

**From:** "[REDACTED]. (USAFLS)"

**To:** "Jay Lefkowitz" <[REDACTED]>

**Subject:** RE: Draft Agreements?

**Date:** Tue, 18 Sep 2007 17:22:22 +0000

**Importance:** Normal

**Attachments:** 070918\_12.22\_pm\_Plea\_Agreement\_1512\_counts.wpd

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Hi Jay – I think that you are referring to USSG 1B1.9, which doesn't apply to Class A misdemeanors. If you have some other basis, please let me know.

Could you share the attached draft with your colleagues. It is in keeping with what [REDACTED] communicated to me was the operative "deal." The U.S. Attorney hasn't had a chance to review all of the language, but agrees with it in principle. The only thing we haven't been able to discuss is the highlighted language regarding the state sentence. I believe that takes care of your client's concern about having to serve "duplicate" time in the state, and our concern about getting the state guilty plea wrapped up at the beginning rather than years down the road.

[REDACTED] and I will both be available at 2:00. You can reach us at [REDACTED]. One of my suggestions is going to be (again) that we all sit down together in the same room, including Barry and/or Lanna, so we can hash out the still existing issues and get a signed document.

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

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**From:** Jay Lefkowitz [mailto:[REDACTED]]

**Sent:** Tuesday, September 18, 2007 1:04 PM

**To:** [REDACTED]. (USAFLS)

**Subject:** Re: Draft Agreements?

Can you check? I believe that under 1512(d), which is a misdemeanor, one doesn't cross reference underlying offenses.

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

**From:** "[REDACTED]. (USAFLS)" [REDACTED]

**Sent:** 09/18/2007 12:43 PM AST

**To:** Jay Lefkowitz

**Subject:** RE: Draft Agreements?

Hi Jay – It looks like I will be here all afternoon, but earlier is better than later. There are a number of issues with your version, but one that you can look at before our call is the calculation of the guidelines on the 1512(d) counts. The cross-reference to 2X3.1 applies, which then takes us to 2G1.3. Giving Mr. Epstein the benefit of the doubt (that they would treat this as though there were only one victim), he would have a base offense level of 24, plus 2 for a commercial sex act, totaling 26. Returning to 2X3.1, we would subtract 6 levels and subtract

another 3 levels for acceptance for a total offense level of 17. With criminal history category of I, that results in 24 to 30 months, which is in Zone D.

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

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**From:** Jay Lefkowitz [mailto:[REDACTED]]  
**Sent:** Tuesday, September 18, 2007 12:11 PM  
**To:** [REDACTED]. (USAFLS)  
**Subject:** RE: Draft Agreements?

[REDACTED] -- are you free for a call this afternoon? what time works best for you?

Thanks -- Jay

"[REDACTED]. (USAFLS)"  
<[REDACTED]>

To "Jay Lefkowitz" <[REDACTED]>  
cc  
Subject RE: Draft Agreements?

09/18/2007 09:14 AM

Hi Jay – I know that the U.S. Attorney will not go below 18 months of prison/jail time (and I would strongly oppose the suggestion).

[REDACTED]  
Assistant U.S. Attorney  
500 S. Australian Ave, Suite 400  
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Phone [REDACTED]  
[REDACTED]

**From:** Jay Lefkowitz [mailto:[REDACTED]]  
**Sent:** Tuesday, September 18, 2007 8:59 AM  
**To:** [REDACTED]. (USAFLS)  
**Subject:** Re: Draft Agreements?

an alternative to what we discussed just now might be to plead to one count of 1512, serve 12 months plus supervised release which would be one year of home detention (if we can make that work), followed by two years of probation in the state on the state charges with the first 6 months being community control.

"[REDACTED]. (USAFLS)" <[REDACTED]>

09/18/2007 08:44 AM

To "Jay Lefkowitz" <[REDACTED]>  
cc  
Subject Draft Agreements?

Hi Jay – I was hoping there would be things for me to read this morning, but I will try to remain patient.

I believe there are only two types of agreements that would apply to this case: (1) a plea agreement to a federal charge or charges; and (2) a non-prosecution agreement (which is really a deferred prosecution agreement because the defendant agrees that if he violates the agreement, the U.S. can prosecute him).

A plea agreement is part of the court file. It is not accessible on-line via PACER, but someone can go to the Clerk's Office to obtain a copy.

A non-prosecution agreement would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA request, but it is not something that we would distribute without compulsory process.

On the obstruction charges, many of the facts I included in that first proffer were hypothesized based upon our discussions and the agents' observations of [REDACTED]. We will need to interview her to confirm the accuracy of those facts. On a second count, we could rely on the incident where Mr. Epstein's private investigators followed [REDACTED] father, forcing him off the road. Or, if there is something more recent related to any grand jury subpoenas, we could consider that.

Hope that helps.

[REDACTED]

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone [REDACTED]

[REDACTED]

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