C. General

1. As to all of the foregoing matters, identify any disagreements or concerns expressed by government personnel as to these matters, the parties involved, how the disagreements were resolved, and any concerns you had about any such resolution and the individuals, if any, with whom you discussed your concerns.

I raised a multitude of concerns during the investigation, negotiations, and enforcement periods. They ranged from the explicit – my July 2007 email exchange with [redacted] about his violations of the USAM, CVRA, and Ashcroft Memo (Exhibit 3) – to the subtle – repeated requests to just meet with the victims. Here is one especially poignant request from January 31, 2008:

> Hi [redacted] and [redacted] - We just finished interviewing three of the girls. I wish you could have been there to see how much this has affected them.
>
> One girl broke down sobbing so that we had to stop the interview twice within a 20 minute span. She regained her composure enough to continue a short time, but she said that she was having nightmares about Epstein coming after her and she started to break down again, so we stopped the interview.
>
> The second girl, who has a baby girl of her own, told us that she was very upset about the 18 month deal she had read about in the paper. She said that 18 months was nothing and that she had heard that the girls could get restitution, but she would rather not get any money and have Epstein spend a significant time in jail.
>
> The FBI's victim-witness coordinator attended and she has arranged for counseling for several of the girls.
>
> Please reach out to [redacted] to make her decision. These girls deserve so much better than they have received so far, and I hate feeling that there is nothing I can do to help them.
>
> We have four more girls coming in tomorrow. Can I persuade you to attend?

(Exhibit C-1.)

Many of the disagreements have been catalogued above, but I will try to collect them into general categories in chronological order.

a. I did not want to meet with counsel for Epstein (Lilly Ann Sanchez and Gerald Lefcourt) prior to completing my investigation. My co-counsel ([redacted]) agreed with me. Our supervisor, [redacted], overruled us.

b. AUSA [redacted] and I did not want to have a subsequent meeting with another set of attorneys for Epstein, including Lilly Ann Sanchez, Gerald Lefcourt, Alan Dershowitz, and Roy Black, that would also include Criminal Chief [redacted]. Over my objections, [redacted] also instructed me to provide defense counsel with a list of the federal statutes that we had under consideration. [redacted] asked me to provide *all* of my evidence to the defense and only withdrew that instruction when I reminded him that federal statutes

protected child victims' identities. I told my supervisor, [redacted], my concerns and that I thought I should ask to have the case reassigned, and she counseled against it (Exhibit C-4).

c. [redacted], the agents, and I all tried to impress upon the others that, due to the nature of the crimes under investigation, time was of the essence – Epstein was accused of committing sexual offenses against dozens of minor girls. Our expert witness, as well as our own experience, led us to believe that Epstein would not cease his criminal behavior voluntarily. We also knew that Epstein was continuing to travel extensively using his private airplanes, and that he would have the ability to flee to a jurisdiction that did not extradite if he knew that charges were coming. At one point in May 2007, after the indictment had been reviewed on several levels, we knew where Epstein would be and I asked to arrest him on a criminal complaint. Criminal Chief [redacted] responded that he was "having trouble understanding – given how long this case has been pending – what the rush is." (Exhibit C-5). There was another instance a month or two later where we knew that Epstein was traveling to serve as a judge for a beauty contest and I again asked for permission to prepare a criminal complaint. Criminal Chief [redacted] denial of the request was even more emphatic.

d. In July 2007, [redacted] and I exchanged strong words when he reported that he had engaged in plea negotiations without the input or knowledge of the agents, victims, or myself (Exhibit 3). My objections included:

   i. The failure to meet and consult with the victims, agents, and me before deciding what plea offer to extend.

   ii. Offering a plea to a state offense. There was never any explanation of why a federal investigation would be resolved with a state plea, and I understood that a state plea would remove all control over the plea and sentencing procedure.

   iii. Starting the negotiations at only 24 months' imprisonment, which was unreasonably low and not in keeping with any of the federal crimes under investigation.[30]

   iv. Sending the message to defense counsel that plea negotiations would be handled by the executive division rather than the line prosecutor and the West Palm Beach supervisory team.

e. From the beginning of the federal investigation, the agents and I had pushed to get the computer equipment that Epstein had removed from his home prior to the execution of the state search warrant. When Epstein's counsel had stated that Epstein wanted to "cooperate" with the federal investigation, we asked that they turn it over voluntarily; they never did. We sought it via grand jury subpoena and they moved to quash the subpoena. Every time the matter was set for a hearing, Epstein's counsel would ask the Office to agree

[30] [redacted] responsive email in July 2007, suggested that, in light of the statement by [redacted] that 24 months' imprisonment was a "non-starter," we would be able to re-set plea negotiations at a higher number, but that never happened.

to "continue" the hearing pending our "plea negotiations." I repeatedly recommended moving forward on the computer equipment because it was obvious that they did not want to turn it over and the equipment likely contained hard evidence of travel, contact with victims, obstruction of justice, and possibly child pornography offenses. Instead, the Office continuously agreed to put off the hearing and even when Epstein's attorneys tried to use the existence of the pending motion to quash as a basis to stay some of the victims' civil suits.

f. Once I was informed that I had to devise a plea agreement with a sentencing cap of 24 months' imprisonment, I drafted a plea to a conspiracy to violate 18 U.S.C. § 2422, in violation of 18 U.S.C. § 371 – one of the crimes that had been the subject of the investigation and that was included in the indictment. That crime was a felony with a five-year statutory maximum, and the guidelines would have exceeded the five-year max, so the plea agreement would have had to be a binding plea pursuant to Fed. R. Crim. P. 11(c)(1)(C), which is what I drafted. I was informed by [redacted] that USA [redacted] did not want to do a (c)(1)(C) plea, so I had to find charges that would result in a two-year statutory maximum. This resulted in me having to research misdemeanors and find facts that would fit those misdemeanors. I thought it was totally inappropriate. Luckily, [redacted] finally stepped in and told Lefkowitz that we would not agree to a misdemeanor charge unrelated to the crimes that we had investigated.

g. Throughout the drafting of the NPA, every time Jay Lefkowitz and I reached an impasse, he and/or Ken Starr would appeal to [redacted], [redacted], or [redacted], making it impossible to hold a firm line or keep a singular negotiating strategy. I tried to work from the Office's standard plea agreement language, but even after language was agreed to, it would be rewritten by [redacted].

    i. I strenuously objected to the reduction of the prison term from 24 months to 18 months.

    ii. I objected to the clear efforts at delay for no reason other than delay (for example, going back and forth from a federal plea to a state plea and back to a federal plea – all the while asking me to provide copious drafts).

    iii. At various points, it was apparent that Epstein was not engaging in good faith plea negotiations and I asked to terminate the negotiations and proceed to indictment. Every time, [redacted] refused. For example, near the end of the negotiations, Mr. Lefkowitz tried to "slip in" a citation to a different state crime that did not require sex offender registration. When I brought this to Mr. Lefkowitz's attention, he admitted that, despite their explicit agreement that Mr. Epstein would plead guilty to a crime that required sex offender registration, they originally believed that the crimes listed in the NPA did not require registration. When they realized their error – and the Epstein would, indeed, have to register, they tried to replace the statute with a different one. This was the clearest example of bad faith amongst many, yet I was told that I had to continue working with Mr. Lefkowitz to finalize the agreement. USA [redacted] told me that he did not want to punish Epstein for the bad behavior of his attorneys – even though Epstein clearly was directing every aspect of his defense.

iv. I told FAUSA [redacted] and USA [redacted] that I did not want to sign the NPA because I did not think that it was "my" agreement. USA [redacted] asked me to sign it.

h. After the NPA was signed, USA [redacted] continued to concede points that had already been decided. For example, he agreed to the preparation of the Addendum. He then made a number of concessions regarding the letter to the Special Master, including a statement that we would not vouch for the veracity of the victims, despite the fact that these were victims that we intended to include in an indictment. These were all areas that were the subject of a signed, binding agreement. On October 5, 2007, and October 23, 2007, I against asked for permission to proceed to indictment (Exhibits C-6, C-7).

i. After the Addendum was signed, USA [redacted] wrote in the 12/19/2007 letter to Lilly Ann Sanchez that he had "considered defense counsel arguments regarding the Section 2255 portions of the Agreement. . . . During the course of negotiations [our] intent was reduced to writing in Paragraphs 7 and 8, which as I wrote previously, appear far from simple to understand." (Exhibit B-19). I raised concerns about undermining an Agreement entered into by our Office and giving away one of the protections that had been negotiated for the victims – representation by an attorney selected by the Special Master.

j. I raised concerns about delays in entering Epstein's guilty plea and sentencing. These were portrayed as "professional courtesies" but it quickly became obvious that the NPA was signed with no intention of actual performance – it was simply a way for Epstein to buy time to avoid indictment and intimidate victims.

k. I raised objections to the multiple "appeals" to DC and the delays that those entailed. USA [redacted] explained that "every defendant" has the right to appeal to DC and raise federalism concerns. I explained that the objections should have been raised prior to signing the NPA, not after, and, if they were legitimate "policy questions," Epstein should agree that he would not use the time to harass and intimidate victims.

l. As detailed above, after the NPA was signed, the agents and I repeatedly raised concerns about the Office's deference to the defense's objections to providing notification to the victims of the resolution of the investigation and the date and time of the Epstein's plea and sentencing.

m. On February 26, 2008, I learned that, if CEOS conducted its review and concluded the federal prosecution of Epstein was appropriate, the Office was going to allow Epstein to plead guilty pursuant to the NPA with no additional terms or conditions, despite the fact that additional victims had been located during the ongoing investigation. I wrote to FAUSA [redacted] and expressed my view that this was an unjust result (Exhibit B-115). I re-raised this objection every time the Office allowed Epstein another opportunity to maintain the benefits of the NPA even as he was attacking the NPA's legitimacy.

n. On March 19, 2008, I informed the supervisory chain up to FAUSA [redacted] of the toll that the delay was taking on the victims and the grand jury. In particular, one of the grand jurors had told another that he was concerned that we were going to "whitewash" the case and not charge it. Epstein was using the delay to harass the victims, and one of the victims tried to commit suicide. I wrote how the "FBI's victim-witness coordinator is doing her

best to get counseling for all of our needy victims, but I just can't stress enough how important it is for these girls to have a resolution in this case. The 'please be patient' answer is really wearing thin, especially when Epstein's group is still on the attack while we are forced to wait on the sidelines. Your guidance is needed." (Exhibit C-2) I followed up on March 19 and 22, 2008 to let everyone know that Epstein was subpoenaing victims and was using particularly aggressive means of service – having the Sheriff's Office serve the subpoenas at the places of work, calling them into the Dean's Office at their colleges, etc. I explained that Epstein was issuing these subpoenas in the context of the state criminal case – even though these victims were not named victims in the state criminal case, and I asked FAUSA [redacted] to try to have Epstein's attorneys stop this contact as it was inconsistent with Epstein's alleged interest in resolving the matter (Exhibit C-3). I do not believe that anyone contacted Epstein's attorneys about this. I worked to secure pro bono counsel for as many victims as possible so that Epstein would only be able to contact them through counsel (*id.*). My concerns about the victims' mental health were brought to the attention of management in emails and telephone calls throughout the entire period from 2006 through 2008 and probably into 2009.

o. Even after Epstein enter his guilty plea and was sentenced, there were a number of material breaches. Every time I tried to enforce the agreement and enforce the Office's authority to proceed to indictment, the Office would accept Epstein's excuse that he received "bad advice" from his attorneys and then he would "cure" the breach. With regard to the work release, either Roy Black or Jay Lefkowitz informed me that USA [redacted] had agreed, after the NPA was signed, that Epstein would be allowed to participate in work release like any other state prisoner – in direct contravention of discussions and communications that [redacted] and I had with the defense. I was not allowed to invoke this as a breach.

2. Identify any occasion during which you were or felt pressured, intimidated, threatened, coerced, or in any other manner inappropriately influenced to take a position or action in the Epstein case with which you disagreed or which caused you concern, and the individuals, if any, with whom you discussed such concerns.

Throughout this memo, I have listed a number of disagreements. In broad categories, I disagreed with: (1) meeting with defense counsel before the investigation was completed and disclosing to them our charging strategy; (2) members of the Executive Division engaging in plea and strategy discussions outside the presence of the prosecution team and encouraging defense counsel to avoid the prosecution team; (3) entering into pre-indictment plea negotiations; (4) agreeing to delay the litigation regarding Epstein's computer equipment while pursuing plea negotiations; (5) entering into an agreement deferring federal prosecution; (6) entering into any agreement that required a sentence of only 18 months' (or even 24 months') imprisonment; (7) agreeing to a length of a sentence and then trying to find a charge with a statutory max to match; (8) reaching an agreement without conferring with the victims, the agents, or even the prosecution team; (9) refusing to hear from/meet with the victims even after meeting repeatedly with Epstein's representatives; (10) during the drafting of the NPA, allowing Epstein's attorneys to complain directing to the First Assistant and U.S. Attorney when they were dissatisfied with answers from the line AUSA and West Palm Beach supervisors; (11) repeatedly overruling my efforts to hold Epstein to the original terms, including reducing the term of imprisonment from 24 months down to 18; (12) dismissing my repeated warnings that the attorneys were not negotiating in good faith

and were delaying for strategic reasons; (13) repeatedly ceding our discretion to the defense, for example, agreeing that they could review and comment on victim notification letters and decide whether or not we could provide notice; (14) even after the NPA was signed, continuing to water it down, with the Addendum, the 12/19/07 [redacted] letter, and then later offering Epstein the option of not having to provide the attorney-representative for the victims; (15) refusing to allow the agents and I to notify the victims about the terms of the NPA and about the change of plea; (16) allowing Epstein to continue to enjoy the benefits of the NPA even after he failed to promptly perform its terms and filed specious delays in order to try to negotiate better terms or win a battle of attrition; (17) refusing to defend me from the false allegations of prosecutorial misconduct; (18) refusing to step in and protect the victims from harassment from Epstein's attorneys when Epstein was "appealing" to DC; and (19) allowing Epstein to repeatedly breach the NPA and then claim that he just got bad advice from his lawyers and "cure" the breaches.

At various times during the investigation, negotiations, etc., I spoke with a number of people about my disagreements with the Office, including my supervisor, [redacted], my co-counsel, [redacted], Special Agents [redacted] and [redacted], AUSAs [redacted], [redacted], [redacted], and DOJ Trial Attorneys [redacted] and [redacted]. On several occasions, I drafted emails about re-assigning the case because the Office's handling of the matter was so contrary to my methods. I shared at least one of these with [redacted] (Exhibit C-4). She counseled against sending it. The agents asked me not to leave the case because they believed that, if I left, the case would simply disappear. I couldn't disagree with them.

Criminal Chief [redacted] response to my email in July 2007 was, in my mind, inappropriate and meant to intimidate. It is, quite frankly, unheard of, for a Criminal Chief to engage in plea negotiations without the line AUSA's knowledge, much less blessing. And the offer that was made was inexplicable. To this day, I do not understand the NPA – 24 months/18 months – it is a completely random amount of time. Allowing a federal defendant to plead guilty to state charges also is completely unheard of. No one has ever explained to me where the idea originated from. For [redacted] to suggest that my judgment was questionable or that I was unable to handle "major" cases was obviously meant to "put me in my place." In my July 13, 2007 response to [redacted], I wrote:

> 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. I know of other 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 find that very disheartening. 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.

After my response to [redacted], I know that he spoke with [redacted], who was Chief of Appeals at the time, about moving me to the Appellate Section.

The results of the disagreements catalogued above were communicated to me (orally or via e-mail) as decisions of the Executive Division. They sometimes followed extensive debate. They

sometimes followed no debate. I was sometimes heard on the issue; other times I knew nothing about it until I received the directive. There were times that I learned of communications between defense counsel and the Executive Division where concessions were made only after the decision was made. Many of these decisions were incorrect, in my opinion, but I did not believe that they were illegal. As a line AUSA, I was duty bound to follow the directives of the U.S. Attorney, which I did. I do not know that following a direct order from the Executive Division would qualify as coercion – even if it follows very strong objections.

I felt strongly that we should have conferred with the victims before entering into the NPA and that we should have informed them of the change of plea and sentencing. I felt strongly that Epstein's attorneys were given unprecedented access to members of the Executive Division, and that the victims were given no access -- I could not even talk with them about plea negotiations or notify them about the plea hearing. At one point, my assistant and I had letters and envelopes ready to be stuffed and put through the franking machine and we received notice from Miami that they could not go out. While I felt that conferring was the right thing to do, as noted above, the AG Guidelines vest discretion in the U.S. Attorney, so I could not say that USA [redacted] decision was illegal. I also believed that, because the resolution of the federal case rested on Epstein's state guilty plea, the federal victims were entitled to notice of the state hearing. But I could not say that USA [redacted] decision that the CVRA was limited to notice of *federal* proceedings was illegal.

I think that pressure was brought in more subtle ways. For example, I believe that one of the reasons why USA [redacted] did not take an aggressive stance against the prosecutorial misconduct claims against me was because he disliked my insistence on pushing the case forward.

After the NPA was signed, USA [redacted] recommended that I transfer to the Civil Division. I agreed to meet with them and talk about their work. Despite USA [redacted] recommendation, I decided not to follow his recommendation, and I stayed in the criminal division.

My Background

[JONATHAN TO ADD]