

Memorandum



Subject

Re: Jeffrey Epstein Investigation

Date

July 26, 2011

To

[REDACTED], First Assistant U.S. Attorney

From

[REDACTED]

I. Introduction

This memorandum summarizes the conflict of interest related to the investigation by the Federal Bureau of Investigation ("FBI") of additional crimes committed by Jeffrey Epstein ("Epstein"). The memo begins with a brief overview of the original investigation of Epstein, dubbed "Operation Leap Year"; summarizes the resolution of Operation Leap Year by the Southern District of Florida; and addresses the events following the resolution of Operation Leap Year, including the basis for the conflict. Lastly, the memo briefly addresses the additional crimes that the FBI wants to investigate.

II. "Operation Leap Year"

The investigation of Jeffrey Epstein initially was undertaken by the City of Palm Beach Police Department in response to a complaint received from the parents of a 14-year-old girl, [REDACTED], from Royal Palm Beach. When [REDACTED] and another girl began fighting at school because the other girl accused [REDACTED] of being a prostitute, one of the school principals intervened. The principal searched [REDACTED] purse and found \$300 cash. The principal asked [REDACTED] where the money came from. [REDACTED] initially claimed that she earned the money working at "Chik-Fil-A," which no one believed. [REDACTED] then claimed that she made the money selling drugs; no one believed that either. [REDACTED] finally admitted that she had been paid \$300 to give a massage to a man on Palm Beach island. [REDACTED] parents approached the Palm Beach Police Department ("PBPD") about pressing charges.

PBPD began investigating the recipient of the massage, Jeffrey Epstein, and two of his assistants, [REDACTED] and [REDACTED]. PBPD identified 27 girls who went to Epstein's house to perform "massage services" (not including one licensed massage therapist). The girls' ages ranged from 14 years' old to 23 years' old. Some girls saw Epstein only once and some saw him dozens of times. The "massage services" performed

also varied. Some girls were fully clothed while they massaged Epstein; some wore only their underwear; and some were fully nude. During all of these massages, Epstein masturbated himself and he would touch the girl performing the massage, usually fondling their breasts and touching their vaginas – either over their clothing or on their bare skin. Epstein often used a vibrator to masturbate the girls and digitally penetrated a number of them. For the girls who saw him more often, Epstein graduated to oral sex and vaginal sex. Epstein sometimes brought his assistant/girlfriend, [REDACTED], into the sexual activity. One of the girls described [REDACTED] as Epstein's "sex slave".

On October 18, 2005, PBPD obtained a search warrant with the assistance of the Palm Beach County State Attorney's Office ("PBSAO"). By this time, PBSAO had already been contacted by Epstein's cadre of lawyers. When PBPD arrived at Epstein's home two days later (10/20/05) to execute the search warrant, they found several items conspicuously missing. For example, computer monitors and keyboards were found, but the CPUs were gone.¹ Similarly, surveillance cameras were found, but they were disconnected and the videotapes were gone. Nonetheless, the search did recover some evidence of value, including message pads showing messages from many girls over a two year span. The messages show girls returning phone calls to confirm appointments to "work." Messages were taken by three of Epstein's "personal assistants."

Photographs taken inside the home showed that the girls' descriptions of the layout of the home and master bedroom/bathroom area were accurate. PBPD also found massage tables and oils, the high school transcript of one of the girls, and sex toys.

In sum, the PBPD investigation showed that girls from Royal Palm Beach High School would be contacted by one of Epstein's assistants to make an appointment to "work." Up to three appointments each day would be made. The girls would travel to Epstein's home in Palm Beach where they would meet Epstein's chef and Epstein's assistant—usually [REDACTED]—in the kitchen. The assistant would escort the girls upstairs to the master bedroom/bathroom area and set up the massage table and massage oils. The girl sometimes was instructed to remove her clothing. The assistant would leave and Epstein would enter the room wearing a robe. He would remove the robe and lie face down and nude on the massage table. Epstein would then instruct the girl on what to do and would ask her to remove her clothing. After some time, Epstein would turn over, so that he was lying face up.

¹During a meeting, two of Epstein's attorneys, Gerald Lefcourt and Lilly Ann Sanchez, admitted that attorney Roy Black instructed Epstein to have the CPUs removed although they insisted that those instruction were given well in advance of the execution of the search warrant – not in response to a "leak."

Epstein would masturbate himself and fondle the girl performing the massage. When Epstein climaxed, the massage was over, and the girl was instructed to get dressed and to go downstairs to the kitchen while Epstein showered. Epstein's assistant would be in the kitchen and the girl would be paid—usually \$200—and if it was a “new” girl, the assistant would ask for the girl's phone number to contact her in the future.² Girls were encouraged to find other girls to bring with them. If a girl brought another girl to perform a “massage,” each girl would receive \$200. Each time a girl returned to the house, Epstein would pressure the girl to go further sexually, advancing to oral sex and sexual intercourse. Epstein would pay more for these acts – in the words of one girl, “the more you do, the more you make.”

The PBPD investigation consisted primarily of sworn taped statements from the girls. When PBPD began having problems with PBSAO, they approached the FBI. The investigation was formally presented to the FBI and to the U.S. Attorney's Office after PBSAO “presented” the case to a state grand jury and the state grand jury returned an indictment charging Epstein only with one felony count of solicitation of [adult] prostitution.

After the matter was presented to the U.S. Attorney's Office and there was a determination that federal statutes had been violated, FBI, ICE, and the U.S. Attorney's Office opened files. The federal investigation focused on the interstate nexus required for all of the federal violations, so a number of grand jury subpoenas were issued for telephone records, flight manifests, and credit card records. The federal agents also re-interviewed some of the girls. The agents delved into Epstein's history and interviewed other girls and obtained records to corroborate the girls' stories. FBI also interviewed girls who came forward after the PBSAO indictment was reported in the papers and the additional girls identified through those interviews.

The attempt to handle secretly the federal case was doomed from the start when the Chief of the Palm Beach Police Department gave a letter to each of the victims identified through his investigation telling them that, because of his disappointment in the way that the PBSAO had handled the case, the matter had been referred to the FBI. Almost immediately, Epstein's attorneys began calling to request a meeting with the U.S. Attorney's Office. When one attorney was unable to schedule a meeting, Epstein hired another attorney who called up the chain of command until someone agreed to a meeting.

Between January and May 2007, an indictment package was prepared, charging Epstein and three of his personal assistants with a number of child exploitation offenses. The

²Sometimes Epstein made the payment and asked for the phone number, sometimes it was the assistant.

case agent made several appearances before the grand jury. Attorneys for Epstein made several presentations to the U.S. Attorney's Office to convince the Office not to prosecute, and made allegations of prosecutorial misconduct against the line Assistant and the First Assistant U.S. Attorney. Epstein also challenged the legal analysis behind the prosecution, both within the U.S. Attorney's Office (up to the U.S. Attorney) and to the Child Exploitation and Obscenity Section at the Justice Department. All of Epstein's challenges were considered and rejected.

III. The Resolution of "Operation Leap Year"

On September 24, 2007, Epstein signed a Non-Prosecution Agreement wherein the U.S. Attorney's Office for the Southern District of Florida promised not to prosecute Epstein for the crimes that were the subject of the grand jury investigation if: (1) he pled guilty to two crimes in state court – the state felony prostitution charge and a state charge of procuring minors into prostitution, which would require Epstein to register as a sex offender; (2) he were sentenced to at least 18 months' imprisonment, and (3) he agreed to pay damages to the victims of his offenses. After signing this Agreement, Epstein and his counsel decided that they were dissatisfied with its terms, and again complained to the Justice Department, seeking review to the Deputy Assistant Attorney General and the Deputy Attorney General.

After those attempts also failed, on June 30, 2008, Epstein entered his guilty plea in state court and began serving his sentence.

IV. Post-Resolution Events

A few days before the plea and sentencing (in state court those occur on the same day), the Assistant U.S. Attorney handling the matter contacted counsel for three of Epstein's identified victims and informed him of the upcoming court date, encouraging his clients to attend and be heard. They did not appear. On July 7, 2008, two of those victims filed suit against the United States in federal court claiming that their rights had been violated under the Crime Victims' Rights Act because they had not been consulted before the Office entered into the Non-Prosecution Agreement. (This will be referred to as the "CVRA Action.")

After an initial flurry of activity, the Petitioners obtained a copy of the confidential Non-Prosecution Agreement, and the Court ordered that it be shared with all of the identified victims. After it was provided, the Petitioners and most of Epstein's victims focused on their civil suits against him.

In 2009, the U.S. Attorney's Office in Fort Lauderdale initiated an investigation into

a Ponzi scheme operated by Scott Rothstein through his law firm. As part of his Ponzi scheme, Rothstein told investors that his law firm represented several of Epstein's victims and that Epstein was willing to pay huge sums of money to avoid exposing his criminal activities. The attorney representing the victims in the CVRA Action, Brad Edwards ("Edwards"), worked at the Rothstein firm. Epstein sued Edwards, alleging that Edwards was part of the Ponzi scheme, and alleging that Edwards' attempts to subpoena some of Epstein's high-powered friends were done to increase the value of the Ponzi scheme, rather than for legitimate discovery purposes.

In the summer of 2010, most of the civil suits against Epstein were settled, including the suits filed by the two victims in the CVRA Action. All of the settlements were confidential, so it is unknown how much each of the victims received.

In September 2010, U.S. District Judge Kenneth Marra, who handled most of the civil cases and the CVRA Action, issued an Order closing the CVRA Action. Almost immediately thereafter, the Petitioners filed a Motion to Reopen, stating that they had obtained discovery through their civil suits against Epstein that showed that the U.S. Attorney's Office had violated their rights as victims.

For several months, attempts were made to resolve the matter. In short, the victims have asked that the U.S. Attorney's Office disavow the Non-Prosecution Agreement, on the basis that the CVRA was violated, and bring charges against Epstein. Edwards has said that one of his clients repeatedly calls and asks him when Epstein is going to jail. One of the other attorneys on the case has suggested that emails he considers to be embarrassing to the Office will not be disclosed if we re-open our investigation of Epstein and prosecute him.

Herein lies the conflict. If the U.S. Attorney's Office for the Southern District of Florida re-initiates a grand jury investigation of Jeffrey Epstein, it will be perceived – correctly or incorrectly – as having been done at the insistence of the victims in the CVRA Action. And Epstein will allege that any prosecution arising therefrom will have been undertaken in an effort to resolve the CVRA Action, not based upon the merits of the investigation itself.

V. The FBI's Current Investigation

The main focus of the FBI's current investigation is a victim, [REDACTED], who refused to speak with agents during the "Operation Leap Year" investigation. Based upon her debriefing, Epstein engaged in several additional crimes, in the Southern District of Florida and, more importantly, in several other Districts, with [REDACTED] and other minor females.

Epstein transported [REDACTED] in his private airplanes to engage in sexual activity with him. Epstein also “pimped” [REDACTED] to several of his other important friends, and transported her to those sexual encounters. This activity was not part of the initial investigation.

[REDACTED] also reported that, during the “Operation Leap Year” investigation, she was contacted by Epstein’s investigators, lawyers, and Epstein himself, and offered payment to remain silent when contacted by the police.

FBI agents are seeking grand jury subpoenas at this time to corroborate [REDACTED] statement. They also are asking for permission to approach one of Epstein’s “personal assistants,” who was served with a target letter during the “Operation Leap Year” investigation, to give her a “de-target” letter and interview her.