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MEMORANDUM

CONFIDENTIAL

TO: ADA Lisa Friel, Chief, Sex Crimes Unit
ADA Jennifer Gaffney, Deputy Chief, Sex Crimes Unit
ADA Patrick Egan, Sex Crimes Bureau and Trial Bureau 40

FROM Jay P. Lefkowitz, P.C.
Sandra Lynn Musumeci

DATE October 7, 2010

SUBJECT: SORA Determination for Jeffrey E. Epstein, NYSID # OSI909,
Supreme Court Case # 30129-2010

Jeffrey Epstein ~~is~~, a 57-year old financial advisor and philanthropist who maintains his primary residence in the U.S. Virgin Islands where he spends the majority of his time. He spends limited time at but owns a vacation homes in Manhattan, New Mexico and Florida. In connection with his vacation home in Manhattan, he ~~has been advised that he~~ is required to register as a sex offender in New York under SORA by virtue of a single conviction for a prostitution-related offense, committed in Florida ~~(where he also owns a vacation home)~~ dating back to 2005.

On June 30, 2008, Mr. Epstein pleaded guilty in the Circuit Court for Palm Beach County, Florida under an Information to the charge of Procuring a Person Under 18 for Prostitution, in violation of Fla. Stat. § 796.03.¹ Mr. Epstein, who has never before been convicted of a crime, accepted responsibility for the offense alleged in the Information his conduct -- which involved a consensual arrangement in which, at some unspecified times during a fourteen month period alleged in the Information, he received massages and engaged in sexual touching in exchange for money with A.D., a young woman over the age of consent under New York law for all but two months of the fourteen month period during which this conduct is alleged to have occurred, but just under 18 for all but two of the fourteen months when the offense cited in the Information allegedly occurred. -- and agreed to a sentence which required him to serve thirteen months in jail, followed by one year of community control in Florida.

Since his release from incarceration, Mr. Epstein previously registered as a sex offender in Florida (the state of his offense) when he was a full-time resident of that state. More importantly, Mr. Epstein is registered with the authorities of the U.S. Virgin Islands, where he actually maintains his primary residence and spends the majority of his time. He has registered

¹ Jeffrey Epstein concurrently pleaded guilty to an Indictment charging him with one count of Felony Solicitation for Prostitution, Fla. Stat. § 796.07(2)(f), (4)(c). This charge does not involve any sexual contact with underage women and is not a registerable offense under Florida or New York law. See Fla. Stat. § 943.0435; N.Y. Correction Law § 168-a(2)(a).

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and keeps his registration current under that jurisdiction's Sexual Offender and Community Protection Act.² See 14 V.I.C. § 1721 et seq.. Notably, the Virgin Islands -- which arguably has the greatest incentive to keep a watchful eye on Mr. Epstein, since that is where he spends the bulk of his time -- only requires Mr. Epstein to register with authorities *once annually* for the next fifteen years. See 14 V.I.C. § 1724(d), (e). Under the Virgin Island's registration scheme, Mr. Epstein qualifies at the lowest level, and accordingly, he is registered as a "sex offender," as opposed to a "habitual sexual offender" or "sex predator," which would trigger more onerous reporting requirements. See Virgin Islands Sexual Offender/Sexual Predator Registration Form, August 9, 2010 (Exhibit D);³ see also 14 V.I.C. §§ 1722(b), 1724(d). Moreover, the Virgin Islands explicitly mandates that should Mr. Epstein move out of the U.S. Virgin Islands, he must register his new address with the U.S. Virgin Islands Department of Justice before leaving, and must also register with his new state of residence within 10 days. See 14 V.I.C. § 1724(c). In short, the U.S. Virgin Islands, as the jurisdiction with primary oversight of Jeffrey Epstein, maintains firm supervision over Mr. Epstein's whereabouts. And in that jurisdiction's judgment, Mr. Epstein does not pose sufficient risk of reoffense to merit a high level of monitoring.

In addition to his registration in the U.S. Virgin Islands and Florida, Mr. Epstein is also registered in New Mexico, a State which specifically advised Mr. Epstein's counsel that Mr. Epstein's registration is not required under New Mexico Law. Since his release from incarceration, Mr. Epstein has ~~previously registered as a sex offender in Florida (the state of his offense), as well as in his home jurisdiction of the U.S. Virgin Islands and in New Mexico, where he has been told that registration was not a state requirement in his case. (where he owns a vacation property).~~ Significantly, ~~all of all of~~ these jurisdictions, upon considering the offense and conduct which triggered Mr. Epstein's duty to register, determined that Mr. Jeffrey Epstein posed a minimal risk to society, and accordingly imposed upon him their lowest reporting obligations. (In fact, as stated above, ~~New Mexico determined that Mr. Epstein need not register under that state's sex offender registration law at all.~~) The low-level risk determinations made by these three separate jurisdictions are entirely appropriate, given the location of Mr. Epstein's primary residence in the United States Virgin Islands, his history and personal characteristics, the circumstances of the offense which triggered the registration requirement, his acceptance of responsibility, his successful completion of a jail sentence and subsequent supervision in Florida, and the extraordinary improbability that he will ever re-offend in any state.

More importantly, Mr. Epstein is registered with the authorities of the U.S. Virgin Islands, where he actually maintains his primary residence. He has registered and keeps his registration current under that jurisdiction's Sexual Offender and Community Protection Act.⁴

² For the avoidance of doubt, the U.S. Virgin Islands is one of the principal territories of the United States (along with Puerto Rico, Guam, American Samoa, and the Northern Mariana Islands), and accordingly is a "covered jurisdiction" subject to and covered by the federal Sexual Offender Registration and Notification Act (SORNA), 42 U.S.C.A. § 16901 et seq..

³ The attached registration form (Exhibit D), is Mr. Epstein's most recent registration form, filed on August 9, 2010 when he returned to the U.S. Virgin Islands upon completing his period of community control in Florida. Mr. Epstein first registered with Virgin Island authorities upon his release from incarceration.

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~~See 14 V.I.C. § 1721 et seq.~~ Notably, the Virgin Islands -- which arguably has the greatest incentive to keep a watchful eye on Mr. Epstein, since that is where he spends the bulk of his time -- only requires Mr. Epstein to register with authorities *once annually* for the next fifteen years. ~~See 14 V.I.C. § 1724(d), (e).~~ Under the Virgin Island's registration scheme, Mr. Epstein qualifies at the lowest level, and accordingly, he is registered as a "sex offender," as opposed to a "habitual sexual offender" or "sex predator," which would trigger more onerous reporting requirements. ~~See Virgin Islands Sexual Offender/Sexual Predator Registration Form, August 9, 2010 (Exhibit D);⁵ see also 14 V.I.C. §§ 1722(b), 1724(d).~~ Moreover, the Virgin Islands explicitly mandates that should Jeffrey Epstein move out of the U.S. Virgin Islands, he must register his new address with the U.S. Virgin Islands Department of Justice before leaving, and must also register with his new state of residence within 10 days. ~~See 14 V.I.C. § 1724(e).~~ In short, the U.S. Virgin Islands, as the jurisdiction with primary oversight of Jeffrey Epstein, maintains firm supervision over Mr. Epstein's whereabouts. And in that jurisdiction's judgment, Mr. Epstein does not pose sufficient risk of reoffense to merit a high level of monitoring.

New York has even less of a basis to adjudge Mr. Epstein as anything other than the lowest level offender -- Level 1 under SORA -- than do ~~the U.S. Virgin Islands and Florida and the U.S. Virgin Islands~~. Whereas Mr. Epstein maintains his permanent residence in the Virgin Islands and spends most of his time there, and Florida was the site of the offense which triggered Mr. Epstein's reporting duty under that state's sex offender registration statute, ~~Mr. Jeffrey Epstein's~~ duty to register under SORA in New York is based solely on the fact that he owns a vacation home here. More significantly, as set forth in detail within this memorandum, the sole offense which has triggered Mr. Epstein's duty to register under SORA in New York would have been, at most, a misdemeanor if committed in New York instead of Florida. Furthermore, there is compelling reason to believe that such an offense would not even be registerable under New York law, given a lack of evidence about the specific age of the victim at the time of the relevant conduct -- an issue that was immaterial under the relevant Florida statute but which is critical to determining the applicability of SORA under New York law. Based on all of these factors, Mr. Epstein's categorization under SORA- ~~if required to register at all, should -we believe should-be~~ be properly adjudged as no higher than Level 1.

Without minimizing the seriousness of the charges to which Mr. Jeffrey Epstein pleaded guilty in Florida, it must be noted that sole offense for which Mr. Epstein is required to register in New York under SORA -- a June 30, 2008 plea in the Circuit Court for Palm Beach County, Florida under an Information to the charge of Procuring a Person Under 18 for Prostitution, in violation of Fla. Stat. § 796.03 -- would have constituted, at most, a *misdemeanor* if committed in New York instead of Florida. Specifically, the nearest cognate crime under New York law

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⁵ ~~The attached registration form (Exhibit D), is Mr. Epstein's most recent registration form, filed on August 9, 2010 when he returned to the U.S. Virgin Islands upon completing his period of community control in Florida. Mr. Epstein first registered with Virgin Island authorities upon his release from incarceration.~~

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between in-2004 and 2005 (the alleged time period time-of the offense at issue) was Patronizing a Prostitute in the Third Degree, P.L. § 230.04, which only criminalized prostitution between a “john” over twenty-one years of age and a prostitute less than seventeen years of age. See P.L. § 230.04, McKinney’s Penal Law § 230.04 (2004).⁶

Perhaps more significantly, because of a critical distinction between the Florida statute to which Mr. Epstein pleaded guilty and the New York cognate, it is not even clear that Mr. Epstein committed an offense which is registerable under New York law. While the Florida law criminalizes patronizing a prostitute who is under the age of eighteen (i.e. 16 and 17 years old), the equivalent New York law only encompasses patronizing a prostitute who is *under the age of* seventeen. Here, Mr. Epstein pleaded guilty to an Information that charged him with procuring “A.D.,” a woman under the age of 18 years, for prostitution during the period between on or about August 1, 2004 and October 9, 2005 (which was the day before AD’s 18th birthday). See Palm Beach County Information, Case No. 08CF9381 (Exhibit G). Because the Florida prosecutor had no need to determine whether there was probable cause -- ~~let alone no less~~—“clear and convincing evidence” (the standard required to support a SORA adjudication) -- to believe that any acts of prostitution occurred specifically when A.D. was sixteen, versus during the year that she was seventeen (since such a distinction is irrelevant under Florida law), there is no reliable basis to conclude that Mr. Epstein is even guilty of Patronizing a Prostitute in the Third Degree, P.L. § 230.04, under New York law. For that matter, unless it can be proven by clear and convincing evidence that that Mr. Epstein engaged in sexual conduct with A.D. in exchange for money specifically during the time that she was 16, Mr. Epstein is not guilty of *any* registerable offense under New York law, and indeed, by the terms of the SORA statute itself, should not be required to register. See Correction Law § 168-a(2)(a)(i).⁷

Indeed, nothing about Mr. Jeffrey-Epstein’s interactions with A.D. -- other than A.D.’s age, which she concealed from him and has not been established to be under the age of consent under New York law ~~is this correct?~~**YES**--- even suggests any degree dangerousness. The sole conviction which now triggers Mr. Epstein’s duty to register in New York under SORA stemmed from consensual conduct that ended nearly five years ago, when he received massages and engaged in sexual touching in exchange for money with A.D., a young woman over the age of consent under New York law for all but two of the fourteen months at issue and never clearly specified in the Information. Mr. Epstein’s interactions with A.D. did not involve assault or violence of any sort, nor did Mr. Epstein ever force himself or any particular contact or activity upon A.D. At no time (whether before or during their interactions) did Epstein exercise any supervisory or other position of authority over A.D., nor did she suffer from any mental disability, incapacity, or physical helplessness. Instead, A.D. voluntarily came to visit Mr.

⁶ Penal Law section 230.04 was amended in 2007 to eliminate any particular age parameters, such that it now states, “A person is guilty of patronizing a prostitute in the third degree when he or she patronizes a prostitute” P.L. §230.04.

⁷ Even under the broader scope of P.L. § 230.04 in effect today, Patronizing a Prostitute in the Third Degree is only registerable under SORA where the woman patronized for prostitution is *under* the age of seventeen. See Correction Law § 168-a(2)(a)(i) (stating that § 230.04 is a registerable offense “where the person patronized is in fact less than seventeen years of age”).

Epstein at his Florida home on various occasions on her own accord for the purpose of participating in what she apparently viewed as a lucrative business transaction. Given all of these considerations, Mr. Epstein's behavior, while perhaps criminal and registerable under the laws of Florida, just barely falls within the range of conduct viewed as sufficiently harmful to trigger SORA registration requirements here in New York -- if indeed it even qualifies as registerable at all. At most, Mr. Epstein was guilty of a misdemeanor under New York law, and accordingly, his registration obligations under SORA should reflect this relative lack of severity of his offense.

I. SORA Is Designed To Impose Reporting Requirements Upon Offenders In Proportion To The Threat They Pose To The Public So That They May Be Adequately Monitored

As you are well aware, New York's Sex Offender Registration Act (SORA), Correction Law § 168 *et al.* is intended to impose the most stringent reporting requirements on those sex offenders most likely to reoffend and cause the most grave harm to society, while imposing less restrictive (but still substantial) reporting obligations on those persons convicted of a qualifying sex offense who pose less danger to the People of the State of New York. SORA is not intended to be punitive, but rather, is a protective mechanism designed to shield the public from sexual offenders by enabling law enforcement officials to monitor offenders in proportion to their dangerousness and likelihood to reoffend. Accordingly, the three levels of reporting -- which dictate the depth and frequency of an individual's reporting to law enforcement and the degree to which such information may be disseminated to the public -- are based upon an assessment of the offender's "danger to the community": Level 1 (risk of repeat offense is low), Level 2 (risk of repeat offense is moderate), and Level 3 (risk of repeat offense is high). *See* Correction Law §168-k(2), §168-l(1), (2), (3).

In crafting SORA, the Board clearly contemplated that offenders should be categorized based on consideration of two separate, forward-looking factors: "**risk of a repeat offense**" and "**threat posed to the public safety.**" Correction Law § 168-l(5) (emphasis added). Indeed, the Commentary to SORA's Risk Assessment Guidelines states this principle explicitly and provides instructive elaboration:

As the Act makes clear, the threat posed by a sex offender depends upon two factors: (i) the offender's likelihood of reoffense and (ii) the harm that would be inflicted if he did reoffend. Some

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offenders repeatedly reoffend, but the harm they inflict, which not insubstantial, is less grave. Others may pose a lesser likelihood of recidivism, especially if properly supervised, but the harm would be great if they were to reoffend... The guidelines seek to capture both these elements -- the probability of reoffense and the harm therefrom -- in determining an offender's risk level. It is important to note that the risk level seeks to capture not only an offender's risk of reoffense but also the harm posed by a particular offender should he reoffend.

Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, Commentary (2006) at 2, ¶ 1. Reading between the lines, the Commentary makes clear that the SORA Guidelines are intended to differentiate between relative risks posed by those who have committed qualifying sexual offenses; designating a person as a Level 1 is not tantamount to condoning that person's past misconduct, but merely is a recognition that the person poses a low risk of committing future crimes, and any transgressions that such person might commit in the future, however improbable, are unlikely to cause the same grave societal harm as, for example, a sexually violent rapist.

In short, the Guidelines make clear that where a person poses a low risk of reoffense and where the person's misconduct falls toward the less egregious side of the sexual offense spectrum, the proper SORA adjudication is Level 1. As set forth further below, that is precisely where Jeffrey Epstein belongs.

II. Jeffrey Epstein Poses Little To No Threat Of Reoffending Or Causing Harm To The Public Safety Of The People Of New York

A. Risk of Reoffense

With respect to the first and primary factor in a SORA assessment, ~~Jeffrey-Mr.~~ Epstein presents little to no risk of committing further sexual offenses -- particularly in New York. Indeed, the reasoned opinion of a psychological expert who has worked with Mr. Epstein, the measured judgments of law enforcement agencies who have supervised him, and the minimal reporting requirements imposed by other jurisdictions exercising authority over him since his conviction, particularly the jurisdiction of his primary residence, all support the conclusion that ~~Jeffrey-Mr.~~ Epstein has demonstrated himself to be a person worthy of trust and presenting little to no threat of reoffense.

The resoluteness of Mr. Epstein's desire and commitment to lead a law abiding life is echoed in the observations and opinion of the clinical psychologist who first evaluated Mr. Epstein in May 2006, following his arrest for the instant offense, and who has worked with him over the past several years. That doctor, Stephen R. Alexander, Psy.D., has praised Mr. Epstein's cooperativeness, self-reflection, and receptiveness to treatment throughout their

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sessions. Drawing from his evaluation and interaction with Mr. Epstein in therapy, as well as his own considerable experience as a forensic psychologist, Dr. Alexander opined:

Relying upon my 25 years of experience as a forensic psychologist and the plethora of data gathered by me, I state with confidence that Mr. Epstein poses no threat to himself or the community. It is abundantly clear that he has learned his lesson and the probability of his reoffending is negligible. Mr. Epstein poses no threat to either himself or the general community, and he requires no additional intervention or treatment for his no-risk/low-risk status to be maintained into the future.

Letter of Stephen R. Alexander, Psy.D. to Jack Goldberger, Esq., August 16, 2010 (Exhibit F). Indeed, this has proven to be correct, as Mr. Epstein has had no instances of criminal or sexual misconduct whatsoever during the past five years, ever since the time that the Florida matter began and Mr. Epstein was put on notice about the illegality of his conduct, despite its consensual nature. His consistent and absolute compliance with the law for this five-year period is compelling proof that Jeffrey Epstein poses little or no risk of recidivism.

In addition, First, the decisions made by numerous law enforcement agencies in Florida, where ~~Jeffrey Mr.~~ Epstein was convicted of the instant offense and served his sentence, as well as the outcomes of those decisions, are instructive and lend strong support to the notion that ~~Jeffrey Mr.~~ Epstein poses little risk of reoffense. The Palm Beach County Sheriff's Office, which had custody of Mr. Epstein during his thirteen months of incarceration, approved Mr. Epstein for that ~~O~~office's work release program and permitted him to leave the jail and report to work on a daily basis from October 2008 until his release in July 2009. See Letter of Deputy K. Smith of August 12, 2010 (Exhibit A). While serving his year of community control, both the Circuit Court in Palm Beach and Mr. Epstein's assigned probation officer granted Mr. Epstein's requests for permission to travel briefly outside Florida for business purposes on numerous occasions. See, e.g., Order of Circuit Court of the Fifteenth Judicial Circuit for Palm Beach County of December 18, 2009 (Exhibit B) (allowing Epstein to travel overnight on weekdays for business pending 48-hour notice and approval of his probation officer). Mr. Epstein successfully complied with the all of the restrictions imposed on him and completed his incarceration and probation without incident.

Perhaps more significantly, Florida -- the ~~S~~state where Jeffrey Epstein was actually convicted of the prostitution offense that obligated him, when he was full-time resident of that State, --to register as a sex offender under Florida law (and as a result of the Florida conviction, to register under New York law) -- designated Mr. Epstein as the lower of two levels of sex offender under that ~~S~~state's sex offender registration act. See Letter of Jack A. Goldberger to New York State Division of Criminal Justice Services, August 12, 2010 (Exhibit C); see also Fla. Stat. § 775.21 (Florida sexual predator statute), § 943.0435 (Florida sexual offender statute). Even more tellingly, Florida then imposed upon Mr. Epstein the most minimal of reporting requirements, to be followed if, and only if, he returned as a full-time resident.

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~~Currently, if he stays more than five days at a time, he has been asked to call to notify the Sheriff's Office to notify them, nothing more. He~~ Mr. Epstein has been told that he need not register again unless he is actually present in Florida ~~there~~ as a resident during the month of his birth ~~under that sex offender designation. He if he moved back full time to Florida, which he is not intending to do, Mr. Epstein -would be -requiring himrequired -to~~ report to Florida authorities *only two times per year*. See Letter of Jack A. Goldberger to New York State Division of Criminal Justice Services, August 12, 2010 (Exhibit C).

~~Similarly~~ More importantly, ~~Jeffrey~~ Mr. Epstein is registered with the authorities of the U.S. Virgin Islands, where he actually maintains his primary residence. ~~He has registered and keeps his registration current his registration~~ under that jurisdiction's Sexual Offender and Community Protection Act.⁸ See 14 V.I.C. § 1721 *et seq.* Notably, the Virgin Islands -- which arguably has the greatest incentive to keep a watchful eye on Mr. Epstein, since that is where he spends the bulk of his time -- only requires Mr. Epstein to register with authorities *once annually* for the next fifteen years. See 14 V.I.C. § 1724(d), (e). Under the Virgin Island's registration scheme, Mr. Epstein qualifies at the lowest level, and accordingly, he is registered as a "sex offender," as opposed to a "habitual sexual offender" or "sex predator," which would trigger more onerous reporting requirements. See Virgin Islands Sexual Offender/Sexual Predator Registration Form, August 9, 2010 (Exhibit D);⁹ see also 14 V.I.C. §§ 1722(b), 1724(d). Moreover, the Virgin Islands explicitly mandates that should Jeffrey Epstein move out of the U.S. Virgin Islands, he must register his new address with the U.S. ~~Virgin Islands~~ Department of Justice before leaving, and must also register with his new state of residence within 10 days. See 14 V.I.C. § 1724(c). In short, the U.S. Virgin Islands, as the jurisdiction with primary oversight of Jeffrey Epstein, maintains firm supervision over Mr. Epstein's whereabouts. And in that jurisdiction's judgment, Mr. Epstein does not pose sufficient risk of reoffense to merit a high level of monitoring.

Notably, New Mexico (another ~~S~~state where Mr. Epstein owns a vacation home) has determined that it will *not require Mr. Epstein to register at all* under that ~~S~~state's sexual offender reporting statute, despite his Florida conviction and the conduct alleged in connection therewith. See Letter of Regina Chacon, New Mexico Department of Public Safety to Jeffery E. Epstein, August 19, 2010 (Exhibit E); see also NMSA 1978, § 29-11A-3(E). Notwithstanding the ~~S~~state's determination that he need not register, Mr. Epstein voluntarily chose to register with New Mexico authorities in order to comply with federal requirements under the Sexual Offender Registration and Notification Act (SORNA), 42 U.S.C.A. § 16901 *et seq.* In New Mexico, as well as all the other jurisdictions where he owns a residence or vacation home, Mr. Epstein has

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⁹ The attached registration form (Exhibit D), is Mr. Epstein's most recent registration form, filed on August 9, 2010 when he returned to the U.S. Virgin Islands upon completing his period of community control in Florida. Mr. Epstein first registered with Virgin Island authorities upon his release from incarceration.

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demonstrated a commitment to go beyond what is demanded of him to remain in full compliance with the law.

Curiously, the reviewer from the Board of Examiners of Sex Offenders recommended that Mr. Jeffrey Epstein be designated a Level 3 offender, notwithstanding the absence of any key factors that even remotely suggesting that he might pose a dangerous risk of reoffense or significant harm to society. Upon closer inspection, the Case Summary accompanying the Board recommendation reveals that the reviewer improperly considered and elaborated upon a host of unsupported hearsay allegations from an 86-page police report that has been proven materially false in numerous key respects and was largely discredited by prosecutors. This is patently improper under SORA, as the Guidelines direct that only “reliable hearsay evidence” may be considered and points should not be assessed for a factor “unless there is clear and convincing evidence or the existence of that factor.” See Correction Law §§ 168-d(3), 168-n(3); Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, Commentary (2006) at 5, ¶ 7; In addition, the SORA Guidelines explicitly provide, “The fact that an offender was not indicted for an offense may be strong evidence that the offense did not occur.” Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, Commentary (2006) at 5, ¶ 7.

Here, the Board reviewer completely ignored the fact that Mr. Epstein was only convicted of non-violent offenses related to consensual prostitution activity, and instead scored Mr. Epstein for “forcible compulsion” by manufacturing a claim -- not even contained in the police report -- of “forcible rape” of a “16-year-old victim.” Significantly, the allegations of this woman -- who was never able to state definitively in her discredited account to police that she was under 18 at the time she had intercourse with Mr. Epstein, and who only agreed to speak with detectives in an effort to curry favor with prosecutors after she was arrested for drug possession -- were encompassed in the single charge of Felony Solicitation for Prostitution, Fla. Stat. § 796.07(2)(f), (4)(c) -- an offense which is not registerable under Florida law. See Fla. Stat. § 943.0435. Despite the dramatic characterization of these allegations by the Board reviewer, no charge alleging ~~of~~rape or sexual contact with a minor was ever prosecuted in connection with this woman -- by the Board’s only words, “strong evidence” that *such an offense did not occur*. Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, Commentary (2006) at 5, ¶ 7. Similarly, notwithstanding SORA’s clear direction about the quantum of evidence required to support scoring for a given risk assessment factor, the reviewer scored Mr. Epstein for “prior criminal history” while at the same time acknowledging the utter lack of “specific information” about an unexplained 1973 non-U.S., potentially non-criminal offense. ~~-[Should this be omitted?]-~~The reviewer’s willingness to assess Mr. Epstein points based on speculation that falls far short of “clear and convincing evidence” is at best improper, and at worst, suspect.

Perhaps more egregious than the reviewer’s indifference to the legal standard of evidence required to score an offender under SORA is the utter lack of rigor that the reviewer demonstrated in analyzing the allegations against Mr. Epstein. The “lump it all together” summary submitted in support of the reviewer’s Level 3 recommendation makes no attempt to

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separate allegations concerning potentially registerable offenses from alleged descriptions of non-violent sexual activity among consenting adults. In fact, the vast majority of allegations contained in the discredited police report involve women who were aged seventeen and above, or women who were unable to specify their ages and/or the timing of certain activities in which they claim to have willingly participated. Such allegations certainly are not a proper basis for assessing Mr. Epstein's risk level and supposed danger to society for purposes of a SORA determination. While case summaries prepared by the Board of Examiners of Sex Offenders with the knowledge that they will be relied on by courts generally constitute "reliable hearsay" in SORA hearings, the New York Court of Appeals has held that a Board case summary "may be rejected when it is unduly speculative or its accuracy is undermined by other more compelling evidence." *People v. Mingo*, 12 N.Y.3d 563, 573 (2009). Here, the case summary prepared by the Board reviewer should be summarily rejected as unduly speculative, unreliable, and plainly inaccurate. Indeed, the reviewer who completed Mr. Epstein's case summary betrayed an improper bias against what the reviewer perceived to be Mr. Epstein's personal -- but legal -- sexual preferences for women between the ages of 17 and 20 by offering the inflammatory, groundless, and thoroughly subjective contention that "Jeffrey Epstein used his wealth and power" in such a way so that he could "take advantage of many teenage girls to satisfy his own sexual perversions." See Case Summary at 2. Such skewed, conclusory personal opinion has no place in a legal risk assessment instrument.

In short, the Level 3 recommendation of the Board in this case is legally and factually ~~un~~supportable and should be wholly disregarded. The Board's recommendation completely distorts the record and does not reflect an accurate and reasoned evaluation of the actual risk posed to the People of the State of New York by ~~Jeffrey~~Mr. Epstein. Mr. Epstein hardly represents the "worst of the worst" of sex offenders required to register, and for this reason alone, the Board's recommendation should be rejected.

~~The resoluteness of Jeffrey Epstein's desire and commitment to lead a law-abiding life is further echoed in the observations and opinion of the clinical psychologist who first evaluated Mr. Epstein in May 2006, following his arrest for the instant offense, and who has worked with him over the past several years. That doctor, Stephen R. Alexander, Psy.D., has praised Mr. Epstein's cooperativeness, self-reflection, and receptiveness to treatment throughout their sessions. Drawing from his evaluation and interaction with Mr. Epstein in therapy, as well as his own considerable experience as a forensic psychologist, Dr. Alexander opined:~~

~~Relying upon my 25 years of experience as a forensic psychologist and the plethora of data gathered by me, I state with confidence that Mr. Epstein poses no threat to himself or the community. It is abundantly clear that he has learned his lesson and the probability of his reoffending is negligible. Mr. Epstein poses no threat to either himself or the general community, and he requires no~~

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~~additional intervention or treatment for his no-risk/low-risk status to be maintained into the future.~~

~~Letter of Stephen R. Alexander, Psy.D. to Jack Goldberger, Esq., August 16, 2010 (Exhibit F): Indeed, this has proven to be correct, as *Mr. Epstein has had no instances of criminal or sexual misconduct whatsoever during the past five years*, ever since the time that the Florida matter began and Mr. Epstein was put on notice about the illegality of his conduct, despite its consensual nature. His consistent and absolute compliance with the law for this five-year period is compelling proof that Jeffrey Epstein poses little or no risk of recidivism.~~

Finally, Mr. Epstein has a remarkable personal history which further compels the conclusion that he is unlikely to ever violate the law again. Discovering a love of math and science as a young man, he worked his way up from being a college drop-out from a middle-class Brooklyn neighborhood to become a highly successful financial advisor, as well as founder and patron of ~~T~~the C.O.U.Q Foundation Inc. and Enhanced Education, charitable organizations which, among other things, fund numerous philanthropic entities, educational grants and activities, as well as medical and advanced scientific research at top universities and academies around the world. For well over 50 years, Mr. Epstein has lived, and will continue to live, as a productive, philanthropic, and law-abiding member of society, not a recidivist criminal. Indeed, Mr. Epstein's guilty pleas to the instant offenses in 2008, when he was 55 years old, mark the first and only criminal convictions of Mr. Epstein's life. Mr. Epstein's willingness to acknowledge his guilt and agree to leave the comforts of his home to serve thirteen months behind bars, followed by a year of community supervision, is a testament to both his acceptance of responsibility for his crimes and his motivation to learn from his mistakes. While he admittedly lost his way, the harsh lessons of the past few years have, as observed by Dr. Alexander, helped Jeffrey Epstein refocus and recommit to directing his personal energies to productive experiences to the fullest extent possible. Mr. Epstein is not in any way a typical sex offender, and these personal strengths and attributes distinguish him as someone who is extremely unlikely ever to commit another sexual offense.

B. — Degree of Harm to Society

~~Without minimizing the seriousness of the charges to which Jeffrey Epstein pleaded guilty in Florida, it must be noted that sole offense for which Mr. Epstein is required to register in New York under SORA — a June 30, 2008 plea in the Circuit Court for Palm Beach County, Florida under an Information to the charge of Procuring a Person Under 18 for Prostitution, in violation of Fla. Stat. § 796.03 — would have constituted, at most, a *misdemeanor* if committed in New York instead of Florida. Specifically, the nearest cognate crime under New York law in 2004 (the time of the offense at issue) was Patronizing a Prostitute in the Third Degree, P.L. § 230.04, which only criminalized prostitution between a “john” over twenty-one years of age~~

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and a prostitute less than seventeen years of age. See P.L. § 230.04, *McKinney's Penal Law § 230.04* (2004).¹⁰

Perhaps more significantly, because of a critical distinction between the Florida statute to which Mr. Epstein pleaded guilty and the New York cognate, it is not even clear that Mr. Epstein committed an offense which is registerable under New York law. While the Florida law criminalizes patronizing a prostitute who is under the age of eighteen (i.e. 16 and 17 years old), the equivalent New York law only encompasses patronizing a prostitute who is *under the age of* seventeen. Here, Mr. Epstein pleaded guilty to an Information that charged him with procuring "A.D.," a woman under the age of 18 years, for prostitution during the period between on or about August 1, 2004 and October 9, 2005 (which was the day before AD's 18th birthday). See Palm Beach County Information, Case No. 08CF9381 (Exhibit G). Because the Florida prosecutor had no need to determine whether there was probable cause — no less "clear and convincing evidence" (the standard required to support a SORA adjudication) — to believe that any acts of prostitution occurred specifically when A.D. was sixteen, versus during the year that she was seventeen (since such a distinction is irrelevant under Florida law), there is no reliable basis to conclude that Mr. Epstein is even guilty of Patronizing a Prostitute in the Third Degree, P.L. § 230.04, under New York law. For that matter, unless it can be proven by clear and convincing evidence that that Mr. Epstein engaged in sexual conduct with A.D. in exchange for money specifically during the time that she was 16, Mr. Epstein is not guilty of *any* registerable offense under New York law, and indeed, by the terms of the SORA statute itself, should not be required to register. See Correction Law § 168-a(2)(a)(i).¹¹

Indeed, nothing about Jeffrey Epstein's interactions with A.D. — other than A.D.'s age, which she concealed from him [**is this correct?**] — suggests dangerousness. The sole conviction which now triggers Mr. Epstein's duty to register in New York under SORA stemmed from consensual conduct that ended nearly five years ago, when he received massages and engaged in sexual touching in exchange for money with A.D., a young woman over the age of consent under New York law for all but two of the fourteen months at issue in the Information. Mr. Epstein's interactions with A.D. did not involve assault or violence of any sort, nor did Mr. Epstein ever force himself or any particular contact or activity upon A.D.. At no time (whether before or during their interactions) did Epstein exercise any supervisory or other position of authority over A.D., nor did she suffer from any mental disability, incapacity, or physical helplessness. Instead, A.D. voluntarily came to visit Mr. Epstein at his Florida home on various occasions on her own accord for the purpose of participating in what she apparently viewed as a lucrative business transaction. Indeed, in addition to engaging in sexual conduct for money, A.D. acknowledged

¹⁰ ——— Penal Law section 230.04 was amended in 2007 to eliminate any particular age parameters, such that it now states, "A person is guilty of patronizing a prostitute in the third degree when he or she patronizes a prostitute" P.L. § 230.04.

¹¹ ——— Even under the broader scope of P.L. § 230.04 in effect today, Patronizing a Prostitute in the Third Degree is only registerable under SORA where the woman patronized for prostitution is *under* the age of seventeen. See Correction Law § 168-a(2)(a)(i) (stating that § 230.04 is a registerable offense "where the person patronized is in fact less than seventeen years of age").

~~that she also encouraged other women to engage in prostitution so that she could also earn finder's fees for herself.¹²~~

~~Given all of these considerations, Mr. Epstein's behavior, while perhaps criminal and registerable under the laws of Florida, just barely falls within the range of conduct viewed as sufficiently harmful to trigger SORA registration requirements here in New York—if indeed it qualifies as registerable at all. At most, Mr. Epstein was guilty of a misdemeanor under New York law, and accordingly, his registration obligations under SORA should reflect this relative lack of severity of his offense.~~

III. Under The SORA Risk Assessment Instrument, Jeffrey Epstein Should Be Adjudicated A Level 1 Offender.

A. Based on the Relevant Facts Supported by Clear and Convincing Evidence, Jeffrey Epstein Falls Squarely within Level 1

As set forth in the completed SORA Risk Assessment Instrument on the following two pages, a proper calculation of Jeffrey Epstein's risk assessment under SORA, based upon the credible evidence of registerable activity that can foreseeably be proven by clear and convincing evidence¹³ and the offenses for which Mr. Epstein was convicted, places Mr. Epstein squarely within the category of Level 1. This is a proper evaluation of the actual risk of reoffense and threat to society posed by Mr. Epstein. And not surprisingly, it is entirely in line with the evaluations of the other jurisdictions, particularly the U.S. Virgin Islands, the jurisdiction of his primary residence, that have already considered Mr. Epstein's risk level under their own sex offender reporting schemes.

For each of the calculations in the following table, a brief explanation of the scoring is provided, making reference in Section I, Current Offense, to the relevant aspects of the offenses included within the instant disposition. Because Mr. Epstein has no prior criminal convictions or acts of sexual misconduct, and does not use (much less abuse) drugs or alcohol, he scores zero with respect to Section II, Criminal History. Similarly, given his acceptance of responsibility for his crimes, his successful completion of incarceration without incident and full compliance with the terms of probation without incident, Mr. Epstein also scores zero for Section III, Post-Offense Behavior. Finally, Mr. Epstein scores zero for Section IV, Release Environment, as he is gainfully employed and lives and works in appropriate environments that do not provide him

¹² ~~Based on her own account, AD was 17 or 18, and beyond the age of consent under New York law, when she engaged in this prostitution recruitment activity.~~

¹³ Of course, the assessment in the attached table reflects counsel's best preliminary judgment at this time, but in no way should be deemed a concession as to certain facts and SORA calculations or a waiver of any arguments that may be made to challenge a risk assessment, as counsel deems appropriate.

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with inappropriate access to minors. None of the overrides set forth in SORA apply to Jeffrey Epstein.

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SORA Risk Assessment Instrument for Jeffrey Epstein

RISK FACTOR	VALUE	SCORE	EXPLANATION	
I. CURRENT OFFENSE(S)				
1. Use of Violence				
Used forcible compulsion	+10	0	There were no credible allegations of forcible compulsion, physical injury, or dangerous weapon made against Epstein under either of the Florida charges for which Epstein was convicted.	
Inflicted physical injury	+15			
Armed with dangerous instrument	+30			
2. Sexual Contact with Victim				
Contact over clothing	+5	10	Epstein scores 10 points for allegations that he touched the body of A.D. during a massage <u>while she was under the age of 17 (though even this is arguable, as the registerable offense and underlying evidence do not identify any acts of prostitution that occurred specifically during the two months when A.D. was 16, versus during the year that she was 17), while she was still 16.</u> There are no instances or allegations of sexual intercourse, criminal sexual act ("deviate sexual intercourse") or aggravated sexual abuse which would be registerable under New York law within the either of the offenses for which Epstein was convicted.	
Contact under clothing	+10			X
Sexual intercourse, criminal sexual act ("deviate sexual intercourse") or aggravated sexual abuse	+25			
3. Number of Victims				
Two	+20	0	There is only one victim (i.e. woman under the age of 17) alleged in connection with the registerable crime for which Epstein was convicted.	
Three or more	+30			
4. Duration of Offense Conduct with Victim				
Continuing course of sexual misconduct	+20	0	There is no credible evidence that Epstein engaged in three or more acts of sexual contact with A.D. over a period of at least two weeks during the time when she was under 17, as the registerable offense and underlying evidence do not distinguish between events occurring when A.D. was 16 versus 17. <i>See Sex Offender Registration Act: Risk Assessment Guidelines and Commentary</i> , Commentary (2006) at 10, "Factor 4."	
5. Age of Victim				
11 through 16	+20	20	Epstein scores 20 points for allegations that he procured the prostitution services of A.D. when she was under 17 (though even this is arguable, as the registerable offense and underlying evidence do not identify any acts of prostitution that occurred specifically during the two months when A.D. was 16, versus during the year that she was 17).	
10 or less, 63 or more	+30			X
6. Other Victim Characteristics				
Victim suffered from mental disability or incapacity or from physical helplessness	+20	0	There is no evidence that any of the women whom Epstein procured for prostitution suffered from any mental disability, incapacity, or physical helplessness.	
7. Relationship with Victim				
Stranger or established for	+20	X	Epstein scores 20 points for allegations that he did not know AD prior to procuring prostitution services	

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purpose of victimizing or professional relationship				from her when she was less than 17. <u>(again, this is arguable, as the registerable offense and underlying evidence do not identify any acts of prostitution that occurred specifically during the two months when A.D. was 16, versus during the year that she was 17).</u>
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II. CRIMINAL HISTORY				
8. Age at First Act of Sexual Misconduct			0	Not applicable.
20 or less	+10			
9. Number and Nature of Prior Crimes			0	Not applicable. There is no credible evidence that Epstein has ever been convicted of a crime.
Prior history/no sex crimes or felonies	+5			
Prior history/non-violent felony	+15			
Prior violent felony or misdemeanor sex crime or endangering welfare of a child	+30			
10. Recency of Prior Offense			0	Not applicable.
Less than 3 years	+10			
11. Drug or Alcohol Abuse			0	Not applicable. Epstein does not drink alcohol or use drugs.
History of Abuse	+15			
COLUMNS 1-11 SUBTOTAL			50	
III. POST-OFFENSE BEHAVIOR				
12. Acceptance of Responsibility			0	Epstein has fully accepted responsibility for his conduct.
Not accepted responsibility	+10			
Not accepted responsibility / refused or expelled from treatment	+15			
13. Conduct While Confined / Supervised			0	Epstein successfully completed his one-year period of incarceration and one-year period of probation.
Unsatisfactory	+10			
Unsatisfactory with sexual misconduct	+20			
IV. RELEASE ENVIRONMENT				
14. Supervision			0	Epstein was released from jail with appropriate supervision and participated in therapy with a clinical psychologist.
Release with specialized supervision	0			
Release with supervision	+5			
Release without supervision	+15			
15. Living / Employment Situation			0	Epstein's living and employment situations are appropriate, as he does not live or work with or around minors.
Living or employment inappropriate	+10			
COLUMNS 12-15 SUBTOTAL			0	
COLUMNS 1-11 SUBTOTAL			50	
TOTAL RISK FACTOR SCORE (add 2 subtotals)			50	

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TOTAL RISK FACTOR SCORE			50
<u>1</u>	2	3	
	Level 1 (low)	=	0 to +70
	Level 2 (moderate)	=	+75 to +105
	Level 3 (high)	=	+110 to +300

Of course, it bears noting that even should an alternative risk calculation be made under the factors set forth by the SORA risk assessment instrument, resulting in a total above the Level 1 ceiling of 70 points, the SORA statute and Guidelines grant discretion to depart from the calculation. In other words, regardless of the actual numerical calculation, the District Attorney may ask the Court to exercise its discretion and appropriately designate Mr. Epstein a Level 1 offender to reflect the negligible risk of future harm that he poses to the community. As noted in the Commentary to the Risk Assessment Guidelines:

The ability to depart is premised on a recognition that an objective instrument, no matter how well designed, will not fully capture the nuances of every case. Not to allow for departures would, therefore deprive the Board or a court of the ability to exercise sound judgment and to apply its expertise to the offender.

Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, Commentary (2006) at 4, ¶ 5; see also *People v. Ferrer*, 69 A.D.3d 513, 514 (1st Dept. 2010) (observing “the risk level designated in the RAI is merely presumptive, and a court may depart from it as a matter of discretion”) (citing *People v. Mingo*, 12 N.Y.3d 563, 568 n.2 (2009); *People v. Johnson*, 11 N.Y.3d 416, 418, 421 (2008)). As noted above, ~~Jeffrey Mr.~~ Epstein presents a negligible risk of reoffending, and indeed, justice demands that his SORA designation reflect that fact.

~~—————B.—————The Level 3 Calculation by the Board Is Not Supported by Facts or the Law~~

~~Curiously, the reviewer from the Board of Examiners of Sex Offenders recommended that Jeffrey Epstein be designated a Level 3 offender, notwithstanding the absence of any key factors that suggesting that he might pose a dangerous risk of reoffense or significant harm to society. Upon closer inspection, the Case Summary accompanying the Board recommendation reveals that the reviewer improperly considered and elaborated upon a host of unsupported hearsay allegations from an 86-page police report that has been proven materially false in numerous key respects and was largely discredited by prosecutors. This is patently improper under SORA, as the Guidelines direct that only “reliable hearsay evidence” may be considered and points should not be assessed for a factor “unless there is clear and convincing evidence or the existence of that factor.” See Correction Law §§ 168-d(3), 168-n(3); *Sex Offender Registration Act: Risk Assessment Guidelines and Commentary*, Commentary (2006) at 5, ¶ 7;~~

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In addition, the SORA Guidelines explicitly provide, “The fact that an offender was not indicted for an offense may be strong evidence that the offense did not occur.” *Sex Offender Registration Act: Risk Assessment Guidelines and Commentary*, Commentary (2006) at 5, ¶ 7.

Here, the Board reviewer completely ignored the fact that Epstein was only convicted of non-violent offenses related to consensual prostitution activity, and instead scored Mr. Epstein for “foreible compulsion” by manufacturing a claim — not even contained in the police report — of “foreible rape” of a “16-year-old victim.” Significantly, the allegations of this woman — who was never able to state definitively in her discredited account to police that she was under 18 at the time she had intercourse with Epstein and who only agreed to speak with detectives in an effort to curry favor with prosecutors after she was arrested for drug possession — were encompassed in the single charge of Felony Solicitation for Prostitution, Fla. Stat. § 796.07(2)(f), (4)(c) — an offense which is not registerable under Florida law. *See* Fla. Stat. § 943.0435. Despite the dramatic characterization of these allegations by the Board reviewer, no charge alleging of rape or sexual contact with a minor was ever prosecuted in connection with this woman — by the Board’s only words, “strong evidence” that *such an offense did not occur*. *Sex Offender Registration Act: Risk Assessment Guidelines and Commentary*, Commentary (2006) at 5, ¶ 7. Similarly, notwithstanding SORA’s clear direction about the quantum of evidence required to support scoring for a given risk assessment factor, the reviewer scored Mr. Epstein for “prior criminal history” while at the same time acknowledging the utter lack of “specific information” about an unexplained 1973 non-U.S., potentially non-criminal offense. **[Should this be omitted?]** The reviewer’s willingness to assess Mr. Epstein points based on speculation that falls far short of “clear and convincing evidence” is at best improper, and at worst, suspect.

Perhaps more egregious than the reviewer’s indifference to the legal standard of evidence required to score an offender under SORA is the utter lack of rigor that the reviewer demonstrated in analyzing the allegations against Epstein. The “lump it all together” summary submitted in support of the reviewer’s Level 3 recommendation makes no attempt to separate allegations concerning potentially registerable offenses from alleged descriptions of non-violent sexual activity among consenting adults. In fact, the vast majority of allegations contained in the discredited police report involve women who were aged seventeen and above, or women who were unable to specify their ages and/or the timing of certain activities in which they claim to have willingly participated. Such allegations certainly are not a proper basis for assessing Mr. Epstein’s risk level and supposed danger to society for purposes of a SORA determination. While case summaries prepared by the Board of Examiners of Sex Offenders with the knowledge that they will be relied on by courts generally constitute “reliable hearsay” in SORA hearings, the New York Court of Appeals has held that a Board case summary “may be rejected when it is unduly speculative or its accuracy is undermined by other more compelling evidence.” *People v. Mingo*, 12 N.Y.3d 563, 573 (2009). Here, the case summary prepared by the Board reviewer should be summarily rejected as unduly speculative, unreliable, and plainly inaccurate. Indeed, the reviewer who completed Mr. Epstein’s case summary betrayed an improper bias against what the reviewer perceived to be Mr. Epstein’s personal — but legal — sexual preferences for women between the ages of 17 and 20 by offering the inflammatory, groundless, and thoroughly

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subjective contention that “Jeffrey Epstein used his wealth and power” in such a way so that he could “take advantage of many teenage girls to satisfy his own sexual perversions.” See Case Summary at 2. Such skewed, conclusory personal opinion has no place in a legal risk assessment instrument.

In short, the Level 3 recommendation of the Board in this case is legally and factually insupportable and should be wholly disregarded. The Board’s recommendation completely distorts the record and does not reflect an accurate and reasoned evaluation of the actual risk posed to the People of the State of New York by Jeffrey Epstein. Mr. Epstein hardly represents the “worst of the worst” of sex offenders required to register, and for this reason alone, the Board’s recommendation should be rejected.

IV. A Designation Of Level 1 Under SORA Will More Than Adequately Protect The People Of New York From Any Negligible Threat Posed By Jeffrey Epstein

To come full circle, the District Attorney’s Office should take comfort that the intentions of SORA will be fully realized by imposing on Mr. Jeffrey Epstein a Level 1 designation for his Florida convictions (recognizing that only one of those convictions required him to register in Florida, and even that conviction arguably would not have triggered SORA if committed in New York). The touchstone for assigning a proper SORA designation is whether the offender is prone to reoffend, such that the offender can be appropriately monitored and that risk of reoffense be contained. Here, an evaluation of the relevant factors of Mr. Jeffrey Epstein’s offenses, coupled with information about his personal background and circumstances, should lead to the inescapable conclusion that Jeffrey-Mr. Epstein is not the typical Level 2 or 3 sex offender that the District Attorney’s Office regularly encounters, nor is he the “wolf in sheep’s clothing” who poses a latent threat to the unwary citizens of New York or is likely to get lost in the system. Rather, Mr. Epstein is an accomplished, mature, financially successful businessman who made bad choices that will haunt him for the rest of his days. Moreover, Mr. Epstein is a person who spends limited ttle time at his New York vacation home and who is already being sufficiently monitored by the authorities of the U.S. Virgin Islands (his home jurisdiction), Florida, and New Mexico -- all by virtue of the fact that he owns property in those places.

Under New York law, as a Level 1 sex offender, Jeffrey-Mr. Epstein will be required to register his personal information with local New York law enforcement officials, and for a period of twenty years, provide annual verification of his residence, make timely updates of any change of address, and renew his photograph on file every three years. (At 57 years old, even as a Level 1 offender, Mr. Epstein is likely to have to register with authorities in New York for most if not all of his remaining years.) In addition, during the period of his registration, law enforcement officials will be able to disseminate this personal information about Mr. Epstein as they deem appropriate in their discretion. See Correction Law § 168-1(6)(a). Of course, this is all in addition to the continued reporting requirements with which Mr. Epstein must comply -- and with which he has been responsibly complying -- in the U.S. Virgin Islands (the jurisdiction of his primary residence where he spends the majority of his time), Florida, and New Mexico.

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In short, designating Jeffrey-Mr. Epstein with Level 1 SORA designation will provide the People of New York with full and adequate protection against the virtually non-existent risk of reoffense that Jeffrey Epstein poses, particularly given the limited short-amount of time that Mr. Epstein spends in the city and in the state. To require him to comply with any more stringent demands under SORA would needlessly duplicate -- and indeed, unnecessarily go well beyond -- the efforts of jurisdictions having much greater contact with and control over Jeffrey-Mr. Epstein. In addition, designating Jeffrey-Mr. Epstein as a Level 3 offender would require him to return to New York to re-register every 90 days, even if he might not otherwise plan to be in the state, thereby causing him actually to spend more time in New York than he ordinarily would. Moreover, designating Jeffrey-Mr. Epstein as anything other than a Level 1 offender would squander the city and state's resources -- resources that could be more effectively used monitoring dangerous, high-risk sex offenders who are in fact full-time New York residents -- to contain a risk of reoffense that Mr. Epstein does not present.

Imposing the more severe reporting requirements of a higher sex offender risk designation upon Jeffrey-Mr. Epstein would not serve the ends of justice and the protective -- not punitive -- goals which SORA is intended to promote. Accordingly, we respectfully ask you to follow the lead of the other jurisdictions that have already evaluated Mr. Epstein's offenses -- and all adjudged him to be the lowest level of registrant -- by consenting to designate Jeffrey-Mr. Epstein with the appropriate SORA classification of Level 1.