

From: "[REDACTED] (USAFLS)"
To: "[REDACTED] (USAFLS)" <[REDACTED]>
Bcc: "[REDACTED] (USAFLS)" <[REDACTED]>

Subject: RE: Epstein

Date: Fri, 13 Jul 2007 19:14:20 +0000

Importance: Normal

Hi [REDACTED] -- My trial is over, so I now have to time to focus back on this case and our e-mail exchange. There are several points in your e-mail that I would like to address, and I also would like to address where we are in the case.

First, I wanted to address the comment about jumping the chain of command. After that concern was brought to my attention several months ago, I have tried very hard to be cognizant of the chain of command, and, as was evident at the meeting with Epstein's attorneys, [REDACTED] and I have discussed the case extensively. My original e-mail asking for everyone's input was addressed to [REDACTED], you, and [REDACTED], and [REDACTED] was cc'd. ([REDACTED] and I also have discussed the case in great detail.) The response to your e-mail was addressed only to you because I thought you would want to discuss privately our disagreement. It was addressed to [REDACTED] as well because you said that you had [REDACTED] Blackberry and it was a holiday when you would be out of the office. If there is a particular instance of violating the chain of command that you would like to discuss, I would be happy to discuss it with you.

Second, the reason why I sent the original e-mail to everyone was to see if anyone had any objections to the proposed language. I waited several days to send out the e-mail to [REDACTED] to get everyone's response. In your response, you did not raise any concerns, nor did anyone else. [REDACTED]

[REDACTED], [REDACTED], you, and I all have discussed the greater flexibility of a pre-indictment plea.

The statement that I have not respected [REDACTED] position regarding the prosecution of the case demonstrates why you hear the frustration in the tone of my e-mail. For two and a half months I have been asking about what that position is. I have asked for direction on whether to revise the indictment, whether there are other issues that [REDACTED] wants addressed prior to deciding, whether there is additional investigation that needs to be done, etc. None of that direction has been forthcoming, so I am left with a grand jury, victims, and agents all demanding to know why we aren't presenting an indictment. Perhaps that lack of direction is through no fault of yours, but I have been dealing with a black box, so I do not know to whom I should address my frustration. My recollection of the original meeting with [REDACTED] and [REDACTED] is quite different than your summary. In that meeting, I summarized the case and the State Attorney's Office's handling of it. I acknowledged that we needed to do work to collect the evidence establishing a federal nexus, and I noted the time and money that would be required for an investigation. I said that I was willing to invest that time and the FBI was willing to invest the money, but I didn't want to get to the end and then have the Office be intimidated by the high-powered lawyers. I was assured that that would not happen. Now I feel like there is a glass ceiling that prevents me from moving forward while evidence suggests that Epstein is continuing to engage in this criminal behavior. Additionally, the FBI has identified two more victims. If the case is not going to go forward, I think it is unfair to give hope to more girls.

As far as promising the FBI that an indictment was a foregone conclusion, I don't know of any cases in the Office where an investigation has been opened with the plan NOT to indict. And I have never presented an indictment package that has resulted in a declination. I didn't treat this case any differently. [REDACTED]

[REDACTED]

[REDACTED]

Lastly, I was not trying to "dictate" a meeting with the U.S. Attorney or anyone else. I stated that I "would like" to schedule a meeting, asking to have the same courtesy that was extended to the defense attorneys extended to the FBI and an Assistant in the Office. With respect to your questions regarding my judgment, I will simply say that disagreements about strategy and raising concerns about the forgotten voices of the victims in this case should not be classified as a lapse in judgment. This Office should seek to foster spirited debate about the law and the use of prosecutorial discretion, and I think that those debates do occur with other AUSAs. I know of past instances where disagreements about the application of the law to different defendants and defense attorneys has resulted in a call for the resignation of the AUSA who dared to challenge the Executive Office's conclusions. I found that very disheartening and hoped that this Administration would be different. However, my first and only concern in this case (and my other child exploitation cases) is the victims. If our personality differences threaten their access to justice, then please put someone on the case whom you trust more, and who will also protect their rights.

In the meantime, I will be meeting with the agents on Monday to begin preparing a revised indictment package containing your suggestions on the indictment and responding to the issues raised by Epstein's attorneys. [REDACTED] and I have discussed the most recent letter and noted the disingenuousness of their arguments. For example, they would like to use a linguist to establish the plain meaning of "using" in connection with "knowingly persuading," but they want us to disregard the plain meaning of "mail or any facility or means of interstate or foreign commerce" and instead treat that language as though it says only "the internet." They have simply ignored binding precedent from the Eleventh Circuit and the Supreme Court in making their arguments about the Commerce Clause and the interpretation of 2242(b). If there are any specific issues that you or the U.S. Attorney would like to see addressed, please let me know.

Again, this e-mail has been addressed only to you, but if you would like to share it with anyone else in Miami or here, please feel free.

I hope that you have a nice weekend.

[REDACTED]

[REDACTED]
Assistant U.S. Attorney

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

From: [REDACTED] (USAFLS)
Sent: Thursday, July 05, 2007 3:30 PM
To: Villafana, Ann [REDACTED] C. (USAFLS); Sloman, [REDACTED] (USAFLS)
Cc: Lourie, Andrew (USAFLS)
Subject: RE: Epstein

[REDACTED]

Both the tone and substance of your email are totally inappropriate and, in combination with other matters in the past, it seriously calls your judgment into question.

As you well know, the US Attorney has not even decided whether to go forward with a prosecution in this matter, thus you should have respected his position before engaging in plea negotiations.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] It has come to my attention that you led the agents to believe that the indictment of this matter was a foregone conclusion and that our decision to put off that date and listen to the defense attorneys' concerns is indicative of the office having second thoughts about indicting. As you well knew, you were never given authorization by anyone to seek an indictment in this case.

[REDACTED] called me before, not after, the June 26th meeting. It was an informal discussion and not in the nature of an official plea offer but rather a feeling out by both sides as to what it might take to resolve the matter.
[REDACTED]
[REDACTED]

[REDACTED] As you and the agents conceded, had Epstein been convicted of a felony that resulted in a jail sentence and sex offender status, neither the FBI nor our office ever would have interceded. You should also know that my discussion with [REDACTED] was made with the US Attorney's full knowledge. Had [REDACTED] expressed interest in pursuing this avenue further, I certainly would have raised it with all the interested individuals in this case, including you and the agents. In any event, I fail to see how a discussion that went nowhere has hurt our bargaining position. I am also quite confident that no one on the defense team believes that the federal investigation in this matter has been for show.

Nor are your arguments that I have violated the Ashcroft memo, the USAM or any other policy well taken. As Chief of the Criminal Division, I am the person designated by the US Attorney to exercise appropriate discretion in deciding whether certain pleas are appropriate and consistent with the Ashcroft memo and the USAM -- not you.

As for your statement that my concerns about this case hurting Project Safe Childhood are unfounded, I made it clear to you that those concerns were voiced by the US Attorney. Whether or not you are correct, matters of policy are always within his purview and any decisions in that area ultimately rest with him.

Finally, you may not dictate the dates and people you will meet with about this or any other case. If the US Attorney or the First Assistant desire to meet with you, they will let you know. Nor will I direct Epstein's lawyers to communicate only with you. If you want to work major cases in the district you must understand and accept the fact that there is a chain of command - something you disregard with great regularity.

[REDACTED]

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

From: Villafana, Ann [REDACTED] C. (USAFLS)
Sent: Wednesday, July 04, 2007 5:16 PM
To: Sloman, [REDACTED] (USAFLS); [REDACTED] (USAFLS)
Subject: FW: Epstein

Hi [REDACTED] -- I am in trial, so I just got your message.

First, it is inappropriate for you to enter into plea negotiations without consulting with me or the investigative agencies, and it is more inappropriate to make a plea offer that you know is completely unacceptable to the FBI, ICE, the victims, and me. These plea negotiations violate the Ashcroft memo, the U.S. Attorney's Manual, and all of the various iterations of the victims' rights legislation. Strategically, you have started the plea negotiations as though we are in a position of weakness, anxious to make the case go away, by telling the defense that we will demand no federal conviction. We left the meeting on June 26th in a stronger position than when we entered, and your statement that a state resolution would satisfy us takes away that advantage. If you make it seem like the U.S. Attorney doesn't have faith in our investigation, Epstein has no incentive to make a deal.

Second, your discussion makes it appear that my investigation is for "show" only and completely undermines my ability to deal with Epstein's attorneys directly. In my eight years of civil practice (before the six years that I have spent with this Office), I have litigated against attorneys far more formidable than [REDACTED] and [REDACTED] and have managed to convince the Eighth, Ninth, and Federal Circuits that my legislative interpretation was correct. Your concerns about this prosecution hurting the rest of the Project Safe Childhood Program are unfounded.

My trial should end early next week. I would like to make a presentation to the U.S. Attorney, [REDACTED], [REDACTED], and you with our side of the investigation and a revised indictment. The presentation will address the points raised by Epstein's counsel and will convince you all of the strength of the case.

In the meantime, please direct all communications from Epstein's counsel to me.

[REDACTED]
Assistant U.S. Attorney
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

From: Sloman, [REDACTED] (USAFLS)
Sent: Tuesday, July 03, 2007 1:47 PM
To: Villafana, Ann [REDACTED] C. (USAFLS)
Subject: Epstein

[REDACTED], my blackberry is giving me trouble so i'm using [REDACTED]. I told lily that a state plea with jail time and sex offender status may satisfy the usa. It was a non-starter for them
[REDACTED]

Sent from my GoodLink synchronized handheld (www.good.com)