

February 7, 2019

[REDACTED]  
Director and Chief Counsel  
U.S. Department of Justice  
Office of Professional Responsibility  
950 Pennsylvania Ave., N.W., Suite 3266  
Washington, DC 20530-0001

Re: OPR Investigation into the Non-Prosecution of Jeffrey Epstein

Dear Director [REDACTED]

I write to you in connection with the recent announcement that your Office of Professional Responsibility, at the request of Senator Sasse, has opened an investigation into allegations that Department attorneys may have committed professional misconduct in connection with their decision not to federally prosecute Jeffrey Epstein for sex crimes against dozens of girls.

I am not certain whether you are aware that, on December 10, 2010, I wrote a letter to the then-U.S. Attorney for the Southern District of Florida, requesting an investigation into these very same issues. See attachment 1. My letter was referred to OPR, who then wrote back to me that they would not investigate the matter because it was under litigation. See attachment 2.

In light of the fact that you are now apparently willing to investigate these issues, I respectfully request that you investigate the allegations I made in my 2010 letter. I would also request that [REDACTED] and I – who have been representing several of Epstein’s sexual assault victims for more than a decade in an effort to obtain information on these issues – have an opportunity to discuss the issues with you. Our clients – including Jane Doe 1, Jane Doe 2, Jane Doe 3, and Jane Doe 4 – would also request that they be kept informed about all information the OPR uncovers.

Thanks in advance for considering these requests, which I make in my own personal capacity.

Sincerely,

[REDACTED]

cc: Senator Ben Sasse

## ATTACHMENT 1

Letter from [REDACTED] to U.S. Attorney Ferrer (Dec. 10, 2010)

December 10, 2010

Wifredo A. Ferrer  
United States Attorney  
Southern District of Florida  
99 N.E. 4<sup>th</sup> Street  
Miami, FL 33132

Re: Request for Investigation of Jeffrey Epstein Prosecution

Dear Mr. Ferrer:

I am writing as someone with extensive experience in the federal criminal justice system – as a former Associate Deputy Attorney General, Assistant United States Attorney, federal judge, and currently criminal law professor – to alert you to what seems to be the most suspicious criminal case I have ever encountered. I ask that you investigate whether there were improper influences and actions during your office's criminal investigation of Jeffrey Epstein, particularly regarding the decision to enter into a binding non-prosecution agreement blocking his prosecution for numerous federal sex offenses he committed over many years against more than thirty minor girls.

As I am sure you are well aware, in 2006 your office opened a criminal investigation with the FBI into allegations that for years Jeffrey Epstein sexual abused dozens of minor girls in his West Palm Beach mansion. The FBI soon developed compelling evidence that Epstein had in fact committed numerous federal sex offenses with more than 30 minor girls. And yet, your office ultimately entered into a plea arrangement which allowed Epstein escape with a non-prosecution agreement that ensured he would have no federal criminal liability and would spend no more than 18 months in state jail. For sexual offenses of this magnitude – in a case with more than 30 witnesses providing interlocking testimony, all made automatically admissible by virtue of Fed. R. Evid. 414 – this is an extraordinary outcome.

Why did your office enter into this highly unusual non-prosecution arrangement with Epstein? Suspicion begins with the point that Epstein is a politically-connected billionaire. But that wouldn't be troubling without considerable other evidence that something went terribly wrong with the prosecution for other, improper reasons. Consider the following highly unusual facts:

First, it appears that Epstein was tipped off before the execution of a search warrant at his home. We know that lead state police officers -- Detective [REDACTED] and Police Chief [REDACTED] -- complained that the house was "sanitized" by the time they arrived to serve a search warrant for child pornography. This sanitation was evident by the various computer wires hanging with no computers attached. Housekeeper [REDACTED] later testified in a civil

deposition that Epstein's assistant, [REDACTED] and another man (unknown) were instructed to remove, and did in fact remove, multiple computers from Epstein's home shortly before the search warrant was served. The fact that there could well have been a tip off is apparently suspected by federal authorities.

Second, there is evidence that one of the senior prosecutors in your office joined Epstein's payroll shortly after important decisions were made limiting Epstein's criminal liability – and improperly represented people close to Epstein. During the federal investigation of Epstein, [REDACTED] was a senior Assistant U.S. Attorney in your office. As we understand things, he was a direct supervisor of the line prosecutor handling the case and thus was well aware of details of the Epstein investigation and plea negotiations. We further believe that he was consulted on issues related to the prosecution of Epstein and Epstein's co-conspirators, including specifically issues related to whether Epstein employees and pilots should be prosecuted for their involvement in Epstein's sexual offense. We further believe that he personally and substantially participated in making such decisions about the course of the criminal investigation.

Within months after the non-prosecution agreement was signed by your office, [REDACTED] left your office and immediately went into private practice as a white collar criminal defense attorney. His office coincidentally happened to be not only in the same building (and on same floor) as Epstein's lead criminal defense counsel, [REDACTED] but it was actually located right next door to the Florida Science Foundation -- an Epstein-owned and -run company where Epstein spent his "work release."

While working in this office adjacent to Epstein's, [REDACTED] undertook the representation of numerous Epstein employees and pilots during the civil cases filed against Epstein by the victims – cases that involved the exact same crimes and exact same evidence being reviewed by the U.S. Attorney's office when he was employed there. Specifically, he represented [REDACTED] (Epstein's number one co-conspirator who was actually named as such in the NPA), his housekeeper [REDACTED], his pilots [REDACTED] and Robert Roxburgh. ([REDACTED] and Roxburgh were not deposed but the others were.) Our understanding is that his representation of these individuals was paid for, directly or indirectly, by Epstein.

[REDACTED] was well aware of what evidence your office and federal investigator had collected against Epstein and about the minor girls who were his victims. As a consequence, he knew what evidence the attorneys for the victims were using. He also knew what each of those witnesses had said, if anything, to federal and state investigators during the criminal investigation.

We have been unable to place our fingers on the federal regulations governing such later representation. We do know, however, that such actions appear to be in direct contravention of the Florida ethical rules regarding attorneys who leave government employment. For

example, Florida R. Prof. Conduct 4-1.11(a) provides “[a] lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee unless the appropriate government agency consents after consultation.” Similarly, Florida R. Prof. Conduct 4-1.11(b) provides that “[a] lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person.” Both these rules appear to have been violated. But entirely apart from the details of ethical rules, the fact that one of your prosecutors was involved in making important decisions about the scope of criminal liability for Epstein and his associates and then – after criminal liability was significantly limited – representing numerous people at Epstein’s behalf raises serious questions. At the very least, there is the strong appearance that [REDACTED] may have attempted to curry favor with Epstein and then reap his reward through favorable employment. At the very worst, there may have been advance discussions – we simply don’t know at this point.

Third, Epstein appears to have deliberately kept from victims in the case correspondence with your office and the Justice Department that might have shed light on improper influences. Along with other capable attorneys, I was involved in representing one of Epstein’s victims ([REDACTED]) who filed a federal civil case against Epstein. Suspecting that Epstein may have improperly influenced your office, we immediately served discovery requests on Epstein for all the correspondence with your office regarding the plea negotiations. Eleven months of hard litigation ensued, in which Epstein made every conceivable argument against production. Finally, late in June of this year, his appeals exhausted, Epstein produced the correspondence to us. However, in violation of the court order, he redacted the correspondence so that he provided only emails and other statements *from* your office – not his emails and statements to your office. More significantly, even though he was under court order to produce all correspondence between his attorneys and your office, Epstein secretly withheld correspondence by several of his most high-powered attorneys – namely Ken Starr and Lilly Ann Sanchez. Epstein settled the case with [REDACTED] within days after this limited production, and we did not realize the absence of what must have been critical discussions between your office and Starr and Snachez (among others). Epstein’s refusal to allow us to see that information raises the suspicion in our minds that there must have been unusual pressures being brought to bear during the plea discussions that would have been revealed had Epstein complied with his production obligations.

Fourth, there appears to have been an unprecedented level of secrecy between your office and the Federal Bureau of Investigation during this case. The FBI was responsible, along with state and local police agencies, for building the case against Epstein. They appear to have developed an overwhelming criminal against him. And yet, when your office signed the non-prosecution agreement with him, it is not clear to us that the FBI was consulted about this decision. Indeed, we have suspicions that the FBI was not informed of this decision until, perhaps, months later.

Supporting this suspicion is our on-going litigation regarding the treatment of the victims in this case. As you know from our draft pleadings that we have discussed with your office, we believe there is compelling evidence that the victims and their attorneys were deceived about the existence of a non-prosecution agreement for months in order to avoid what certainly would have been a firestorm of controversy about such lenient treatment of a repeat sex offender. Our impression from the evidence we have been able to obtain so far is that the FBI was similarly kept in the dark – not consulted about or even told about the NPA. While a certain amount of tension has always existed between federal prosecuting and investigating agencies, not even informing the FBI about the Epstein NPA seems highly unusual.

All of these strange facts -- as well as the facts that we are alleging in our crime victims' litigation -- lead us to think that there was something rotten with the way this case was handled. Epstein could have faced years and years in prison for numerous federal sex offenses. And yet he managed to contrive to walk away with no federal time at all (and only minimal state time). We respectfully ask you to investigate through appropriate and independent channels the handling of the Epstein (non)prosecution.

Thank you in advance for considering this request. I would be happy to provide any other additional information that would be useful to you.

Sincerely,

A large black rectangular redaction box covering the signature area.

## **ATTACHMENT 2**

Letter from U.S. Department of Justice Office of Professional Responsibility to  
Professor Paul Cassell (May 6, 2011)



**U.S. Department of Justice**

Office of Professional Responsibility

950 Pennsylvania Avenue N.W., Room 3266  
Washington, D.C. 20530

MAY - 6 2011

Professor Paul G. Cassell  
S.J. Quinney College of Law  
The University of Utah

[REDACTED]  
Salt Lake City, Utah 84112-0730

Dear Professor Cassell:

Your letter dated December 10, 2010 to United States Attorney Wifredo A. Ferrer was forwarded to the Office of Professional Responsibility (OPR). OPR has completed an inquiry into your allegation of professional misconduct by the United States Attorney's Office for the Southern District of Florida (USAO) in the criminal investigation of Jeffrey Epstein. Specifically, you question whether "improper influences" resulted in the USAO's decision to enter into a non-prosecution agreement with Mr. Epstein.

Most, if not all, of the allegations set forth in your letter are currently being litigated on behalf of victims under the Crime Victim's Rights Act in *Jane Doe #1 and Jane Doe #2 v. United States*, Case No. 08-80736-Civ-Marra/Johnson (S.D. Fla.). OPR has jurisdiction to investigate allegations of misconduct involving Department of Justice (DOJ) attorneys or law enforcement personnel that relate to the exercise of an attorney's authority to investigate, litigate or provide legal advice. It is, however, the policy of this Office to refrain from investigating issues or allegations that were, are being, or could have been addressed in the course of litigation, unless a court has made a specific finding of misconduct by a DOJ attorney or law enforcement personnel or there are present other extraordinary circumstances. Based on our review of your correspondence, and the pleadings filed in the *Doe* case, we have determined that your allegations fall into this category. No court has made a finding of misconduct and there are no extraordinary circumstances.

We regret that we can be of no further assistance to you. Thank you for bringing this matter to our attention.

Sincerely,

[REDACTED]  
[REDACTED]  
Counsel