

Witness Immunity



Memorandum

Subject
Prosecution Memorandum
In re Operation Leap Year

Date
June 17, 2008

To
R. Alexander Acosta
U.S. Attorney

From
[Redacted] a [Redacted]
Assistant U.S. Attorney

[Redacted]
First Assistant U.S. Attorney

for approval

[Redacted]
Deputy Chief, Criminal Division

[Redacted], Chief [Redacted]
Northern Division

I. INTRODUCTION

This memorandum seeks approval for the attached Request for Authorization to Apply for a Compulsion Order seeking Immunity pursuant to 18 U.S.C. Sections 6001-6003 for witness [Redacted] in connection with the ongoing investigation named "Operation Leap Year."

II. BACKGROUND

Operation Leap Year involves the investigation of Jeffrey Epstein and five of his assistants, [Redacted], [Redacted] (née [Redacted]), [Redacted], Lesley Groff, and [Redacted].¹ The targets would arrange "sexual massages" for Epstein when he would travel to Palm Beach or New York, and many of those "sexual massages" were performed by minor females. Witness [Redacted] began her relationship with Epstein as a "masseur" when she was under the age of 18. After performing massages for a period of time, [Redacted] began recruiting other girls to perform massages. It is believed that [Redacted] received \$200 for each girl she brought to Epstein's home.

¹ The investigation originally focused on the first three assistants who traveled with Epstein to Florida. Upon interviewing two identified New York victims, we determined that the last two assistants, Groff and [Redacted], arranged most of Epstein's New York massages.

██████████ has been approached by the FBI to provide information via an informal proffer with a "Kastigar letter" or testifying before the grand jury with a "pocket immunity" letter. ██████████ is represented by counsel in New York. ██████████ has never spoken to any law enforcement officer about what happened between her and Epstein. We believe that ██████████ counsel is independent of Epstein (unlike some attorneys who have represented other witnesses), but he has stated that ██████████ will not meet with agents or the Office or testify before the grand jury without full immunity. Counsel has told me that, if immunized, ██████████ is ready and willing to provide complete information regarding her dealings with Epstein.

On the one hand, I am reluctant to provide ██████████ with immunity because I do not believe that she needs it. It appears that the majority of her dealings with Epstein occurred before she was 18, our Office is not interested in prosecuting her, FBI New York is assisting FBI West Palm Beach in connection with the investigation, so a federal prosecution in New York is not forthcoming, and it is unlikely that the State of New York will open an investigation and charge ██████████. However, it has been widely reported that the Palm Beach Police Department prepared a "probable cause affidavit" to charge a similar victim/recruiter in Florida, ██████████, with a second-degree felony. ██████████ name also appears in a number of Complaints in the civil lawsuits filed against Epstein. In the most recent draft of the Indictment, we have listed ██████████ and Miller as unindicted coconspirators, which will make it easier to introduce their statements to Epstein and the assistants. Depending on ██████████ testimony, we may need to treat her similarly.

III THE NEED FOR THE WITNESSES' TESTIMONY AND THE REQUESTED IMMUNITY.

The most difficult part of this prosecution will be proving the knowledge and intent of the targets. For example, ██████████ could assert that she knew that she was setting up massages for Epstein, but she believed that they were regular massages. All of the targets are likely to aver that they did not know that the girls were under the age of 18. ██████████ helps us with this proof in several ways. First, she was victim whom we believe became involved with Epstein when she was only fourteen years' old, and her young age can help disprove lack of knowledge by Epstein and his assistants. Second, we believe that ██████████ was a significant recruiter for Epstein, so she will be able to tell us what instructions she received from him and the assistants regarding the types of girls to recruit, what was expected of them, etc. Third, she provides us with a strong entrée into the New York situation, which strengthens the "interstate commerce" nexus of the case. Fourth, ██████████ is likely to have dealt most closely with Epstein's New York assistants, Groff and ██████████. The best way to strengthen our case at this point is to "flip" one of the assistants, and Groff is the most likely to flip if we have sufficient evidence to charge her. ██████████ is another potential cooperator, but we have heard from another witness that ██████████ had done something to upset Epstein and he "shipped her off" to the Middle East to work for one of his companies there.

The U.S. Attorney's Manual recommends prosecuting witnesses in a situation such as this and getting their cooperation as part of a plea bargain. Our evidence against ██████████ at this time is

weak. We have statements from two victims who say that they went to Epstein's house with [REDACTED]. We have two telephone messages from [REDACTED] that were recovered in the search of Epstein's home. At this time we do not have any records of telephone calls between [REDACTED] and the assistants (we have not identified [REDACTED] cell phone number during the relevant period). Thus, the likelihood of succeeding on such a prosecution is very small. Furthermore, a decision to prosecute [REDACTED] could result in a refusal by many more girls to come forward because the majority of the identified girls brought other girls to Epstein, so all of them would feel at risk.

IV. RECOMMENDATION

For these reasons, I recommend that the attached Request for Authorization to Apply for Compulsion Order on behalf of [REDACTED] be submitted to the Witness Immunity Unit.

d. approu

U.S. Department of Justice

Request for Authorization to Apply for Compulsion Order
(18 U.S.C. 6001-6003; 28 CFR 0.175-0.178)

INSTRUCTIONS: Prepare and Submit Original and One Copy. Answer Each Question as Accurately and Completely as Possible.

TO: Witness Immunity Unit
Criminal Division, Rm. 1056
1001 G Street, N.W.
Washington, D.C. 20530
PHONE NO: (202) 514-5541
TELEFAX NO: (202) 514-1468

FROM: AUSA A. Marie Villafañia
United States Attorney's Office
500 S. Australian Ave, Suite 400
West Palm Beach, Florida 33401
PHONE NO: (561) 209-1047
TELEFAX NO: (561) 820-8777

- (1) Name of Witness: [REDACTED] (2) District: **Southern District of Florida**
- (3) Nature of Proceeding:
 Trial
 Grand Jury
 Other
- (4) Name of Subject(s) or Defendant(s): **Jeffrey Epstein, [REDACTED], [REDACTED], [REDACTED], Lesley Groff, [REDACTED]**
- (5) Date of Testimony (two weeks lead time required): **July 1, 2008**
- (6) Proffer of Anticipated Testimony:
 None Obtained Proffer by Witness Debriefing of Witness
 Proffer by Counsel Pursuant to Plea Agreement Statement in other proceeding
- (7) Summary of Case or Proceeding: **The grand jury investigation is related to interstate travel with intent to engage in illicit sexual conduct, use of a means of interstate commerce to induce or entice a minor to engage in prostitution and sexual activity, sex trafficking, and related offenses. In short, Epstein used his assistants— [REDACTED], [REDACTED], and [REDACTED]— to arrange “dates” with underage girls to come to his home to perform sexual acts.**
- (8) Witness' Background and Role in Case or Matter and Summary of Anticipated Testimony or Information:
[REDACTED] was a victim (she was paid to perform sexual acts when she was under 18) and also was paid

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to bring girls to Epstein, thus [REDACTED] could be classified both as a victim and as a co-conspirator. Her testimony will relate to how she was first introduced to Epstein; the type of sexual activity that he engaged in with the girls; the co-conspirators' knowledge of the ages of the victims and the sexual activity that was occurring with Epstein; and the method for arranging the "appointments" with the girls and the recruitment of additional girls.

- (9) Witness' Family Relationship, if any, to the Subject(s) or Defendant(s): **None**
- (10) Assurances or Promises, if any, to Witness in Return for this Testimony: **None.**
- (11) Acts of Witness Considered as a Waiver of Fifth Amendment Privilege: **None.**
- (12) Means Other than Immunity to Obtain this Testimony: [REDACTED] has been asked to appear before a grand jury or to attend a proffer session. [REDACTED] attorney has stated that [REDACTED] will not appear unless compelled to do so and will assert her Fifth Amendment privilege in response to questions.
- (13) Basis Other than Proffer for Summary of Anticipated Testimony: **Statements of other witnesses, telephone records, and items seized during search of Epstein's home.**
- (14) Relative Culpability of Witness Compared to Subject(s) or Defendant(s): [REDACTED] could be charged as a coconspirator or aider/abettor during the period when she was recruiting other girls; however, she also qualifies as a victim during the period when she was engaging in sexual activity and while she was a minor. We believe that [REDACTED] was a minor during the majority of the time she was involved with Epstein. In terms of her relative culpability, [REDACTED] is less culpable than the targets of the investigation. Epstein and his assistants paid the girls for their sexual activity and arranged his schedule of appointments.
- (15) Why Immunity is Necessary to the Public Interest: State Facts. Epstein is believed to have engaged in sexual activity with at least 36 girls ranging in age from 14 to 18 years old. This activity occurred over a two-year period and some girls were contacted as many as 60 times. To prosecute successfully Epstein and his assistants, we must prove that Epstein and the assistants intended that Epstein engage in this sexual activity *before* he traveled to the Southern District of Florida or returned to New York, and, for certain charges, that he knew or reasonably should have known that the girls were under 18. [REDACTED], who was both a victim and a "recruiter," is in the best position to testify regarding those intentions.

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- (16) Basis for Belief that Witness Will Assert Fifth Amendment Privilege: **As explained above, the witness's attorney has informed the undersigned that she will assert her Fifth Amendment Privilege.**
- (17) Likelihood that Witness Will Testify if Immunity is Granted: **High. The witness's attorney has stated that the witness will appear and answer questions if immunity is granted.**
- (18) Prosecution of Witness in this Case or Matter:
- Yes No Acquitted Convicted Plea
- If not indicted, why not? If convicted, has the witness been sentenced? **Witness has not been indicted because she is more properly classified as a victim. As explained above, she could be charged as a co-conspirator during the period that she recruited girls, but it is believed that her testimony is more important than charging her with those offenses because she also is a victim of the offense.**
- (19) Witness' Privilege Survives Because: **Witness' testimony will relate in part to her recruitment of underage girls to engage in sexual activity with Epstein.**
- (20) Witness is Presently Incarcerated: Yes No
- If yes, give details:
- (21) Pending Federal or Local Charges against Witness:
- Yes No If yes, give details:
- (22) Federal and State Offenses by Witness that Her Testimony Could Disclose: **Conspiracy to travel in interstate commerce to engage in illicit sexual conduct; conspiracy to use a means of interstate commerce to induce a minor to engage in sexual activity.**
- (23) Opposition, if any, to Granting Immunity by State or Local Prosecuting Officials: **None**
- (24) Effect, if any, of Granting Immunity to the Witness Upon Any Other Federal District: **None**
- (25) Conviction of Witness Possible on Evidence Other than His Own Testimony?

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() Yes () No If yes, give details: **Not applicable.**

(26) Violations (Statutes & Descriptions) by Subject(s) or Defendant(s): **For all targets: 18 U.S.C. § 2423(b) (travel with intent to engage in illicit sexual conduct); 18 U.S.C. § 371 (conspiracy); 18 U.S.C. § 2422(b) (use of a means of interstate commerce to entice a minor to engage in sexual activity); 18 U.S.C. § 1591(a) (sex trafficking).**

(27) Witness Previously Immunized? () Yes (X) No If yes, give details:

(28) Witnesses for whom Immunity has been Authorized in this Proceeding: [redacted] **and Tatum Miller (two other girls who were both victims and recruiters).**

(29) Date Investigation Began: **July 2006**

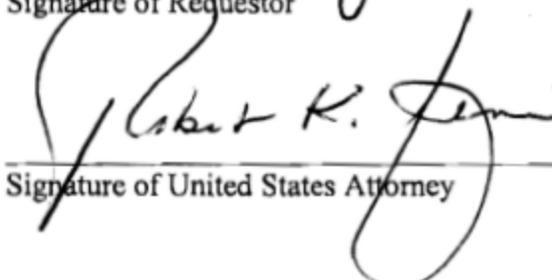
(30) Witness Subject to Electronic Surveillance? () Yes (X) No If yes, give details:

(31) Birth Date of Witness: **6/29/88** (32) FBI I.D. No.:
(33) Birthplace: **Brazil** (34) Social Security No.: **None**
(35) Alias: **Married name is [redacted]**
(36) Address of Witness: **4103 31st Avenue, Astoria, NY 11103**

(37) If Requestor is Department Attorney, Has United States Attorney Been Notified? () Yes () No **Not applicable.**



Signature of Requestor



Signature of United States Attorney

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