

HONORABLE BEN SASSE
UNITED STATES SENATE
ADDRESS
WASHINGTON, DC ZIP

BY EMAIL AND MAIL

DEAR SENATOR SASSE:

We write on behalf of our client, Jeffrey Epstein, to express serious concerns with your recent statements regarding Mr. Epstein. Specifically, in response to the decision of the Department of Justice (“DOJ”) to commence an Office of Professional Responsibility investigation of DOJ’s decisions regarding Mr. Epstein in 2007 and 2008, you described Mr. Epstein as a “child rapist” and asserted that he participated in a “child sex trafficking ring” and “received a pathetically soft sentence.” These statements are not true and are extremely reckless and damaging, particularly when coming from a member of the United States Senate.

As counsel for Mr. Epstein during DOJ’s investigation of him over ten years ago, we have specific and direct knowledge of the allegations that he faced then. Mr. Epstein was never alleged to have raped children. Nor, was he ever alleged to have trafficked children for sex. Moreover, the state court sentence imposed as a result of these negotiations was anything but “pathetically soft.” Mr. Epstein’s was required to serve time in prison and obligated to register as a sex offender for life. He was also

required to pay millions of dollars to those alleged to be victims of his offenses, and was not permitted to challenge the accuracy of those claims or the veracity of those claimants. Importantly – far from DOJ’s treatment being “pathetically soft” -- DOJ’s intervention in what would typically be considered a matter exclusively of state jurisdiction resulted in much harsher treatment for Mr. Epstein.

We appreciate that your views have likely been informed by inaccurate media reporting, most recently a highly sensationalized story published by the Miami Herald. Given your interest in the matter, however, we hope that you are willing to consider the actual facts surrounding this decade-old matter. DOJ’s investigation relating to Mr. Epstein arose from allegations of sexual solicitation offenses where Mr. Epstein was alleged to have paid for sexual massages with young women some of whom were under the age of 18, and many of whom were older than 18. There was no finding that Mr. Epstein used the internet in connection with the solicitation, there was no child pornography involved, no force, no fraud, no travel to a location away from his residence to engage in illegal sex, no commercial trafficking of women to others for profit.* In other words, none of the normal features of a federal sex offense prosecution were present here. Indeed, what was anomalous about DOJ’s investigation is that it was focused on conduct that was far outside the heartland of the three federal criminal statutes that were purportedly the focus of the investigation, 18 USC 2423(b), 18 USC 2422(b), 18 USC 1591.

The testimonial and documentary evidence acquired by DOJ demonstrated, at most, conduct either at or outside the scope of these federal statutes as clearly defined by prior legal precedent. At its essence, the conduct -- which neither we nor Mr. Epstein excuse -- was the payment of money to young women for sex, which is squarely within the heartland of state sex offense laws. In fact, any federal criminal prosecution of Mr. Epstein would have been unprecedented. Despite our extensive review of federal jurisprudence at the time -- a study we reviewed with the investigating prosecutors considering whether or not the investigation should result in federal charges -- there was no prior federal prosecutorial precedent that would have supported a federal prosecution of conduct that consisted at its core of behavior fitting squarely within the state solicitation statutes.

In addition, the decision-making regarding Mr. Epstein's case within the DOJ was widely shared by a number of respected and experienced career federal prosecutors. Despite some suggestion to the contrary, the disposition of the federal criminal case in the form of a Non-Prosecution Agreement ("NPA") was not negotiated directly with the United States Attorney Alexander Acosta. In fact, numerous federal prosecutors knew about, participated in, and approved the negotiated resolution.

Because of the unprecedented nature of the prosecution and the unusual and harsh conditions imposed by the U.S. Attorney's Office led by Mr. Acosta, Mr. Epstein sought

further DOJ review of the Agreement. The Criminal Division as well as the Office of the Deputy Attorney General reviewed and approved the U.S. Attorney's Office's decisions. Again, far from some secretly negotiated sweetheart deal, the federal resolution of Mr. Epstein's case received more scrutiny at multiple levels of DOJ than virtually any case involving an individual of which we are aware.

Upon the signing of the NPA with DOJ, Mr. Epstein pled guilty to a state offense as the NPA required, served his sentence under the same conditions as all other equally situated state prisoners, successfully completed his consecutive probationary term, registered as a sex offender, and paid many millions of dollars in monetary lawsuits brought by the complaining witnesses/victims identified in the federal investigation. But for DOJ's intervention, Mr. Epstein would not have been subject to any of these penalties. In other words, the punishment resulting from the NPA far exceeded the sentence that would have been recommended by the chief of the Palm Beach State Attorney's Sex Crimes Division who believed that a single solicitation (prostitution) charge was appropriate for Mr. Epstein's conduct.

We welcome the opportunity to meet with you or your staff to provide any additional information regarding this matter.

YT

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* Only after the negotiations concluded, one women claimed to have had sex at Mr. Epstein's urging with third parties.