

# Dual Prosecution (Petite Policy)

USAM 9-2.031

Policy and Statutory Enforcement Unit  
Office of Enforcement Operations  
Criminal Division  
E-Mail: [REDACTED]  
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Date of Submission: 6/11/2009

Date Response Requested/Required: 6/16/2009

If Required in Less than 10 Business Days, Please Explain Why:

Need to proceed quickly on indictment

**\*If Required in Less than 48 hours, Please Call PSEU**

AUSA/Contact Name: [REDACTED]

Phone: [REDACTED]

District: Florida - South

Fax: [REDACTED]

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If additional space is needed for an item, please include the information in a document attached to the e-mail generated by pressing the 'Submit by E-Mail' button below or type the information directly into the body of the e-mail. You also have the option to print and/or save the form.

Name of Defendant: Jeffrey Epstein

Initiation or Continuation of Prosecution?: Initiation

Describe Act(s) or Transaction(s) that Resulted in the Prior State or Federal Prosecution (include dates, charges and outcome):

This form seeks a determination that the Petite policy does not apply or approval for a Petite policy waiver in the matter of Operation Leap Year ("OLY"). OLY is an investigation of a number of individuals involved in enticing minor girls into prostitution and illicit sexual activity. The lead target is Jeffrey Epstein ("Epstein"), a wealthy businessman who used his personal assistants to locate and recruit minors to come to Epstein's residence to give "massages" that involved sexual activity. In 2005 and 2006, Epstein was investigated by the Town of Palm Beach Police Department ("PBPD") after the parent of a 14-year-old girl ("█") reported the activity to the police. █ had gone to Epstein's Palm Beach residence on one occasion to give a "massage." She was told, "the more you do, the more you make." When █ arrived at Epstein's home, she was led upstairs to his bedroom by one of Epstein's assistants. Epstein entered and told her to undress. After █ massaged Epstein's back while he lay face down, Epstein turned over onto his back and began masturbating while fondling and digitally penetrating █. After he ejaculated, Epstein paid \$300 to █, asked █ to leave her telephone number so she could be contacted again, and left the room. PBPD's investigation identified more than a dozen underage girls who had gone to Epstein's home under similar circumstances, including a girl with initials "█."

PBPD presented the case to the Palm Beach County State Attorney's Office for prosecution. PBPD became concerned when it appeared that pressure was brought to bear on the State Attorney's Office and asked the FBI for assistance. The State Attorney's Office indicated that Epstein would be charged only with a misdemeanor and would be allowed to enter a pre-trial diversion-type program that would have resulted in no criminal record. When PBPD threatened to go to the press, the State Attorney's Office took the very unusual step of presenting the case to a state grand jury. (In Florida, state grand juries are required only for homicides and capital crimes and are otherwise very rarely used.) The Assistant State Attorney presented only a small part of the evidence against Epstein, and the state grand jury returned a single-count indictment charging Epstein with solicitation of adult prostitution on July 19, 2006. Before returning the indictment, the state grand jury heard testimony from █ and █ and one police officer, who was asked about █ and █. None of Epstein's assistants was charged with any offense.

(Continued on separate page.)

If the Prior Prosecution Resulted in a Decision on the Merits that was Not a Conviction, Please Indicate the Reason for this Result:

n/a

Possible Federal Offense(s), Evidence and Sentence (include specifics regarding determination as to sentence under guidelines):

Title 18, United States Code, Sections 371 (conspiracy), 1591(a) (sex trafficking of minors), 2422(b) (use of a facility of interstate commerce to entice minors into prostitution and illicit sexual conduct), 2423(b) (travel to engage in illicit sexual activity with minors), 2423(d) (facilitating travel of another to engage in illicit sexual conduct), and 2423(e) (conspiracy to violate 2423(b)).

At the time that these acts were committed, there was a mandatory minimum of five years' imprisonment for each violation of 18 U.S.C. 2422(b). Using the November 1, 2004 Sentencing Guidelines Manual, each violation of section 1591, 2422(b) and 2423(b), carried a base offense level of 24, pursuant to 2G1.3. Each offense has a two-level enhancement because the offense involved sexual contact, so that each count has an adjusted offense level of 26. Under Chapter 3, the offenses do not group because they involve separate victims. Accordingly, because there were more than 5 units, 5 levels are added, resulting in an Offense Level of 31. Epstein would be classified as a Repeat and Dangerous Sex Offender against Minors, under 4B1.5, resulting in a total offense level of 36. With a criminal history category of I, the advisory guideline range is 188 to 235 months, followed by lifetime supervised release.

Substantial Federal Interest(s) in Matter and Why It Has Not Been Vindicated by Prior Proceedings:

This case involved the targets' use of facilities of interstate commerce to entice minors to engage in illicit sexual behavior and prostitution, and the defendants' interstate travel to have sex with minors. These crimes fall within the Justice Department's focus on child exploitation offenses and human trafficking. Epstein's ability to commit these offenses was enhanced by his ready ability to move from state to state. Epstein and his assistants focused on girls from lower socio-economic classes, who were not previously involved in illicit sexual conduct but were lured into the sex trade by Epstein. Many have suffered extreme psychological trauma from the experience. (Continued on separate page.)

Prior Related Request(s) Submitted to PSEU (if any):

None

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**Name of Authorizing U.S. Attorney**

**\*Please attach any supplemental documentation to the e-mail request. If more space is required than is provided on this form, please include it as an attached document or in the body of the e-mail request.**

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Last Update: 09/08

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