assets).

The Eleventh Circuit has held that "[t]o prove money laundering under § 1956(a)(3), the government must show that the defendant (1) conducted or attempted to conduct a financial transaction (2) involving property represented to be the proceeds of specified unlawful activity, (3) with the intent (a) 'to promote the carrying on of specified unlawful activity,' (b) 'to conceal or disguise the nature, location, source, ownership, or control of property believed to be the

[4] "Section 1591 does not criminalize all acts of prostitution (a vice traditionally governed by state regulation). Rather, its reach is limited to sex trafficking that involves children or is accomplished by force, fraud, or coercion". *United States v. Evans*, 476 F.3d 1176, 1179 n. 1 (11th Cir. 2007). Nor, has the Department of Justice deemed it appropriate. *See, e.g.* United States Department of Justice Civil Rights Division Anti-Trafficking News Bulletin, August/September 2004, Vol. 1, Nos. 8 and 9, at 2 (in order to address the demand for prostitution the federal government must work with the state, as it is state law that controls).



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proceeds of specified unlawful activity,' or (c) 'to avoid a transaction reporting requirement under State or Federal law'". *United States* [redacted] *Puche*, 350 [redacted] 3d 1137 (11th Cir. 2003);[5] *see also United States* [redacted] *Arditti*, 955 [redacted] 2d 331 (5th Cir.), *reh'g denied, cert. denied* 506 U.S. 998 (1992), *cert. denied* 506 U.S. 1054, *reh'g denied* 507 U.S. 967 (1993) (undercover agent's representation that he was in the cocaine business and that the initial $15,000 were the proceeds of a collection satisfied requirement for establishing basis for money laundering "sting" operations that government agent represent that property involved in the transaction was the "proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity").

Thus, it is clear that the statute unquestionably and explicitly requires (a) the use of *proceeds* of *specified unlawful activity*; or (b) cash which is or was represented to be the product of unlawful activity, with neither paradigm being applicable in the case. That this was how the statute was intended to be used and is understood is further evidenced by section 9-105 of the United States Attorney's Manual, which states:

> Sections 1956 and 1957 both require that the property involved in the money laundering transaction be the proceeds of specified unlawful activity at the time that the transaction occurs. The statute does not define when property becomes "proceeds," but the context implies that the property will have been derived from an already completed offense, or a completed phase of an ongoing offense, before it is laundered. Therefore, as a general rule, neither § 1956 nor § 1957 should be used where the same financial transaction represents both the money laundering offense and a part of the specified unlawful activity generating the proceeds being laundered.

The allegations of this case simply do not support a money laundering charge. Any attempt to make such a charge would constitute inappropriate overreaching and would stretch the statute beyond its intended purpose. Unlike the typical money laundering case, Mr. Epstein did not receive money or funds *from* any criminal conduct which he then used in a financial transaction. *See, e.g., United States* [redacted] *Taylor*, 239 [redacted] 3d 994 (9th Cir. 2001) (defendant charged with running an illegal escort service and using proceeds *from that business* to pay credit cards

[5] Instructive is Eleventh Circuit Pattern Jury Instruction 70.4 which states that the defendant can be found guilty of § 1956(a)(3)(A) only if (1) he knowingly conducted a financial transaction; (2) the transaction involved property represented to be the proceeds of specified unlawful activity or that was used to conduct or facilitate specified unlawful activity; and (3) the defendant engaged in the transaction with the intent to promote the carrying on of specified unlawful activity.



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used to purchase airline tickets to fly prostitutes to Las Vegas). Nor did Mr. Epstein use money he knew otherwise to be unlawfully *tainted* in a financial transaction designed to facilitate, conduct, or promote prostitution or other criminal conduct. Rather, to the extent the evidence may show that Mr. Epstein *paid* for sexual services, he most certainly did so with *untainted*, legitimately earned funds.

In addition, unlike the typical "sting" case, which 1956(a)(3) was enacted to address, there is no evidence that Mr. Epstein was aware, or that government or law enforcement personnel made him aware of circumstances from which he could reasonably have inferred that the funds were from specified unlawful activity. This is not a case where large amounts of cash of questionable origin were repeatedly delivered to Mr. Epstein in small denominations in duffel bags and boxes. *See, e.g., Puche, supra*, 350 [redacted] 3d 1137; *see also United States v. Rahseparian*, 231 [redacted] 3d 1257 (10th Cir. 2000) (government failed to prove that defendant knew that money was obtained by mail fraud, the unlawful activity underlying money laundering count).

To proceed under a view that the statute covers such behavior would lead to the unintended result of making use of a credit card or wire transfer to pay for sexual services provided by a prostitute money laundering. That was surely not what Congress intended, how the courts have interpreted the language of the statute, or even how it is viewed by the Department of Justice.

**18 U.S.C. § 1960 - Prohibition of Unlicensed Money Transmitting Business Does Not Apply to Mr. Epstein's Alleged Misconduct**

Likewise, a prosecution under § 1960 cannot lie.

18 U.S.C. § 1960 is a regulatory statute that was enacted in order to combat the growing use of money transmitting businesses for the purpose of transferring large sums of illegally obtained monies and to avoid the strictures of the Internal Revenue Code, as well to fund terrorism. The type of business contemplated by Congress is one which, for a fee, accepts funds for transfer within or outside the United States. *See United States* [redacted] *Talebnejad*, 460 [redacted] 3d 563, 565 (4th Cir. 2006); *United States* [redacted] *Velastegui*, 199 [redacted] 3d 590 (2d Cir. 1999). Once the money transmitter receives the fee and the money from the customer, a third party at the recipient location then pays the money to the designee or the transmitter wires the money directly to the recipient.

These formal and informal businesses are often operated for the purpose of sending money to an individual's home country from the United States. *See, e.g., Talebnejad, supra*, 460



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[redacted]

[redacted]3d at 567 (Iranian immigrants operated money transmitting business in Maryland); *Velastegui*, 199 [redacted]3d at 593 (money transferred to Mexico by unlicensed agent); *United States* [redacted] *Bah*, 2007 U.S. Dist. LEXIS 25274 (S.D.N.Y. 2007) (defendant operated restaurant in New York which also transmitted cash overseas); *United States* [redacted] *Abdullah*, 2006 U.S. Dist. LEXIS 47493 (W.D.Va. 2006) (Iraqi defendant charged customers a fee for transferring money from the United States to Middle Eastern countries). However, as noted, in many instances, due to the lack of uniform regulation, these businesses have served to transfer funds which were the proceeds of illegal activity. *See United States* [redacted] *Valdes*, 2006 U.S. Dist. LEXIS 12432 (S.D.N.Y. 2006) (defendants transmitted proceeds of drug trafficking to Colombia); *see also* P.L. 103-325, Title IV, § 408, 108 Stat. 2252. In response to the growing concern about this improper use of these businesses, Congress enacted § 1960, in conjunction with § 5330, establishing a regulatory scheme to assist in the effective enforcement of criminal, tax, and other laws and prevent such businesses from participating in any illegal enterprises. *Id.*

It is clear that § 1960 does not apply, and was never intended to apply, to Mr. Epstein's purported misconduct. Mr. Epstein did not own or operate a "money transmitting business" as defined in § 5330. Nor was he in the money transmitting business. Mr. Epstein was not providing check cashing, currency exchange, or money transmitting or remittance services. Nor was he issuing or redeeming money orders, travelers' checks, or other similar instruments, or acting as a person engaged as a business in the transmission of funds.

52 causing Colonial Bank

Indeed, he was not carrying on a business at all through these transfers. The term "business" is defined as an "activity or enterprise for gain, benefit, advantage or livelihood" (Black's Law Dictionary (7th ed. 2007)) or as "a usually commercial or mercantile activity engaged in as a means of livelihood". Merriam-Webster's Online Dictionary. The only funds transferred were Mr. Epstein's personal monies, monies he lawfully earned. He did not profit from the transmission of this money. Nor was the act of transmitting the money a means of his livelihood. He simply took legitimate money and used it to meet his financial obligations.

At best, the evidence demonstrates that Mr. Epstein transmitted funds from personal accounts in New York to accounts in Florida in order to pay for personal expenses – food, flowers, household upkeep, etc. This cannot be viewed as anything different from giving cash to a family member, or transferring money from a savings or brokerage account to a checking account, in order to pay bills and expenses. Under no reading of the facts can Mr. Epstein's conduct in transferring money between his accounts constitute a "business", much less a money transmitting business. As such, a prosecution under the statute should not lie.



EFTA00226721

LAW OFFICES OF
GERALD B. LEFCOURT, P.C.

[redacted]

**18 U.S.C. § 1591 – The Misconduct Alleged Does Not Fall Within the Ambit of the Statute**

18 U.S.C. § 1591 – "Sex Trafficking of Children or by Force, Fraud, or Coercion" – was passed as part of the Trafficking Victims Protection Act ("TVPA") to address a problem far removed from the present set of circumstances: human trafficking, in general, and human sex trafficking, in particular, involving both a commercial and coercive component. The statutory scheme was designed to prevent the organized exploitation of women and children for profit and was not intended to address the conduct alleged here:

> The central principle behind the Trafficking Victims Protection Act is that criminals who knowingly operate enterprises that profit from sex acts involving persons who have been brought across international boundaries for such purposes by force or fraud, or who force human beings into slavery, should receive punishment commensurate with the penalties for kidnapping and forcible rape.

147 Cong. Rec. E2179-02; *see also* United States Department of Justice Civil Rights Division Anti-Trafficking News Bulletin, April 2005, Vo. 2, No. 1 at 1; July 2004, Vol. 1, No 7. at 6; and January 2004, Vol. 1, No. 1, at 1, 3 (reflecting the positions of President Bush, Attorney General [redacted], former Attorney General [redacted] and former Assistant Attorney General for the Civil Rights Division [redacted] that human trafficking involves force, fraud and coercion, and is a form of modern day slavery). The behavior and actions of Mr. Epstein are far removed from the human trafficking concerns addressed by Congress in enacting § 1591. Any attempt to prosecute him under this section would be unprecedented and highly irregular.

Not surprisingly, the case law does not support any such prosecution. Nationwide there are relatively few appellate decisions dealing with prosecutions under § 1591. In the Eleventh Circuit, there are only a handful, several of which are unpublished. A review of these cases reveals that the paradigmatic case for enforcement falls into one of two categories.[6] The first involves defendants who have engaged in a highly predatory sort of business – prostituting underage persons, either by force, fraud, or coercion. These cases bear no relationship to the circumstance at issue here. *See, e.g., United States* [redacted] *Norris*, 188 Fed. Appx. 822 (11th Cir. 2006) (unpublished)(prosecution of several men for conspiracy to hold young women in peonage, and to traffic them for commercial sex acts, involving force and threats; bail issue); *United States v.*

[6] A review of the United States Department of Justice Civil Rights Division Anti-Trafficking News Bulletins confirms that this same pattern exists nationwide. We will be prepared to discuss these cases further at our meeting and will supply details about the cases upon request.



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[redacted]

*Sims*, 161 Fed. Appx. 849, 2006 WL 14581 (11th Cir. 2006) (unpublished). *See also Evans*, *supra*, 476 [redacted] 3d 1176. The second involves sex tourism sting operations where the defendants signed up for a "Taboo Vacation," usually to go to Costa Rica to have sex with children. In these cases the state interest is relatively minimal and United States treaty obligations have made federal intervention a high priority. *See, e.g.*, *United States* [redacted] *Clarke*, 159 Fed. Appx. 128, 2005 WL 3438434 (11th Cir. 2005)(unpublished); *United States* [redacted] *Strevell*, 185 Fed. Appx. 841, 2005 WL 1697529 (11th Cir. 2006)(unpublished), *cert. denied*, 127 U.S. 692 (2006). No such federal interest is implicated in the purely local case of Mr. Epstein.

Here, there was no trafficking – no "force, fraud or coercion"; no threats; no sexual servitude; no financial venture; no profit from a financial venture; no forced work in the commercial sex industry; and no transporting of children from underdeveloped countries to the United States or even across state lines. Nor was there any conduct which can be considered so extremely abusive or violent, that an expansion of the statutes beyond their intended purpose would be warranted.

**18 U.S.C. § 2421 – Mann Act – The Statute Was Not Intended To Address The Misconduct Alleged Here**

Any attempt to charge Mr. Epstein under 18 U.S.C. § 2421 would violate both the spirit and purpose of the statute. Section 2421 was first enacted by Congress in 1910 to prevent the use of interstate commerce to facilitate prostitution, concubinage, or other forms of immorality. *Hoke* [redacted] *United States*, 227 U.S. 308 (1913); *Wilson* [redacted] *United States*, 232 U.S. 563 (1914); *Caminetti* [redacted] *United States*, 242 U.S. 470 (1917). The statute's primary purpose was to address the so-called commercial case of transporting females for immoral purposes. *Cleveland* [redacted] *United States*, 329 U.S. 14 (1946) (even though the Act includes some non-commercial cases within its scope, its primary focus is commercial sexual activity); *United States* [redacted] *Jamerson*, 60 [redacted] Supp 281 (D.C. Iowa 1944). However, it has also served to protect women against conduct, whether commercial or not, that involves transportation and is exploitive or violent. *See, e.g., De Vault* [redacted] *United States*, 338 [redacted] 2d 179, 180 (10th Cir. 1964) (applying the Act to protect girl who was raped).

The Mann Act is a relatively antiquated morality statute that, despite its overly broad language, is wisely used only sparingly. Notably, the most recent reported decision in the 11th Circuit involving the Mann Act was decided in 1984. *United States* [redacted] *Phelps*, 733 [redacted] 2d 1464 (11th Cir. 1984).



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[redacted]

Indeed, a nationwide search of reported prosecutions and convictions under the Act reveals that the statute has primarily been limited to cases involving prostitution rings/businesses and their owners. *United States* [redacted] *Holland*, 381 [redacted].3d 80 (2d Cir. 2004) (woman running prostitution *business* convicted for recruiting and transport of prostitutes under § 2421); *United States* [redacted] *Footman*, 215 [redacted].3d 145 (1st Cir. 2000) (pimp who ran a *prostitution ring* convicted of violating § 2421). Likewise, in keeping with its purpose and title, the statute has been used in sex *trafficking* cases involving the exploitation of the poor and disadvantaged from foreign countries. *See, e.g., United States* [redacted] *Julian*, 427 [redacted]3d 471 (7th Cir. 2005) (sex tourism operator in Mexico facilitating travel of poor Mexican boy for sexual relationship in the United States violated § 2421). On the other hand, other cases which have targeted non-owners of prostitution rings, have further limited § 2421 prosecutions to circumstances involving egregious conduct, such as the use of force or kidnapping. *See, e.g. United States v. Lowe*, 145 F.3d 45 (1st Cir. 1998) (defendant transported woman across state lines against her will and then raped her). *See also Poindexter* [redacted] *United States*, 139 [redacted]2d 158 (8th Cir. 1943) (transportation by defendant of woman across state line with purpose of raping her violated 18 U.S.C. § 2421 since statute covers interstate transportation of woman without pecuniary motive where intent is to have illicit relations with her by force or otherwise); *Brown* [redacted] *United States*, 237 [redacted].2d 281 (8th Cir. 1956) (the defendant violated the Act when he tricked woman into his car and drove her across state lines where he threatened, choked, struck and raped her, and then drove her back to the bus depot where he had picked her up). As we have previously pointed out, the allegations being levied against Mr. Epstein involve no such misconduct.

We have found no reported decision in the past 20 years in which an individual was prosecuted under the Mann Act for simply traveling across state lines with a woman whom he paid for sexual services – even assuming the evidence shows this to be the case here. To use the Act to prosecute Mr. Epstein, where he was neither the owner nor operator of a prostitution ring, and where there are no allegations of kidnapping, force, or violence, would be unprecedented and would stretch the statute beyond what all understand is its modern day intended purpose.

**18 U.S.C. § 2422(b) – The Misconduct Alleged Does Not Fall Within the Ambit of the Statute**

In enacting the internet trolling statute, 18 U.S.C. § 2422(b), Congressional concerns were focused on a very specific and recent phenomenon: young people using the Internet in ever-increasing numbers, and attracting sexual predators out of the woodwork. Disturbingly, computers and the internet made it frighteningly easy for sexual predators to enter into the homes of families, undetected by parents, and prey on these children in cyberspace. As Congress recognized, with so many children online, the internet provided predators a new place -



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cyberspace - to target children for criminal acts. Congress enacted the internet trolling statute to combat the alarming increase in internet predators, who were able to maintain their anonymity, while making unwanted sexual solicitations of vulnerable youngsters.

The statutory language and reported decisions confirm the statute's important, but narrow, focus. Section 2422(b) does not establish any federal sex crimes with a minor, which remain a matter of state, not federal, concern. Instead, as the reported cases reveal, it defines a crime of **communication, not of sexual contact**. Indeed, what all of the cases have in common is that the defendant used the internet to communicate with a child or purported child (or a person with influence over such a child or purported child), and with the intent to arrange a sexual tryst with the child, *with both the belief that the person was a child and with full knowledge that sexual activity with an individual of that age was illegal* – precisely the situation the statute was designed to reach.

Mr. Epstein's case lies far outside those parameters, and far outside the language and intended reach of the statute. In Mr. Epstein's case, even if there were inappropriate sexual contact with one or more 16 or 17 year olds, there was no use of the Internet to lure young victims, and no danger presented by Internet predation.

**18 U.S.C. § 2423(b) – No Travel *For The Purpose* of Engaging In Illicit Sexual Conduct, As Required By The Statute**

The linchpin of a prosecution under § 2423(b) is "travel *for the purpose of* engaging in . . . illicit sexual conduct". The evidence overwhelmingly demonstrates that no case can be made that Mr. Epstein ever traveled to Florida *in order to* engage in illicit sexual conduct.

Elimination of the "purpose" requirement of the statute would undermine congressional intent, as recently expressed and re-affirmed in the Trafficking Act of 2002 and PROTECT Act of 2003.[7] Unlike subsections (a) and (b), § 2423(c), makes it unlawful to travel in *foreign commerce* and engage in illicit sexual conduct, without *any* proof of intent or purpose. It was enacted in response to the extraordinary difficulties the Department of Justice had faced in proving a defendant's intent or purpose in traveling when prosecuting foreign travel cases. Significantly, Congress did *not* amend § 2423(b), which continues to require *purpose* where the travel is *interstate*. Thus, Congress recognized the state's primary interest in proscribing illicit sexual conduct occurring within the state, *unless* one traveled to the state *for that purpose*.

[7] Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003, Pub. L. No. 108-21, 117 Stat. 650 (2003). *See generally United States v. Clark*, 435 [redacted]3 1100 (9th Cir. 2006).

[redacted]

Legislative intent, and concepts of federalism, would be undermined if interstate travel with only incidental sexual conduct were prosecuted.

The nature and scope of Mr. Epstein's activities in Florida do not support the conclusion that any purported illicit sexual conduct was an "important" "purpose of the travel, a significant motivating factor", or in other words, more than merely incidental. *See United States* [redacted] *Horschauer*, 2007 WL 979931 (11th Cir. 2007) (unpublished).

We understand from conversations with Ms. Villafaña that she believes that Mr. Epstein was and is a resident of New York, and that all trips to other homes were trips "away from home," undertaken for a limited period and with a specific purpose. The evidence clearly does not support this view.[8]

Mr. Epstein has owned a home in Florida since September, 1990 – longer than any other residence he has owned – when he purchased the property on El Brillo Way. He spent substantial amounts of money during the relevant period to improve and to maintain this home. In addition, his travel records demonstrate that during the relevant period Mr. Epstein both spent the majority of his weekends, and additional time in Florida. Although he left Florida for business and other projects, he consistently returned to Florida, weekend after weekend, year after year. Specifically, the flight logs establish that for the period 2003 - 2005 (through September)[9], there is **no month** when he did not spend at least one long weekend in Florida, including in the summer months, and that he spent well over half of all weekends in Florida.[10]

Upon returning to Florida, Mr. Epstein routinely visited with various family members and close friends, all of whom reside or have homes in Florida, saw his primary care physician for checkups and prescribed tests, and frequented movie theaters and comedy clubs. Notably, during the relevant period, Mr. Epstein's mother took seriously ill, was often hospitalized, and convalesced in Florida until she died in 2004. A principal reason for Mr. Epstein's travels to

How can he be a domiciliary of USVI + resident of Florida?

Give us evidence of this

[8] Although the locus of one's residency for tax purposes is not conclusive on the question of where one in fact resides, on a number of occasions since 1995 the taxing authorities of New York State have determined that Mr. Epstein did not spend sufficient time in New York to be considered a resident of New York for tax purposes. Since 1999, Mr. Epstein has qualified under the applicable test as a domiciliary of the United States Virgin Islands and is therefore entitled to the tax advantages being a domiciliary there affords [redacted]

[9] Mr. Epstein stopped traveling to Florida beginning in October, 2005.

[10] In 2003, there were 31 multi-day trips to Florida, 29 of which were [redacted] trips to Florida, 36 of which were multi-day weekends; and in 2005 (nine months), 24 multi-day trips to Florida, 21 of which were multi-day weekends.

[redacted]

Florida during that time was to visit with and attend to his mother's needs, see to her funeral arrangements, and address matters relating to her estate.

In recognition of the amount of time he spent in Florida, during the relevant period Mr. Epstein worked with several local real estate agents to purchase a larger home. For example, in 2004, as publicly reported, he attempted to acquire the Gosman Estate, a unique property that was eventually auctioned by the Bankruptcy Court.

Similarly, due to the extensive amount of time he spent in Florida and his desire to have his pilots close by and available should a flight out of Florida be required, the home base for Mr. Epstein's flight operations was Florida. Routine maintenance of the aircraft, periodic FAA inspections, and interior refittings were all carried out in Florida. Indeed, the regular crew members – the pilots and engineer – all resided in Florida, as did the majority of contract crew members who were hired from time to time. Both Hyperion Air Inc. (legal owner of Mr. Epstein's Gulfstream G-IIB), and JEGE, Inc. (legal owner of Mr. Epstein's Boeing 727), rent office space and a storage facility in Florida for the purpose of housing airplane records, including flight logs and wiring drawings, and providing the crew with a local office.

The amount of time Mr. Epstein spent at his home in Florida, and the extensive list of Florida-based activities clearly undermines the contention that Mr. Epstein is a New York resident and defeats the notion that his *purpose* in traveling to Florida was to engage in illicit sexual conduct. On the contrary, Mr. Epstein returned to Florida to engage in the routine activities of daily living. We do not believe that the government could overcome the many substantial hurdles to be encountered when attempting to prove that a specific trip to Florida was for the required statutory "purpose" of engaging in specific "illicit sexual conduct".[11]

**Improprieties Surrounding The Search Warrant**

We previously referred to the many irregularities, misrepresentations and omissions which tainted the state's case. These irregularities would have a significant impact on any federal prosecution. For example, early on in any prosecution, the legality of the initial search

[11] There are, of course, a number of other ways in which Mr. Epstein's conduct did not violate § 2423(b). For instance, we anticipate that it will be difficult to show under the facts that at the time he initiated his travel to Florida, he knew the woman from whom he would later receive a massage, if at all, was at the time under the age of 18, or that he would engage in "illicit sexual conduct" as defined by that statute. Similarly, and again assuming that it could be shown that one of his purposes in traveling to Florida was to receive a massage, given that the activities during many of the massages varied, we do not believe it can be established that his *purpose* (or even one of his purposes) in traveling was to engage in "a sex act", however that term is ultimately defined.

[redacted]

conducted pursuant to the state search warrant would need to be litigated. The warrant suffers from such substantial glaring, facial deficiencies that a motion to suppress would likely result in the suppression of all items seized during the search of 358 El Brillo, as well as all evidence derived from the search, both physical and testimonial.

In addition, the affidavit prepared by [redacted] in support of the search warrant is replete with material misstatements and omissions which, if not intentional, at a minimum, were made with reckless disregard for the truth. The principal misstatements and omissions all involve [redacted] assertions of what the women interviewed said in their recorded sworn statements, statements taken by [redacted] himself and with which he was fully familiar. However, a comparison of the transcripts of those interviews with the information set forth in the affidavit reveals many instances in which [redacted] represented to the issuing judge that the women interviewed said things which they did *not* in fact say, or [redacted]ailed to reveal material information contained in those same statements that would have been important for the judicial officer to know in determining whether the warrant should issue at all and, if so, whether the seizure of the broad categories of items outlined in the warrant should be authorized. Additionally, the execution of the warrant resulted in the seizure of a number of items which clearly fell outside the scope of the warrant, thus, requiring suppression of these unlawfully seized items.

The material misstatements and omissions fall into three categories: (1) the mischaracterization of the significance of surveillance/videotape equipment located in Mr. Epstein's home; (2) the mischaracterization and misrepresentation of facts associated with the ages of the women and Mr. Epstein's claimed knowledge of their ages; and (3) the mischaracterization and misrepresentation of facts concerning the conduct in which Mr. Epstein allegedly engaged with these women. We take each in turn.

**Misrepresentations Regarding The Surveillance Equipment**

In an attempt to justify a seizure of computers at Mr. Epstein's residence – despite the fact that there was no misconduct alleged in connection with the use of computers – [redacted] affirmed that he

> . . . recalled working a previous case within Epstein's residence on October 5, 2003, when Epstein reported a theft from within his house. A former, disgruntled houseman was suspected in stealing monies from the house. At that time, I observed several covert cameras which, would capture and record images of anyone within



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[redacted]

the residence. Epstein had purchased covert cameras which were built in wall clocks and table clocks. These images were then downloaded onto proprietary spyware software for later viewing. (Affidavit at 10).

The clear implication of [redacted] statement is that images of the purported "victims" may have been captured on the cameras and downloaded to computers where they remained, and could be seized, pursuant to a warrant.

your inference and a rational one

[redacted], however, knew full well, but failed to inform the court, that the cameras were part of a security system installed with the assistance of the Palm Beach Police Department and were located in only two areas of the house – Mr. Epstein's office and the garage. [redacted] was also aware – but did not tell the court – that none of the women interviewed alleged that she visited, much less engaged in illicit conduct, with Mr. Epstein in either location. Finally, none of the witnesses ever claimed, even when asked, that Mr. Epstein videotaped her, or evidenced any knowledge whatsoever that he may have videotaped her visit. There can be no doubt that his misstatements and omissions were intentional and designed to establish probable cause that did not exist and to overcome staleness concerns.

**Misrepresentations Regarding The Age Of The Witnesses and Mr. Epstein's Knowledge**

[redacted] *affirmed* that [redacted] claimed:

> [Mr. Epstein] told her the younger the better. (Affidavit at 4)

And, that:

> [redacted] stated she once tried to bring a 23 year old female and Epstein stated that the female was too old. (Affidavit at 4)

What [redacted], no doubt intentionally, omitted was [redacted]'s *further* explanation, which rendered Mr. Epstein's comments *innocuous*:

> A: Let me put it this way, he – I tried to bring him a woman who was 23 and he didn't really like it.
>
> Q: He didn't go for it?
>
> A: It's not that he didn't go for it. It's just that he didn't care for it. ***And he likes the girls that are between the ages of 18 and 20***. (Robson Statement at 12) (emphasis added)

[redacted]

Had that critical information – information that turns allegedly illegal conduct into more innocent conduct – been included it would have seriously undermined the probable cause for the search warrant.

Similarly, and equally problematic, [redacted] *refused* to include statements demonstrating that when asked by Mr. Epstein, *the girls* affirmatively misrepresented their ages as being 18, and/or Mr. Epstein was not aware of their true ages. (Gonzales Statement at 39, [redacted] Statement at 12, [redacted] Statement at 5, [redacted] Statement at 9). Indeed, although he noted that [redacted] had told Mr. Epstein she was 18, omitted from the affidavit why she lied:

> [redacted] said tell him you're 18 because if you're not, he won't let you in his house. So I said I was 18. As I was giving him a massage, he was like how old are you. And then I was 18. But I kind of said it really fast because I didn't want to make it sound like I was lying or anything. ([redacted] Statement at 39).

**Misrepresentations Regarding The Conduct In Which Mr. Epstein Purportedly Engaged**

In the following statement [redacted] affirmatively misrepresented what [redacted] stated:

> "Hall states Epstein would photograph them naked and having sex and proudly display the photographs within the home". (Affidavit at 9).

[redacted] actually made the following statement:

> A: I was just like, it was me standing in front of a big white marble bathtub … And it, it wasn't like I was you know spreading my legs or anything for the camera, I was like, I was standing up. I think I was standing up and I just like it, it was me kind of like looking over my shoulder kinda smiling, and that was that. (Hall Statement at 35).

[redacted] further swore in his affidavit that [redacted]

> Advised that sometime during the massage, Epstein grabbed her buttocks and pulled her close to him. (Affidavit at 6).

[redacted] squarely denied being touched "inappropriately" or otherwise by Mr. Epstein:

Q: . . . . He did not touch you inappropriately?

A: No. ([redacted] Statement at 11).

These misrepresentations were compounded by [redacted] failure to include accounts by the witnesses that Mr. Epstein did *not* in fact engage in illicit conduct during their encounters. Specifically, [redacted] did *not* inform the court that witnesses stated: (1) they were not asked to and did not touch Mr. Epstein's genitals, ([redacted] Statement at 43, [redacted] Statement at 12); (2) they did not have sex with Mr. Epstein, ([redacted] Statement at 43); (3) Mr. Epstein did not masturbate during the massage, ([redacted] Statement at 11; [redacted] Statement at 13; and [redacted] Statement at 7); and, (4) Mr. Epstein did not touch them inappropriately. ([redacted] Statement at 11; [redacted] Statement at 13, 15; [redacted] Statement at 42).

After all the misstatements are corrected, the omissions included, and the irrelevant facts omitted, what is left is an equivocal account of an encounter eight months prior to the warrant application and an equally unreliable account of an encounter which, even assuming *arguendo* it occurred, was more than eleven months old. Surely this evidence was too stale to support issuance of a search warrant, as it did not provide probable cause to believe that any items evidencing a violation of the subject statutes – let alone any items of the type described as "kept and used" in such violations – would still be on the premises at the time of the search.

**Unlawful Search Of The Second Residence**

The officers executing the search warrant exceeded the scope of the warrant when they entered and proceeded to search the second residence on Mr. Epstein's property. Even if those agents did not know in advance that the building was a second residence, which they did,[12] that fact would have been immediately obvious to them upon entry. Notwithstanding such knowledge, they disregarded the terms of the warrant and proceeded to search the second residence.

There was no probable cause for a search of that residence and thus, both the search and seizure of items found therein violated the Fourth Amendment.

[12] A review of the videotape of the pre-search walk-thru of El Brillo reveals that officers knew *prior* to searching the second residence and seizing items located therein, that this was the living quarters of someone other than Mr. Epstein. This is corroborated by the Palm Beach Police Report in which Officer Michael Dawson recounts "I assisted in the search of Banasiak's living quarters. Numerous cd's along with a message book was seized". Police Report at 46; *see also* Police Report at 45.



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[redacted]

However, even assuming the warrant could possibly be read to encompass the search of the second residence, the affidavit is completely devoid of probable cause to search it. "[W]hen law enforcement wishes to search two houses or two apartments, it must establish probable cause as to each". *United States* [redacted] *Cannon*, 264 [redacted] 3d 875, 879 (9th Cir. 2001).

**There Was No Probable Cause To Seize Many Of The Items Listed In The Warrant**

In addition, there was no probable cause to search for videotapes since all the women who were asked whether they had been videotaped *denied knowledge* of any videotaping. These are crucial facts which [redacted] *omitted* from his affidavit. Moreover, as noted, [redacted] had actual knowledge from his prior investigation that that were a limited number of video cameras located in the house and they were focused *only* on Mr. Epstein's desk and the garage – two locations where money was kept and where no one alleged any wrongdoing took place.

Likewise, nothing in the affidavit could support a finding of probable cause to believe that computers or computer-related items were used in the commission of the alleged offenses. The seizure and subsequent search of the computers and computer-related items clearly violated the Fourth Amendment. *See, e.g., United States* [redacted] *Riccardi*, 405 [redacted] 3d 852, 862-63 (10th Cir. 2005) (warrant authorizing seizure of computer, all electronic and magnetic media stored therein, and a host of external storage devices without limitation unconstitutional as authorizing general search); *United States* [redacted] *Joe*, 2007 WL 108465 at *7 (N.D.Cal. January 10, 2007) ("computers and related or similar devices, and information on hard or floppy drives, which may contain any documents and records . . .." overbroad and ordering suppression); *United States* [redacted] *Slaey*, 433 [redacted] Supp.2d 499, 500 (E.D.Pa. 2006) ("[a]ny records, documents, materials and files maintained on a computer" overbroad because it authorized agents to seize everything, even if unrelated to the offense under investigation and even if wholly personal); *United States* [redacted] *Clough*, 246 [redacted] 2d 84, 87-88 (D.Me. 2003)(warrant to search computers which contained no limitations on the search was unconstitutionally overbroad); *United States* [redacted] *Hunter*, 13 [redacted] 2d 574, 584 (D.Vt. 1998)(section of warrant which authorized seizure of all computers, all computer storage devices, and all computer software systems was unconstitutionally overbroad).

Finally, there was no probable cause to believe that "hair fiber, semen, or other bodily fluids" would likely to be at Mr. Epstein's residence some eight months or more after the alleged criminal violations.

There are serious hurdles to a federal prosecution, including the way the federal investigation was initiated, namely by Palm Beach Police Detective [redacted] Although Det. [redacted] questionable actions undermined the state proceeding, his work was provided to your Office "on a silver platter". Even though the FBI conducted its own investigation, that



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[redacted]

investigation cannot avoid being tainted by Det. [redacted] actions. Many of the leads the FBI followed, the witnesses it interviewed, and the documents it subpoenaed all inexorably flowed directly from the fruits of Det. [redacted] investigation.

[redacted] credibility is interwoven in the federal investigation given the overlap of witnesses and documentary evidence with the antecedent state investigation. Not only would a federal prosecution implicate issues of the scope of taint of both physical evidence and witness testimony emanating from the state search, a federal prosecution would inexorably result in scrutiny of the extent to which Det. Recarey's pre-search investigation was adversely compromised by his zeal to prosecute Mr. Epstein.

That [redacted] desire to prosecute Mr. Epstein ran so deep is no more evident than through his participation in the unprecedented, selective, and prejudicial public release of materials such as the Palm Beach Police Reports and Probable Cause Affidavits. These documents, like the search warrant affidavit, were replete with material misstatements and omissions, one of the most glaring of which was the reference in the Police Reports to the discovery of a "sex toy" in Mr. Epstein's trash. Through the execution of the search warrant, it was discovered that the "sex toy" purportedly found in a trash pull was in fact only a piece of a broken salad fork. Despite this discovery, [redacted], bent on painting the facts to support Mr. Epstein's prosecution, never took any steps to correct the Police Report and note the innocent nature of the item.

***Petite* Policy**

We have previously submitted extensive materials regarding the role the *Petite* Policy should play in this matter. Rather than restate our position, we would like to discuss it in detail at the meeting.

**Conclusion**

This case started as and should end as a state matter. It involves local issues which are best addressed by state law. The statutes identified were never intended to be applied in circumstances such as these, where the federal interests intended to be redressed by the statues are not present. We hope that after a full and candid discussion with your office you too will see the inadvisability of proceeding with a federal indictment. We are prepared to address any of the subjects touched on above and welcome any additional issues you wish to raise. We are also prepared to make a fuller written or oral presentation on all the issues we have raised herein or any other lingering concerns you have.



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[redacted]



Thank you for your cooperation in this matter. We look forward to meeting on June 26, 2007. If you have any questions, please do not hesitate to call.

Very truly yours,

Gerald Lefcourt

Gerald B. Lefcourt

cc: Lilly Ann Sanchez, Esq.
Roy Black, Esq.
Alan Dershowitz, Esq.

[redacted]

From: [redacted]
Sent: [redacted] PM
To: [redacted]
Cc:
Subject: Thoughts on Epstein's letter

**Weaker points**: pages 9-10, Section 2422(b). The argument that this was meant to be limited to the internet is not persuasive, since congress used the language "mail or any facility of interstate . . . commerce." I think this is our best charge and the most defensible for federal interest.

Pages 7-8, Section 1591: The language regarding effect on interstate commerce is broad and their argument that this is far outside the intent of the statute is not persuasive. They want to make this sound like a case of a local resident hiring a call girl that offers no federal interest. But Epstein is more than that – he enticing them into a business they are not involved in and thereafter uses their services. These are not girls who are otherwise giving erotic massages for money. He is basically a pimp that pays other girls to be sub-pimps. Once a prostitute is recruited by the sub-pimp, he changes roles into the john and pays for the services. If the prostitute does not want to provide services anymore, he turns back into the pimp and gives them the chance to make money by becoming sub-pimps.

**Stronger Points**: pages 10-12, Section 2423(b). They list of a number of things that I think a court would find persuasive on the issue of travel "with the purpose" of engaging in illicit sex. We only have to prove it was one of the purposes, but most circuits have defined that as "a significant or motivating purpose of the travel across state or foreign boundaries was to have . . . illegal sexual activity" and that the sex was not "merely incidental to the travel." Our proof on purpose is that he gets massages every time he comes to Florida and makes appointments before he leaves. They, on the other hand, have a pretty strong argument that Epstein is a resident with many long standing ties to Palm Beach. His argument will be that making dinner or theatre reservations before he leaves NY to come to his home does not make the dinner or theatre a significant or motivating purpose of the travel and the same is true with respect to massages. We in turn can argue that over time he set up a network of illegal high school massage recruits that would be difficult to duplicate anywhere else and accordingly that the jury should be given the opportunity to draw the conclusion that due to this effort and its illegal nature, the massages must have been a motivating purpose of his travel. We are not assured of getting to the jury on this point and I have not seen a case that is on point factually. I think they make a good point about congress changing the statute when there is foreign travel, but not changing it with respect to domestic travel. Arguably that is because there is not state criminal system to fall back on when Americans travel abroad.

Pages 8-9, Section 2421: here we have to not only prove purpose of travel was to engage in sexual act, but that Epstein caused his girlfriend to travel with the intent for her to have illegal sex (prostitution) with another girl. I am not so much persuaded by their argument that section 2421 cases should not apply here because it is meant to be limited to those who run prostitution rings. Epstein was basically running a small prostitution ring with him as the sole customer and it is his recruiting girls into this business that distinguishes this case from the type of case the defense wants to present it to be. Nevertheless, proving that when she traveled with him he had the intent that she would engage in sexual acts with another girl for money will be difficult.

**The Search Warrant**: Were there significant omissions and misrepresentations in the affidavit, as they allege? Are the fruits of the search in jeopardy and, if so, how would that affect the strength of our case?



[redacted] P-011947

Let us assume that there will be witnesses who will testify that:
(1) they were under 18 when they met Epstein;
(2) they informed Epstein that they were under 18 and discussed it with him; and
(3) the sexual activity went far beyond a massage.

---

The last refuge of a guilty man is the public policy argument
- where statutory language is clear, we never get to legislative history

[redacted] P-011948

Constitutionality

1) Commerce clause is sufficient justification
-Harms [redacted] U.S. , 272 [redacted] 2d 478, 481 (4th Cir. 1959) (addressing 2422(a)).

2) Lack of defense re mistake of age does not violate Due Process.
U.S. [redacted] Ransom, 942 [redacted]. 2d 775 (10th Cir. 1991)
-Also U.S. v. Juvenile Male, 211 [redacted] 3d 1169 (9th Cir. 2000)

3) Congress has the power to enact a comprehensive regulatory scheme that regulates purely local activities that have a substantial effect on interstate commerce, including the trafficking of women and girls U.S. [redacted] Evans, 476 F. 3d 1176 (11th Cir. 2007)
-where defendant used hotels that serve interstate travelers and distributed condoms that traveled in interstate commerce, defendant also loses has "as applied" challenge.

4) Congress has the power to regulate the instrumentalities of interstate commerce, even if those instrumentalities are used only for interstate activities pursuant to the Commerce Clause. Evans.

5) Section 2422(b) is not unconstitutionally vague. U.S. [redacted] Bolen, 136 Fed. Appx. 325 (11th Cir. 2005).

6) Section 2422(b) is not unconstitutionally overbroad or vague. U.S. [redacted] Thomas, 410 [redacted] 3d 1235 (10th Cir. 2005)
-Also U.S. [redacted] Dhingra, 371 [redacted] 3d 557, 561-63 (9th Cir. 2004); U.S. [redacted] Meek, 366 [redacted] 3d 705, 720-22 (9th Cir. 2004); U.S. [redacted] Panfil, 338 [redacted] 3d 1299, 1300-01 (11th Cir. 2003); U.S. [redacted] Bailey, 228 F. 3d 637, 639 (6th Cir. 2000).

[redacted]



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Constitutionality

1) Commerce clause is sufficient justification
   -Harms v. U.S., 272 F.2d 478, 481 (4th Cir. 1959) (addressing 2422(a)).

2) Lack of ~~due~~ defense re. mistake of age does not violate Due Process.
   U.S. v. Ransom, 942 F.2d 775 (10th Cir. 1991)
   -Also U.S. v. Juvenile Male, 211 F.3d 1169 (9th Cir. 2000)

3) Congress has the power to enact a comprehensive regulatory scheme that regulates purely local activities that have a substantial effect on interstate commerce, including the trafficking of women and girls
   U.S. v. Evans, 476 F.3d 1176 (11th Cir. 2007)
   -where Δ used hotels that serve interstate travelers and distributed condoms that traveled in interstate commerce,
   Δ also loses his "as applied" challenge

4) Congress has the power to regulate the instrumentalities of interstate commerce

[redacted]

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for intrastate activities pursuant to the Commerce Clause. Evans.

5) Section 2422(b) is not unconstitutionally vague. U.S. v. Bolen, 136 Fed. Appx. 325 (11th Cir. 2005).

6) Section 2422(b) is not unconstitutionally overbroad or vague. U.S. v. Thomas, 410 F. 3d 1235 (10th Cir. 2005)
-Also U.S. v. Dhingra, 371 F.3d 557, 561-63 (9th Cir. 2004); U.S. v. Meek, 366 F. 3d 705, 720-22 (9th Cir. 2004); U.S. v. Panfil, 338 F. 3d 1299, 1300-01 (11th Cir. 2003); U.S. v. Bailey, 228 F. 3d 637, 639 (6th Cir. 2000).

[redacted]



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Definitions of Inducument

1) U.S. [redacted] Murrell, 368 [redacted] 3d 1283, 1287 (11th Cir. 2004). In a charge of violation §2422(b), the term "induce" means to stimulate the occurrence of "or to" cause the minor the engage in sexual activity."

2) Harms [redacted] U.S., 272 [redacted] 2d 478 (4th Cir. 1959). In a charge of violating what is now §2422(a) (whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate commerce... to engage in prostitution... shall be fined, etc."), the Fourth Circuit determined that a single telephone call invitation to a former prostitute, asking him to return to Virginia to resume her prostitution, was sufficient.

> -The fact that the prostitute has previously expressed her desire to return to Virginia, or that she paid her own fare, was immaterial.
> -"An affirmative directive act [like buying a ticket or doing the transporting] is not involved. The inducement in and of itself, without consideration of intent and with no further direct act, is the moving cause of what follows. The inducement may be any offer sufficient to cause the woman to respond. The inducement sets in motion the successive acts that constitute the crime. (p. 481)

3) U.S. [redacted] Reed, 96 [redacted] 2d 785(2d Cir. 1938). Evidence was sufficient to find that defendant induced woman to travel in interstate commerce to engage in prostitution, even though woman claimed she had always wanted to go to New York and she paid her own way.

4) LaPage [redacted] U.S., 146 [redacted] 2d 536 (8th Cir. 1945). Evidence that defendant called victim, who was one of his regular prostitutes who was away (out of state) on vacation, and asked her to return because another prostitute was leaving was sufficient to prove inducement to travel in interstate commerce for the purpose of prostitution.

5) Prdjun [redacted] U.S., 237 [redacted] 799 (6th Cir. 1916). Evidence was sufficient to convict defendant of enticing girl to travel in interstate commerce to engage in prostitution even if there "is no evidence" that the girl knew of the purpose for which she was entice to go [from one state to the other]... if the defendant put the girl in question in such a frame of mind that she wanted to go and did go, if coupled with it was the purpose on the part of the defendant that the girl should engage in prostitution [when she got to destination], then that is an offense against the statute.

6) U.S. [redacted] Thomas, 410 [redacted] 3d 1235 (10th Cir. 2005). Section 2422(b) requires only that the defendant intend to entice a minor, not that the defendant intend to commit that underlying sexual act.

Entice = beguiling by arousing hope or desire; to lure.
Induce = leading or moving by persuasion or influence; to prevail upon.
Persuade = causing someone to do something by means of entreaty, argument, or reasoning; to convince.

[redacted]



EFTA00226740

Definitions of Inducement

1287

(1) U.S. v. Murrell, 368 F.3d 1283, 11th Cir. 2004). In a charge of violation §2422(b) the term "induce" means "to stimulate the occurrence of" or to "cause the minor to engage in sexual activity."

(2) Harms v. U.S., 272 F.2d 478 (4th Cir. 1959). In a charge of violating what is now §2422(a) (whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate commerce ... to engage in prostitution ... shall be fined, etc."), the Fourth Circuit determined that a single telephone call invitation to a former prostitute, asking her to return to Virginia to resume her prostitution, was sufficient.

- The fact that the prostitute had previously expressed her desire to return to Virginia, or that she paid her own fare, was immaterial.
- "An affirmative directive act [like buying a ticket or doing the transporting] is not involved. The inducement in and of itself, without consideration of intent and with no further direct

[redacted]

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act, is the moving cause of what follows. The inducement may be any offer sufficient to cause the woman to respond. The inducement sets in motion the successive acts that constitute the crime. (p. 481)

(3) U.S. v. Reed, 96 F.2d 785 (2d Cir. 1938). Evidence was sufficient to find that Δ induced woman to travel in interstate commerce to engage in prostitution, even though woman claimed she had always wanted to go to New York and she paid her own way.

(4) LaPage v. U.S., 146 F.2d 536 (8th Cir. 1945) Evidence that Δ called victim, who was one of his regular prostitutes who was away (out of state) on vacation, and asked her to return because another prostitute was leaving was sufficient to pose inducement to travel in interstate commerce for the purpose of prostitution.

5) Prdjun v. U.S. 237 F. 799 (6th Cir. 1916) ~~It is~~ Evidence was sufficient to convict Δ of enticing girl to travel in interstate commerce to engage in prostitution even if there "is no evidence that the girl knew of the purpose for which she was entice to go [from one state to the other] ... If the Δ put the girl in question in such a frame of mind

[redacted]

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Inducement
(2)

that she wanted to go and did go, if coupled with it was the purpose on the part of the Δ that the girl should engage in prostitution [when she got to destination], then that is an offense against the statute.

(6) U.S. v. Thomas, 410 F. 3d 1235 (10th Cir. 2005). Section 2422(b) requires only that the Δ intend to entice a minor, not that the Δ intend to commit the underlying sexual act.
Entice = beguiling by arousing hope or desire; to lure
Induce = leading or moving by persuasion or influence; to prevail upon
Persuade = causing someone to do something by means of entreaty, argument, or reasoning; to convince.

[redacted]

EFTA00226743

Motive to Travel Cases

1) U.S. [redacted] Garcia-[redacted] 234 F.3d 217 (5th Cir. 2000).
Facts: Defendant took his 13-year-old stepdaughter to Mexico and obtained fake identification docs to allow her to travel. Defendant raped the girl twice in Mexico and was charged and convicted of violating 2423(b).
Issue: Defendant argues that government must prove that his dominant motive for traveling was to engage in sex with a minor.
Holding: The instruction that "it was sufficient for the government to prove that one of the defendant's motives in traveling [redacted]as to engage in a sexual act with a minor "was sufficient".

2) U.S. [redacted] Hoschouer, 2007 WL979931 (11th Cir. Apr. 3, 2007).
Facts: Defendant began a sexual relationship with his daughter when she was 13. In March 2003, the victim gave birth to defendant's son. Defendant continued to have sex with her. In Sept. 2003, defendant was arrested in Texas. Victim wrote a bad check to get defendant out on bond and they fled. Victim asked to stay behind, but defendant refused. Defendant was arrested while they were driving through Georgia when defendant was arrested for shoplifting. Victim testified that they were on their way to North Carolina where defendant was looking for work. Victim also testified that she believed that, if they stayed in Georgia long enough, she and defendant would have had sex. Defendant was charged with violating 2423(a) and 2432(b).
Issue: Defendant raised the issue of "the purpose" instruction and the sufficiency of the evidence.
Holding: (1) The jury was properly instructed that the government does not have to show that engaging in criminal sexual activity with a minor was defendant's only purpose or even his primary purpose, but it must have been one of the motives or purposes of the travel. In other words, the government must show that the defendant's criminal purpose was not merely incidental to the travel. (2) Based upon the length of the sexual relationship and defendant's refusal to leave victim behind, the jury could reasonably infer that defendant intended to have sex with victim before the conclusion of their trip and that one of the motivating purposes of requiring victim to accompany him was to facilitate their sexual relationship.

3) U.S. [redacted] Reiner, 397 [redacted] Supp. 2d 101 (D. Me. 2005). This case discusses the forfeiture of assets related to a "massage parlor"/ "health club" that was a front for prostitution. The Court wrote: "The fact that a few customers were content to have only a massage does not alter the overall purpose of the operation."

4) U.S. [redacted] Hitt, 473 [redacted] 3d 146 (5th Cir. 2006). Co-defendants Hitt and Causey met AV, a 13-yr-old boy and befriended him. In October 2002, they took AV to dinner and touched his buttocks. Some time later, the defendants invited AV to a football game in Louisiana (across state lines). AV was to share a room with another boy, but, due to a "mix up" was made to share a room with Hitt and Causey. AV was sexually assaulted by the defendants that night and the sexual activity continued for about a year. The defendants were charged with violating 2423(b), 2423(a), and 2422(a).
Issue: The defendants challenged the sufficiency of the evidence.
Holding: The government must prove that engaging in sexual activity was "one of the efficient



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and compelling purposes of the travel." Evidence related to the "grooming process" was relevant to whether the defendants had the illicit intent necessary under 2423(b).

5) U.S. [redacted] Scisum, 32 [redacted] 3d 1479 (10th Cir. 1994). For a violation of 2423(a), the government must prove that the defendant had formed the intent to have the victim engage in prostitution before the defendant transported or moved a person in interstate commerce. The government does not have to prove that prostitution was the sole purpose of the transportation.



EFTA00226745

Motive to Travel Cases

1) U.S. v. Garcia-Lopez, 234 F. 3d 217 (5th Cir. 2000)
Facts: Δ took his 13-yr-old stepdaughter to Mexico and obtained fake identification docs to allow her to travel. Δ raped the girl twice in Mexico and was charged and convicted of violating 2423(b).
Issue: Δ argues that government must prove that his dominant motive for traveling was to engage in sex with a minor.
Holding: The instruction that "it was sufficient for the Government to prove that one of Δ's motives in traveling was to engage in a sexual act with a minor" was sufficient

2) U.S. v. Haschover, 2007 WL-979931 (11th Cir. Apr. 3, 2007)
Facts: Δ began a sexual relationship with his daughter when she was 13. In March 2003 the victim gave birth to Δ's son. Δ continued to have sex with her. In Sept. 2003 Δ was arrested in Texas. Victim wrote a bad check to get Δ out on bond and they fled. Victim asked to



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stay behind, but Δ refused. Δ was arrested while they were driving through Georgia when Δ was arrested for shoplifting. Victim testified that they were on their way to North Carolina where Δ was looking for work. Victim also testified that she believed ~~that~~ that, if they had stayed in Georgia long enough, she and Δ would have had sex. Δ was charged with violating 2423(a) and 2423(b)

Issue: Δ raised the issue of "the purpose" instruction and the sufficiency of the evidence.

Holding: (1) The jury was properly instructed that the government does not have to show that engaging in criminal sexual activity with a minor was Δ's only purpose or even his primary purpose, but it must have been one of the motives or purposes of the travel. In other words, the government must show that the Δ's criminal purpose was not merely incidental to the travel.

(2) Based upon the length of the sexual relationship and Δ's refusal to leave V behind, the jury could reasonably infer that Δ intended to have sex with V before the conclusion of their trip ~~trip~~ and that one of the motivating purposes of requiring V to accompany them was to facilitate their sexual relationship.



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3) U.S. v. Reiner, 397 F. Supp. 2d 101 (D. Me. 2005). This case discusses the forfeiture of assets related to a "massage parlor"/"health club" that was a front for prostitution. The court wrote: "The fact that a few customers were content to have only a massage does not alter the overall purpose of the operation."

4) U.S. v. Hitt, 473 F. 3d 146 (5th Cir. 2006). Co-defendants Hitt and Causey met AV, a 13-[redacted]-old boy and befriended him. In October 2002, they took AV to dinner and touched his buttocks. Some time later, the Δs invited AV to a football game in Louisiana (across state lines). AV was to share a room with another boy, but, due to a "mix up" was made to share a room with Hitt and Causey. AV was sexually assaulted by the Δs that night and the sexual activity continued for about a year. The Δs were charged with violating 2423(b), 2423(a), and 2422(a)
Issue: The Δs challenged the sufficiency of the evidence.
Holding: The government must prove that engaging in sexual activity was "one of



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the efficient and compelling purposes of the travel." Evidence related to the "grooming process" was relevant to ~~the~~ whether the Δ's had the illicit intent necessary under 2423(b).

5) U.S. v. Scisum, 32 F.3d 1479 (10th Cir. 1994)
For a violation of 2423(a), the gov't must prove that the Δ had ~~transferred~~ formed the intent to have [redacted] the victim engage in prostitution before the Δ transported or induced a person in interstate commerce. The government does not have to prove that prostitution was the sole purpose of the transportation.



EFTA00226749

Third-Party Liability

1) U.S. [redacted] Pisman, 443 [redacted] 3d 912 (7th Cir. 2006).

Pisman and Wilkerson were involved in a sexual relationship and planned for Pisman to travel from Iowa to Illinois to meet Wilkerson and others to engage in sex. Wilkerson arranged for the other sex partners - some of whom were minors - via the Internet. Pisman was aware that some were minors.

Charges: Ct. 1- Conspiracy to travel interstate to have sex with minors 18 USC §§ 2423(b) & (c).

Ct. 2 - Substantive charge of 2423(b)

Ct. 3 - Use of interstate commerce to entice a minor 2422(b)

Issue: The government urged a theory of co-conspirator liability as the basis of Pisman's guilty on the substantive offenses. Pisman was acquitted of Count 1 and convicted of Count 3.

Holding: These are merely inconsistent verdicts, which is not grounds for a motion for judgement of acquittal.

2) U.S. [redacted] Strevell, 185 Fed. Appx. 841 (11th Cir. 2006): Telephone calls to Costa Rica Taboo Vacations to arrange trip to Costa Rica to meet with underage prostitutes is sufficient to prove violations of 2423(c), 1591(a), and 2422(b).

3) U.S. [redacted] Bolen, 136 Fed. Appx. 325 (11th Cir. 2005). Defendant challenged §2422(b)'s applicability where defendant did not communicate directly with victim-child but only communicated (via Internet and phone) with parent of purported child.

"We held that §2422(b) encompasses conduct where a defendant arranges to have sex with a minor through communications with an adult intermediary, including an adult law enforcement agent posing as a parent of a minor child."



EFTA00226750

Third-Party Liability

1) United States v. Pisman, 443 F.3d 912 (7th Cir. 2006).

~~Count 1~~

Pisman and Wilkerson were involved in a sexual relationship and planned for Pisman to travel from Iowa to Illinois to meet Wilkerson and others to engage in sex. Wilkerson arranged for the other sex partners – some of whom were minors – via the Internet. Pisman was aware that some were minors.

Charges: Ct 1 – Conspiracy to travel interstate to have sex with minors 18 USC §§ 2423(b)+(e)
Ct. 2 + Substantive charge of 2423(b)
Ct 3 – Use of interstate commerce to entice a minor 2422(b)

Issue: The government urged a theory of coconspirator liability as the basis for Pisman's guilt on the substantive offenses. Pisman was acquitted of Count 1 and convicted of Count 3

Holding: These are merely inconsistent verdicts, which is not grounds for a motion for judgment of acquittal



EFTA00226751

Telephone calls to

2) U.S. v. Strevell, 185 Fed. Appx. 841 (11th Cir. 2006): Use of Costa Rica Taboo Vacations to arrange trip to Costa Rica to meet with underage prostitutes is sufficient to prove violations of 2423(a), 1591(a), and 2422(b).

3) U.S. v. Boles, 136 Fed. Appx. 325 (11th Cir. 2005). Δ challenged §2422(b)'s applicability where Δ did not communicate directly with victim-child but only communicated (via Internet and phone) with parent of purported child.

"We held that §2422(b) encompasses conduct where a defendant arranges to have sex with a minor through communications with an adult intermediary, including an adult law enforcement agent posing as a parent of a minor child."



EFTA00226752

Knowledge of Age Issue

1) U.S. [redacted] Griffith, 284 [redacted] 3d 338 (2d Cir. 2002). Government does not have to prove knowledge of age of violations of 2251(a) or 2423(a).

2) U.S. [redacted] Scott, 1993 WL 280323 (6th Cir. 1993). Knowledge that a girl is under 18 years of age when transported is not part of the proof required of the government in order to sustain a conviction under §2423.

3) U.S. [redacted] Taylor, 239 [redacted] 3d 994 (9th Cir. 2001). Government does not have to prove defendant's knowledge that victim was under 18 years of age in prosecution under §2323(a).
-also U.S. [redacted] Hamilton, 456 [redacted] 2d 171 (3d Cir. 1972).
-also U.S. [redacted] Jones, 471 F. 3d 535 (4th Cir. 2006).



EFTA00226753

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3. U.S. v. Taylor, 239 F.3d 994 (9th Cir. 2001). Govt does not have to prove Δ's knowledge that victim was under 18 years of age in prosecution under § 2423(a).
-also U.S. v. Hamilton, 456 F.2d 171 (3d Cir. 1972).
-also U.S. v. Jones, 471 F.3d 535 (4th Cir. 2006)



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July 6, 2007

BY FEDERAL EXPRESS

[redacted]

Miami, Florida 33132

[redacted]orney

[redacted]*frey Epstein*

Dear [redacted]:

We write as counsel to Jeffrey Epstein to follow-up on our meeting on June 26, 2007. We thought the meeting was extremely productive and appreciate your giving us the opportunity to engage you on the facts, law and policy that will inform any decision you make on how and whether to proceed.

## I. 18 U.S.C. §2422(b) Has No Applicability to the Facts Here.

Even assuming the facts as you believe them to be, as demonstrated below, a prosecution under 18 U.S.C. §2422(b) would violate the explicit terms of the statute, pose insurmountable constitutional barriers, and be unprecedented, unwise, and utterly inappropriate. This statute, with its mandatory minimum sentence[1] was designed to reach

[1] The statute in effect during the events at issue carries a mandatory five-year period of incarceration. The current ten-year mandatory minimum was instituted in 2006.

Exhibit 33

[redacted]

those who deliberately, knowingly, and intentionally target and exploit children through the internet. Though the literal language may superficially apply to a wider variety of behaviors, we submit that the statute cannot properly be used to prosecute what have traditionally been viewed as state offenses, even if some facility or means of interstate commerce can be said to have been used by someone at some point during the course of events.

1. Congress's Purpose

Section 2422(b), the so-called "Internet Luring Statute", addresses online enticement of children. The subsection was included in Title [redacted] of the Telecommunications Act of 1996, entitled "Obscenity and Violence", after the Senate Judiciary Committee held a hearing regarding child endangerment via the internet. *See* H.R. Conf. Rep. No. 104-458, at 193 (1996), *quoted in United States* [redacted] *Searcy*, 418 [redacted] 3d 1193, 1197 (11th Cir. 2005); *see also* K. Seto, "Note: How Should Legislation Deal with Children and the Victims and Perpetrators of Cyberstalking?" 9 *Cardozo Women's L.J.* 67 (2002).

In enacting the statute, Congress recognized that young people were using the internet in ever-increasing numbers, and it was proving to be a dangerous place. According to a DOJ study, one in five youths (aged 10 to 17) had received a sexual approach or solicitation over the internet in the previous year. One in 33 had received an "aggressive sexual solicitation", in which a predator had asked a young person to meet somewhere or called a young person on the phone. U.S.D.O.J., Office of Justice Programs, *OVC Bulletin*," Internet Crimes Against Children" (12/2001); www.ojp.usdoj.gov/ovc/publications/bulletons/internet_" 2_2001/internet _2_01_6.html.

Congress saw that, with so many children online, the internet created a new place – cyberspace – where predators could easily target children for criminal acts. Use of the internet, which occurs in private, and the secrecy and deception that acting in cyberspace permits, eliminated many of the risks predators face when making contact in person, and presented special law enforcement problems that are difficult for any local jurisdiction to tackle. The mandatory minimum sentence for a violation of this section was increased from five years to ten years in 2006, by virtue of the Adam Walsh Child Protection and Safety Act of 2006, which also eliminated any statute of limitations. *See* 18 U.S.C.

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§3299.[2] The law was named in memory of Adam Walsh who, 25 years earlier, had been abducted from a department store and was later found murdered, and whose parents had become advocates for missing children. In his signing statement, President Bush noted that it increased federal penalties for crimes against children, imposing "tough mandatory minimum penalties for **the most serious crimes against our children**." 2006 U.S.C.C.A.N. S35, 2006 WL 3064686 (emphasis added). The five-year mandatory minimum it replaced was itself established as part of the PROTECT Act of 2003, another law designed to strengthen the government's ability to deal with certain dangerous sexual predators who exploited children in ways the states had been unable to address fully.[3]

2. General Overview

It must be remembered that §2422(b), by using the phrase "any sexual activity for which any person can be charged with a criminal offense",[4] in some sense incorporates all the sex offense laws of all 50 states, in all their variety and in all their ambiguity. This in itself raises questions of the utmost seriousness, implicating fairness and the due process clause. It also constitutes an extreme example of federal pre-emption, or, more precisely, the wholesale annexation of the enforcement responsibility of each of the 50 states' sex-related crime statutes – whether felony, misdemeanor or violation – wherever there has been use of the ever-present wires. To make every state sex "offense" involving a person under 18 potentially into a mandatory minimum ten-year federal felony without any statute of limitations is certainly not what Congress had in mind when it enacted §2422(b).

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[2] Other federal crimes with ten-year mandatory minimum involve very serious acts. *See, e.g.*, 18 U.S.C. §2113(e) (bank robbery where a person is killed or kidnapped); 18 U.S.C. §924 (involving discharge of firearm).

[3] Section 2422(b) has always carried a substantial penalty. When first enacted, the maximum sentence it permitted was ten years. Pub.L. 104-104, Title V, Sec. 508, 110 Stat. 137. After that, the maximum was increased to 15 years. Pub.L. 105-314, Title I, sec, 102, 112 Stat. 2975 (Oct. 30, 1998 to April 29, 2003).

[4] A phrase which, by itself, and in the context of the remainder of the statute, raises mind-numbing questions as to what, exactly, is proscribed.

The bulk importation of complex bodies of state law is highly problematic, and strongly counsels that such matters should be left to the states except in those rare circumstances where both a federal interest is clear and weighty, and the states are for some reason incapable of acting. Like issues of family law, these issues are quintessentially of state concern within our federal system.

State laws regarding both sexual activity and the age of consent to engage therein are hugely varied, reflecting different histories, values, politics, and personalities. *See* Richard A. Posner & Katharine B. Silbaugh, *A Guide to America's Sex Laws* (1996). The various and shifting societal reasons underlying those laws, and the societal pressures operating in the area, where sexual mores change over time, complicate the matter even further. *See generally* Richard A. Posner, *Sex and Reason* (1992). The history of the Mann Act confirms the caution with which the federal government should approach this entire area. For example, historically, the Act was used by some prosecutors in some jurisdictions to prosecute acts – such as a man traveling with his paramour – which, we submit, never implicated a legitimate federal concern. *See generally* D.J. Langum, *Crossing the Lines: Legislating Morality Under the Mann Act* (1994).

Even where there is broad agreement that certain conduct should be criminalized, the various states treat the very same conduct differently; to apply such laws selectively by different federal prosecutors would undermine further what uniformity does exist. In New York, for example, a 50 year old man who patronizes a 15 year old prostitute is guilty of a Class A misdemeanor. New York Penal Law §230.04. If §2422(b) were read expansively, then such person would face a 10-year mandatory minimum if he used the telephone to set-up his date with the young prostitute, **even if the date never happened**. And that would be so even if the prostitute were 17 [redacted] (and despite the fact that in New York the age of consent is 17, since prostitution is a "sexual offense" in New York). Clearly, these are applications and outcomes Congress did not contemplate when it enacted the law.

Instead, these are matters best left to state law and state law enforcement. In the state, prosecutors and law enforcement authorities, who have far more experience dealing with sexual crimes, can exercise their discretion as to whom to prosecute and for what charges, taking into account both local attitudes and the wide range of circumstances that may exist when sexual offenses, or possible sexual offenses, involving minors were, or may have been, committed. That is particularly so since state laws generally permit the exercise of sentencing discretion, allowing the punishment to fit both the crime and the

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perpetrator. Section 2422(b), with its ten-year mandatory minimum is far too blunt a tool to use in any circumstances except the narrow, clear-cut, and egregious circumstances Congress had in mind when it enacted this law.[5]

Though §2422(b) is susceptible to multiple interpretations, it was designed to address a specific a problem with which Mr. Epstein's case has nothing in common. I[redacted] stretched to reach beyond the core concern of the statute, a host of problems immediately arise. A simple reading of the words of the statute leaves any reasonable reader with far more questions than answers as to what is illegal. Any attempt to apply the statute to Mr. Epstein's situation highlights the many problems of vagueness, overbreadth, and simple incomprehensibility lurking in or just below the statute's text.

3. The Statute's Text And Its Thrust

Section 2422(b) currently provides:

> Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than ten years or for life.

The statutory language and reported decisions confirm the statute's important, but narrow, focus: the luring of children over the internet. Unlike 18 U.S.C. §§2241 *et seq.*,

[5] Penalties under state statutes criminalizing online enticement also vary widely. According to the National Center for Missing and Exploited Children, though the offense can be a felony in all states, 15 states permit misdemeanor sentences in some cases (generally where the victim is 14 or older). Nineteen states classify online enticement as a felony, but grant judges statutory discretion to sentence offenders to less than one year in prison /missingkids/servlet/NewsEventServlet?LanguageCountry=en... 6/28/2007.

[redacted]

§2422(b) does not establish any federal sex crimes with a minor. Section 2422's subject is not sex or sexual activity or face-to-face sexual exploitation of minors. Such behavior remains a matter of *state*, not *federal*, concern. The plain language of the statute mandates focus on the *communication* and demands that the knowing "persuasion", "inducement", "enticement" or "coercion" be done "**using** the mail or any facility or means of interstate . . .commerce" (emphasis added). Any other reading would violate constitutional principles of fair warning, notice, lenity and due process. Additionally, any broader reading would violate the clearly stated intent of Congress that enacted the law and the President who signed it. It would also exceed the authority of Congress under the Commerce Clause by federalizing virtually all state sex offenses involving people under the age of 18.

Section 2422(b) defines a crime of *communication*, not of contact. It makes unlawful a narrow category of communications, ones not protected by the First Amendment. Both the attempt and the substantive crime defined by §2422 are complete at the time when *communication* with a minor or purported minor takes place; the essence of the crime occurs *before* any face-to-face meeting or any sexual activity with a minor, and regardless of whether any meeting or activity ever occurs.

Turning the statute on its head by first looking at the alleged sexual activities and then seeking to find a mailing, a use of the wires, or the involvement of another facility or means of interstate commerce as a pretext for the invocation of federal jurisdiction would be without precedent and make a narrowly-focused statute into virtually a complete federalization of all state sex offenses involving minors.

4. The Statute Is Violated Only If A Facility Or Means Of Interstate Commerce Is Used To Do the Persuading Or Inducing

Though the statute raises several difficult issues of construction, on one point it is clear and unambiguous: To be guilty of a crime under §2422(b), the mail or a facility or means of interstate commerce must be used **to do the persuading or inducing**. As the Court wrote in *United States v. Davis*, 165 F.3d Appx. 586, 2006 WL 226038 (10th Cir. 2006), to prove a violation, the government must show "(1) **the use of a facility of interstate commerce**; (2) **to knowingly persuade**, induce, entice or coerce, as well as the other elements. *See also United States v. Bolen*, 136 Fed. Appx. 325, 2005 WL 1475845 (11th Cir. 2005).

The statutory language can bear no other construction. The words "whoever, using . . . knowingly persuades . . ." necessarily requires that the "whoever" must "use" the interstate facility to knowingly persuade. That is, the word "using" is in the present, not the past, tense. Thus, the "using" must occur at the same time as the "persuading". If the statute meant otherwise, it could and would have been drafted differently: "whoever having used the mail and knowingly persuades" or "whoever uses the mail and knowingly persuades". But, as it is written, the actor must use the interstate facility ***to*** persuade or ***to*** entice, or to attempt to do so; use of the instrumentality cannot be incidental or peripheral.

Indeed, assuming, *arguendo*, that the grammar and structure of the statute would allow another interpretation – which we believe it does not – nevertheless the obvious, straightforward reading controls. Anything else would violate the rule of lenity, requiring strict construction of penal statutes, as well as the requirement of fair notice guaranteed by the due process clause. [6] As Thomas Jefferson put it in 1823: "Laws are made for men of ordinary understanding, and should therefore be construed by the ordinary rules of common sense. Their meaning is not to be sought for in metaphysical subtleties, which may make any thing mean every thing or nothing, at pleasure".

According to one of the world's leading experts on grammar and specifically, the syntax and semantics of verbs, these rules of "ordinary understanding" and "common sense" dictate that

> . . . an English speaker, reading the statute, would naturally understand it as applying only to persuasion (etc.) that is done while "using the mail" (etc.). To understand it as applying to persuasion (etc.) done subsequent to the use of

[6] We note that the structure of this statute is radically different from the structure of §1341, the mail fraud statute. There, the statute first describes the fraud and recognizes the federal concern by requiring, for purposes of executing such scheme or artifice, that the defendant use the mail. Section 2422(b) on the other hand defines the crime as using the mail to knowingly persuade, etc. The difference in the language and structure of the two crimes clearly shows that with §2422(b), using the mail to knowingly persuade is the essence of the crime.

[redacted]

the mail, phone, etc., would be an unnatural and grammatically inaccurate reading of the language.[7]

That the statute is so limited is also confirmed by the fact that prosecutors have clearly understood this limitation. After conducting extensive research, we find no case of a defendant being prosecuted under §2422(b) where he has used the internet or the telephone, and then, by *some other means*, such as personal contact, attempted to persuade, induce, or entice. On the contrary, all §2422(b) prosecutions we have reviewed are **premised** on a defendant's use of the internet (or occasionally the text messaging on a phone) **as the vehicle of the inducement**. *See, e.g., United States* [redacted] *Murrel*, 368 [redacted] 3d 1283, 1286 (11th Cir. 2004) (government must ... prove that Murrell, using the internet, acted with a specific intent to persuade a means to engage in unlawful sex).

In fact, we have reviewed every indictment filed in the Southern District of Florida in which there is at least one allegation of a violation of §2422(b). To the extent the facts could be discerned from the indictment, we found no case brought where the use of the means of communication was remote from the persuading, coercion, etc.[8]

Such prosecutorial restraint is in full accord with the legislative intent, which, as set forth above, was to go after internet predators who use the means of communication to persuade, coerce, etc. That the statute also makes reference to the mails and facilities or means of interstate commerce other than the internet does not suggest that the statutory purpose was broader: it is a common *modus operandi* of internet predators to continue to pursue young people whom they first contact on the internet. If the statute were read to make it a crime to induce or persuade where the inducement or persuasion did not occur over the wires, the statute would sweep within it conduct that Congress had no intention of making a federal crime. Given the ubiquity of the telephone in modern life, especially

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[7] To confirm our view of the "plain meaning" of the words, we asked Steven Pinker, Johnstone Family Professor at Harvard [redacted] Department of Psychology and a noted linguist, to analyze the statute to determine the natural and linguistically logical reading or readings of the section. Specifically, we asked whether the statute contemplates necessarily that the means of communication must be the vehicle through which the persuading or enticing directly occurs. According to Dr. Pinker, that is the sole rational reading in the English language. *See* Letter annexed at Tab "A" at 3.

[8] Annexed at Tab "B" is a chart in which each of the cases and its relevant facts are listed.

in the lives of young people, de-coupling the "persuasion/enticement" element from the "use of the interstate facility" would make virtually any sexual activity with a minor, chargeable under state law, a federal offense – with no statute of limitations and a mandatory ten-year minimum sentence.

Indeed, given that the interstate highway system is itself an avenue of interstate commerce, *United States* [redacted] *Horne*, 474 [redacted] 2d 1004, 1006 (7th Cir. 2007), allowing a prosecution wherever a means or facility of interstate commerce is used and a forbidden inducement later occurs, would mean that anyone who used the interstate highways, and then, at some other time, induced a minor face-to-face to engage in forbidden activity (or attempted to do so), would be subject to the mandatory ten years. The complete federalization of sex crimes involving children would have occurred, though there is no indication whatsoever that such a sea change in the federal/state balance was intended or is even needed.

Moreover, such an expansive reading, even if permissible, would very likely exceed the Commerce Clause power as the Supreme Court presently construes it. In *United States* [redacted] 514 U.S. 549 (1995), the Supreme Court struck down the Gun-Free School Zones Act, holding that it exceeded Congress's Commerce Clause authority. In so ruling, the Court reaffirmed a set of fundamental principles, including that the powers delegated to the federal government are few and defined, and that this "constitutionally mandated division of authority was adopted by the Framers to ensure protection of our fundamental liberties." *Id.* at 552, *quoting Gregory* [redacted] *Ashcroft*, 501 U.S. 452, 458 (1991). The [redacted] majority concluded that the statute before the Court "upsets the federal balance to a degree that renders it an unconstitutional assertion of the commerce power." *Id.* at 580. In so ruling, the Court expressed its concern that an overly expansive view of the interstate Commerce Clause "would effectively obliterate the distinction between what is national and what is local and create a completely centralized government." *Id.* at 557.

Making it clear that the Court meant what it said in [redacted] five years later, in *United States v. Morrison*, 529 U.S. 598 (2000), the Court struck down the civil remedy provision of the Violence Against Women Act of 1994, ruling that it, too, was beyond Congress's Commerce Clause powers. Once again, the majority expressed concern that "Congress might use the Commerce Clause to completely obliterate the Constitution's distinction between national and local authority." *Id.* at 615.

[redacted]

To the extent that §2422(b) criminalizes the use of the internet (or telephone) by a sexual predator to target a vulnerable minor and to convince, or to try to convince, her to engage in conduct proscribed by law, the statute may not be unconstitutional on its face. *See United States* [redacted] *Tykarsky*, 446 [redacted] 3d 458, 470 (3d Cir. 2006) (both §§ 2422(b) and 2423(b) "fall squarely [redacted] Congress's power to regulate the first two categories of activities described in [redacted]). The statute would, however, be plainly unconstitutional if it were applied to situations like Mr. Epstein's, where neither the telephone nor the internet was used in that fashion, and where the use of the telephone was, *at most*, a tenuous link in a chain of events that may, or may not, have preceded or followed sexual contact with a minor.[9] In other words, if the instrumentality of commerce is not the vehicle used to facilitate the harm Congress is trying to address, but is simply a "jurisdictional hook," the hook is too weakly connected to the problem (sexual crimes against minors) to sustain the statute as a proper exercise of Commerce Clause power.

Questions about the nature of federalism, and, specifically, just how far the federal government may go into matters of traditionally state concern, will continue to arise and will be answered case-by-case. As Justice O'Connor said in her dissent in *Gonzales* [redacted] *Raich*, 545 U.S. 1, 47 (2005), ". . . the task is to identify a mode of analysis that allows Congress to regulate more than nothing . . . and less than everything. . ." (O'Connor, J. dissenting). *United States* [redacted] *Ballinger*, 395 [redacted] 3d 1218 (11th Cir. 2005), illustrates the difficulty of the task. In that case, the deeply split *en banc* Court considered whether and to what extent the Commerce Clause authority included the power to punish a church arsonist who had traveled in interstate commerce to commit his arsons.

Though clearly not settled, what is clear is that Congress's specification of a jurisdictional element such as the use of an instrumentality or channel of interstate

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[9] As can be readily noted on the chart at Tab "B", to the extent discernable, **every** case brought under §2422(b) in this district includes use of the internet. There are only four reported cases in the Eleventh Circuit involving use of the phones only: three of them concern telephone calls to travel agencies advertising overseas underage sex tours and involved explicit talk of sexual activity with known minors. A fourth is *United States v. Evans*, 476 F.3d 1176 (11th Cir. 2007) (11th Cir, 2007). But there, in facts far different from those presented here, the defendant "**admitted** using both a cellular telephone and a land-line telephone to entice [redacted] to engage in prostitution" (emphasis added). That admission makes *Evans* no precedent for a prosecution here, since there is no evidence the phones were used "to entice".

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commerce does not, in and of itself, end the inquiry. Where the use of such instrumentality is far removed from the conduct being targeted (in the case of §2422(b), sexual exploitation of children), the lack of any basis for federal jurisdiction presents itself squarely.

In Mr. Epstein's case, since the crime being considered (as Congress intended) is the use of the internet by internet predators to target and lure vulnerable children to engage in illicit sex, the law is arguably within Congress' Commerce Clause powers. But Mr. Epstein's conduct would be outside the law's scope. If you were to contend that *any* use of the telephone which is connected in any fashion to an act of sexual misconduct with a minor is within the statute's scope, Congress would then have reached well into traditional state spheres, and there is a powerful argument that Congress would have been acting in excess of its Commerce Clause authority.

Elimination of Constitutional uncertainty regarding §2422(b) depends upon confining it to situations where an instrumentality of interstate commerce has **itself** been used for an immoral or injurious purpose. Statutes must be read to eliminate serious doubts as to Constitutionality, as long as such a reading is not plainly contrary to the intent of Congress. *United States* [redacted] *X-Citement Video, Inc.*, 513 U.S. 64, 78 (1994), *citing Edward J. DeBartolo Corp.* [redacted] *Florida Gulf Coast Building & Constr. Trades Council*, 485 U.S. 568 (1988). At the least, to eliminate questions as to its constitutionality, §2422(b)'s reach must be limited to situations where there is a **very close connection** between the use of an instrumentality of interstate commerce and the persuasion or attempted persuasion that the statute makes a crime.

Moreover, even if, *arguendo*, the expansive reading of the statute would not violate the Commerce Clause – which current case law strongly suggests it would – nevertheless the **federal interest** in prosecuting sexual offenses involving minors where the facility or means of interstate commerce was not the vehicle for committing the crime is so attenuated that no such federal prosecution should be brought.

Here, there is no evidence that Mr. Epstein himself ever persuaded, induced, enticed, or coerced anyone under the age of 18 over the telephone or internet to engage in prostitution or other illegal conduct. Any prosecution would therefore have to be predicated on a theory that he was criminally culpable for a telephone call made by a third party. Such a theory of vicarious liability requires proof beyond a reasonable doubt that the person making the telephone call and Mr. Epstein shared the same criminal intent

[redacted]

and knowledge and, critically, that the shared intent and knowledge existed *at the time* of the communication in question. Absent proof beyond a reasonable doubt that Mr. Epstein had actual knowledge that the person making a telephone call would induce or persuade a specific underage person during the telephone call to engage in unlawful sexual activity or to engage in prostitution, there can be no federal crime.

If the telephone call in question were simply to *schedule* a topless massage, then the call lacked the essential element of inducement, persuasion, enticement, or coercion. If the telephone call in question was to schedule a topless massage (or even more) with a woman whose age was not known by Mr. Epstein to be under 18, it also fails to satisfy the requirements of §2422(b). If Mr. Epstein had not formed the intent to engage in unlawful sexual activity as of the time of the communication (even if he did form the intent thereafter), an essential element of the federal statute is again lacking. If the person making the call had knowledge or a criminal intent or belief not fully shared by Mr. Epstein (for example, Mr. Epstein did not know the telephone call was intended to induce a minor to engage in unlawful activity), the essential element of shared intent and shared knowledge is again lacking.[10] Finally, even if there were a call to schedule a second meeting with someone who had previously been to the Epstein residence, this call lacks the necessary element of persuasion, inducement, or enticing even if the person receiving the call hoped or expected remuneration from the return visit. That is so because the statute focuses on the content of the communication, not on any *quid pro quo* that occurs thereafter at a meeting. The latter conduct is exclusively within the ambit of state prosecution.

5. Other Reasons Why § 2422(b) Does Not Apply

As we demonstrate above, this statute is addressed to those who purposely and intentionally target children. Here, there was no such targeting. As the Sixth Circuit said in rejecting a First Amendment challenge to the statute: "The statute only applies to those who 'knowingly' persuade or entice, or attempt to persuade or entice, minors. *United States* [redacted] *Bailey,* 228 F.3d 637, 639 (6th Cir. 2000). *See United States* [redacted] *Panfil*, 338 [redacted] 3d

[10] Indeed, this last problem is best illustrated by any calls [redacted] may claim to have made to solicit persons to massage Mr. Epstein. Though [redacted] may have known the actual ages of the women whom she called at the time she called, and may therefore have known that one or more was in fact under 18, she was clear in speaking to detectives that she never communicated such information to Mr. Epstein. Rather, she understood Mr. Epstein wanted massages from women at least 18 years of age. (Video Interview of [redacted] on October 3, 2005).

[redacted]

1299 (11th Cir. 2003) (scienter requirement discourages "unscrupulous enforcement" and clarifies §2422(b)). Directed towards those who commit "the most serious crimes against children," it cannot properly be used as a trap for the unwary, sweeping within its net all who may – even unwittingly and unintentionally – communicate or otherwise interact improperly with persons who turn out to be minors.

A prosecution of Mr. Epstein would violate the teachings of *Bailey* and *Panfil*. As we believe we persuaded you at the June 26th meeting, Mr. Epstein never targeted minors. On the contrary, what he did – at worst – was akin to putting up a sign saying to all, come in if you are interested in giving a massage for $200. A few among those who accepted the general invitation may have in fact been under 18 (though they lied about that age and said they were 18), but that is, at its worst, comparable to "post[ing] messages for all internet users, either adults or children, to seek out and read at their discretion," which the courts have held does not violate §2422(b).

Thus, for this reason as well, Mr. Epstein's case is far outside the parameters of the §2422(b) cases that have been prosecuted. A key factor common to cases brought under §2422(b) is not present here: Prosecutions under this statute have focused on a sexual predator who used the internet to identify and to communicate with a child or purported child (or a person with influence over such child or purported child), and did so with the intent to arrange to engage in sexual activity with the child, with full knowledge that sexual activity with an individual of that age was illegal. In light of this common and well-accepted understanding, the cases decided under §2422(b) take as a given that its proper application lies ***only*** where the defendant knows or believes the person with whom he is interacting is a child.

Virtually all of the prosecutions brought under §2422(b) resulting in published decisions have involved undercover "sting" operations, involving an essentially standard fact pattern in which over an extended period of time and in the course of multiple conversations on line an undercover agent pretends to be a young teenager. In each of the cases, the prosecution had, from the very words used by the defendant, an all but irrefutable case showing the clear knowledge and intent of the defendant. A prototypical case is *United States* [redacted] *Farner*, 251 [redacted] 3d 510 (5th Cir. 2001), where the defendant participated, over time, in instant messaging, e-mail, and follow-up telephone calls with a person who identified herself as 14 years old, engaged in explicit internet conversation, sent her pornographic pictures, persuaded her to meet with him for sexual activity, arranged such a meeting, and traveled to the meeting place. The Fifth Circuit held that

[redacted]

defendant's §2422(b) attempt conviction was valid; it mattered not that the 14 year old was really an adult FBI agent engaged in a sting operation, for the defendant "believed Cindy to be a minor and acted on that belief." 251 [redacted]3d at 512. Our own survey of the cases brought in this district under §2422(b) confirms that prosecutions in this District have also been all but limited to internet sting cases. *See* Tab "B".

In the context of this standard fact pattern involving the internet's use by predators, other Circuits, including the Eleventh, have been unanimous in holding that the non-existence of an actual minor was of no moment; defendant's **belief** that he was dealing with a minor was sufficient to make out the crime. *See United States v. Root*, 296 [redacted]3d 1222, 1227-32 (11th Cir. 2002); *United States* [redacted] *Sims*, 428 [redacted]3d 945, 959 (10th Cir. 2005); *United States* [redacted] *Helder*, 452 [redacted]3d 751 (8th Cir. 2006); *United States* [redacted] *Meek*, 366 [redacted]3d 705, 717-20 (9th Cir. 2004). Likewise, the Circuits have rejected void for vagueness, overbreadth, and First Amendment challenges to the statute, brought in the context of these prototypical prosecutions where the internet was the vehicle of communication and enticement, and the defendant demonstrated in writing his belief that he was dealing with a child well below the age of consent. *E.g., United States* [redacted] *Tykarsky*, 446 [redacted]3d 458, 473 (3d Cir. 2006); *United States* [redacted] *Thomas*, 410 [redacted]3d 1235, 1243-44 (10th Cir. 2005); *United States* [redacted] *Panfil, supra*, 338 [redacted]3d at 1300-01 (11th Cir. 2003).[11]

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[11] There are approximately two dozen Eleventh Circuit cases that include a prosecution under §2422(b), most of which involve the prototypical fact pattern. *See, e.g., United States* [redacted] *Morton*, 364 [redacted]3d 1300 (11th Cir. 2004), *judgment vacated for Booker consideration*, 125 S. Ct. 1338 (2006); *United States* [redacted] *Orrega*, 363 [redacted]3d 1093 (11th Cir. 2004); *United States* [redacted] *Miranda*, 348 [redacted]3d 1322 (11th Cir. 2003); *United States* [redacted] *Tillmon*, 195 [redacted]3d 640 (11th Cir. 1999); *United States* [redacted] *Panfil, supra*, 338 [redacted]3d 1299 (11th Cir. 2003); *United States v. Garrett*, 190 [redacted]3d 1220 (11th Cir. 1999); *United States* [redacted] *Burgess*, 175 [redacted]3d 1261 (11th Cir. 1999); *United States* [redacted] *Rojas*, 145 Fed. Appx. 647 (11th Cir. 2005); *United States* [redacted] *Root*, 296 [redacted]3d 1222 (11th Cir. 2002).

*United States* [redacted] *Murrell*, 368 [redacted]3d 1283 (11th Cir. 2004), is in the same mold, except that, in that sting operation, the defendant communicated, not with the purported 13 year old girl, but with an undercover agent holding himself out to be the imaginary girl's father. The initial contacts between Murrell and the agent occurred in internet chatrooms named "family love" and "Rent [redacted] Vry Yng." Over time, Murrell sought to make arrangements with the girl's father to make his daughter available for sex in exchange for money. After the initial internet communications concerning renting the girl for sexual purposes, further negotiations between the defendant and the undercover occurred via the phone, per the defendant's suggestion. The Eleventh Circuit, framing the issue to be whether the defendant must communicate directly with the minor or supposed minor to violate §2422(b), answered the question in the negative, reasoning that "the

[redacted]

In light of this common and well-accepted understanding, the cases decided under §2422(b) take **as a given** that its proper application lies *only* where the facts demonstrate beyond dispute that the defendant knows or believes the person with whom he is interacting is a minor.

The Ninth Circuit has so held. *United States* [redacted] *Meek*, 366 [redacted] 3d 705, 718 (9th Cir. 2004), held that the term "knowingly" refers both to the **verbs** – "persuades", "induces", "entices", or "coerces" – as well as to the **object** – "a person who has not achieved the age of 18 years," *citing United States* [redacted] *X-Citement Video, Inc.*, 513 U.S. 64 (1994), and *Staples v. United States*, 511 U.S. 606 (1994). The *Meek* Court wrote:

> The statute requires mens rea, that is, a guilty mind. The guilt arises from the defendant's knowledge of what he intends to do. In this case, knowledge is subjective – it is what is in the mind of the defendant.[12]

The very lengthy sentence under §2422(b) speaks against strict liability, especially since it applies in cases where there is no sexual contact **at all** with **any person**, let alone with a real minor. The Eleventh Circuit's decision in *United States* [redacted] *Murrell, supra*, reflects this same understanding of the statute. The *Murrell* court wrote that, under the "plain language" of §2422(b), "to prove an attempt the government must

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efficacy of §2422(b) would be eviscerated if a defendant could circumvent the statute simply by employing an intermediary to carry out his intended objective. *Id.* at 1287. Fact patterns similar to Murrell's exist in *United States* [redacted] *Hornaday*, 392 [redacted] 1306 (11th Cir. 2004); *United States* [redacted] *Houston*, 177 Fed. Appx. 57 (11th Cir. 2006); *United States* [redacted] *Searcy*, 418 F.3d 1193 (11th Cir. 2005); *United States* [redacted] *Scott*, 426 F. 3d 1324 (11th Cir. 2005); and *United States* [redacted] *Bolen*, 136 Fed. Appx. 325 (11th Cir. 2002).

[12] Several Courts of Appeal have held that, in a prosecution under **§2422(a)**, the defendant need not know that the individual that a defendant has persuaded, induced, enticed, or coerced **to travel in interstate commerce** is under the age of 18. *United States v. Jones*, 471 [redacted] 3d 535 (4th Cir. 2006), is one of these cases, though its facts are very different, and much more egregious than Mr. Epstein's. Assuming *Jones* was correctly decided and that the government need not prove defendant's knowledge under §2422(a), that still does not answer the question under §2422(b). The two are very different statutes, with different histories and different purposes. And §2422(a), unlike subsection (b), carries no mandatory minimum sentence, let alone ten years.

[redacted]

first prove that Murrell, using the internet, acted **with a specific intent to persuade a minor to engage in unlawful sex**." 368 [redacted] 3d at 1286 (emphasis added).[13] *United States* [redacted] *Root, supra*, 296 [redacted] 3d at 1227, follows this pattern, and confirms that, at the time the defendant induces or entices the minor, he must intend to have sexual conduct with a minor or one he believes to be a minor *and* know that such conduct is proscribed. ("Root's statement to task force agents upon his arrest confirmed that he believed he would meet a 13-year-old girl for sex, which he said he knew was wrong but 'exciting'"). *See also United States* [redacted] *Rojas*, 145 Fed. Appx. 647 (11th Cir. 2005) (unpublished). This *mens rea* requirement applies equally where the completed crime occurs.[14]

Where is the citation?

Finally, *actus non facit reum, nisi mens sit rea* – the act alone does not amount to guilt; it must be accompanied by a guilty mind. This principle of concurrence mandates that the *actus reus* and the *mens reus* concur in time. *See* Paul H. Robinson, *Criminal Law* §4.1 at 217 (1997) (concurrence requirement "means that the required culpability as to the element must exist at the time of the conduct constituting the offense"); LaFave, *Substantive Criminal Law* §3.11(a) (West 1986) (noting that Concurrence is a basic principle of criminal law and "the better view is that there is concurrence when the defendant's mental state actuates the physical conduct"). *See also United States* [redacted] *Bailey, supra*, 444 U.S. at 402. In this case, the requisite *actus reus* is absent; likewise the required mental state. Even if those two fatal defects could be set aside, nevertheless, there was no concurrence of guilty mind and evil act, providing an additional reason why a successful prosecution under §2422(b) could not be brought.

6. Conclusion

In Mr. Epstein's case, there was no use of the internet to induce, etc., and, given the legislative history and purpose, that is itself dispositive. Nor does the case present any of the dangers associated with internet predators and cyberspace. Not surprisingly

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[13] Otherwise, the police could, for example, conduct a sting operation with a 17 year-old pretending to be an 18 year-old. Such an absurd operation is surely not intended by the statute.

[14] Even the completed crime does not require any sexual activity. Arguably, one commits the attempt offense when the actor, on the internet, asks a known or believed-to-be minor to have sex, even if she says no. The **completed** offense occurs when he takes an additional step, even before any sexual activity and regardless of whether one ever takes place.

[redacted]

then, the statutory language does not fit: Mr. Epstein did not use any facility of interstate commerce to do the forbidden act – to persuade, entice, induce, or coerce – nor did he attempt to do so. Others did use the telephone to make a variety of arrangements for Mr. Epstein's residence in Palm Beach, including getting the house ready for his arrival, checking movie schedules, and making telephone calls to schedule doctor's appointments, personal training, physical therapy and massages. Even if Mr. Epstein could be held responsible for the use of the telephone on his behalf, nevertheless, calls made by others regarding massages were not the statutorily proscribed persuasions or enticements of a known minor to do acts known to be illegal. Within his home, even if Mr. Epstein may arguably have persuaded or induced individuals to engage in forbidden conduct with him, he did not violate §2422(b). If he engaged in such persuasion or inducement, it occurred only face to face and spontaneously.

If such conduct constituted a crime, it would be a classic state offense. The state is the appropriate forum for addressing these issues. Though in our meeting it was asserted that cases under §2422(b) are often brought where there was simply use of a telephone, and casual use at that, it would not from our survey appear to be so on either count – that is, use of a telephone rather than the internet, and use of the means of communication remote from the enticing, etc. This is neither the defendant, nor the factual context, to break new ground.

## II. Mr. Epstein Warrants Declination to Prosecute as Exercise of Discretion.

We believe strongly that no federal case would lie under the facts here. Moreover, as we discussed, there is a pending state case against Mr. Epstein which can be resolved in a way that vindicates the state's rights and obligations in this matter.

In considering an appropriate disposition in a case such as this, where the applicability of the statute, both legally and as a matter of policy, raise serious questions, and both the reliability and admissibility of much of the evidence is in doubt, it is useful to consider how best to use the broad discretion you enjoy in choosing whether to prosecute. In this regard, we suggest that having a greater understanding of who Jeffrey Epstein is as a person may help inform how best to proceed.

Jeffrey Epstein was raised in a middle class neighborhood in Brooklyn, New York, by hardworking parents. His father was a laborer and his mother a secretary. They lived comfortably, but were by no means well off. Mr. Epstein's parents instilled a strong work ethic in him, and growing up he held a variety of jobs to support himself, from

[redacted]

driving a taxi cab to working as a mechanic. Any notion that he was born with a "silver spoon in his mouth" should be dismissed.

Although Mr. Epstein is self-made and worked long and hard, he could not have achieved his successes without the personal guidance and support of others. These key people first identified the promise in Mr. Epstein and brought him to Bear Stearns and Company, Inc. There, starting in 1976 at the age of 23 as a floor trader's junior assistant, he became in 1980 a limited partner. Among the very many benefits that his experience there provided was an introduction to the people who ultimately became his clients.

Early in his professional career, Mr. Epstein realized the profound impact that even one person can have on the life of another. His gratitude for the assistance he personally received, and his sense of obligation to provide similar assistance and guidance to others, is in large part, the motive for the primacy of philanthropy in his life or his particular philanthropic interests. Mr. Epstein has devoted a substantial portion of his time, efforts and financial resources to helping others, both on an individual basis and on a more far reaching scope. Mr. Epstein gives generously, of both his time and his financial resources equally to individuals whom he knows personally and well and to those with whom he has had little or no personal contact. Just a few examples:

Some time ago, the two year old son of an employee was diagnosed with retinal blastoma. When told, Mr. Epstein not only gave the employee unlimited time off to attend to his son and promised whatever financial support was needed, but Mr. Epstein made the full list of his medical and research contacts available. The employee was put in contact with a former colleague who was then conducting eye research at Washington [redacted] Mr. Epstein organized several meetings to determine how the colleague could be of assistance, including by arranging for further meetings with experts at Washington [redacted] Though the employee's son lost one eye, he is now an otherwise normal twelve year old who attends private school along with his five siblings, the expenses of which are borne by Mr. Epstein.

Several years ago, a new employee with whom Mr. Epstein had little or no prior contact approached Mr. Epstein to request a change in his medical insurance. It was soon revealed that the employee and his wife were experiencing fertility problems and they were seeking treatments that cost nearly $15,000 per month. Mr. Epstein insisted on paying directly for the treatments, and did so month after month. After each unsuccessful cycle, Mr. Epstein sat with the employee, exploring available alternatives, including adoption, and encouraging the employee to continue additional cycles at Mr. Epstein's. Mr. Epstein referred the employee to medical experts with whom Mr. Epstein

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was acquainted and assigned personnel to assist the employee with administrative and secretarial needs that arose in seeking a solution to the problem. Mr. Epstein is now the godfather of the employee's seven-year old twins.

Recently, both a second employee and a consultant of Mr. Epstein each confided that they and their respective spouses were experiencing similar fertility problems. Again, Mr. Epstein offered to pay the uncovered medical costs. The consultant and his wife are now expecting their first child. The second employee continues with infertility treatments.

Two years ago, a building workman approached Mr. Epstein with news that the workman's wife needed a kidney transplant and that the workman's sister-in-law in Colombia was a willing donor. The non English speaking workman had neither the financial resources nor the know-how to get the sister-in-law to the United States. Mr. Epstein arranged for immigration counsel to expedite a visa for the sister-in-law and purchased the plane tickets for the sister-in-law's visit to the United States. The surgery was a success and both patients recovered completely. The sister-in-law flew back to Colombia at Mr. Epstein's expense.

Mr. Epstein is a devoted advocate of personal improvement through education. As a former board member of Rockefeller University, Mr. Epstein has made available academic scholarships to worthy students, most of whom he has had no prior connection to whatsoever. In addition, Mr. Epstein covers the tuition required to send the family members of his employees to nursery, private elementary, middle and secondary schools and colleges. He has funded and personally encouraged continuing education programs for his adult employees and professional consultants.

Among his other acts:

- On a trip to Rwanda to inspect the genocide camps, Mr. Epstein approached the President of Rwanda and offered to help identify and then to fund two worthy Rwandan students to earn undergraduate degrees in the United States. The students, whom Mr. Epstein did not meet until after their second year of studies, both are expected to graduate with honors from the City University of New York in 2008. Notes from each of them are annexed at Tab "C".

- Even to those with less lofty goals, seeking only to advance in their chosen paths, Mr. Epstein freely gives of his time to provide guidance and, when appropriate, financial support. For example, Mr. Epstein has been meeting

[redacted]

monthly with a teenage building workman whose expenses of vocational school are being paid by Mr. Epstein. Each month, Mr. Epstein reviews the workman's school progress and discusses career opportunities. One of the monthly reports is annexed at Tab "D".

- In addition, Mr. Epstein blocks out time each week to meet with young professionals to discuss their career prospects and counsel them regarding appropriate next steps.

Although Mr. Epstein is deeply committed to helping others in very personal and meaningful ways, he has also sought to use his good fortune to help others on a broader basis. Mr. Epstein has sponsored more than 70 athlete wellness programs, building projects, scholarship funds and community interest programs in the United States Virgin Islands alone.

Moreover, Mr. Epstein has given generously to support philanthropic organizations across the United States and around the world, including America's Agenda; Robin Hood; Alliance for Lupus Research; Ovarian Cancer Research Fund; Friends of Israel Defense Forces; Seeds of Peace; the Jewish National Fund; the Hillel Foundation; the National Council of Jewish Women; and the Intrepid Fallen Heroes Fund – to name only a few.

In a feature article about Mr. Epstein in *New York Magazine*, former President Clinton aptly described Mr. Epstein as "a committed philanthropist with a keen sense of global markets and an in-depth knowledge of twenty-first-century science." President Clinton reached this conclusion during a month-long trip to Africa with Mr. Epstein, which Mr. Epstein hosted. The purpose of that trip was to increase AIDS awareness; to work towards a solution to the AIDS crisis; and to provide funding to reduce the costs of delivering medications to those inflicted with the disease.

Both before and after that trip to Africa, Mr. Epstein worked hard to achieve improvements in people's lives on a global basis. He actively sought advancement of his philanthropic goals through his participation and generous support of both the Trilateral Commission and the Council on Foreign Relations. As you may know, the Trilateral Commission was formed to foster closer cooperation among core democratic industrialized areas of the world in the pursuit of goals beneficial to the global population. The Council on Foreign Relations is an independent, national membership organization and a nonpartisan center for scholars dedicated to increase international understanding of world issues and the foreign policy decisions that affect those issues.

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Mr. Epstein was part of the original group that conceived the Clinton Global Initiative, which is described as a project "bringing together a community of global leaders to devise and implement innovative solutions to some of the world's most pressing challenges." Focuses of this initiative include poverty, climate change, global health, and religious and ethnic conflicts.

Mr. Epstein has sought to improve people's lives through active participation in worthy scientific and academic research projects, as well. He spent hundreds of hours researching the world's best scientists, and he himself studied as a Harvard Fellow in order to increase his own knowledge in fields that he believed could provide solutions to the world's most difficult problems. He is committed to helping the right researchers find those solutions, especially in the fields of medical science, human behavior and the environment.

In the past four years alone, Mr. Epstein has made grants to research programs at major institutions under the supervision of some of the most highly regarded research professionals and scholars in their fields, including Martin Nowak, a mathematical biologist who studies, among other things, the dynamics of infectious diseases and cancer genetics; Martin Seligman, known for his work on Positive Psychology – that is to say the psychology of personal fulfillment; Roger Schank, a leading researcher in the application of cognitive learning theory to the curricula of formal education; the renown physicist/cosmologist Lawrence Krauss, and many others. Institutions funded include Harvard University; Penn State University; Lenox Hill Hospital (New York); the Biomedical Research and Education Foundation; the Santa Fe Institute; Massachusetts Institute of Technology; Case Western Reserve University; and Harvard Medical School's Institute for Music and Brain Science.

Moreover, Mr. Epstein has sponsored and chaired symposia that have provided a rare opportunity for the world's leading scholars and research professionals to share ideas across interdisciplinary lines. These leaders gather to discuss important and complex topics, including the origin of life, systems for understanding human behavior, and personal genomics.

In order to expand the pool of qualified research professionals actively engaged in addressing the world's numerous problems, Mr. Epstein co-founded, and served as a trustee and actively participated in the selection committee of, the Scholar Rescue Fund. The Scholar Rescue Fund (SRF) is a program of the Institute of International Education, the group that, *inter alia*, administers the Fulbright Scholarship program. The SRF provides support and safe haven to scholars at risk from around the world. Over the past

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five years, SRF has made 155 grants to scholars from more than 37 countries. Scholars are placed at host universities in a safe country. More than 87 institutions around the world have hosted SRF scholars to date, including eight of the top ten universities in the United States. Most recently, SRF launched the Iraq Scholar Rescue Project to save scholars in Iraq, many of whom have been particularly targeted for kidnapping and death since the conflict there began. Mr. Epstein is a highly valued member of the selection committee. Just a few articles mentioning these and other projects are annexed at Tab "E".

Even a casual review of the good works large and small in which he has involved himself leads one to conclude that he has a powerful instinct to help others. He does this not simply because he can, but because he has a deeply ingrained desire to do so. In fact, he believes that, as a result of his good fortune, he is obligated to do so.

Since 2000, Mr. Epstein has funded educational assistance, science and research and community and civic activities. As you can see, his philanthropy is not limited to financial support. To the contrary, it has involved the dedication of a remarkable amount of his time and effort and has yielded admirable results. It is noteworthy that a majority of the people he has helped over the years have been those with whom he has had little or no contact, which further confirms that he derives no personal benefit from his good works, other than the personal satisfaction derived from using his good fortune to help others.

The sincere devotion to others evidenced by Mr. Epstein's philanthropic activities is no less apparent in his interpersonal relationships. Mr. Epstein has maintained both long term significant, intimate as well as professional relationships. He remains close personal friends with people with whom he went to high school and, to this day, maintains close business contacts with his former colleagues at Bear Stearns. Those who know Mr. Epstein well describe him admittedly as quirky but certainly not immoral; and overall as kind, generous and warm-hearted. They have remained staunch supporters despite the lurid media attention during this two-year investigation.

Mr. Epstein acknowledges that the activities under investigation, as well as the investigation itself, have had and continue to have an unfortunate impact on many people. With a profound sense of regret, Mr. Epstein hopes to end any further embarrassment to all who are and who may become involved in this serious matter. Resolution of the outstanding charges in the state would put an appropriate end to the matter for everyone.

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[redacted]



Again, we and our colleagues thank you for your attention at the June 26 meeting. I welcome any questions or comments you may have and am available to discuss this and any other issues at your earliest convenience.

Very truly yours,

Gerald B. Lefcourt

Gerald B. Lefcourt

Alan Dershowitz

Alan Dershowitz

cc: Lilly Ann Sanchez, Esq.
Roy Black, Esq.

STEVEN PINKER
Johnstone Family Professor

DEPARTMENT OF PSYCHOLOGY
HARVARD UNIVERSITY

Professor Alan Dershowitz
Harvard Law School
Harvard [redacted]
Cambridge, MA 02138

June 28, 2007

Dear Alan,

I'm happy to offer the help of my knowledge in linguistics to determine the natural interpretation of a statute you have inquired about. My comments refer to how a literate English speaker would interpret the statute, based on research on the syntax and semantics of verbs. I consider myself an expert on this topic, having written about it in many scholarly articles and in three books: *Learnability and Cognition* (MIT Press, 1989), *Lexical and Conceptual Semantics* (coedited with Beth Levin; Blackwell, 1992), and *The Stuff of Thought: Language as a Window into Human Nature* (Viking, 2007).

The statute at issue is as follows:

> Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than ten years or for life.

Your question, as I understand it, pertains to the temporal and causal relationship between the person's use of the mail (or other interstate/foreign instrument) and his knowingly persuading (inducing, enticing, etc.) the minor. Simplifying the various disjuncts and subordinate clauses so that we may concentrate on the semantics, the relevant part of the statute is effectively this:

> Whoever, using the mail etc., knowingly persuades a minor to engage in a criminal sexual activity, shall be fined and imprisoned.

So the question is: does this statute apply (1) to someone who uses the mail (or Internet or phone) *and subsequently* persuades a minor, in person, to engage in sex, or does it apply only to (2) someone who persuades a minor, *over the phone* (etc.) to engage in sex? That is, if John phones a woman asking her only to have dinner, and then, at dinner, persuades her to engage in illegal sex, does his behavior fall under the language of the statute?

Linguistically, this boils down to how the appositive gerundive phrase "using the mail" relates to the causative main verb "persuades." The gerundive phrase is playing the semantic role

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of *instrument*: something used as a means to the ends specified by the causative verb. So the question is how an instrument-phrase is ordinarily interpreted. We can clarify this by simplifying even further and substituting concrete events for the abstract ones in the statute:

(a) John, using a hammer, broke the glass.

Now consider the following scenarios:

(b) John uses a hammer to bang nails into a piece of wood. Then he puts the hammer down, reaches for a glass, and deliberately smashes the glass against the table.

(c) With his right hand, John hammers in a nail. While he is doing this, he reaches for a glass with his left hand, and deliberately smashes the glass against the table.

(d) John takes a hammer and deliberately swings it against the glass, breaking it.

It's clear that no English speaker would ever use the sentence (a) to describe scenario (b). Similarly, sentence (a) would almost certainly not be used to describe scenario (c): any English speaker would say "*while* using a hammer," not just "using a hammer." The only scenario that can be described by (a) is the one in (d). In other words, the event denoted by the instrumental gerundive phrase must *immediately precede* the event denoted by the causative verb, and the actor has to use the instrument *in order to* bring about the change indicated by the causative verb; that is, it has to be the means to an end.

There is an additional condition that has to be met. Consider scenario (e):

(e) Mary is holding a glass. John stands behind Mary, and bangs a hammer against an iron bar. The noise startles Mary, who drops the glass, breaking it.

Here, too, it would be pretty weird to use sentence (a) to describe the scenario, even if John intended for the glass to break as a result of the scenario. As far as English verbs are concerned, the only means to the end that counts is the one that *directly* and *immediately* precedes the end. In addition, the way in which the means brings about the end has to be more-or-less stereotyped—the circuitous and unconventional means in this case (startling Mary) renders the sentence unacceptable.

Finally, to be as charitable as possible to alternative interpretations, consider scenario ([redacted]):

([redacted]) A glass is packed in a wooden crate. John smashes the crate with a hammer in order to open it. He reaches for the glass and hurls it against the floor, breaking it.

Even with this scenario it would be very odd to say "John, using a hammer, broke the glass." Once again, the use of the hammer has to the *immediate* cause of the breaking of the glass, not one separated from it by several links in a causal chain.

Getting back to the statute in question, I would conclude that it would naturally apply only to someone who used the Internet or phone (or other relevant facility) as the direct, immediate, and intended means to the end of persuasion: that is, the sexual come-on would have to be on the phone or in the Internet message. If one doubts this, one only has to consider a scenario in which John phones Mary to invite her to dinner, having no sexual intentions whatsoever, and during dinner is struck by her beauty and relaxed by the wine, and decides on

the spur of the moment to try to seduce her. No one could possibly describe that as "John, using the phone, seduced Mary," since he had no such intention at the time he used the phone.

These properties of the use of verbs—immediateness, means-ends, directness, stereotypy—have been discussed in the literature on the lexical semantics of causative verbs for almost forty years. They have also been confirmed in experiments that ask people whether they could use various sentences to describe particular scenarios. I append below a few of the references to the relevant scholarly literature.

My professional conclusion, in sum, is that an English speaker, reading the statute, would naturally understand it as applying only to persuasion (etc.) that is done while "using the mail" (etc.). To understand it as applying to persuasion (etc.) done subsequent to the use of the mail, phone, etc., would be an unnatural and grammatically inaccurate reading of the language.

I hope this helps to clarify your question. Please don't hesitate to be in touch if I can clarify or expand on this analysis.

Sincerely,

Fodor, J. A. (1970). Three reasons for not deriving "kill" from "cause to die". *Linguistic Inquiry, 1*, 429-438.

Gergely, G., & Bever, T. G. (1986). Relatedness intutions and mental represenation of causative verbs. *Cognition, 23*, 211-277.

Levin, B., & Pinker, S. (Eds.). (1992). *Lexical and conceptual semantics.* Cambridge, Mass.: Blackwell.

Pinker, S. (1989). *Learnability and cognition: The acquisition of argument structure.* Cambridge, Mass.: MIT Press.

Shibatani, M. (1976). The grammar of causative constructions: A conspectus. In M. Shibatani (Ed.), *Syntax and semantics 6: The grammar of causative constructions*. New York: Academic Press.

Talmy, L. (1988). Force dynamics in language and cognition. *Cognitive Science, 12*, 49-100.

Wolff, P. (2003). Direct causation in the linguistic coding and individuation of causal events. *Cognition, 88*, 1-48.

Wolff, P., & Song, G. (2003). Models of causation and the semantics of causal verbs. *Cognitive Psychology, 47*, 276-332.


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## Southern District of Florida Cases Charging 18 U.S.C.S. 2422 (b)

| Case # | Defendant | Counts | Other Charges | Summary |
|---|---|---|---|---|
| 97-8093 | Paul Panunzio | 2 | 2 counts 2422(b) | Use of internet to entice minor to engage in sex activity. |
| 00-6034 | John Palmer | 2 | 18 U.S.C.S. 2252A(a)(5)(B) | Use of internet to entice minor to engage in sex activity. |
| 01-0704 | Michael Nyberg | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-0734 | Franco Sabri | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-0756 | Eduardo Alvarez | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-0783 | Prem D'Sa | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit |

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| | | | | conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-0961 | Jose Mayorga | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-0998 | Gustavo Desouza | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-1004 | Ferrys Miranda | 1 | [None] | D met u/c officer (posing as 12 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-1139 | James Patterson | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-1174 | Roberto Gonzalez | 1 | [None] | Use of internet to entice minor to engage in sex |



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| | | | | activity. |
| 01-6024 | James Boutin | 2 | 18 U.S.C.S. 2252A(a)(5)(B) | Use of internet to entice minor to engage in sex activity. |
| 01-6107 | Otis Wragg | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 01-6157 | Kelly Jones | 4 | 18 U.S.C.S. 2252A(a)(1); 18 U.S.C.S. 2252A(a)(2)(A); 18 U.S.C.S. 2252A(a)(5)(B) | Use of internet to entice minor to engage in sex activity. |
| 01-6185 | Byron Matthai | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 01-6203 | Anthony Gentile | 2 | 18 U.S.C.S. 2252A(a)(5)(B) | Use of internet to entice minor to engage in sex activity. |
| 01-8073 | Jerrold Levy | 5 | 2 counts 2422(b); 18 U.S.C.S. 2252A(a)(2); 18 U.S.C.S. 2252A(a)(5)(B); 18 U.S.C.S. 2252(a)(4) | D communicated with u/c officer (posing as 14 y.o. boy) on internet; D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; D arrested at meeting site. Police obtained SW for D's home and seized computer. Police located another minor boy that D had previously communicated w/ and engaged in sexual activity w/; child pornography also found on computer. (Affidavit attached). |
| 01-8097 | John Estevez | 1 | [None] | D met u/c officer (posing as 13/14 y.o. girl) on internet chat service. D had sexually explicit |



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| | | | | conversations with ofc.; D gave u/c his cell phone #; u/c called D (3 taped phone calls); set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 01-8161 | Carlos Navas | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 02-14077 | Anthony Murrell | 1 | [None] | D met u/c officer (posing as a mother with a 13 y.o. daughter) on internet chat room; D was looking to be w/ a mother and daughter. D gave his phone # to u/c. D met same u/c (posing as dad with 13 y.o. daughter) in another chat room; D wanted to rent daughter. D gave his phone # to u/c and u/c called him to speak about arrangements. Next day D & u/c had further conversation thru the chat room. 4 days later D called u/c on phone making meeting arrangements & agreed to pay $300. D arrested at hotel meeting site. (Affidavit attached). |
| 02-14080 | Douglas Bourdon | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 02-14081 | James Hornada[redacted] | 1 | [None] | D met u/c (posing as father with 2 minor children) in internet chatroom. D looking to have sex with family; u/c called D several times and D had sexually explicit conversations w/ |



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| | | | | u/c. D also sent nude photos of himself for minors to see. |
| 02-20342 | Brian Panfil | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; D asked u/c to call him once she reached the meeting point; u/c called; D arrested at meeting site. (Affidavit attached). |
| 02-20408 | John Orrega | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 02-20437 | Donald Kent | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 02-20705 | Mark Obermaier | 2 | 18 U.S.C.S. 1470 | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc. D sent obscene photos to u/c and masturbated on webcam for u/c. D gave u/c his phone #; u/c called |

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| | | | | D and D had sexually explicit conversation with u/c on phone. |
| 02-21012 | William Yon | 3 | 3 counts of 2422(b) | D contacted 2 15 y.o. girls/students via the internet and had sexually explicit conversations with them. Girls went to police. D set up meeting with u/c ofc. posing as one of the girls for purpose of having sex. D went to meeting site and then returned home. D arrested at home. (Affidavit attached). |
| 02-80042 | Samuel Morton | 25 | 2 counts 2422(b); 18 U.S.C.S. 2252A(a)(2); 18 U.S.C.S. 2252(a)(2); 18 U.S.C.S. 2252(a)(4); 18 U.S.C.S. 2253 | D met several u/c officers (posing as minor girls) on internet chat service. D had sexually explicit conversation with ofcs. D sent obscene photos to u/c. D had several phone conversations w/ different u/c officers. |
| 02-80072 | Todd Kroeber | 6 | 18 U.S.C.S. 2252(a)(2); 18 U.S.C.S. 2252A(a)(2); 18 U.S.C.S. 2252A(a)(5)(B) | Use of facility of interstate commerce to entice a minor to engage in sex activity (does not specify the facilit[redacted]). Knowingly received child pornography. Knowingly distributed child pornography in interstate commerce by computer. |
| 02-80171 | Elias Guimaraes | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 03-14028 | Edgar Searcy | 1 | [None] | D met u/c officer (posing as a dad with a 13 y.o. |



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| | | | | daughter) on internet chat room utilized by people trading their children for sex. D gave his phone # to u/c. U/c called D at set up meeting. D stated that he intended to have sex w/ u/c's daughter. D arrested at meeting site. |
| 03-13068 | Joesph Poignant | 1 | [None] | Use of internet and telephone to entice minor to engage in sex activity. |
| 03-20043 | David Brautigam | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D (using 2 usernames) had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 03-20060 | Joseph Messier | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 03-20132 | Marco Pena | 1 | [None] | D met u/c officer (posing as 13 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 03-20133 | Jaime Montealegre | 2 | 2 counts of 2422(b) | D met u/c officer (posing as 14 y.o. girl) on internet chat service. D had |



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| | | | | sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. (Affidavit attached). |
| 03-80164 | Kenneth Sciacca | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 04-14009 | Timothy Darnall | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 04-14032 | James Brown | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 04-14063 | William Kamal | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 04-20040 | Andres Rojas | 1 | [None] | D met u/c officer (posing as minor girl) on internet chat service. D had sexually explicit conversation with u/c ofc. |
| 04-20055 | Carlos Barroso | 3 | 2 counts of 18 U.S.C.S. 1470 | Use of internet to entice minor to engage in sex activity. Transfer of obscene material via the internet. |
| 04-20408 | Derek [redacted] | 2 | 18 U.S.C.S. 1594(a) | D responded to an advertisement in a newspaper for Costa Rica Taboo Vacations, a fake travel agency run by federal investigators. D negotiated and paid for a trip to Costa Rica in which he planned to have sex with 16-year old minors. He cancelled the |



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| | | | | trip, but arranged for Taboo Vacations to provide him with underage sex with the Costa Rican girls in the U.S. D set up meeting at hotel. D arrested at hotel. |
| 04-20409 | James Marquez | 3 | 18 U.S.C.S. 2423(e); 18 U.S.C.S. 1594(a) | Knowingly attempted to induce minor to engage in prostitution. [no other facts] |
| 04-20520 | Wallace Strevell | 3 | 18 U.S.C.S. 2423(e); 18 U.S.C.S. 1594(a) | D called "travel agency" to arrange for trip to Costa Rica for sex w/ minors. D had several phone conversations w/ travel agency. D bought tickets and made reservations at hotel. D arrested at airport. |
| 04-20551 | Vincent Springer | 3 | 18 U.S.C.S. 2423(e); 18 U.S.C.S. 1594(a) | Knowingly attempted to induce minor to engage in prostitution. [no other facts] |
| 04-20656 | George Clarke | | 18 U.S.C.S. 2423(e); 18 U.S.C.S. 1594(a) | D attempted to arrange to have sex w/ minor girls in Costa Rica thru fake "travel agency." |
| 04-20837 | Ryan Kannett | 9 | 18 U.S.C.S. 2252A(a)(2)(A); 18 U.S.C.S. 2252A(a)(5)(B); 21 U.S.C.S. 841(a)(1); 18 U.S.C.S. 924(c)(1)(A); 18 U.S.C.S. 2253; 21 U.S.C.S. 853 18 U.S.C.S. 924(d)(1) | Use of internet to entice minor under 12 y.o. to engage in sex activity. Possessed and distributed child pornography. Possession with intent to sell drugs. Knowingly carry firearm during drug trafficking crime. |
| 04-60046 | Raymond Bohning | 13 | 2 counts 2422(b); 18 U.S.C.S. 2251(c)(1), (c)(2), and (e); | Use of internet to entice minor to engage in sex activity. Traveled to England for |



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| | | | 18 U.S.C.S. 2423(b) and ([redacted]); 18 U.S.C.S. 2252A(a)(1); 18 U.S.C.S. 2252A(a)(2)(A); 18 U.S.C.S. 2252A(a)(2)(B); 18 U.S.C.S. 2252A(a)(6)[redacted]; 18 U.S.C.S. 2252A(a)(5)(B) | purpose of having sex with minor. Sent, distributed, and received child pornography. |
| 05-14011 | Gerald Smith | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 05-14024 | Timothy Campbell | 4 | 2 counts of 2422(b) 18 U.S.C.S. 2252(a)(2); 18 U.S.C.S. 2252(A)(4)(B) | Use of internet to entice minor to engage in sex activity. Received and possessed child pornography that had been transported in interstate commerce. |
| 05-14039 | Adam Statland | 3 | 18 U.S.C.S. 2423(b) | Use of internet to entice minor to engage in sex activity. Traveled from California to Florida w/ intent to engage in sexual activity with a minor. |
| 05-14046 | Robert Carlo | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 05-14047 | Mark Rader | 2 | 18 U.S.C.S. 2252(a)(1) | Use of internet to entice minor to engage in sex activity. Knowingly transported child pornography in interstate commerce. |
| 05-14060 | Robert Latham | 2 | 18 U.S.C.S. 2252(a)(1) | Use of internet to entice minor to engage in sex activity. Knowingly transported |



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| | | | | child pornograph[redacted] by a computer. |
| 05-14099 | Ralph Poole, Jr. | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 05-20444 | Mark Madison<br>Justin Evans<br>Chad Yearby | 3<br>3<br>3 | 18 U.S.C.S. 1591(a)(1);<br>18 U.S.C.S. 1591(a)(2);<br>18 U.S.C.S. 2423(e) | Operation of child prostitution ring in Miami. 14 y.o. girl worked for Evans as prostitute. Evans arranged dates for her at hotels, and she gave money from dates to Evans. Evans called 14 y.o. girl to inform her of dates. Evans also gave girl's phone # to customers. Evans supplied girl with condoms. |
| 05-60049 | Edward Byrd | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 05-60073 | Patrick Callahan | 2 | 18 U.S.C.S. 2423(b) | Use of internet to entice minor to engage in sex activity. |
| 05-80023 | Thomas Bohannon | 1 | [None] | D met u/c officer (posing as 15 y.o. girl) on internet chat service. D had sexually explicit conversation with ofc., set up meeting on internet for purpose of having sex; arrested at meeting site. |
| 05-80029 | Laronn Houston | 1 | [None] | D met u/c officer (posing as a mother with a 14 y.o. daughter) on internet chat room. D set up meeting w/ mother & |



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| | | | | minor. D arrested at meeting site. |
| 05-80200 | Lucas Phelps | 5 | 18 U.S.C.S. 1470 | Use of internet to entice minor to engage in sex activity.<br>Attempt to knowingly transfer child pornography in interstate commerce to a minor. |
| 06-14003 | Octavio Villalona | 2 | 18 U.S.C.S. 2252(a)(1) | Use of internet to entice minor to engage in sex activity.<br>Knowingly transported child pornography by a computer. |
| 06-14006 | Daniel Williams | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 06-14007 | Ricky Barnett | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 06-14011 | John Everhart, II | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 06-14016 | Eric Rollins | 3 | 2 counts 2422(b)<br>18 U.S.C.S. 2422(a) | Use of internet to entice minor to engage in sex activity.<br>Knowingly enticed a minor to travel in interstate commerce to engage in sexual activity. |
| 06-14053 | Richard Grande, Jr. | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 06-14069 | Eric Matthews | 4 | 18 U.S.C.S. 1470;<br>18 U.S.C.S. 2252(a)(2) | Use of internet to entice minor to engage in sex activity.<br>Knowingly transferred obscene material to a minor in interstate commerce. |



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| | | | | Knowingly distributed child pornography in interstate commerce. |
| 06-14074 | Anthony Perez | 3 | 18 U.S.C.S. 1470; 18 U.S.C.S. 2251 (a) and (e) | Use of internet to entice minor to engage in sex activity. Knowingly transferred obscene material to a minor under 16 y.o. in interstate commerce. Enticed minor to engage in sexual conduct for purpose of transporting visual depiction in interstate commerce. |
| 06-20249 | Michael Miller | 1 | [None] | Knowingly attempted to induce minor to engage in prostitution. [no other facts] |
| 06-20341 | Dino Pancaro | 3 | 18 U.S.C.S. 2423(e); 18 U.S.C.S. 1594(a) | Knowingly attempted to induce minor to engage in prostitution. Attempted to travel to engage in commercial sex act with a minor. |
| 06-20734 | Demond Osley Stacey Greer | 8 | 18 U.S.C.S. 1591(a)(1); 18 U.S.C.S. 2421; 18 U.S.C.S. 2422(a); 18 U.S.C.S. 1001(a)(2); 18 U.S.C.S. 1028(a)(4) | Minor arrested for prostitution on Miami Beach. When questioned by officers, minor said Osley brought her from Michigan to Florida for purpose of prostitution; Osley became unhappy with minor b/c she was not meeting daily quota; Osley sold minor to Greer. Greer takes minor to hotel, forces her to have sex, video tapes minor and takes photos of her to distribute on internet. Greer also forces minor into prostitution thru |



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| | | | | threats of violence. Minor identified Osley and Greer. Both arrested. |
| 06-20783 | Keith Lanzon | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 06-80031 | Lynn Mann | 3 | 18 U.S.C.S. 1470; 18 U.S.C.S. 2252A(a)(5)(B); 18 U.S.C.S. 2252A(b)(2) | Use of internet to entice minor to engage in sex activity. Distribute child pornography to a minor. Possession of child pornography. |
| 06-80034 | Rafael Ramirez, Jr. | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 06-80058 | Adam McDaniel | 2 | 18 U.S.C.S. 2423(b) | D was 19 in Texas, met 14 y.o. girl on internet who lived in Florida. D & girl communicated by email & phone. D flew to Florida, met w/ girl and had sex w/ her in a hotel. |
| 06-80135 | David Girouard | 2 | 18 U.S.C.S. 2423(b) | Use of internet and cellular telephone to entice minor to engage in sex activity. |
| 07-14002 | Benjamin Hall | 4 | 18 U.S.C.S. 1470; 18 U.S.C.S. 2252A(a)(2)(A); 18 U.S.C.S. 2252(b)(1); 18 U.S.C.S. 2252(a)(4)(B) | Use of internet to entice minor to engage in sex activity. Knowingly transferred obscene material to a minor under 16 y.o. in interstate commerce. Knowingly distributed child pornography in interstate commerce. Possession of child pornography. |
| 07-14004 | Ricky Gonzalez | 2 | 18 U.S.C.S. 2251 (a) and (e) | Use of internet to entice minor to engage in sex |



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| | | | | activity.<br>Attempted production of child pornography thru interstate commerce. |
| 07-14005 | Carl Berrier | 2 | 18 U.S.C.S. 2252A(a)(2)(A);<br>18 U.S.C.S. 2252A(b)(1) | Use of internet to entice minor to engage in sex activity.<br>Knowingly distributed child pornography in interstate commerce. |
| 07-14015 | Francesco Simo | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 07-14016 | Joseph Crutchley | 1 | [None] | Use of internet to entice minor to engage in sex activity. |
| 07-14024 | Wesley Evans<br>Jennifer Evans | 3<br>1 | 18 U.S.C.S. 2423(a);<br>18 U.S.C.S. 2423(e) | Use of internet to entice minor to engage in sex activity.<br>Conspiracy to transport a minor to engage in sexual activity.<br>Knowingly transport (or attempt) a minor to engage in sexual activity. |
| 07-20214 | Sammy Carpenter, Darryl Jennings, Luroy Jennings | 4 | 18 U.S.C.S. 1591(a);<br>18 U.S.C.S. 2422(a) | Knowingly attempted to induce minor to engage in prostitution. |
| 07-60049 | Nelson Cintron | 3 | 18 U.S.C.S. 2252A(a)(2)(A);<br>18 U.S.C.S. 2252A(a)(5)(B) | Use of internet to entice minor to engage in sex activity.<br>Possessed and distributed child pornography. |
| 07-60084 | Oliver Buelow | 2 | 18 U.S.C.S. 2423(b) | [No factual information] |
| 07-80099 | Marion Yarbrough | 3 | 18 U.S.C.S. 2423(a);<br>18 U.S.C.S. 2422(a) | Use of internet and cellular telephone to entice minor to engage in sex |



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| | | | | activity.<br>Transport minor to engage in sex activity.<br>Entice minor to travel in interstate commerce to engage in sex activity. |



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the City College of New York

INTERNATIONAL STUDIES PROGRAM

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August 21,2006.

Jeffrey Epstein
c/o Darren Indyke Esq.
457 Madison Avenue – 14th Floor
New York,
N.Y. 10022.

Dear Mr. Epstein,

Thank you for your continued and generous support of the undergraduate academic careers of Georges Ndabashimiye and Nicole Mutesi.

Both students have done very well both academically and in co-curricular life and expect to graduate in June, 2008. Georges will return to Rwanda to teach and Nicole plans to join the energy industry which is focused on developing Rwanda's newly found resources in natural gas.

Your support of these two students will thus contribute to the human resource wealth of Rwanda.

Yours sincerely,

Marina W. Fernando Ph.D.
Director, International Studies Program
and Deputy Dean of Social Science.



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08/07/06

Dear M. Epstein,

I want to thank you for paying for my tuition and living allowance during those last two years. I greatly appreciate your generosity. I cannot say how much your support has helped me enjoy my life here and realize my academic goals.

Thank you so much.

Sincerely,

[redacted]

08/07/2006

Dear Epstein,

I thank you for your generous support you gave to me since I have been in New York.

I wish you success in your actions. May God bless you.

Best wishes,

[redacted]

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Dear Jeffrey Epstein

First and Foremost, I wanted to take this time to tell you that I hope you in the best of health, mentally, Phisically, and spiritualy. I want to tell you that I have been working hard, and im starting to really understand Airconditioning and Refrigeration. Also, I wanted to tell you that im sorry for not being able to change the fan motor on David Lamperts Ac unit. It sucks my boss is saying that its about to be winter time that hes not going to order the fan motor. If it was up to me I would have taken care of it. I dont have the power right now unfortunately, sorry buddy. I have been wanting to tell you about my career plan, because I told you once before that im going to strive to become Just like you. So I have the perfect plan that im sticking too I've went through the Airconditioning and Refrigeration 450 hours Class I have a certificate, and now Im two weeks into finishing the Engineers license course for Airconditioning and Refrigeration. Then what my plan is I want to take courses the same way I did with Airconditioning and Refrigeration for Electrical, Plumbing, and Carpentry

I figured my secret, its once I Master those great skills I will move into the RealEstate buisness you know like you. My plan is too buy houses that arent in shape and I would run the Heating, Airconditioning, Plumbing, Electrical, and Carpentry. I would get a few People to help me but I would Save a whole lot and it would be like my own buisness. I know im putting it in a way where it sounds easy, I know theres a whole lot more to it but im not going to stop im going to Keep Striving and I would take advice from you Someday when it Comes to Conducting work into buisness and also would be proud to help out in any little way I could Once im too the point where I know my stuff its the least I could do. Yup, Well Mr Jeffrey Epstein I would like to thank you for your time to read my thoughts hope you think they were ok. Love, [redacted]

ps: Also wanted to tell you that when I go for the license test with the city instead of the normal Testing procedure which is getting tested from a Proctor I would be in front of a simulator well im ready for the challenge have a good day

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**BYLINE:** Minsky, Marvin; Singh, Push; Sloman, Aaron

**BODY:**

To build a machine that has "common sense" was once a principal goal in the field of artificial intelligence. But most researchers in recent years have retreated from that ambitious aim. Instead, each developed some special technique that could deal with some class of problem well, but does poorly at almost everything else. We are convinced, however, that no one such method will ever turn out to be "best," and that instead, the powerful AI systems of the future will use a diverse array of resources that, together, will deal with a great range of problems. To build a machine that's resourceful enough to have humanlike common sense, we must develop ways to combine the advantages of multiple methods to represent knowledge, multiple ways to make inferences, and multiple ways to learn. We held a two-day symposium in St. Thomas, U.S. Virgin Islands, to discuss such a project--to develop new architectural schemes that can bridge between different strategies and representations. This article reports on the events and ideas developed at this meeting and subsequent thoughts by the authors on how to make progress.

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The Need for Synthesis in Modern AI

To build a machine that has "common sense was once a principal goal in the field of artificial intelligence. But most researchers in recent years have retreated from that ambitious aim. Instead, each developed some special technique that could deal with some class of problem well, but does poorly at almost everything else. An outsider might regard our field as a chaotic array of attempts to exploit the advantages of (for example) neural networks, formal logic, genetic programming, or statistical inference--with the proponents of each method maintaining that their chosen technique will someday replace most of the other competitors.

We do not mean to dismiss any particular technique. However, we are convinced that no one such method will ever turn out to be "best," and that instead, the powerful AI systems of the future will use a diverse array of resources that, together, will deal with a great range of problems. In other words, we should not seek a single "unified theory!" To build a machine that is resourceful enough to have humanlike common sense, we must develop ways to combine the advantages of multiple methods to represent knowledge, multiple ways to make inferences, and multiple ways to learn.

We held a two-day symposium in St. Thomas, U.S. Virgin Islands, to discuss such a project--to develop new architectural schemes that can bridge between different strategies and representations. This article reports on the events and ideas developed at this meeting and subsequent thoughts by the authors on how to make progress. (1)

Organizing the Diversity of AI Methods

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Marvin Minsky kicked off the meeting by discussing how we might begin to organize the many techniques that have been developed in AI so far. While AI researchers have invented many representations, methods, and architectures for solving many types of problems, they still have little understanding of the strengths and weaknesses of each these techniques. We need a theory that helps to map the types of problems we face onto the types of solutions that are available to us. When should one use a neural network? When should one use statistical learning? When should one use logical theorem proving?

To help answer these kinds of questions, Minsky suggested that we could organize different AI methods into a "causal diversity matrix" (figure 1). Here, each problem-solving method, such as analogical reasoning, logical theorem proving, and statistical inference, is assessed in terms of its competence at dealing with problem domains with different causal structures.

[FIGURE 1 OMITTED]

Statistical inference is often useful for situations that are affected by many different matched causal components, but where each contributes only slightly to the final phenomenon. A good example of such a problem-type is visual texture classification, such as determining whether a region in an image is a patch of skin or a fragment of a cloud. This can be done by summing the contributions of many small pieces of evidence such as the individual pixels of the texture. No one pixel is terribly important, but en masse they determine the classification. Formal logic, on the other hand, works well on problems where there are relatively few causal components, but which are arranged in intricate structures sensitive to the slightest disturbance or inconsistency. An example of such a problem-type is verifying the correctness of a computer program, whose behavior can be changed completely by modifying a single bit of its code. Case-based and analogical reasoning lie between these extremes, matched to problems where there are a moderate number of causal components each with a modest amount of influence. Many common sense domains, such as human social reasoning, may fall into this category. Such problems may involve knowledge too difficult to formalize as a small set of logical axioms, or too difficult to acquire enough data about to train an adequate statistical model.

It is true that many of these techniques have worked well outside of the regimes suggested by this causal diversity matrix. For example, statistical methods have found application in realms where previously rule-based methods were the norm, such as in the syntactic parsing of natural language text. However, we need a richer heuristic theory of when to apply different AI techniques, and this causal diversity matrix could be an initial step toward that. We need to further develop and extend such theories to include the entire range of AI methods that have been developed, so that we can more systematically exploit the advantages of particular techniques.

How could such a "meta-theory of AI techniques" be used by an AI architecture? Before we turned to this question, we discussed a concrete problem domain in which we could think more clearly about the goal of building a machine with common sense.

Returning to the Blocks World

Later that first morning, Push Singh presented a possible target domain for a commonsense architecture project. Consider the situation of two children playing together with blocks (figure 2).

[FIGURE 2 OMITTED]

Even in this simple situation, the children may have concerns that span many "mental realms":

Physical: What if I pulled out that bottom block?

Bodily: Can I reach that green block from here?

Social: Should I help him with his tower or knock it down?

Psychological: I forgot where I left the blue block.

Visual: Is the blue block hidden behind that stack?

Spatial: Can I arrange those blocks into the shape of a table?

Tactile: What would it feel like to grab five blocks at once?

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Self-Reflective: I'm getting bored with this--at else is there to do?

Singh argued that no present-day AI system demonstrates such a broad range of commonsense skills. Any architecture we design should aim to achieve some competence within each of these and other important mental realms. He proposed that to do this we work within the simplest possible domain requiring reasoning in each of these realms. He suggested that we develop our architectures within a physically realistic model world resembling the classic Blocks World, but where the world was populated by several simulated beings, and thus emphasizing social problems in addition to physical ones. These beings would manipulate simple objects like blocks, balls, and cylinders, and would participate in the kinds of scenarios depicted in figure 3, which include jointly building structures of various kinds, competing to solve puzzles, teaching each other skills through examples and through conversation, and verbally reflecting on their own successes and failures.

[FIGURE 3 OMITTED

The apparent simplicity of this world is deceptive, for many of the kinds of problems that show up in this world have not yet been tackled in AI, for they require combining elements of the following:

Spatial reasoning about the spatial arrangements of objects in one's environment and how the parts of objects are oriented and situated in relation to one another. (Which of those blocks is closest to me?)

Physical reasoning about the dynamic behavior of physical objects with masses and colliding/supporting surfaces. (What would happen if I removed that middle block from the tower?)

Bodily reasoning about the capabilities of one's physical body. (Can I reach that block without having to get up?)

Visual reasoning about the world that underlies what can be seen. (Is that a cylinder-shaped block or part of a person's leg?)

Psychological reasoning about the goals and beliefs oneself and of others. (What is the other person trying to do?)

Social reasoning about the relationships, shared goals and histories that exist between people. (How can I accomplish my goal without the other person interfering?)

Reflective reasoning about one's own recent deliberations. (What was I trying to do a moment ago?)

Conversational reasoning about how to express one's ideas to others. (How can I explain my problem to the other person?)

Educational reasoning about how to best learn about some subject, or to teach it to someone else. (How can I generalize useful rules about the world from experiences?)

Many of the meeting participants were enthusiastic about this proposal and agreed that there would be challenging visual, spatial, and robotics problems within this domain. Ken Forbus pointed out that the video game communities would soon produce programmable virtual worlds that would easily meet our needs. Several participants mentioned the success of the RoboCup competitions (Kitano et al. 1997), but some concluded that the RoboCup domain, while appropriate for those interested in the problem of coordinating multiagent teams in a competitive scenario, was very different in character from the situation of two or three people more slowly working together on a physical task, communicating in natural language, and in general operating on a more thoughtful and reflective level.

Still, the participants had a heated debate about the adequacy of the proposed problem domain. The most common criticism was that this world does not contain enough of a variety of objects or richness of behavior. Doug Lenat suggested a solution to this, which was to embed the people within not a Blocks World, but instead somewhere like a typical house or office, as in the popular computer game The Sims. Doug Riecken argued that we could develop enough of the architecture within the more limited virtual world, and later add extensions to deal with a wider range of objects and phenomena.

A different response to this criticism was that in order to focus on architectural issues, it would help to simplify the problem domain, so that we could focus less on acquiring a large mass of world knowledge, and more on developing better ways for systems to use the knowledge they have. However, other

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participants argued that restricting the world would not entirely bypass the need for large databases of commonsense knowledge, for even this simple world would likely require hundreds of thousands or even millions of elementary pieces of commonsense knowledge about space, time, physics, bodies, social interactions, object appearances, and so forth.

Other participants disagreed with the virtual world domain. They felt that we should instead take the more practical approach of developing the architecture by starting with a useful application like a search engine or conversational agent, and extending its common sense abilities over time. But Ben Kuipers worried that choosing too specific an application would lead to what happened to most previous projects--someone discovers some set of ad hoc tricks that leads to adequate performance, without making any more general progress toward more versatile, resourceful, or "more intelligent" systems.

In the end, after long debates we achieved a substantial consensus that to solve harder problems requiring common sense, we first needed to solve the more restricted class of problems that show up in simpler domains like the proposed virtual world. Once we get the core of the architecture functioning in this rich but limited domain, we can attempt to extend it--or it extend itself--to deal with a broader range of problems using a much broader array of commonsense knowledge.

Large-Scale Architectures for Human-level Intelligence

In the afternoon, we discussed large-scale architectures for machines with human-level intelligence and common sense. Marvin Minsky and Aaron Sloman each presented their current architectural proposals as a starting point for the meeting participants to criticize, debug, and elaborate. These two architectures share so many features that we will refer to them together as the Minsky-Sloman model.

These architectures are distinguished by their emphasis on reflective thinking. Most cognitive models have focused only on ways to react or deliberate. However, to make machines more versatile, they will need better ways to recognize and repair the obstacles, bugs and deficiencies that result from their own activities. In particular, whenever one strategy fails, they'll need to have a collection of ways to switch to alternative ways to think. To provide for this, Minsky's architectural design includes several reflective levels beyond the reactive and deliberative levels. Here is one view of his model for the architecture of a person's mind, as described in his book, The Emotion Machine, and shown here in figure 4.

[FIGURE 4 OMITTED]

Some participants questioned the need for so many reflective layers; would not a single one be enough? Minsky responded by arguing that today, when our theories still explain too little, we should elaborate rather than simplify, and we should be building theories with more parts, not fewer. This general philosophy pervades his architectural design, with its many layers, representations, critics, reasoning methods, and other diverse types of components. Only once we have built an architecture rich enough to explain most of what people can do will it make sense to try to simplify things. But today, we are still far from an architectural design that explains even a tiny fraction of human cognition.

Aaron Sloman's Cognition and Affect project has explored a space of architectures proposed as models for human minds; a sketch of Sloman's H-CogAff model is shown in figure 5.

[FIGURE 5 OMITTED]

This architecture appears to provide a framework for defining with greater precision than previously a host of mental concepts, including affective concepts, such as "emotion," "attitude," "mood," "pleasure," and so on. For instance, H-CogAff allows us to define at least three distinct varieties of emotions; primary, secondary and tertiary emotions, involving different layers of the architecture which evolved at different times--and the same architecture can also distinguish different forms of learning, perception, and control of behavior. (A different architecture might be better for exploring analogous states of insects, reptiles, or other mammals.) Human infants probably have a much-reduced version of the architecture that includes self-bootstrapping mechanisms that lead to the adult form.

The central idea behind the Minsky-Sloman architectures is that the source of human resourcefulness and robustness is the diversity of our cognitive processes: we have many ways to solve every kind of problem--both in the world and in the mind--so that when we get stuck using one method of solution, we

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can rapidly switch to another. There is no single underlying knowledge representation scheme or inferencing mechanism.

How do such architectures support such diversity? In the case of Minsky's Emotion Machine architecture, the top level is organized as follows. When the system encounters a problem, it first uses some knowledge about "problem-types" to select some "way-to-think" that might work. Minsky describes "ways-to-think" as configurations of agents within the mind that dispose it towards using certain styles of representation, collections of commonsense knowledge, strategies for reasoning, types of goals and preferences, memories of past experiences, manners of reflections, and all the other aspects that go into a particular "cognitive style." One source of knowledge relating problem-types to ways-to-think is the causal diversity matrix discussed at the start of the meeting--for example, if the system were presented with a social problem, it might use the causal diversity matrix to then select a case-based style of reasoning, and a particular database of social reasoning episodes to use with it.

However, any particular such approach is likely to fail in various ways. Then if certain "critic" agents notice specific ways in which that approach has failed, they either suggest strategies to adapt that approach, or suggest alternative ways-to-think, as suggested shown in figure 6. This is not done by employing any simple strategy for reflection and repair, but rather by using large arrays of higher level knowledge about where each way-to-think has advantages and disadvantages, and how to adapt them to new contexts.

[FIGURE 6 OMITTED]

In Minsky's design, several ways-to-think are usually active in parallel. This enables the system to quickly and fluently switch between different ways-to-think because, instead of starting over at each transition, each newly activated way-to-think will find an already-prepared representation. The system will rarely "get stuck" because those alternative ways-to-think will be ready to take over when the present one runs into trouble, as shown in figure 7.

[FIGURE 7 OMITTED]

Here each way-to-think involves reasoning in a particular subset of mental realms. Impasses encountered while reasoning in one set of mental realms can be overcome within others. Further information about these architectures can be found in Singh and Minsky (2003), Sloman (2001), and McCarthy et al. (2002). Minsky's model will be described in detail in his new book The Emotion Machine (Minsky, forthcoming).

Generally, the participants were sympathetic to these proposals, and all agreed with the idea that to achieve human-level intelligence we needed to develop more effective ways to combine multiple AI techniques. Ken Forbus suggested that we needed a kind of "component marketplace," and that we should find ways to instrument these components so that the reflective layers of the architecture had useful information available to them. He contrasted the Soar project (Laird, Newell, and Rosenbloom 1987) as an effort to eliminate and unify components rather than to accumulate and diversify them, as in the Minsky-Sloman proposals. Ashwin Ram and Larry Birnbaum both pointed out that despite the agreement over the architectural proposals it was still not clear what the particular components of the architecture would be. They pointed out that we needed to think more about what the units of reasoning would be. In other words, we needed to come up with a good list of way-to-think. Some examples might include the following:

Solving problems by making analogies to past experiences

Predicting what will happen next by rule-based mental simulations

Constructing new "ways to think" by building new collections of agents

Explaining unexpected events by diagnosing causal graphs

Learning from problem-solving episodes by debugging semantic networks

Inferring the state of other minds by re-using self-models

Classifying types of situations using statistical inference

Getting unstuck by reformulating the problem situation

This list could be extended to include all available AI techniques.

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Educating the Architecture

On the morning of the second day of the meeting, we addressed the problem of how to supply the architecture with a broad range of commonsense knowledge, so that it would not have to "start from scratch." We all agreed that learning was of value, but we didn't all agree on where to start. Many researchers would like to start with nothing; however, Aaron Sloman pointed out that an architecture that comes with no knowledge is like a programming language that comes with no programs or libraries.

One view that was expressed was that approaches that start out with too little initial knowledge would likely not achieve enough versatility in any practical length of time. Minsky criticized the increasing popularity of the concept of a "baby machine"--learning systems designed to achieve great competence, given very little initial structure. Some of these ideas include genetic programming, robots that learn by associating sensory-motor patterns, and online chatbots that try to learn language by generalizing from thousands of conversations. Minsky's complaint was that the problem is not that the concept of a baby machine is itself unsound, but rather that we don't know how to do it yet. Such approaches have all failed to make much progress because they started out with inadequate schemes for learning new things. You cannot teach algebra to a cat; among other things, human infants are already equipped with architectural features to equip them to think about the causes of their successes and failures and then to make appropriate changes. Today we do not yet have enough ideas about how to represent, organize, and use much of commonsense knowledge, let alone build a machine that could learn all of that automatically on its own. As John McCarthy noted long ago: "in order for a program to be capable of learning something, it must first be able to represent that knowledge."

There are very few general-purpose commonsense knowledge resources in the AI community. Doug Lenat gave a wonderful presentation of the Cyc system, which is presently the project furthest along at developing a useful and reusable such resource for the AI community, so that new AI programs don't have to start with almost nothing. The Cyc project (Lenat 1995) has developed a great many ways to represent commonsense knowledge, and has built a database of over a million commonsense facts and rules. However, Lenat estimated that an adult-level commonsense system might require 100 million units of commonsense knowledge, and so one of their current directions is to move to a distributed knowledge acquisition approach, where it is hoped that eventually thousands of volunteer teachers around the world will work together teach Cyc new commonsense knowledge. Lenat spent some time describing the development of friendly interfaces to Cyc that allow nonlogicians to participate in the complicated teaching and debugging processes involved in building up the Cyc knowledge base.

Many of the participants agreed that Cyc would be useful, and some suggested we could even base our effort on top of it, but others were sharply critical. Jeffrey Siskind doubted that Cyc contained the spatial and perceptual knowledge needed to do important kinds of visual scene interpretation. Roger Schank argued that Cyc's axiomatic approach was unsuitable for making the kinds of generalizations and analogies that a more case-based and narrative-oriented approach would support. Srini Narayanan worried that the Cyc project was not adequately based on what cognitive scientists have learned about how people make commonsense inferences. Oliver Steele concluded that while we disagreed about whether Cyc was 90% of the solution or only 10%, this was really an empirical question that we would answer during the course of the project. But generally, the architectural proposal was regarded as complementary to parallel efforts to accumulate substantial commonsense knowledge bases.

Minsky predicted that if we used Cyc, we might need to augment each existing item of knowledge with additional kinds of procedural and heuristic knowledge, such as descriptions of (1) problems that this knowledge item could help solve; (2) ways of thinking that it could participate in; (3) known arguments for and against using it; and (4) ways to adapt it to new contexts.

It was stressed that knowledge about the world was not enough by itself--we also need a knowledge base about how to reason, reflect and learn, the knowledge that the reflective layers of the architecture must possess. The problem remains that the programs we have for using knowledge are not flexible enough, and neither Cyc's "adult machine" approach of supplying a great deal of world knowledge, nor the "baby machine" approach of learning common sense from raw sensory-motor experience, will likely succeed without first developing an architecture that supports multiple ways to reason, learn, and reflect upon and improve its activities.

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An Important Application

Several of the participants felt that such a project would not receive substantial support unless it proposed an application that clearly would benefit much of the world. Not just an improvement to something existing, it would need to be one that could not be built without being capable of human-level commonsense reasoning.

After a good deal of argument, several participants converged upon a vision from The Diamond Age, a novel by Nell Stephenson. That novel envisioned an "intelligent book"--The Young Ladies Illustrated Primer--that, when given to a young girl, would immediately bond with her and come to understand her so well as to become a powerful personal tutor and mentor.

This suggested that we could try to build a personalized teaching machine that would adapt itself to someone's particular circumstances, difficulties, and needs. The system would carry out a conversation with you, to help you understand a problem or achieve some goal. You could discuss with it such subjects as how to choose a house or car, how to learn to play a game or get better at some subject, how to decide whether to go to the doctor, and so forth. It would help you by telling you what to read, stepping you through solutions, and teaching you about the subject in other ways it found to be effective for you. Textbooks then could be replaced by systems that know how to explain ideas to you in particular, because they would know your background, your skills, and how you best learn.

This kind of application could form the basis for a completely new way to interact with computers, one that bypasses the complexities and limitations of current operating systems. It would use common sense in many different ways: (1) It would understand human goals so that it could avoid the silliest mistakes. (2) It would understand human reasoning so that it could present you with the right level of detail and avoid saying things that you probably inferred. (3) It would converse in natural language so that you could easily talk to it about complex matters without having to learn a special language or complex interface.

To build such a kind of "helping machine," we would first need to give it knowledge about space, time, beliefs, plans, stories, mistakes, successes, relationships, and so forth, as well as good conversational skills. However, little of this could be realized by anything less than a system with common sense. To accomplish this we would need to pursue some sequence of more modest goals that would help one with simpler problem types--until the system achieved the sorts of competence that we expect from a typical human four- or five-year-old.

However, to get such a system to work, we would need to address many presently unsolved commonsense problems that show up in the model-world problem domain.

Final Consensus

The participants agreed that no single technique (such as statistics, logic, or neural networks) could cope with a sufficiently wide range of problem-types. To achieve human-level intelligence we must create an architecture that can support many different ways to represent, acquire, and apply many kinds of commonsense knowledge.

Most participants agreed that we should combine our efforts to develop a model world that supports simplified versions of everyday physical, social, and psychological problems. This simplified world would then be used to develop and debug the core components of the architecture. Later, we can expand it to solve more difficult and more practical problems.

The participants did not all agree on which particular larger-scale application would both attract sufficient support and also produce substantial progress toward making machines that use commonsense knowledge. Still, many agreed with the concept of a personalized teaching machine that would come to understand you so well that it could adapt to your particular circumstances, difficulties, and needs.

Ben Kuipers sketched the diagram shown in figure 8, which captures the general dependencies between the three points of consensus: Practical applications depend on developing an architecture for commonsense thinking flexible enough to integrate a wide array of processes and representations of problems that come up in the model-world problem domain.

[FIGURE 8 OMITTED]

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A Collaborative Project?

At the end of the meeting, we brainstormed about how we might organize a distributed, collaborative project to build an architecture based on the ideas discussed at this meeting. It is a difficult challenge, both technically and socially, to get a community of researchers to work on a common project. However, successes in the Open Source community show that such distributed projects are feasible when the components can be reasonably disassociated.

Furthermore, this kind of architecture itself should help to make it easy for members of the project to add new types of representations and processes. However, we first would have to develop a set of protocols to support the interoperation of such a diverse array of methods. Erik Mueller suggested that such an organization could be modeled after the World Wide Web Consortium (W3C), and its job would largely be to assess, standardize and publish the protocols and underlying tools that such a distributed effort would demand.

While we did not sketch a detailed plan for how to proceed, Aaron Sloman, Erik Mueller and Push Singh listed some technical steps that such a project would need:

First, it should not be too hard to develop a suitable virtual model world, because the present-day video game and computer graphics industry has produced most of the required components. These should already include adequate libraries for computer graphics, physics simulation, collision detection, and so forth.

Second, we need to develop and order the set of miniscenarios that we will use to organize and evaluate our progress. This would be a continuous process, as new types of problems will constantly be identified.

Third, what kinds of protocols could the agents of this cognitive system use to coordinate with each other? This would include messages for updating representations, describing goals, identifying impasses, requesting knowledge, and so forth. We would consider the radical proposal to use, for this, an Interlingua based on a simplified form of English, rather than trying to develop some brand new ontology for expressing commonsense ideas. Of course, each individual agent could be free to use internally whatever ontology or representation scheme was most convenient and useful.

Fourth, we would need to create a comprehensive catalog of ways-to-think, to incorporate into the architecture. A commonsense system should be at least capable of reasoning about prediction, explanation, generalization, exemplification, planning, diagnosis, reflection, debugging, learning, and abstracting.

Fifth, what are the kinds of self-reflections that a commonsense system should be able to make of itself, and how should these invoke and modify ways-to-think as problems are encountered?

Sixth, in any case, such a system will need a substantial, general-purpose, and reusable commonsense knowledge base about the spatial, physical, bodily, social, psychological, reflective, and other important realms, enough to deal with a broad range of problems within the model world problem domain.

Finally, we might need to develop a new kind of "intention-based" programming language to support the construction of such an architecture.

Towards the Future

Since our meeting similar sentiments have been expressed at DARPA, most notably in the recent "Cognitive Systems" Information Processing Technology Office (IPTO) Broad Agency Announcement (BAA) (Brachman and Lemnios 2002), which solicits proposals for building AI systems that combine many elements of knowledge, reasoning, and learning. While we are gratified that architectural approaches are becoming more popular, we would like to see more emphasis placed on architectural designs that specifically support more common sense styles of thinking.

There was a genuine sense of excitement at this meeting. The participants felt that it was a rare opportunity to focus once more on the grand goal of building a human-level intelligence. Over the next few years, we plan to develop a concrete implementation of an architecture based on the ideas discussed at this meeting, and we invite the rest of the AI community to join us in such efforts.

Acknowledgements

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We would like to thank Cecile Dejongh for taking care of the local arrangements, and extend a very special thanks to [redacted] for making this meeting happen. This meeting was made possible by the generous support of **Jeffrey Epstein.**

Note

(1.) This meeting was held in St. Thomas, U.S. Virgin Islands, on April 14-16, 2002. The meeting included the following participants: Larry Birnbaum (Northwestern University), Ken Forbus (Northwestern University), Ben Kuipers (University of Texas at Austin), Douglas Lenat (Cycorp), Henry Lieberman (Massachusetts Institute of Technology), Henry Minsky ([redacted] Systems), Marvin Minsky (Massachusetts Institute of Technology), Erik Mueller (IBM T. J. Watson Research Center), Srini Narayanan (University of California, Berkeley), Ashwin Ram (Georgia Institute of Technology), Doug Riecken (IBM T. J. Watson Research Center), Roger Schank (Carnegie Mellon University), Mary Shepard (Cycorp), Push Singh (Massachusetts Institute of Technology), Jeffrey Mark Siskind (Purdue University), Aaron Sloman (University of Birmingham), Oliver Steele ([redacted] Systems), [redacted] (independent consultant), Vernor Vinge (San Diego State University), and Michael Witbrock (Cycorp).

References

Brachman, Ronald; and Lemnios, Zachary 2002. DARPA's New Cognitive Systems Vision. Computing Research News, 14(5):1, 8.

Kitano, Hiroaki; Asada, Minoru; Kuniyoshi, Yasuo; Noda, Itsuki; Osawa, Eiichi; and Matsubara, Hitoshi. 1997. RoboCup: A Challenge problem for AI. AI Magazine, 18(1):73-85.

Laird, John; Newell, Allen; and Rosenbloom, Paul 1987. SOAR: An Architecture for General Intelligence. AI Journal, 33(1):1-64.

Lenat, Doug. 1995. CYC: A Large-scale Investment in Knowledge Infrastructure. Communications of the ACM, 38(11):33-38.

McCarthy, John; Minsky, Marvin; Sloman, Aaron; Gong, Leiguang; Lau, Tessa; Morgenstern, Leora; Mueller, Erik; Riecken, Doug; Singh, Moninder; and Singh, Push 2002. An Architecture of Diversity for Commonsense Reasoning. IBM Systems Journal, 41(3):530-539.

Minsky, Marvin. (forthcoming). The Emotion Machine. Pantheon, New York. Several chapters are on-line at http://web.media.mit.edu/people/minsky

Minsky, Marvin 1992. Future of AI Technology. Toshiba Review, 47(7).

Singh, Push ; and Minsky, Marvin. 2003. An Architecture for Combining Ways to Think. Paper presented at the International Conference on Knowledge Intensive Multi-Agent Systems. Cambridge, Mass., September 30--October 3.

Sloman, Aaron 2001. Beyond Shallow Models of Emotion. Cognitive Processing, 1(1):530-539.

Marvin Minsky has made many contributions to AI, cognitive psychology, mathematics, computational linguistics, robotics, and optics. In recent years he has worked chiefly on imparting to machines the human capacity for commonsense reasoning. His conception of human intellectual structure and function is presented in The Society of Mind which is also the title of the course he teaches at MIT. He received his B.A. and Ph.D. in mathematics at Harvard and Princeton. In 1951 he built the SNARC, the first neural network simulator. His other inventions include mechanical hands and other robotic devices, the confocal scanning microscope, the "Muse" synthesizer for musical variations (with E. Fredkin), and the first LOGO "turtle" (with S. Papert). A member of the NAS, NAE and Argentine NAS, he has received the ACM Turing Award, the MIT Killian Award, the Japan Prize, the IJCAI Research Excellence Award, the Rank Prize and the Robert Wood Prize for Optoelectronics, and the Benjamin Franklin Medal.

Push Singh is a doctoral candidate in MIT's Department of Electrical Engineering and Computer Science. His research is focused on finding ways to give computers humanlike common sense, and he is presently collaborating with Marvin Minsky to develop an architecture for commonsense thinking that makes use of many types of mechanisms for reasoning, representation, and reflection. He started the Open Mind Common Sense project at MIT, an effort to build large-scale commonsense knowledge bases by turning to the general public, and has worked on incorporating commonsense reasoning into a variety of

real-world applications. Singh received his B.S. and M.Eng. in electrical engineering and computer science from MIT.

Aaron Sloman is a professor of AI and cognitive science at the University of Birmingham, UK. He received his B.Sc. in mathematics and physics (Cape Town, 1956), and a D.Phil. Philosophy, from Oxford (1962). Sloman is a Rhodes Scholar, a Fellow of AAAI, AISB, and ECCAI. He is also author of The Computer Revolution in Philosophy (1978) and many theoretical papers on vision, diagrammatic reasoning, forms of representation, architectures, emotions, consciousness, philosophy of AI, and tools for exploring architectures. Sloman maintains the FreePoplog open source web site and is about to embark on a large EC-funded robotics project. All papers, presentations, and software are accessible from his home page: www.cs.bham.ac.uk/ axs/

RELATED ARTICLE: Establishing a Collection of Graded Miniscenarios.

How would we guide such a project and measure its progress over time? Some participants suggested trying to emulate the abilities of human children at various ages. However, others argued that while this should inspire us, we should not use it as a plan for the project, because we don't really yet know enough about the details of early human mental development.

Aaron Sloman argued that it might be better to try to model the mind of a four- or five-year-old human child because that might lead more directly toward more substantial adult abilities. After the meeting, Sloman developed the notion of a "commonsense miniscenario," a concrete description in the form of a simple storyboard of a particular skill that a commonsense architecture should be able to demonstrate. Each miniscenario has several features: (1) It describes some forms of competence, which are robust insofar as they can cope with wide ranges of variation in the conditions; and (2) each comes with some meta-competence for thinking and speaking about what was done. For example competence can have a number of different facets, including describing the process; explaining why something was done, or why something else would not have worked; being able to answer hypothetical questions about what would happen otherwise; being able to improve performance in such ways as improving fluency, removing bugs in strategies, and expanding the variety of contexts. The system should also be able to further justify these kinds of remarks.

Sloman proposed this example of a sequence of increasingly sophisticated such miniscenarios in the proposed multi-robot problem domain:

1. Person wants to get box from high shelf. Ladder is in place. Person climbs ladder, picks up box, and climbs down.

2. As for 1, except that the person climbs ladder, finds he can't reach the box because it's too far to one side, so he climbs down, moves the ladder sideways, then as 1.

3. As for 1, except that the ladder is lying on the floor at the far end of the room. He drags it across the room lifts it against the wall, then as 1.

4. As for 1, except that if asked while climbing the ladder why he is climbing it the person answers: something like "To get the box." it should understand why "To get to the top of the ladder" or "To increase my height above the floor" would be inappropriate, albeit correct.

5. As for 2 and 3, except that when asked, "Why are you moving the ladder?" the person gives a sensible reply. This can depend in complex ways on the previous contexts, as when there is already a ladder closer to the box, but which looks unsafe or has just been painted. If asked, "would it be safe to climb if the foot of the ladder is right up against the wall?" the person can reply with an answer that shows an understanding of the physics and geometry of the situation.

6. The ladder is not long enough to reach the shelf if put against the wall at a safe angle for climbing. Another person suggests moving the bottom closer to the wall, and offers to hold the bottom of the ladder to make it safe. If asked why holding it will make it safe, gives a sensible answer about preventing rotation of ladder.

7. There is no ladder, but there are wooden rungs, and rails with holes from which a ladder can be constructed. The person makes a ladder and then acts as in previous scenarios. (This needs further

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unpacking, e.g. regarding sensible sequences of actions, things that can go wrong during the construction, and how to recover from them, etc.)

8. As for 7, but the rungs fit only loosely into the holes in the rails. Person assembles the ladder but refuses to climb up it, and if asked why can explain why it is unsafe.

9. Person watching another who is about to climb up the ladder with loose rungs should be able to explain that a calamity could result, that the other might be hurt, and that people don't like being hurt.

Such a system should be made to face a substantial library of such graded sequences of mini-scenarios that require it both to learn new skills, to improve its abilities to reflect on them, and (with practice) to become much more fluent and quick at achieving these tasks. These orderings should be based on such factors as the required complexity of objects, processes, and knowledge involved, the linguistic competence required, and the understanding of how others think and feel. That library could include all sorts of things children learn to do in such various contexts as dressing and undressing dolls, coloring in a picture book, taking a bath (or washing a dog), making toys out of Meccano and other construction kits, eating a meal, feeding a baby, cleaning a mess made by spilling some powder or liquid, reading a story and answering questions about it, making up stories, discussing behavior of a naughty person, and learning to think and talk about the past, the future, and about distant places, etc.

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One would like to find an abundance of good workers across the professions: teachers who have mastered their subject matter, present itwell, and behave in a civil manner toward students and peers; physicians who are knowledgeable about the latest techniques and medications and who cater to the ill no matter where they are encountered and whether the[redacted] have resources; lawyers who can argue a case persuasivelyand who make their services available to those in need, irrespectiveof their ability to pay. Occasionally the impressive achievements ofsuch individuals are publicly honored; and those concerned about thelong-term welfare of the society hope that aspiring teachers, physicians, and lawyers will have ample exposure to such exemplars of good work.

Not surprisingly, the absence of good work commands the attention of scholars, journalists, dramatists, politicians, and ordinary folk.We are, perhaps naturally, perhaps understandably, fascinated to learn about the teacher who fails an exam or seduces a student; the physician who fakes her credentials or operates on the wrong patient; thelawyer who skirts the law or only defends the wealthy. As a friend quipped, Time Warner might sell more copies if it renamed its venerable business publication Misfortune.

In the GoodWork Project in which my colleagues and I are involved,we are focusing on those individuals and institutions that aspire toward, and in the happiest case, exemplify, good work. There is much to be learned from careful study of a journalist like Edward R. Murrow, a physician like Albert Schweitzer, a publisher like Katharine Graham, a public servant like John Gardner (no relation). Yet it is important to recognize that many individuals fail to achieve good work, that some do not even strive to be good workers, and that in the absence of compelling role models, future workers stand little chance of becoming good workers themselves. Hence, it is justifiable at times to suspend our focus on good work to see what can be learned from frankly deviant cases.

In what follows, I focus on what we have come to speak of as 'compromised work.' (1) We conceptualize this variant as work that is not,strictly speaking, illegal, but whose quality compromises the ethical core of a profession. We do not concern ourselves with individuals who merit the descriptor 'bad workers'--the journalist who steals, the physician who commits assault and battery, the lawyer who murders. Presumably these individuals would engage in such illegal acts irrespective of their professional status, and it is the job of law enforcement officials, and not of professional gate-keepers, to call these miscreants to account. Rather, our concern is with the journalist who makes up stories, the politician whose word has no warrant, the physician who fails to heed the latest medical innovations and thus provides substandard treatment. Each of these individuals may at one time have embraced core values--journalistic integrity, political veracity,medical acumen--but at some point turned his back on the profession.If we can better understand how once good workers begin to compromise their work, we may be able to enhance the ranks of good workers.

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It is easiest to spot compromised work in professions that have existed for some time and whose principal values are widely shared. In such domains there should be consensual processes of training, recognized mentors, and established procedures in place for censuring or ostracizing those whose work violates norms of the domain, with disbarment or loss of license as the ultimate sanction. Of the three professions I will treat in this essay, law is closest to the prototype, journalism is furthest (many journalists lack formal training), and accounting is somewhere in between.

Since our project began (and no doubt long before), the pages of the newspapers have been filled with examples of compromised work; indeed, in preparing this essay I have sometimes been tempted to clip half the stories in the daily newspaper. Here I focus on three cases from recent years that caught both my attention and that of the broaderpublic. The first case involves Jayson Blair, an ambitious reporter for The New York Times who was fired after it was discovered he had plagiarized and fabricated stories. The second case centers on Hill and Barlow, a venerable Boston law firm that closed abruptly when its profitable real estate department announced it was leaving the firm. The third case centers on the flagship accounting firm Arthur Andersenthat went bankrupt after the Enron scandal of 2001.

In my initial study of compromised work, (2) I chose these cases because they apparently represented three levels of analysis: Jayson Blair as an instance of compromised work by a single, flawed individual; Hill and Barlow as an instance of compromised work within a singleinstitution; and the Arthur Andersen--Enron debacle as an instance of compromised work throughout a profession. My study revealed, however, surprising continuities across these three apparently distinct levels of analysis. In each case, I found I was studying individuals as well as institutions, and, indeed, an entire industry. Also to my surprise, I discovered that institutions held in high regard might be especially vulnerable to the insidious virus of compromised work; I hadexpected that such institutions harbored righting mechanisms that for some reason had failed to detect the of fending party. Finally, I expected that at least some instances of compromised work would be isolated and of relatively short duration. A far more complex and, to mymind, more troubling picture emerged--a picture that, moreover, reflects ominous trends in American society.

In 1999, Jayson Blair, a young African American with a flair for writing, became a regular reporter for The New York Times. Even beforehis stint at the Times, Blair had been regarded by peers and supervisors with a combination of admiration and suspicion. There was no question that Blair wrote well, had a nose for important stories, was a gifted schmoozer, and had impressed the governing powers at the college and community newspapers where he had worked. At the same time, observers wondered whether he in fact had exercised the due diligence that is expected of a reporter; and indeed, supervisors had detected ahighly unusual number of errors in his stories. While he had occasionally been admonished for carelessness, there had been few consequences. In fact, at the Times, Executive Editor Howell Raines and Managing Editor Gerald Boyd gave increasingly important assignments to Blair.

When Blair was discovered to have plagiarized a story from the SanAntonio Express-News, he was immediately forced to resign. Then on May 11, 2003, in an unprecedented bout of self-examination, The New York Times devoted over four full pages to documentation of numerous cases of invention, plagiarism, and fraudulent expense and travel reports. Nor did the brouhaha over the Blair affair die down. Six weeks later, editors Raines and Boyd were forced to resign their posts, and the new editorial regime at the Times explicitly dissociated itself from the policies and practices of its predecessors.

At first blush, Jayson Blair seemed to be an isolated case--a reporter who refused to play by the rules and who may well have been emotionally disturbed. And in fact, there is ample evidence that Blair was a troubled young man who should have been carefully scrutinized foryears. He was so unpopular at his college newspaper that he was relieved of his editorial position. When he was an intern at The Boston Globe in 1996-1997 and a freelancer there in 1998-1999, the sloppinessof his coverage was discussed. Shortly after he began to work full-time at the Times, Metropolitan Editor Jonathan Landman sent around a note that said, "We have got to stop Jayson from writing for the Times. Right now." Blair soon accumulated a record number of corrections and complaints about his coverage. His behavior aroused dislike and suspicion among many of his contemporaries. But despite ample warning signs, Raines and Boyd took him under their wings; he was praised andoffered ever-more important assignments. And, to the shame of the Times, the decisive discovery of plagiarism was made not by its own staff but by a reporter for a regional paper.

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To be sure, Blair had been a bad egg whose misbehaviors were more flagrant than those of his contemporaries. But at least since publisher Arthur Sulzberger had appointed Raines as managing editor in 2001,a strong set of explicit and implicit signals had been sent to the Times staff. Reporters were told they had to increase the "competitivemetabolism" of the news coverage. Those who wrote flashy, trendy stories were rewarded with promotions, special privileges, and ample front-page coverage. In contrast, reporters who took a more thoughtful, less sensational approach, who emphasized the journalistic precept ofcarefulness, found themselves increasingly marginalized. Nor was this new culture a secret: in a much-discussed portrait of Raines that appeared in The New Yorker in June of 2002, the changing milieu at theTimes was detailed and critiqued.

Had Jayson Blair been a truly isolated case, it is highly likely that the Sulzberger-Raines-Boyd managerial team would have survived intact and perhaps continued its questionably hectic pace and excessively dramatic bent. Once the Blair case broke, however, other heroes and casualties soon emerged. The most flagrant consequence was the abrupt resignation of star reporter Rick Bragg, who was accused of using unacknowledged stringers and of embellishing his lengthy and highly evocative stories. While Raines and Boyd fought to keep their positions, it was probably inevitable that sooner or later they would be squeezed out. The replacement appointment of Bill Keller, an individual widely considered a contrast in temperament and journalistic values, served as a sign that the Times was rejecting the go-go atmosphere of the previous few years.

Under Raines and Boyd, the Times had been engaged in an example ofwhat I will call 'superficial alignment.' The editors were looking for young reporters who exemplified the pace and coverage they sought;the fact that Blair was African American was a bonus and, by the editors' own admission, caused them to cut him slack. For his part, Blair was keen at discerning what his editors desired; and, as befits an accomplished con man, he knew how to give the impression of good workand to cover his tracks. What both sides avoided in this pas de deuxwas a genuine alignment that honored the tried-and-true mission of journalism. Had Blair been subjected to a mentoring regime of tough love, he might have turned into a genuinel[redacted] good reporter. And had he somehow slipped through an otherwise well-regulated training and supervision system, it is unlikely that the discovery of his misdeeds would have caused such turmoil in his company and, indeed, in the wider journalistic profession.

During the second week of December of 2002, residents of Boston were astonished to learn that the prestigious law firm Hill and Barlow had closed down the previous weekend. The firm had been in existence for over a century, was esteemed in the community, and comprised in its legal ranks many prominent citizens, including at various times three governors of the Commonwealth. With their deep involvement in thecommunity--exemplified by their defense in the famous Sacco-Vanzetticase of the 1920s--Hill and Barlow partners epitomized what legal scholar Anthony Kronman has called "lawyer statesmen." For outsiders, there was little reason to suspect any significant problems at Hill and Barlow--and none whatsoever to prepare them for its sudden dissolution.

A word about partnerships is in order here. Examination of about twelve hundred interviews in the eight domains considered in the GoodWork Project reveals that only lawyers speak regularly about partnerships. In part a financial arrangement, in part a social network, the partnership serves as the locus for daily activity, the attraction andsharing of clients, and the mechanism for services and payment. The transition from associate to partner is the legal equivalent of the attainment of tenure in the academy; and in many ways, partners behavelike members of a faculty. Young lawyers serve as associates until, assuming a good record and available slots, they are welcomed into the partnership, which is likely to be their home for the remainder of their professional lives. It goes without saying that the health and stability of the partnership is crucial for its constituent members, staff, and clients.

Each partnership has an institutional culture, passed on both explicitly and implicitly from the older partners to the new members of the association. By all reports, the institutional culture of the Hilland Barlow of old stressed intellectual and legal excellence; community service, including the holding of elected or appointed office; and a willingness to earn somewhat less money than competitors, in return for a lifestyle that was more balanced and that went beyond the sheer number and rate of billable hours. (3)

Outsiders' initial reaction to the sudden closure of Hill and Barlow was shock. After all, this was a partnership that had been highly esteemed for decades. To observers and the media, it appeared that overly avaricious lawyers from the real estate division had issued a fait accompli to their bewildered colleagues,

thereby in one act destroying a distinguished New England law firm. The shock was compounded by the fact that the remaining partners did not even try to reconstitute the firm, but instead interpreted this mass exodus as a sign that the firm could no longer survive.

Closer examination reveals that the problems went back many years,perhaps several decades. Through the middle of the twentieth century, Hill and Barlow did indeed have a deserved reputation as a firm of outstanding lawyer statesmen who not only were leaders in litigation and trusts, but who also stood out for their service to the community. Yet, on my analysis, this sterling reputation turns out to have been a mixed blessing. By the 1970s and 1980s, the situation in law had changed dramatically throughout the land. Whether lamented or not, the era of the lawyer statesman was over. Law firms were becoming much larger and more internationalized; corporate law divisions and the high-metabolism specialty of mergers and acquisitions were growing morerapidly than other spheres; many large corporations built up their own in-house legal teams; and individual lawyers were becoming far more mobile, as opportunities to make very large salaries materialized for those who were willing to jump ship.

None of these trends in itself necessitated a de-professionalization of the law. And indeed, many moderately sized law firms in New England and elsewhere took steps to modulate these trends: they increased in size or developed distinctive niches; they actively sought largecorporate clients; and they reconfigured salary schedules to reward those lawyers who brought in the most business. Perhaps most importantly, the more reflective firms realized that law was becoming more ofa business; they recruited or trained professional managers; they were sensitive to the clout of specific partners and divisions; they paid close attention to changing patterns of income and expenses; they established governance vehicles whereby the most important members consulted regularly about trends and how best to meet them; they favored frequent, open, frank communications about all matters that materially affected the firm; and they were prepared, when necessary and with regret, to retire or marginalize partners who could not in any demonstrable way contribute to the well-being of the firm.

According to our interviews with former members of Hill and Barlow, the firm did not seriously undertake any of these measures. Memberscontinued to take pride in the history of the firm, and many continued to serve the community in various ways. But they did not work any longer as a firm of dedicated partners (epithets such as 'a hotel forlawyers' and 'university-style governance' were used b[redacted] informants).Costs spiraled, but steps were not taken to increase income commensurately (or to lower costs, for example, by reducing the number of associates or moving to less luxurious quarters). Most damaging, the lawfirm never was able to create a governance structure that was widelyrespected by its members and that could meet these various challenges. On my analysis, it was the combination of the inordinately successful real estate group, on the one hand, and the ensemble of dysfunctional governance structures, on the other, that made the firm's closure inevitable.

I do not conclude that the Hill and Barlow partners necessarily compromised their practice of law per se. I do believe that both the real estate division, and the remaining partners who failed to deal decisively with the shifting terrain, undermined law as a profession. Inacting in their own self-interest, they contributed to the destruction of the accumulated wisdom, public service emphasis, and pluralistic view of legal practice that had once characterized Hill and Barlow.To the extent that law simply becomes a collection of free-agent practitioners, for sale to the highest bidder, or a set of employees of multinational corporations, it will indeed be a diminished profession.

Accounting became a technical rather than back-of-the-envelope practice in the seventeenth and eighteenth centuries with the widespreaduse of double-entry bookkeeping and other financial and business innovations. With the rise of corporations a century ago, and the adventof increasingly complex taxation and investment policies, the role of the independent certified auditor gained steadily in importance. Particularly at times of crisis, such as the stock market collapses during the first two-thirds of the twentieth century, the public was reminded of the importance of the accounting professions. Perhaps to hisadvantage, the auditor was seen as a rather colorless individual whofollowed technical rules in the manner of the archetypical Dickensian clerk or Weberian bureaucrat.

Within the profession and amongst those with close ties to the profession, there was keen awareness of crucial shifts that began in the1970s. The wall that had once separated auditors from the firms theywere monitoring had begun to crumble. Increasingly, personnel circulated between accounting firms and well-heeled client firms. Accounting firms set up consulting branches that worked with client firms; over time

the amount of consulting business often equaled or even surpassed that dedicated to the monitoring of the books. In the go-go financial milieu of the 1980s and 1990s, as documented in our GoodWork Project and many other sources, markets became increasingly dominant in many spheres of life. Indeed, at the end of the 1990s, I made a quip that turned out to be uncannily prophetic: "If markets come to control everything, in the end there will be only one profession--accounting. And that is because only the auditors will be able to tell us whether the books are on the level or have been cooked."

But like most of the public, I was unprepared for the huge accounting scandals that captured the headlines at the start of the twenty-first century. Led by the renowned firm Arthur Andersen, all the majorfirms were shown to have abandoned their professional disinterestedness (or 'independence,' as it is referred to in the profession) in flagrant ways. It was no longer unusual for accountants to hold stock in, work for, or consult for the firms they were allegedly monitoring;and for their part, firms went out of their way to provide lucrativework and extra perks for the supposedly independent auditors.

The smoking gun was the relationship between energy giant Enron and the flagship professional services firm of Arthur Andersen. These firms met powerful sanctions: bankruptcy with possible jail terms for those high-level managers whose involvement crossed the line from compromised to frankly bad work. At the time of this writing, other major accounting firms like Ernst and Young and PricewaterhouseCoopers have also had to pay significant penalties; punitive new regulations and legislation have been put into place; and many other business firms--established ones like General Electric and Xerox, newer ones like Tyco, WorldCom, and Global Crossing--have undergone probes or have even dissolved. Mean-while, the tacit or demonstrable complicity of members of boards of directors has been amply documented, and the domain of accounting as a whole lies very much under suspicion, its standingas a profession open to strong challenge.

The core value of the profession of public accounting is captured in the descriptor 'public.' Accountants receive training, licenses, and status commensurate thereto on the assumption that they will represent the public's interest in their review of the financial practicesof individuals or corporations. Should the books appear questionablein any way, it is the duty of the public accountant to raise questions to the responsible individual or corporation, and, if necessary, to refuse to certify that the accounts conform to generally accepted accounting principles.

Whether one thinks of journalism, law, or accounting, it is tempting to posit a golden age--a time when professionals were professionals, and the vast majority exemplified the highest values of the domain. But the mixed reputation of lawyers and journalists over the decades reveals the superficiality of such an analysis. And when one examines the history of accounting in the United States in the twentieth century, one also discovers an oscillation between periods when auditors were under suspicion for questionable practices, and periods when corrective measures were installed and the prestige of the profession was restored. Indeed, such a swing of the pendulum can be seen in thehistory of Arthur Andersen.

At the start of the twentieth century, like other accounting firms, Andersen carried out non-audit services. By the 1960s, it was possible to become an Andersen consultant without having worked as an auditor for the two prior years; and in 1973, a separate consulting arm of the firm had been set up. In the late 1970s, CEO Harvey Kapnick tried unsuccessfully to split the firm into two separate entities and was pressured to resign thereafter. During the 1980s, the consulting arm of the firm became increasingly powerful, and the lines between consulting and auditing blurred. By the late 1980s, the tension between the accounting and consulting arms was so acute that the two parts ofthe firm were in constant argument and occasionally in court. By 1999, Arthur Andersen had become the slowest growing of the Big Five accounting firms, and in 2000, the consulting arm, Accenture, finally became a wholly independent entity.

As is now well known, Andersen had become the auditor for Enron. Widely touted as a model for a new kind of company for a new millennium, Enron trafficked in the selling of energy (especially gas) and energy futures. In 2000, it was, on paper, the seventh largest firm in the United States, with a book value of 100 billion dollars. In 2001, the Enron bubble burst when it became clear that much of the corporation's alleged size, activity, and profitability was in fact fraudulent, the result of imaginative advertising and improper accounting. Andwhen Arthur Andersen began to shred its Enron documents, the fate ofthe firm was sealed in the eyes of the media, the general public, and, eventually, the legal system.

Studies of the Andersen-Enron connection reveal that it had been deeply compromised for years. Enron was one of Andersen's largest clients; it paid a total of over fifty million dollars a year to Andersen's auditing, consulting, and tax divisions. Employees shuttled back and forth between the two companies with such ease and frequency that it was sometimes difficult to tell for which they were working; at least eighty former Andersen auditors were working for Enron. The supposed line between the company being audited and the auditors evaluating the books of that company had become so blurred that, in effect, itno longer existed. And yet it has proved difficult to demonstrate sheer illegality. This is both because the nature of Enron's business was so new and so convoluted, and because so much of the role of the auditor/accountant remains an issue of professional judgment rather than of sheer legality or illegality.

In my view, the chief embodiment of compromised work in the accounting profession is the condition of wearing two hats--hats that inevitably pit key interests against one another. On the one hand, as representatives of the public, auditors and their umbrella organizations are supposed to remain at arm's length from the companies they monitor. On the other hand, the excitement and the monetary gains availablefor consulting prove irresistibly seductive for many auditors and their umbrella organizations. One cannot at the same time offer advice and feedback to companies while standing disinterestedly apart from their practices; in effect, one has become judge and litigant at the same time.

In each of the cases discussed, the background history covered a much longer period than I had anticipated. Jayson Blair's case reflected larger-scale trends at the Times, dating back to the 1980s and exacerbated by the appointment of a new managerial regime in 2001; Hill and Barlow failed to recognize, let alone adapt to, forces that middle-sized law firms had been confronting for decades; and Arthur Andersen encountered longstanding tensions in the accounting profession regarding appropriate relations with clients. Nor are the cases restricted to the particular examples on which I happened to focus: Within journalism, similar scandals had occurred in recent years at The BostonGlobe, The Washington Post, USA Today, and The New Republic. Severaldozen major law firms in Boston and elsewhere had either closed downor were absorbed into larger and more profitable firms. In recent years, each of the Big Five accounting firms saw significant scandals; comparable 'multiple hats' problems arose in Europe and Asia; and compensatory legislation like the Sarbanes-Oxley Act caused turbulence in a great many American corporations. Whatever their usefulness for conceptualization and exposition, the three levels of analysis that I had selected turned out to be more closely related than I had expected.

If the study of good work is in its early adolescence, then the examination of compromised work is in its infancy. Firm conclusions would be decidedly premature. And yet, given the importance of the problem, and its indissoluble links to issues of good work, a few summary comments are in order.

Because persons and institutions can go bad for any number of reasons, isolated cases of compromised work cannot be prevented. What is susceptible to treatment is the soil in which compromised work is likely to arise and thrive. Our three cases and others that could have been treated suggest that superficial signs of alignment can in fact be the enemies of good work. Respected institutions like The New York Times, Hill and Barlow, and Arthur Andersen create in their members--and in the general public--the belief that these institutions are inherently good and above suspicion. Those assigned the job of surveillance internally or externally may become lax, and, accordingly, those who are tempted to practice compromised work may find an unexpectedlypromising breeding ground. (In writing about the Jayson Blair case in The New Yorker of June 30, 2003, Elizabeth Kolbert said that this "paper of record" cannot afford to "check up" on its employees; it hasto assume they are trustworthy.)

Indeed, these circumstances obtained in each of our three examples: Jayson Blair was on the make; Raines and Boyd wanted to remake the culture of the Times even at the cost of violating its most importantvalues. And while various alarm bells tolled, none sounded loudly enough or insistently enough to be heard. Despite the enviable reputation of Hill and Barlow, many lawyers left the partnership starting in the 1980s; the particular requests of the real estate group were not taken seriously enough; and attempts to address the issue of financial survival and partnership communication were undertaken too late andwith too little sense of urgency. Arthur Andersen had actually resisted temptations to enter the consulting world. But when it finally succumbed, it entered with a vengeance--and despite warnings about conflicts of interest. Spokespersons for the firm continued to enunciate the fundamentals of accounting, but too many partners and workers were trying to wear two incompatible hats. When the ambivalent Andersen encountered the swashbuckling Enron, a disaster was in the making.

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In each case, superficial features and blandishments obscured the central values of the domain. During the Blair-Raines period at the Times, scrupulous and fair reporting was sacrificed to the immediatelyaccessible and sexy. At Hill and Barlow, the norms of an effective partnership were undermined, as lawyers and entire departments went their own selfish way. And sometime in the last few decades, those responsible for the atmosphere of an accounting company forgot that it was supposed to be a public trust. Those on the inside should have seenthese problems and made loud noises, but efforts to right the culture were too weak and ineffective. And so in each case it took a dramatic event--Blair's plagiarism, the real estate department's exodus, the Enron meltdown--to reveal what should have been clearer to those onthe outside and clearest to those entrusted with preserving and embodying the values of the domain.

What happens when such a critical point is reached? It is possible, of course, that the domain will continue to deteriorate, and may come to be replaced altogether. Newspaper editor Harold Evans has quipped, "The problem many organizations face is not to stay in business but to stay in journalism." The lawyer statesman no longer exists; it remains unclear whether he is being replaced by a viable option, or whether lawyers have just become high-priced free agents or cogs in a corporate legal machine. And if there are too many Enrons and Global Crossings, the Big Five will dwindle to Little Zero--and it is not clear whether the books will be monitored in the future by independent accountants, government officials, or private investigators.

It is also possible that these professions will continue to survive but attract a different type of person with different kinds of values. With few exceptions, for example, broadcast television journalismexists as entertainment rather than as news. Totalitarian countries have bookkeepers, but, as the old joke goes, they produce "whatever numbers you would like us to produce." And it is certainly possible tohave lawyer whores who sell their services to the highest bidder. Insuch cases, those who want to know what is really happening in the world, whether the books are really accurate, or whether they can get a fair trial, will no longer look to the members of the ascribed profession.

One goal of the GoodWork Project is to help bring about a happier scenario. Professions will always feel pressures of one type or another, and, at the time of powerful market forces, these pressures can be decisive. The forces cannot be ignored; they must be dealt with--but they must not be succumbed to. Those individuals, institutions, andprofessions that actively cope with these forces while adhering to the central and irreplaceable values of the domain are most likely to survive and to thrive.

How to do this? In our project, we speak of the four Ms that help to propagate good work (these were initially designed to address individuals, but they can be applied as well to institutions and even whole professions). The Ms seek answers to the following questions: Whatis the mission of our domain? What are the positive and negative models that we must keep in mind? When we look into the mirror as individual professionals, are we proud or embarrassed by what we see? And: When we hold up the mirror to our profession--or, indeed, our society--as a whole, are we proud or embarrassed by what we see? And, if thelatter, what are we prepared to do about it?

I suggest that if the individuals and institutions described here had perennially posed these questions and tried to answer them in a serious, transparent way, they would not have become targets for our study.

Howard Gardner is John H. and Elisabeth A. Hobbs Professor of Cognition and Education at the Harvard Graduate School of Education. For the last decade, he has codirected the GoodWork Project with Mihaly Csikszentmihalyi and William Damon. Gardner has been a Fellow of the American Academy since 1995.

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1 I thank **Jeffrey Epstein** for his support of these investigations.

2 I thank Ryan Modri, Paula Marshall, and Deborah Freier for theirinvaluable research efforts.

3 Technically, Hill and Barlow became a corporation in 1992.

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**HEADLINE:** A DIY guide to saving Planet Earth Human survival depends on problem fixing not avoidance - in particular learning how to cool down our planet, says David Deutsch

**BYLINE:** David Deutsch

**BODY:**

Let's start with a couple of ideas that everyone knows. The first - dramatically named Spaceship Earth - is that our planet is uniquely suited to us and our survival. The universe outside is implacably hostile; if we mess up our spaceship, we have nowhere else to go. The second is that, despite our traditional self-image, human beings are not the hub of existence: as Stephen Hawking famously put it, we're just a chemical scum on the surface of a typical planet in orbit around a typical star on the outskirts of a typical galaxy

Everyone knows these things, yet they are both false. In fact, if you were looking for a pair of truths so important that it's worth carving them on blocks of stone and reciting them every morning before breakfast, you could do a lot worse than to carve denials of those two ideas

Are we at a typical place? Most places in the universe are not on a planet, or even in a galaxy. Travel right outside the galaxy - say, 100,000 light years - and you still haven't reached a typical place. You will have to go about 1,000 times as far, into deep, intergalactic space, so remote that if the nearest star were to explode as a supernova, it would be too faint to see. It's also very cold, less than three degrees above absolute zero. And it's empty: less than one millionth the density of the highest vacuum that scientists can currently attain.

That is how unlike Earth a typical location is. Yet the two are similar in one remarkable way.

Take a telescope and gaze even further out than where we've just been, at a "quasar". That was originally short for "quasi-stellar object", meaning "it looks like a star". But we now know what it really is. Billions of years ago, and billions of light years away, the centre of some galaxy collapsed towards a super-massive black hole. Intense magnetic fields directed some of the matter and gravitational energy of that collapse back out into intense jets, illuminating the surrounding gas with the brightness of a trillion suns.

Billions of years later on the other side of the universe, a certain kind of chemical scum can accurately describe, model, predict and explain what those jets really are. One physical system, the human brain, contains an accurate working model of an utterly dissimilar one, a quasar. Not just a superficial image but an explanatory model embodying the same mathematical relationships and causal structure. That's knowledge.

And if that weren't amazing enough, the faithfulness of this model is continually increasing. That's the growth of knowledge. So this chemical scum is different. It models, with ever-increasing precision, the structure of everything. Our planet, thanks to us, is a hub that contains within itself the structural and causal essence of the rest of physical reality.

This doesn't require any special physics or miracle. Just matter and energy - and evidence, with which we chose between rival explanations of what is really out there. In intergalactic space, these three prerequisites are at their lowest ebb: it's empty, cold and dark.

But imagine a solar-system-sized cube of intergalactic space. That cube still contains a million tons of matter. Which is more than enough, say, to build a fusion-powered space station complete with scientists who might be collecting evidence to create an open-ended stream of knowledge, just like us - if the right knowledge were there to start it off.

Therefore we are not in a uniquely hospitable place either. If intergalactic space is capable of creating an open-ended stream of explanations, then so is almost anywhere. And the limiting factor, both there and here, is not physical resources but knowledge.

The Astronomer Royal, Sir Martin Rees, has written a book about our vulnerability to scientific accidents, terrorism using weapons of mass destruction and other dangers: he thinks civilisation has only a 50 per cent chance of surviving this century. But I believe our survival depends not on chance but on whether we can create the relevant knowledge in time. It always has depended on that, and always will. The vast majority of all species and all civilisations that have ever existed are now extinct. If we want to be the exception, our only hope is to harness the one feature that distinguishes our species and our civilisation from all others, namely our special relationship with the laws of physics: our ability to create new knowledge.

Take global warming. According to the best available scientific theories, it is too late to avoid a global-warming disaster. For if it's true that our best option is to suppress carbon-dioxide emissions with the Kyoto protocol at a cost of hundreds of billions of pounds, then that's already a disaster by any reasonable measure.

And those measures aren't even purported to solve the problem, merely to postpone it a little. Most likely it was already too late before anyone even knew about it: in the 1970s, the best available science was telling us that industrial emissions were about to precipitate a new Ice Age that would kill billions. The lesson seems so clear that I am baffled that it does not inform public debate: it is that we cannot always know.

No precautions, and no precautionary principle, can avoid problems that we do not yet foresee. Therefore, societ[redacted] needs to shift its stance from problem avoidance to problem fixing. The world is abuzz with plans to cut emissions at all costs. It ought to be buzzing with plans to cool the planet. Or to thrive on a warmer one. And not at all costs, but efficiently. Some such plans exist: swarms of mirrors in space that would deflect sunlight away from the Earth; encouraging aquatic organisms to eat more carbon dioxide, and so on. Such problem-fixing ideas, currently mere fringe research, ought to be at the heart of humankind's approach to an unknowable and dangerous future. The ability to put things right, not the impossible prescience needed to stave off all harm in advance, is our only hope of survival.

So take those two stone tablets and carve the two denials I spoke of. On the first, carve: problems are inevitable. And on the second: problems are soluble.

David Deutsch is a professor of physics at Oxford University. This month he won the $100,000 "Edge of Computation" prize, funded by the philanthropist **Jeffrey Epstein,** for his work on quantum computers. When he first proposed quantum computation in 1985, it seemed only a theoretical possibility. But the past decade has seen simple quantum computers that many believe will pave the way to a scientific revolution.

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**HEADLINE:** A package of news briefs from the Caribbean

**BYLINE:** By The Associated Press

**BODY:**

CARIBBEAN: Sugar producers in final push to get more EU aid

GEORGETOWN, Guyana (AP) The Caribbean will send another team to several European capitals in a final push to get more aid for the region's sugar industry after large subsidy cuts were imposed in January, an official said Friday.

Representatives from the African, Caribbean and Pacific trade group head to Europe in April, following a first group that went in early March seeking extra funds to deal with the EU's 36-percent cut in sugar subsidies.

The EU for years gave its former colonies in the Caribbean, Africa and the Pacific preferential access to its markets and paid high prices to encourage development. The World Trade Organization said the regime was unfair and ordered the bloc to reduce quotas and prices for sugar, as well as for bananas and cotton.

The EU has earmarked US$47 million ([#x20ac]40 million) in aid for the 18 sugar producing ACP countries in 2006. Caribbean sugar producers argue the reduced compensation is unfair because EU farmers who face the same subsidy cuts were to be compensated US$7.9 billion ([#x20ac]6.5 billion).

Caribbean sugar producers include Guyana, Jamaica, Belize, Trinidad and Barbados. St. Kitts closed its industry after the cuts were first announced and because of rising production costs.

ST. VINCENT: St. Vincent police find bullet that killed PM's press secretary

KINGSTOWN, St. Vincent (AP) St. Vincent police have recovered the single bullet that killed the prime minister's press secretary and have sent it to another Caribbean island for analysis, an official said Friday.

The bullet was found imbedded in a seat in Glen Jackson's sport utility vehicle, said Bertram Pompey, acting police commissioner, who declined to specify where the bullet was sent for testing.

Jackson, whose nude body was discovered Feb. 6 in the SUV near his home in the Cane Garden area outside the capital, was Prime Minister Ralph Gonsalves' press secretary. He played major roles in the governing Unity Labor Party's successful 2001 and 2005 elections campaigns and hosted a radio talk show program.

Gonsalves has said two Scotland Yard specialists were expected to join three British investigators working with local authorities to investigate Jackson's death. Thousands of people turned out Wednesday for his funeral.

About 118,000 people live in St. Vincent and the Grenadines, an island chain in the southeast Caribbean Sea.

JAMAICA: Jamaican man charged with killing six family members

KINGSTON, Jamaica (AP) A man has been charged with killing six family members, including four children, whose bodies were found along a beach in western Jamaica last month, police said Friday.

Michael McLean, 38, was charged Thursday with six counts of murder, police said.

McLean, the common-law husband of one of the victims, Terry-Anne Mohammed, 42, has been in custody since Feb. 28. He turned himself into police because he said he feared for his life after neighbors accused him of the murders.

Mohammed's burnt corpse was found by police about a half-mile away from the mutilated body of her 8-year-old son, Jessie Ogilvie. The bodies of Mohammed's niece, Farika George-McCool, 27, and two of her children were also found on the beach with their throats slashed.

One week later, police say McLean led them to a nearby parish where George-McCool's 6-year-old daughter, Jhaid, was buried in a shallow grave.

The slayings may be drug-related, said Arthur Martin, assistant commissioner of police.

There were a record 1,669 homicides last year in Jamaica, which has recently received the help of Scotland Yard and London's Metropolitan Police to fight the crime wave.

HAITI: New U.S. ambassador arrives, takes up post

PORT-AU-PRINCE, Haiti (AP) The United States will provide support to Haiti and work with the country's recently elected government, the new U.S. ambassador said Friday.

Janet A. Sanderson, former ambassador to Algeria, also has served at diplomatic missions in Egypt, Jordan, Israel, Kuwait and Bangladesh.

"With the election of a new president, new perspectives now present themselves to Haiti," she said while presenting her credentials to the Haitian government. "Haitians are looking for a better life. And they are ready though impatient to work ardently to succeed."

President George W. Bush nominated the career diplomat to replace James Foley, who left Haiti late last year.

The United States is one of the main donors to Haiti, the poorest country in the Western Hemisphere.

GUYANA: U.S. diplomat lambasts drug trade, tells police to stop fraternizing with criminals

GEORGETOWN, Guyana (AP) The drug trade is fueling a surge in violent crime and corruption in Guyana, and police must stop fraternizing with known drug traffickers, a U.S. official said Friday.

The drug trade has grown from a trickle to a multimillion dollar business in the South American country, and communities are small enough for everyone to know who is involved in it, said Michael Thomas, the U.S. embassy's deputy chief of mission.

"The public will not trust a police officer they see having lunch with a drug trafficker," said Thomas, who spoke at the end of an FBI-sponsored community policing training course.

Drug trafficking accounts for an estimated 20 percent of the country's gross domestic product, the U.S. State Department said in its annual narcotics report released last week. Local media regularly report crimes that are believed to be related to drugs, the report said.

Weak law enforcement has contributed to the problem, and U.S. federal agents believe anti-drugs agencies intercept a small amount of the cocaine that transits Guyana, the report said.

PUERTO RICO: U.S. contractor gets 10-year sentence in education fraud case

SAN JUAN, Puerto Rico (AP) A U.S. contractor was sentenced Friday to 10 years in prison for his role in a US$4.3 million ([#x20ac]3.6 million) fraud scandal involving Puerto Rico's education department and its former chief.

Norman Olson was convicted of four counts of bribery for paying more than US$73,000 ([#x20ac]60,400) in political favors as part of a scheme uncovered four years ago.

Olson, president and owner of National School Services, a Chicago-based business that provides teacher training and education consultants, said he plans to appeal.

"I respect the decision of this court even though I feel that I am innocent of these charges," Olson said following his sentencing.

Olson was found guilty of paying bribes to Victor Fajardo, former education secretary from 1994 to 2000, in exchange for contracts with the department between 1999 and 2000.

Fajardo pleaded guilty in 2002 to extorting some US$4.3 million from contractors doing business with his agency.

U.S. VIRGIN ISLANDS: Nobel Prize winning physicists debate universe structure in U.S. Virgin Islands

CHARLOTTE AMALIE, U.S. Virgin Islands (AP) Twenty of the world's top physicists, including three Nobel Prize winners, are meeting in the U.S. Virgin Islands to debate the structure of the universe.

Nobel prize winners Gerardus 't Hooft, David Gross and Frank Wilczek, and experimental and theoretical physics pioneer Stephen Hawking are among the minds that have converged in the island of St. Thomas to discuss some of physics most puzzling questions, such as the existence of black holes and alternate dimensions.

"This is a remarkable group, as far as the level of people who are here," said Wilczek, who won the 2004 Nobel Prize in physics with Gross and H. David Politzer for their explanation of the force that binds particles inside the atomic nucleus.

**Jeffrey Epstein,** a New York money manager whose J. Epstein Virgin Islands Foundation helped finance the six-day conference that began Thursday night, said the U.S. Caribbean territory's natural beauty will help the scientists relax and concentrate.

"You work best with friends. The idea is to take them for a walk on the beach. Take them on a submarine ride," he said. "I think some really great ideas will come out of this."

CRICKET: Solanki spurs England A to series-leveling win

BRIDGETOWN, Barbados (AP) Captain Vikram Solanki spanked 92 as England A cruised to a series-leveling 90-run triumph over West Indies A in their fourth one-day cricket international at Windward Cricket Club on Friday.

The five-match rubber stood at 2-2 with the decider on Sunday at the same venue.

Solanki, the Worcestershire right-hander, cracked nine fours off 121 balls to lead the visitors to a formidable 269 for nine off 50 overs.

The home team limped to 179-9 off 50 overs in its pursuit. England fast bowler Sajid Mahmood engineered a top-order slide, claiming three for 33 while offspinner Gareth Batty took 3-26.

Left-hander Ryan Hinds topscored for West Indies with a labored 32 off 70 balls.

England A, batting first after winning the toss, stumbled early on as West Indies' new ball pair of Andrew Richardson and Tino Best reduced it to 15-2 in the fifth over.

But Solanki and Jamie Dalrymple added 132 for the third wicket to tilt the balance back to their side.

Dalrymple cracked four fours and three sixes in 62 off 75 balls before he was stumped trying to hit out at offspinner Omari Banks.

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**HEADLINE:** Fund Helps Persecuted Scholars Reach Safe Havens

**BYLINE:** Popper, Nathaniel

**BODY:**

In a seemingly different life, Ahmed Subhy Mansour was a scholar at Cairo's venerated Al-Azhar University. He studied the history of dictatorship in Islam and the place of death and paradise in the Koran. But some aspect of his research did not go over well with the authorities, and in 1987 he was fired from his position and jailed for two months.

Since then he has searched for a place to continue his work and his life, particularly after a number of newspapers accused him of upholding Zionism, a crime punishable by death in Egypt. After 15 years of wandering, last year he finally found a new home -- as a research fellow at Harvard University.

The match was made through the Scholar Rescue Fund, started two years ago by the Institute of International Education. Since it was created, the rescue fund has enabled Mansour and 44 other scholars to escape persecution in their home countries, and -- just as importantly for many of them -- to continue their scholarly work with a position at an American university. At Harvard, for example, Mansour has pushed ahead with the creation of a center for studying and reforming the Wahabi influence on Islamic institutions in America.

The rescue fund is not the first such project run by the International Institute of Education, which also sponsors the Fulbright scholarship program. During the 1930s and 1940s, the institute's Emergency Committee in Aid of Displaced Foreign Scholars helped bring more than 330 scholars, most of them Jewish, from Nazi Germany to the United States, including such luminaries as philosopher Martin Buber, physicist Enrico Fermi and novelist Thomas Mann.

Descendents of several of those earlier scholars, along with families of other Jewish refugees, gathered recently at the Park Avenue apartment of Jewish philanthropist Patti Kenner to raise money to help revive the rescue program. After cocktails, the crowd of about 100 guests retired to Kenner's warm living room to sit on plush couches among pastoral landscape paintings. Four recently rescued scholars had been brought in for the evening, and two of them told their respective tales of persecution in Iran and Pakistan, which seemed much more than a world away from the safety of the Upper East Side.

"I've had such an easy life," Kenner said after hearing the scholars speak, with a tone of gratitude that was representative of her guests. "I've never experienced anything difficult. We're all so lucky."

The fund is being revived at a time when many observers are talking about global antisemitism reaching its highest levels since the 1930s, when the last rescue program was in operation. In the program's current incarnation, though, none of the 45 scholars who have been rescued are Jewish.

The one scholar so far whose work was connected to the Jewish community was a Palestinian scholar, who felt threatened by both Israeli and Palestinian officials for his work analyzing the policy of political assassinations.

"He was advocating less violence on both sides, and it made him unpopular with a lot of people," according to Robert Quinn, director of the Scholar Rescue Fund.

The rescue fund has little in the way of guaranteed funds to ensure its survival. The goal of the night was to raise 1 million for an endowed chair in the name of Ruth Gruber, a 93-year old photojournalist who was on hand to tell of her trip to Europe in 1944, when she helped rescue 1,000 Jewish refugees.

The Gruber chair is part of a larger effort to create a 10 million endowment that is being led by refugee-turned-millionaire Henry Jarecki, along with fellow businessmen George Soros, Thomas Russo and **Jeffrey Epstein.**

While the roster of scholars who have been helped suggests that the Jewish funding for the program does not come out of a narrow ethnic self-interest, the scars of Jewish history were evident beneath the surface of the appeals for donations at Kenner's apartment.

The guest speaker for the night was Hanna Holborn Gray, who came over with her parents through the 1930s rescue program and went on to become the first female president of the University of Chicago.

"In the 1930s, the German academic world was seen as a model, and one saw how quickly that could vanish," Gray recalled.

Almost all of the 45 scholars funded in the last two years have hailed from either African or Muslim-majority countries. Many of them -- including Mansour and an Iranian scientist who spoke at Kenner's home -- have been punished for the pro-Western and pro-Israel slant in their work.

The fund's directors, however, have been astonished at the diversity of the 450 scholars from 84 countries who have applied so far. Many of the applicants come from far beyond the traditional disciplines of the humanities in which dissidents might be expected to work.

The threat of bodily harm was a constant for most of the applicants, and Jarecki ominously remembered that many of the more than 5000 applicants who were turned down by the institute during the 1930s perished a few years later.

A scholar from the Ivory Coast at Kenner's gathering described his own situation -- being forced to hide in the countryside after teaching political science courses that were critical of the government -- as a re-emergence of darker periods from the past.

"This is the same old story," the African scholar said. "It is the history of the universe. The history of power corrupting people."
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| | | |
|---|---|---|
| math--counting | 10 | 66.6 |
| attitude--positive | 9 | 60.0 |
| speech act | 9 | 60.0 |
| space--size | 8 | 53.3 |
| space--grasping | 7 | 46.6 |
| sound--speech | 7 | 46.6 |
| logic--universal quantification | 7 | 46.6 |
| space--housing | 6 | 40.0 |

Table 2 Diverse schemes for story understanding domains

| Domain | Representation/Reasoning Schemes |
|---|---|
| space | frame, generalized cylinder model, interval logic, occupancy grid |
| time, action effects | causal model, event calculus, situation calculus, transframe |
| reactivity | neural net, production system, subsumption architecture |
| schemas, scripts | finite automaton, frame, frame-Array, generalized Petri net |
| subgoaling | first-order logic, K-line, marker passing, semantic net |
| emotions, attitudes | microneme, neural net, temporal modal logic |

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Cited references and notes

(1.) M. Minsky, The Emotion Machine, Pantheon, New York (forthcoming). Several chapters are on line at http://web.media.mit.edu/ minsky.

(2.) The use of reading comprehension tests as a metric for evaluating story understanding systems was previously proposed in L. Hirschman, M. Light, E. Breck, and J. Burger, "Deep Read: A Reading Comprehension System," Proceedings of the 37th Annual Meeting of the Association for Computational Linguistics, College Park, MD, June 1999, Association for Computational Linguistics (1999).

(3.) J. McCarthy, "Programs with Common Sense," Proceedings of the Symposium on Mechanisation of Thought Processes, Her Majesty's Stationery Office, London (1958), pp. 77-84.

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(4.) J. McCarthy, "From Here to Human-Level Intelligence," Proceedings of the Fifth International Conference on Principles of Knowledge Representation and Reasoning (KR'96), Cambridge, MA, November 1996, Morgan Kaufmann, San Mateo, CA (1996), pp. 640-646.

(5.) L. Morgenstern, "A Formal Theory of Multiple Agent Non-monotonic Reasoning," Proceedings of the Eighth National Conference on Artificial Intelligence, AAAI Press, Menlo Park, CA (1990), pp. 538-544.

(6.) E. Davis, "The Naive Physics Perplex," AI Magazine 19, No. 4, 51-79 (1998).

(7.) D. Lenat, "Cyc: A Large-Scale Investment in Knowledge Infrastructure," Communications of the ACM 38, No. 11, 32-38 (1995).

(8.) More details can be found in E. T. Mueller, "Story Understanding," to appear in Encyclopedia of Cognitive Science, Nature Publishing Group, London (2002).

(9.) E. Charniak, Toward a Model of Children's Story Comprehension, Technical Report AITR-266, Artificial Intelligence Laboratory, Massachusetts Institute of Technology, Cambridge, MA (1972).

(10.) R. C. Schank and R. P. Abelson, Scripts, Plans, Goals, and Understanding, L. Erlbaum Associates, Hillsdale, NJ (1977).

(11.) R. E. Cullingford, Script Application: Computer Understanding of Newspaper Stories, Technical Report YALE/DCS/tr116, Computer Science Department, Yale University, New Haven, CT (1978).

(12.) R. Wilensky, Understanding Goal-Based Stories, Technical Report YALE/DCS/tr140, Computer Science Department, Yale University, New Haven, CT (1978).

(13.) M.G. Dyer, In-Depth Understanding, MIT Press, Cambridge, MA (1983).

(14.) A. Ram, Question-Driven Understanding: An Integrated Theory of Story Understanding, Memory, and Learning, Technical Report YALE/DCS/tr710, Computer Science Department, Yale University, New Haven, CT (1989).

(15.) C. Dolan, Tensor Manipulation Networks: Connectionist and Symbolic Approaches to Comprehension, Learning, and Planning, Technical Report 890030, Computer Science Department, University of California, Los Angeles, CA (1989).

(16.) E.T. Mueller, Natural Language Processing with ThoughtTreasure, Signiform, New York (1998), full text of book available on line at http://www.signiform.com/tt/book/.

(17.) L. G. Alexander, Longman English Grammar, Longman, London (1988).

(18.) E. Davis, Representations of Commonsense Knowledge, Morgan Kauffman, San Mateo, CA (1990).

(19.) S. E. Fahlman, NETL: A System for Representing and Using Real-World Knowledge, MIT Press, Cambridge, MA (1979).

(20.) M. Shanahan, Solving the Frame Problem, MIT Press, Cambridge, MA (1997).

(21.) D.A. Randell, Z. Cui, and A. G. Cohn, "A Spatial Logic Based on Regions and Connection," Proceedings of the Third International Conference on Knowledge Representation and Reasoning, Morgan Kaufmann, San Mateo, CA (1992), pp. 165-176.

(22.) B. Kuipers, "The Spatial Semantic Hierarchy," Artificial Intelligence 119, 191-233 (2000).

(23.) P. Singh, "The Public Acquisition of Commonsense Knowledge," Proceedings of the AAAI Spring Symposium on Acquiring (and Using) Linguistic (and World) Knowledge for Information Access, Palo Alto, CA, March 2002, American Association for Artificial Intelligence (2002).

(24.) M. Minsky, The Society of Mind, Simon & Schuster, New York (1985).

(25.) A. Sloman, "Beyond Shallow Models of Emotion," Cognitive Processing 1, No. 1 (2001).

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The reactive and deliberative layers differ in that the deliberative layer evolved much later and requires a far more sophisticated long-term memory, as well as symbolic reasoning capabilities using a short-term reusable memory. The meta-management layer may have evolved at a still later time and requires explicit use of concepts referring to states of an information processing architecture. The earliest organisms, such as most existing organisms, were totally reactive. Deliberative and meta-management layers evolved later. Adult humans appear to have all three types of processing, which is probably rare among other animals.

One of the key features that gives H-Cogaff its generality is the fact that different components, instead of forming parts of simple pipelines, can concurrently send information of various kinds to arbitrarily many other components, allowing a wide variety of feedback mechanisms and triggering mechanisms.

In story understanding, the meta-management level may control the deliberative level in a number of ways.

* If the deliberative level is spending too much time considering certain details and those details are not crucial to the story, the meta-management level will make the deliberative level stop.

* If the deliberative level is spending too much time on a task that does not relate to the goal of reading the story, the meta-management level will make the deliberative level stop.

* If the deliberative level becomes confused, the meta-management level will tell it to go back and reread. The deliberative level may have ruled out a possibility earlier that needs to be reconsidered in light of new information.

Minsky further elaborates the H-Cogaff architecture into the six-level architecture called "Model Six" shown in Figure 2. (1) At its bottom lies a "zoo of instinctive subanimals" built upon ancient, ancestral systems that still maintain our bodies and brains. These include systems for feeding, breathing, heating, sleeping, and other systems that keep us alive. The deliberative and reflective levels are engaged to solve more difficult kinds of problems. The self-reflective level is engaged when the problems involve our relationships with our past and future selves. At the top lies machinery that we acquire from our societies, such as suppressors and censors, imprimers and values, and our various kinds of self-ideals.

[FIGURE 2 OMITTED]

Multiple reasoning and representation schemes and levels. An architecture of diversity would embed representations from natural language to micronemes (27,1) as depicted in Figure 3. The representations depicted include frames, transframes, frame-arrays, K-lines, and micronemes. A frame is a representation based on a set of slots to which other structures can be attached. (28) Each slot is connected to a default assumption that is easily displaced by more specific information. A transframe is a particular type of frame representing the causal trajectory between the initial and resulting states representing a situation that a legal action was performed on. A frame-array is a collection of frames that share the same slots, making it easy to change perspective with respect to physical viewpoint or other mental realms. A knowledge-line or K-line is a wirelike structure that attaches itself to whichever resources are active in solving a problem. The K-line simplifies activation of those same resources when solving a similar problem in the future. Micronemes are low-level features for representing the many cognitive shades and hues of a context. In Figure 3, new evolved structures are made from older lower-level ones, and the tower shown might be a plausible Darwinian brain-development scheme.

[FIGURE 3 OMITTED]

Table 2 shows just a few of the diverse representation and reasoning schemes useful for domains of story understanding.

We propose to address the commonsense reasoning problem starting with stories for very young readers. However, to demonstrate all of the different ways we think when understanding a story, and what we would eventually expect a commonsense story understanding system to be able to handle, consider the following adult story (the discussion here is condensed from Reference 1).

Joan heard a ring and picked up the phone. Charles was answering her

question about how to use a certain technique. He suggested she read a

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certain book, which he would soon bring to her since he had planned to be in her neighborhood. Joan thanked him and ended the call. Soon Charles arrived and gave her the book.

Following are a few of the understandings an adult reader would have after hearing the story.

* Joan heard a ring. She recognizes it as a telephone bell and feels the need to respond quickly. She knows how to use the telephone.

* She picked up the phone. She is subsequently holding the phone to her ear.

* Charles was answering her question. Charles and Joan are not in the same room. Charles also knows how to use the telephone.

* He suggested she read a certain book. Joan probably now feels some relief, since she knows where to find the knowledge she needs.

* He had planned to be in her neighborhood. Joan will not be surprised when he arrives, because she will remember that he said he would come.

* He gave her the book. Will she have to give it back? The story does not tell us that.

These conclusions are based on reasoning and representations in many realms, as follow.

The physical realm. In this realm, give might mean the motion of the book through space. This could be represented as a transframe that starts with Charles's hand holding the book and ends with Joan's hand carrying it. One must know a lot about physical things and how they behave in space and time.

The social realm. In this realm, give may signify social acts that can alter the relationships of the actors. What were Charles's motives or his attitudes? Clearly, he was not returning a loan. Was he hoping to ingratiate himself? Or was he just being generous? How will Joan feel about Charles after he gives her the book? One must know a lot about what people are, and a certain amount about how people work.

The dominion realm. Given Charles gave Joan the book, one infers not only that Joan is holding the book, but also that, at least for a time, she possesses the right to use it.

The conversational realm. How do conversations work? Consider how many elaborate skills are involved in a typical verbal exchange. One has to keep track of what is being discussed, what one has previously told the listener, and what the listener knows. Thus conversations are partly based on knowledge of how human memories work and what is commonly known in one's culture. One has to make sure the listener has understood what was said and why it was said. One certainly needs to know how to speak and to understand some of what one may hear.

The procedural realm. How does one make a telephone call? One must first find a phone and dial a number. Then once the connection has been established, one says hello, talks a bit, and eventually leads into why one called. At the end, one says goodbye and hangs up the phone. Generally, such scripts have certain steps that are specified, while other steps provide for more room to improvise.

The sensory and motor realms. Each of the above steps raises questions. For example, it takes only one second or so for one's arm to reach out in order to pick up the phone. How can one do that so quickly?

The kinesthetic, tactile, and haptic realms. Using a telephone or any other physical object engages a great base of body-related knowledge and skills. One anticipates how the phone will feel against one's ear or sandwiched between shoulder and cheek. One expects certain haptic sensations such as the feel of the phone's weight. One strengthens one's grip when the phone starts to slip.

The temporal realms. People have elaborate models of time where events are located in futures and pasts that are represented in relation to other times and events or in anecdotal stories.

The economic realm. People know and reason about the costs incurred by each action or transaction in terms of money, energy, space, or time.

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The reflective realm. People know about themselves. One knows to some degree what one can or cannot do, what kinds of problems one can solve, how one's thinking and memory works, and what sorts of things one is able to learn.

Along with these positive kinds of knowledge, one also has negative knowledge about what might go wrong when using a phone. One must know what to do if one gets a wrong number, if there is no answer, or if a modem or intercept recording is reached.

Example system with architecture of diversity. Thus far, the Sloman and Minsky architectures are theoretical constructs and have not yet been implemented. However, there are examples of working systems that capture the spirit of such architectures. One such example is the M system depicted in Figure 4. (29) M integrates multiple reasoning processes and representations to serve as an assistant to a user collaborating with other workers within a virtual meeting room that hosts multimedia desktop conferencing. M serves to recognize and classify the actions performed by the participants as well as the objects upon which the actions are applied; example actions and objects are brainstorming on a whiteboard, coauthoring a document, and creating and working with other artifacts.

[FIGURE 4 OMITTED]

Next steps

The two recent meetings held in March 2002 at the IBM Thomas J. Watson Research Center and in April 2002 on St. Thomas indicate that there is a dedicated group of recognized researchers interested in working together on a project to develop a solution to commonsense reasoning. We are now planning to undertake some of the next steps in a plan for such a project. The inspiration for this work comes from Minsky's past and forthcoming work. We close with his thoughts on how such a project might be realized, as follows.

Our goal is to aim toward a critical "change of phase" that will come when we cross a threshold at which our systems know how to improve themselves. This is something that all young children can do, but we do not know enough about how they do it; so one goal of the project must be to develop better models of how normal people think.

We will start by trying to implement some of the architectures proposed over the past decade. There already exist many useful schemes for representing and using knowledge mostly of a factual nature for use on what we call the deliberative level. However, there has not been enough work on the higher reflective and self-reflective levels that humans use, as they learn to improve their thinking itself. Any such system, we claim, will need additional kinds of meta-resources, which will include systems that manage, criticize, and modify the already operating parts of the structure.

In the field of AI we already have many resources related to this, for example, neural networks, formal logic, relational databases, genetic programs, statistical methods, and of course the heuristic search, planning, and case-based reasoning schemes of earlier years. However, our goal is not to discuss which method is best. Instead we will try to develop a plan of how to incorporate into one system the virtues of many different approaches. Of course, each such scheme has deficiencies and our hope is that our system can escape from these by using higher-level, more reflective schemes that understand what each of those other schemes can do and in what context they are most effective.

Table 1 Early reader corpus: top 10 domains of common sense

| Domain | Number of Stories | Percentage of Stories |
|---|---|---|
| space--location | 14 | 93.3 |
| space--motion | 11 | 73.3 |

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**BODY:**

Although computers excel at certain bounded tasks that are difficult for humans, such as solving integrals, they have difficulty performing commonsense tasks that are easy for humans, such as understanding stories. In this Technical Forum contribution, we discuss commonsense reasoning and what makes it difficult for computers. We contend that commonsense reasoning is too hard a problem to solve using any single artificial intelligence technique. We propose a multilevel architecture consisting of diverse reasoning and representation techniques that collaborate and reflect in order to allow the best techniques to be used for the many situations that arise in commonsense reasoning. We present story understanding--specifically, understanding and answering questions about progressively harder children's texts--as a task for evaluating and scaling up a commonsense reasoning system.

In the fall of 2001, a proposal was developed by Marvin Minsky, Erik Mueller, Doug Riecken, Push Singh, Aaron Sloman, and Oliver Steele for a project to develop a human-level commonsense reasoning system. The basic proposal was (1) to develop certain ideas of Minsky and Sloman about a multilevel cognitive architecture, and (2) to develop the system in a way that would exploit many existing artificial intelligence techniques for commonsense reasoning and knowledge representation, such as case-based reasoning, logic, neural nets, genetic algorithms, and heuristic search.

We proposed to organize a meeting at which we would bring together many of the major established researchers in the area of commonsense knowledge and reasoning. Riecken organized a preliminary meeting at the IBM Thomas J. Watson Research Center in March 2002, at which many IBM researchers were invited to discuss and react to this general subject as well as to present their own ideas. Afterwards, the specific proposal was discussed in more detail by specialists in commonsense knowledge and reasoning at a meeting held on St. Thomas, Virgin Islands, in April 2002, and hosted by **Jeffrey Epstein.** This Technical Forum contribution focuses on the preliminary meeting, but also contains some material presented at the April meeting, including some material from Minsky's forthcoming book The Emotion Machine. (1)

At the IBM meeting, a broad consensus was reached on three main points. First, there was agreement that the community should strive toward solving a nontrivial problem that would require a level of knowledge, and a capability of reasoning with that knowledge, beyond what is demonstrated by current systems. The problem put forward was that of story understanding. An important advantage of the story understanding task is that standardized tests are available to evaluate students on their reading comprehension skills. Moreover, these tests require the use of commonsense reasoning skills. It is thus possible to evaluate the performance of any story understanding system against that of students at different reading levels. (2)

Second, there was consensus that the story understanding task provides a strong testbed for evaluating a commonsense reasoning system. Not only does such a system need several different forms of reasoning, representation, and learning, but it also needs them to work in conjunction with each other. In addition, the task highlights the importance of using and reasoning with common sense. This is illustrated by a sentence from a story about a child and her grandfather: "He gently takes my elbow as we walk so that I can help show him the path." Knowledge of the fact that the grandfather is blind, and the commonsense facts that people ordinarily use their sight to find paths and that blind people are unable to see, enable the inference that the child is guiding the grandfather and not merely pointing out the path, another frequent sense of the word "show." Absence of this commonsense knowledge could lead to the incorrect interpretation of the word "show."

Third, there was agreement on the need to develop a testbed architecture for representation and reasoning that allows different systems and representations to work with each other. Researchers often try to solve a problem using just one form of representation and reasoning. But such an approach does not work well for sufficiently complex problems such as story understanding. In contrast, enabling various techniques to collaborate will allow the best techniques to be used for a given situation. Any such architecture must provide metalevel control and knowledge that will enable different techniques to determine whether or not they are suited for a given task, to decide what other techniques may be better for the task, and to communicate information and share partial results with each other.

## What makes commonsense reasoning difficult

Commonsense reasoning--the sort of reasoning we would expect a child to do easily--is difficult for computers to do. Certainly, the relative paucity of results in this field does not reflect the considerable effort that has been expended, starting with McCarthy's paper "Programs with Common Sense." (3) Nevertheless, the problem remains unsolved. What is it about commonsense reasoning that makes it difficult to automate? Various explanations have been suggested, some of which we discuss in this section.

McCarthy's commonsense informatic situation. The knowledge needed to solve a commonsense reasoning problem is typically much more extensive and general than the knowledge needed to solve difficult problems. McCarthy points out that the knowledge needed to solve well-formulated problems in fields such as physics or mathematics is bounded. (4) In contrast, there are no a priori limitations to the facts that are needed to solve commonsense problems: the given knowledge may be incomplete; one may have to use approximate concepts and approximate theories; one will generally have to use non-monotonic reasoning to reach conclusions; and one will need some ability to reflect upon one's own reasoning processes. Morgenstern provides an example of the commonsense informatic situation in the problem of two friends arranging to meet for dinner at a restaurant. (5)

Explicit vs implicit knowledge. Commonsense knowledge is often implicit, whereas the knowledge needed to solve well-formulated difficult problems is often explicit. For example, the knowledge needed to solve integrals can be found in explicit form in a standard calculus textbook. However, the knowledge needed to arrange a dinner meeting exists in vague, implicit form. Implicit knowledge must first be made explicit, which is a time-consuming task requiring a serious knowledge engineering effort.

Domain knowledge. A huge amount of knowledge is needed to do even simple forms of commonsense reasoning. For example, to figure out what sorts of objects will work as stakes in a garden--a reasoning task that seemingly demands no effort--requires knowledge of plant materials, how plants grow, flexibility and hardness, shapes of plants, soil texture, properties of wind, spatial reasoning, and temporal reasoning. (6) Although there have been a number of efforts to capture large amounts of world knowledge, most notably the Cyc ** project, (7) we are not at this point aware of any knowledge base that contains the information necessary to reason about stakes in a garden or about fumbling for an object in one's pocket.

This Technical Forum piece does not present a solution to these difficulties. Rather, we are attempting to see how far we can progress on an important commonsense reasoning problem even in the presence of such difficulties.

## Story understanding as a vehicle for studying commonsense reasoning

Story understanding requires addressing the commonsense informatic situation. A story understanding system should be able to read and understand a story, and demonstrate its understanding by (1) answering

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questions about the story, (2) producing paraphrases and summaries of the story, and (3) integrating the information the story contains into a database. Further, useful results from this work will have a direct impact on many business products and services.

A brief history of story understanding systems. Starting in the 1960s, (8) researchers have studied story understanding and have built systems that can read and answer questions about simple stories. An early system built by Charniak (9) used a single mechanism, test-action demons, for making inferences in understanding. In the 1970s, Schank and Abelson (10) proposed scripts, plans, and goals as knowledge structures for understanding. These knowledge structures were incorporated into the SAM (11) and PAM (12) story understanding systems.

In the 1980s, knowledge structures for emotions, story themes, and spatial/temporal maps were incorporated into BORIS. (13) AQUA (14) used case-based reasoning to retrieve and apply explanation patterns in order to answer questions raised by anomalies encountered while reading a story. CRAM (15) used a connectionist approach to story understanding.

Recent story understanding systems have adopted the approach of understanding a story by building and maintaining a simulation that models the mental and physical states and events described in the story, as demonstrated in ThoughtTreasure. (16) The advantage of this approach is that it is easy to answer questions about the story simply by examining the contents of the simulation.

Critical problems for story understanding systems. The story understanding systems built so far work only on the particular stories they are designed to handle. For example, SAM (11) handles five stories, BORIS (13) three, AQUA (14) five, and ThoughtTreasure (16) three. What prevents story understanding systems from scaling up to hundreds of previously unseen stories?

We contend that story understanding research is blocked on three critical problems: (1) complexity of the structure of natural language, (2) necessity for large commonsense knowledge bases, and (3) combinatorial explosion in the understanding process.

Complexity of the structure of natural language. Rare is the simple subject-verb-object sentence that maps into a simple proposition. More typically, text contains numerous language phenomena such as adverbials, compound nouns, direct and indirect speech, ellipsis, genitive constructions, and relative clauses. (17) Present-day syntactic and semantic parsers have trouble producing accurate parses of typical story sentences.

Necessity for large commonsense knowledge bases. Understanding even simple stories requires knowing a huge number of facts. For example, understanding the first paragraph of The Cat in the Hat requires knowing about children's play, how children can be affected by winter weather, their relationship to their parents, and notions of discipline, boredom, surprise, and risk. Similarly, as Davis (18) points out, the first paragraph of The Tale of Benjamin Bunny assumes familiarity with concepts of quantity, space, time, physics, goals, plans, needs, and communication.

Combinatorial explosion in the understanding process. Multiple possible interpretations arise at all levels of language. Words are ambiguous as to part of speech and word sense. Sentences are syntactically ambiguous. There are several possible explanations for any action of a story character, several possible explanations for those explanations, and so on. We get a combinatorial explosion: the understanding process must search an extremely large space of possibilities.

Approaches to critical problems in story understanding. What can be done? We propose a three-pronged approach. First, to deal with the complexity of the structure of natural language, we make a major cut in complexity by going back to books for early readers. Second, to deal with the necessity for large commonsense knowledge bases, we propose to identify the domains most frequently used in a restricted set of stories and to address these first. Last, to deal with the combinatorial explosion in the understanding process, we propose a new paradigm for commonsense reasoning: an architecture of diversity.

Early readers. Early reader texts are designed for preschool and kindergarten students. These texts employ a small or controlled vocabulary, short sentences, and limited language constructions. Working with early reader texts will enable us to effectively solve the language front-end problem using existing research techniques.

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Text annotation for domain identification. We cannot hope to deal with the commonsense informatic situation head-on. The point of McCarthy's 1996 paper (4) is that any domain can be relevant to a particular problem: when reading a story, any area of knowledge may be necessary for comprehension. This is less true for stories designed for very young readers; although, as our examples above show, a great many concepts and domains are still needed for full comprehension even of early reader texts. Nevertheless, we believe we can make progress by choosing to address those domains that most frequently turn up in children's stories. Such an approach would, we hope, make the problem tractable.

We thus propose the following corpus-based approach. We start with a corpus of stories at the preschool and kindergarten levels and divide the corpus into a development set and a test set. We manually annotate each story in the development set with an informal inventory of what domains of commonsense knowledge and reasoning must be addressed in order to understand the story. We sort the domains by their frequency and attempt to develop methods to understand the domains that occur most frequently. We start with the most frequent domain, proceeding to the next most frequent domain, and so forth. Development proceeds on the development set, and a final evaluation of the generality of the system is conducted on the previously unseen test set. We iterate this process on successively higher reading levels, progressing to stories designed for Grades 1, 2, and 3. This approach, based on an incremental series of experiments, will enable a significant research focus at each step on an architecture of diversity.

To demonstrate how this approach would work, we formed a corpus of 15 early reader stories and annotated them as to the domains of common sense necessary for understanding them. The vocabulary size was 561 words. The top 10 domains of common sense are shown in Table 1. This provides us with a path for research in understanding the story corpus: focus on handling the most frequently appearing domains of common sense.

Dealing with these concepts is by no means trivial. We plan to leverage the extensive work that has been done in these areas. Such work includes: ThoughtTreasure, (16) NETL2, (19) Cyc, (7) Shanahan's formalization of time, (20) the RCC formalization of space, (21) and Kuipers's Spatial Semantic Hierarchy. (22) We will also employ rapid knowledge formation techniques such as Open Mind. (23)

An architecture of diversity

Many attempts to build intelligent computers have hunted for a single mechanism (such as universal sub-goaling, propagation rules, logical inference, probabilistic reasoning) or representation (such as production rules, connectionist networks, logical formulas, causal networks) that would serve as a basis for general intelligence. Why have these approaches so far failed to achieve human-level common sense?

We believe that the problem is too large to solve using any single approach. Human versatility must emerge from a large-scale architecture of diversity in which each of several different reasoning mechanisms and representations can help overcome the deficiencies of the other ones. (24,1) Our hypothesis is that such an architecture can overcome the combinatorial explosion problem in story understanding.

Multilevel cognitive architecture. We conjecture that the information processing architecture of a human is something like the three-level architecture developed by Sloman in the Cognition and Affect project (25) (H-Cogaff), shown in Figure 1. This conjecture is based on evidence of many kinds from several disciplines, and constraints on evolvability, implementability in neural mechanisms, and functionality. (26)

[FIGURE 1 OMITTED]

Reactive processes are those in which internal or external states detected by sensors immediately trigger internal or external responses. Deliberative processes are those in which alternative possibilities for action can be considered, categorized, evaluated, and selected or rejected. More generally a deliberative mechanism may be capable of counterfactual reasoning about the past and present and hypothetical reasoning about the future. The depth, precision, and validity of such reasoning can vary. Meta-management processes add the ability to monitor, evaluate, and to some extent control processes occurring within the system in much the same way as the whole system observes and acts on the environment. The three layers operate concurrently and do not form a simple dominance hierarchy. Arrows represent flow of information and control, and boundaries need not be sharp in all implementations.

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Financial Times (London,England)

August 20, 2003 Wednesday
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**SECTION:** BACK PAGE - FIRST SECTION; Pg. 18

**LENGTH:** 748 words

**HEADLINE:** Wall Street spearheads push to secure academic freedom: A scheme that began in the 1930s, and helped physicist Felix Bloch and writer Thomas Mann, seeks a Dollars 10m revival. Gary Silverman reports

**BYLINE:** By GARY SILVERMAN

**BODY:**

About a year and a half ago, a small circle of wealthy investors collected Dollars 2m (Pounds 1.2m) to conduct a novel experiment on the extent of global academic freedom.

The group, which included George Soros, Henry Jarecki and **Jeffrey Epstein,** established a fund to help scholars escape threats in their home countries and find teaching work elsewhere. The donors made their offer in the spirit of the movie, Field of Dreams, which held that "if you build it, they will come". Still, they were stunned by the response.

About 300 academics from 65 countries sought help from the Scholar Rescue Fund, which is being administered by the non-profit Institute of International Education.

Many of the threats to scholars came from likely suspects - African warlords, Colombian drug traffickers, terrorists and religious fundamentalists. But the organisers were also struck by the heartbreaking singularity of so many of the cases.

A marine biologist in a former republic of the Soviet Union angered government officials by studying local shellfish populations. An African academic was threatened after discovering that funds had been stolen from a university library. One western European government even sought help for a local scholar who was threatened by a separatist movement.

"The overwhelming majority of cases involve people who haven't taken sides," said Allan Goodman, IIE president and chief executive.

"They just happened to be scholars who are teaching in the wrong field, or they happened to be from the wrong ethnic group or, in one case, they have the same surname as the leader of a faction and they have been targeted."

The extent of the problem led the organisers to a sad conclusion - their work needed to take a more permanent form.

They are now trying to raise a Dollars 10m endowment for the Scholar Rescue Fund. They may also start an index of academic freedom that would spotlight abuses in particular countries.

"The impact and need has been greater than we expected," says Mr Soros, comparing the effort to his work on behalf of central and eastern European dissidents in the 1980s.

So far, the fund has helped 30 scholars from 19 countries escape persecution and find work at institutions ranging from Princeton University to the Geological Survey of Norway. The rescues themselves can be dangerous and the IIE often turns to human rights groups for logistical help.

The fund arranges for the scholars to get teaching positions, providing annual stipends of up to Dollars 20,000 to smooth the transition.

The IIE's role in helping intellectuals is not a new role as it started in the 1930s and was led by Edward R. Murrow, an IIE assistant director and later a legendary CBS reporter. Among those it helped were Felix Bloch, the physicist, theologians Martin Buber and Paul

Tillich, Thomas Mann, the novelist, and philosopher Herbert Marcuse.

The latest effort to rescue scholars bears the imprint of Wall Street. Tom Russo, a Lehman Brothers ,vice-chairman and an IIE trustee, has been a prime mover in the project. He helped recruit the donors and define the rationale for the rescue work. For Mr Russo, academic freedom is like market transparency - a "source of light" that keeps society functioning smoothly.

Deciding on which requests should receive help has been a job worthy of Solomon. The fund has heard from scholars who live in dangerous places but face no particular threat as individuals - a requirement for receiving help. Mr Goodman says this is often the case in places such as Israel's occupied territories, although the IIE has made one rescue there.

Dr Jarecki, a psychiatrist who made a fortune in bullion dealing and other ventures, said the fund is also trying hard to avoid contributing to a "brain drain" of academic talent in developing countries. Many of the applicants face threats to their security, but others simply want to move for economic reasons.

However, the organisers say they are trying to resist the temptation of being too cautious in their work.

He says he frequently brings up the example of a 1938 conference in Evian, France, that was held to discuss the resettlement of German and Austrian Jews. The Dominican Republic agreed to accept between 50,000 and 100,000 Jews. But by the time the "proper" arrangements were made, a world war was raging and it was too late to do much good.

In this case, Dr Jarecki says, the fund will work out how best to achieve its aims as it goes along. But, he adds: "I thought we should start by doing it."

**LOAD-DATE:** August 19, 2003

581 of 1456 DOCUMENTS

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The Associated Press State & Local Wire

February 7, 2003, Friday, BC cycle

**SECTION:** State and Regional

**LENGTH:** 200 words

**HEADLINE:** Financier pledges $30 million to support Harvard researcher

**DATELINE:** CAMBRIDGE, Mass.

**BODY:**

Reclusive financier **Jeffrey Epstein** has pledged up to $30 million to Harvard University to support a newly recruited professor's research in the field of mathematical biology.

A spokeswoman for Harvard president Lawrence H. Summers confirmed Friday that Epstein's contribution will support the research of Martin A. Nowak, who is scheduled to join the Harvard faculty on July 1.

Epstein, who reportedly manages billions of dollars from his private island in the Caribbean, already made a donation and plans to eventually establish a $30 million endowment to support Nowak's research, spokeswoman Lucie McNeil said. She did not specify how much he has already given.

Nowak, 36, currently a professor at Princeton's Institute of Advanced Study, uses advanced mathematics to model human behavior and to study evolutionary theory, viruses and cancers. He was recruited to Harvard as part of Summers' commitment to grant tenure to young professors and those who do interdisciplinary research.

The self-educated Epstein is both a longtime Harvard contributor and a benefactor of Nowak, to whom he previously donated $500,000, the Harvard Crimson student newspaper reported.

**LOAD-DATE:** February 8, 2003

(26.) A. Sloman, "Architectural Requirements for Human-Like Agents both Natural and Artificial," K. Dautenhahn, Editor, Human Cognition and Social Agent Technology, John Benjamins, Amsterdam (2000), pp. 163-195.

(27.) M. Minsky, "Common Sense-Based Interfaces," Communications of the ACM 43, No. 8, 67-73 (2001).

(28.) M. Minsky, "A Framework for Representing Knowledge," AI Laboratory Memo 306, Artificial Intelligence Laboratory, Massachusetts Institute of Technology (1974), reprinted in The Psychology of Computer Vision, Patrick Winston, Editor, McGraw-Hill, New York (1975).

(29.) D. Riecken, "An Architecture of Integrated Agents," Communications of the ACM 37, No. 7, 107-116 (1994).

Accepted for publication May 17, 2002.

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**IAC-CREATE-DATE:** September 26, 2003

**LOAD-DATE:** October 07, 2003

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July 13, 2007

**VIA FACSIMILE (561) 802-1787 AND U.S. MAIL**

[redacted]
Assistant United States Attorney
Office of the United States Attorney
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

Re: Grand Jury Subpoena - William Riley

Dear [redacted]

I represent Jeffrey Epstein, the target of a pending Grand Jury investigation. Prior to the initiation of this federal investigation, I represented Mr. Epstein on a Palm Beach Florida State Attorney's Office investigation and subsequently an Information, the factual basis of which is identical to, and gave rise to, the federal investigation presently underway.

In connection with my earlier representation of Mr. Epstein, I hired Mr. William Riley as a private investigator to act under my direction in anticipation of defending Mr. Epstein against possible criminal charges and any litigation which may have followed. All his investigations were done as my agent and thus are covered by the work product privilege, and all communications to him are protected by the attorney client privilege.

Though we are not conceding the existence of any computers that would be responsive to the subpoena served upon Mr. Riley, to the extent there are any such computers, they would contain documents that are privileged attorney-client communications and attorney work-product. Your subpoena also asks for materials describing the scope of his investigation and thus they are our work product.

201 S. Biscayne Boulevard, Suite 1300 • Miami, Florida 33131 • Phone: 305-371-6421 • Fax: 305-358-2006 • www.RoyBlack.com

Case No. [redacted] CV-[redacted]

**Exhibit 34**

EFTA00226841

[redacted]
Page 2

As you know, the United States Attorney's Office Manual, Guidelines for Issuing Grand Jury and Trial Subpoenas to Attorneys for Information Relating to the Representation of Clients, requires that the attorney client and work-product privileged information sought by the Grand Jury subpoena issued to Mr. Riley must first be authorized by the Assistant Attorney General for the Criminal Division before it may issue.

Not Law

Therefore, please advise me as to whether the applicable sections of the United States Attorney's Office Manual was complied with prior to the issuance of the Grand Jury subpoena to Mr. Riley. Please also advise as to the preliminary steps taken in advance of the issuance of the subpoena, as required by the Manual. Finally, please provide me with the name of the Assistant Attorney General of the Criminal Division who undertook the evaluation of the request for the Grand Jury subpoena, as required by the same section of the Manual and, if an evaluation was made, the basis upon which the Assistant determined that the information sought in the subpoena was not protected by a valid claim of privilege.

None

Sincerely,

Roy Black

RB/wg



EFTA00226842

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July 25, 2007

BY HAND

[redacted]

*Jeffrey Epstein*

Dear Mr. Menchel:

We have previously provided you with a memo as to why we believe no charge under 18 U.S.C. §2422(b) could or should be brought against Jeffrey Epstein, even assuming the specific conduct that you have alleged actually occurred. In that memo, we detailed Congress's intent in enacting this statute. We also posited that the language of the statute would have to be stretched beyond recognition to fit the particular facts of Mr. [redacted] case.[1] Enclosed is data that strongly supports the arguments we previously made. We have thoroughly analyzed every prosecution brought under the statute for which data could be obtained. Based on that analysis, we submit that the prosecutions actually brought under the statute overwhelmingly confirm the limits to prosecution we have previously identified.[2]

[1] For several months, we have also been consulting on this matter with Stephanie Thacker, former Principal Deputy Chief, Department of Justice, Child Exploitation & Obscenity Section. Ms. Thacker supports our position without reservation that this is not a matter upon which the federal statues should be brought to bear. Ms. Thacker would also welcome any questions or concerns you would like to raise with her.

[2] Please note that the enclosed chart amends the one provided to you earlier this week by adding additional details recently located.

**Exhibit 35**

JULY 25, 2007 Lefcourt + Dershowitz
to Merchel

[redacted]

For example, of the 184 prosecutions in which at least one count alleges a violation of §2422(b), in the overwhelming majority of those cases – 160, or over 85% -- the "means" of interstate communication was the Internet and involved the classic "Internet trolling" – far different from the behavior alleged here. Of that subset, the vast majority -- 113 -- were "sting" operations involving "children" (actually, agents) said to be between 2 and 14 years of age. The government in each of those instances took every precaution to verify that the defendant's actions were undertaken "knowingly". To the extent we can determine the facts, it appears that prior to a case being brought, in each instance multiple explicit (and recorded) conversations were had, so there could be no question as to when the inducement was attempted, whether the inducement was of explicit unlawful sexual activity, or what the defendant's belief was as to the age of the victim. Again, this has no applicability to the facts alleged here.

The data is informative in other ways, as well. Though there are a handful of cases in which the telephone is one of a multiple of means of interstate communications allegedly used, in only two such cases, both far different from the facts here,[3] was the use of the telephone the sole means of the wrongdoing alleged. In the remaining telephone cases, the §2422(b) count is only one of several amongst various charges of possession of child pornography, violence, and the like.

The data from the chart also establish that in the vast majority of the cases brought, no sexual activity was actually consummated. That confirms that prosecutions under §2422(b) are focused on protecting the federal interest in preventing the means of interstate communication from being used to commit crimes, particularly with respect to activities that are traditionally difficult for the state to prosecute. A prosecution predicated on an incidental telephone call used as a "hook" to trigger federal jurisdiction in order to punish a defendant for the underlying sexual activity is well out of, not only the mainstream of §2422(b) prosecutions, but all §2422(b) cases that have ever been brought. Here, the state is fully able to prosecute the conduct alleged.

We understand that the government believes it possesses proof that on various occasions telephone calls were allegedly made on Mr. Epstein's behalf by other persons who allegedly

---

[3] As detailed in the introductory section to the chart, among the differences are that those cases involve pimps who conceded that their businesses hinged on the use of telephones. Moreover, it is unequivocal that the arrangements being made are for sexual activity with underage women.

[redacted]

spoke directly or indirectly to women who were under 18. As the message books taken (unlawfully, in our view) during the search of Mr. Epstein's home clearly show, many women initiated the interactions by repeatedly calling to schedule massages. If the calls on which the government might seek to rely were merely "return" calls, certainly any alleged "inducement" would be far from unambiguous. And of course, the woman who called would have to have been known by Mr. Epstein to be under 18, and further, Mr. Epstein would have to have known and intended that a specific sexual activity unlawful under Florida law was being induced.

Thus, contrary to there being unambiguous proof of the required elements of a §2422(b) violation in this case, at least the following defects exist:

First, it is hardly the case that every massage resulted in sexual activity. Thus, merely because there was a telephone call, even one that might have "induced" a massage (which we dispute), such telephone call is not tantamount to the use of a telephone in violation of the statute.

Second, even where a particular massage involved masturbation by Mr. Epstein or the touching of a woman, we dispute that any such conduct is a violation of any applicable Florida law.

We assume you are focused on the evidence which reflects the sworn statement of, for example, [redacted], who told state investigators that she was asked to find women between 18 and 20 who would provide Mr. Epstein with topless massages and which sometimes involved their being touched. Fla. Stat. Ann. §796.07, a general statute which proscribes "prostitution" and "lewdness", regardless of whether an adult or minor is involved, is of very limited applicability here. That statute's definition of "prostitution" excludes conduct of which there may be evidence, specifically, a man masturbating himself while touching the breasts of another. Section 796.07(1)(a) defines "prostitution" as the giving or receiving of the body for sexual activity for hire. "Sexual activity" is defined to include "the handling or fondling of the sexual organ of another for the purpose of masturbation". Thus, "sexual activity" appears to cover situations where a woman is paid to masturbate a man but excludes the situation where the man masturbates himself in the presence of a woman. Any other reading of this statutory language would raise constitutional problems of fair warning, vagueness and lenity.

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We are, of course, mindful of the fact that, unbeknownst to Mr. Epstein, some of the women were in fact not yet 18. It is certainly not clear that any state statutes were violated by Mr. Epstein's conduct with any of these women, either. Florida law criminalizes relatively little sexual activity with persons between the ages of 16 and 18. For example, it is not a violation of the laws regulating sexual activity to receive a massage from a person between 16 and 18 who is topless or even naked. *See* Fla. Stat. Ann. §800.04 (lewd and lascivious conduct with a child between the age of 16 and 18). Nor does that statute make it a crime to touch the breasts or other private areas of someone between 16 and 18. *Id.* And, of course, even if a state crime was committed, which we surely do not concede, that does not make out a federal crime, unless it could be proven that the defendant knowingly induced an illegal act over the telephone.

Moreover, at best, the proof would show that only a small minority of massages resulted in what may possibly be characterized as sexual activity with a woman under the age of 18. But even where a massage involved sexual activity with a woman under 18, to the extent Mr. Epstein did not know the woman was under 18, or the telephone call did not induce the activity, or Mr. Epstein did not intend the sexual activity at the time the telephone call arranging the massage, or the person arranging the massage did not intend the sexual activity, there would be multiple additional barriers to a successful prosecution.

Further, putting aside whether there is sufficient proof that Mr. Epstein knew (and not merely that he "should have" surmised) that any of the women were in fact under 18, the set of facts hypothesized above has never before provided a legally sufficient predicate for a prosecution under §2422(b) - or under any other federal statute.

The enclosed chart clearly and compellingly demonstrates that every charge brought alleging a violation of §2422(b) is characterized by direct (not circumstantial and certainly not speculative) evidence of the defendant himself (not others on his behalf) using the means of interstate communication to communicate an unambiguous inducement to a person known to be underage or in the case of a sting, represented to be underage (or a person thought to be acting on behalf of such person) during the very communication that constitutes the required basis for federal jurisdiction.

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[redacted]

To our knowledge, the current investigation lacks any direct (or even circumstantial) proof that an inducement was made by Mr. Epstein during the pivotal communication that is at the very heart of any potential §2422(b) charge. Even if the government contends that Mr. Epstein induced unlawful sexual activity at some point, face to face, after a telephone call, the separation of the communication and the inducement takes Mr. Epstein's alleged misconduct outside the ambit of federal prosecution. It would be unprecedented (and unprincipled), as the chart demonstrates, to prosecute Mr. Epstein under §2422(b) absent proof beyond a reasonable doubt both that he knew the age of the person and that he intended in that communication to induce sexual activity that is unlawful under Florida law. It would also be unprecedented to prosecute Mr. Epstein under §2422(b) based on a telephone call made by a third party without direct proof that Mr. Epstein intended that telephone call to induce unlawful sexual activity.

For all of these reasons, as well as those asserted at the meeting of June 26 and in our follow up letter dated July 6, 2007, as well as our earlier letter of June 25, we submit that no charge under 18 U.S.C. §2422(b) can be brought. If you have any questions or would like to discuss this further, we are available.

Very truly yours,

Gerald B. Lefcourt

Alan M. Dershowitz

cc: Lilly Ann Sanchez, Esq.