

THE UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF PROFESSIONAL RESPONSIBILITY

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INTERVIEW OF R. ALEXANDER ACOSTA :
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Washington, D.C.

Friday, October 18, 2019

Interview of:

R. ALEXANDER ACOSTA

a witness of lawful age, taken on behalf of the United States
Department of Justice in the above-entitled action, before
Beth Roots, Notary Public in and for the District of
Columbia, in the offices of the U.S. Department of Justice,
950 Pennsylvania Avenue N.W., commencing at 9:34 a.m.

Diversified Reporting Services, Inc.



APPEARANCES:

On Behalf of the Department of Justice:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

Department of Justice

950 Pennsylvania Avenue N.W.

Washington, D.C. 20530

[REDACTED]

On Behalf of the Witness:

GORDON D. TODD, ESQ.

T.J. HERRON, ESQ

Sidley Austin LLP

1501 K Street Northwest

Washington, D.C. 20005

[REDACTED]

PROCEEDINGS

Whereupon,

R. ALEXANDER ACOSTA

was called as a witness and, having been first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MS. [REDACTED]:

Q So, would you tell us your name, please?

A Rene Alexander Acosta.

Q And Mr. Acosta, you're accompanied by your
attorney, Gordon Todd, is that correct?

A Yes, it is.

Q And Mr. Todd, would you identify the associate you
have with you?

MR. HERRON: Yes, T.J. Herron.

MS. [REDACTED]: H-e-r-r-o-n?

MR. HERRON: Correct.

MS. [REDACTED]: Thank you. Mr. Acosta, I'm [REDACTED]
[REDACTED]. I am a counsel with the Office of Professional
Responsibility here at the Department of Justice, and with me
are my fellow OPR counsel, [REDACTED], [REDACTED], and [REDACTED]
[REDACTED]. We are in a conference room at the Department of
Justice main building on today, October 18, 2019, and we're
starting at about 9:30 in the morning. Before we start, I'd
just want to put on the record that Mr. [REDACTED] worked in

1 the Civil Rights Division at the time that you were the AAG
2 heading that division, and I believe had an occasion to
3 briefly meet you in connection with a matter.

4 THE WITNESS: Could I ask what section?

5 MR. [REDACTED]: I was in the special litigation
6 section.

7 THE WITNESS: Oh, okay.

8 MR. [REDACTED]: And I provided Mr. Acosta some
9 talking points for a press situation that we had in that
10 case.

11 THE WITNESS: 14141.

12 MR. [REDACTED]: Yes.

13 THE WITNESS: Probably.

14 BY MS. [REDACTED]:

15 Q All right. Thank you. Mr. Acosta, OPR is
16 investigating two things. As you know, one, whether one or
17 more federal prosecutors in the Southern District of Florida
18 U.S. Attorney's Office may have committed professional
19 misconduct by entering into the non-prosecution agreement, or
20 NPA, in 2007 with Jeffrey Epstein, who at the time was under
21 investigation by that office, and the FBI, for engaging in
22 widespread sexual misconduct involving underage females.

23 The second thing we're investigating is Judge
24 Marra's finding of February of this year, 2019, that the
25 government may have violated -- or, actually, he found the

1 government did violate the CVRA, or Crime Victims' Rights Act
2 when it entered into the MPA without first providing the
3 victims with notice and a reasonable right to confer with the
4 government.

5 You are a subject of the OPR investigation, that
6 is, one of -- somebody whose conduct is being reviewed and
7 evaluated by OPR, and specifically as U.S. Attorney at the
8 time for the Southern District of Florida, you had the
9 ultimate authority over the Epstein for a period of two and a
10 half years, as we understand it, from the time the line AUSA
11 [REDACTED] [REDACTED] first briefed you and then criminal chief
12 [REDACTED] [REDACTED] in July of 2006, and until you were formally
13 recused from the case on or about the 8th of December, 2008,
14 after notifying the executive office of the U.S. Attorneys
15 that you were seeking employment with Kirkland & Ellis, a
16 firm of which two attorneys, Ken Starr and Jay Lefkowitz had
17 been representing Jeffrey Epstein. Is that correct?

18 A We may -- we may get into it a little bit later,
19 but I think the characterization of my seeking employment is
20 not accurate, we can talk about that a little bit later.

21 Q All right. We have the documents that relate to
22 that. So, that's what we're -- we're basing it on.

23 A Correct.

24 Q And I believe the term that's used is seeking
25 employment.

1 A That -- that is the term used in the e-mail. I
2 think I addressed that in my -- I believe Mr. Todd addressed
3 that in the letter that was sent to --

4 Q All right.

5 A -- OPR.

6 Q All right. Thank you. So, we recognize that
7 you're not longer with the Department of Justice --

8 A Right.

9 Q -- and that it is your choice to come and talk to
10 us, and we very much appreciate your willingness to
11 voluntarily do so and help us figure this case out. OPR
12 provided you with a few thousand pages of records, e-mails,
13 and correspondence and some other documents that reflect your
14 involvement in the Epstein matter over that two and a half
15 year period.

16 Now that you've had a chance to review, I hope,
17 those e-mails and other documents, we hope you can be
18 specific in helping us understand what happened. Have you in
19 fact been able to review those documents?

20 A Yes, I have.

21 Q Thank you. OPR asked you for a written response to
22 certain questions, and we've received and reviewed a written
23 response prepared and submitted not by you, but by your
24 attorney, Mr. Todd, on your behalf. Have you reviewed his
25 response to --

1 A Yes.

2 Q -- you?

3 A Yes, I have.

4 Q And will you now under oath subscribe to that
5 response as if you had submitted to it yourself?

6 A So, Mr. Todd spoke to me and conveyed the
7 investigation that I provide him. I believe he conveyed that
8 information accurately, and the statements that he ascribes
9 to me in that letter I believe are accurate.

10 Q All right. Do you have any changes or corrections
11 to that written response?

12 A No, I do not.

13 Q Is there anything in it that you do not agree with?

14 A Again, I think that the statements that he ascribes
15 to me are accurate, and I agree with them.

16 Q All right. So, we are going to accept that
17 statement as representing accurately your -- what you would
18 have responded if you had responded to us directly. Is that
19 correct?

20 A I -- yes, the statements, he basically gives my
21 positions, and I believe that he gave my positions
22 accurately.

23 Q Perfect. Thank you. So, as we ask questions and
24 refer to documents, we would like you to correct any
25 misstatements in our questions, or any misstatements or

1 errors that are in the documents themselves, because we want
2 to make sure the entire record --

3 A Mm-hmm.

4 Q -- is correct. Also, there's been an enormous
5 amount of publicity about the Epstein case, particularly this
6 year, including about the events and decisions made back in
7 2006 to 2010 that are the subject of our investigation. And
8 so as best you can, we ask you to try to answer today from
9 your knowledge, understanding, and recollections as of that
10 period of time. However, to the extent you are asked or do
11 speak retroactively, retrospectively, we'll just make it
12 clear that you're doing so.

13 A All right.

14 Q Okay?

15 A And if I could just say, one of the difficulties is
16 with everything that -- all the publicity and all the
17 documents that have made it to the press and in litigation
18 distinguishing between recollection versus after the fact --

19 Q Right.

20 A -- speculation, and I will try, but I would
21 appreciate reminders along the way, because it's, it's an
22 important distinction, but it's kind of hard sometimes.

23 Q We recognize particularly the importance of it.

24 A Right.

25 Q That's -- that's precisely the heart of --

1 A Yeah.

2 Q -- our matter. So, Mr. Acosta, your professional
3 background is a matter of public record. I have a couple of
4 questions. By what state bar are you currently licensed?

5 A So, I am inactive in -- I believe inactive in
6 Pennsylvania and also in D.C.

7 Q All right, and not in Florida?

8 A Not in Florida.

9 Q So, are -- is it -- do I understand that you are
10 not currently an active member of any bar?

11 A I would have to confirm with D.C. I said not
12 inactive in Pennsylvania and in D.C. because I am not certain
13 whether I'm currently active or inactive in D.C. I am not
14 currently practicing, and so I would have renewed under
15 either active or inactive.

16 Q All right.

17 A And we can --

18 Q We --

19 A We can --

20 Q We --

21 A We can verify that and get that.

22 Q We would appreciate it if Mr. Todd could let us
23 know your current status. I also would like to know the
24 status -- your bar status in the period of 2006 through 2008.
25 Do you know what that was?

1 A Most likely -- I can -- I can speculate. I don't
2 know as a fact. Mostly likely active in D.C.

3 Q Mm-hmm.

4 A And inactive in Pennsylvania.

5 Q Okay, but likely active somewhere, correct?

6 A Yes. Yes, I think that's a requirement.

7 Q Yes, that is a --

8 A And so --

9 Q -- requirement.

10 A So, it would be D.C., the distinction between
11 active and inactive in D.C. is more minor, as I recall, than
12 Pennsylvania where there's a large fee difference.

13 Q All right, thank you, and we look forward to
14 hearing confirmation of that from you, Mr. Todd. So, after
15 serving nearly two years as the assistant attorney general in
16 charge of the department's civil rights division, you were
17 presidentially appointed the interim U.S. Attorney for the
18 Southern District of Florida in June of 2005, and then as we
19 understand it, you were formally nominated as U.S. Attorney
20 in June of 2006, and after being confirmed by the United
21 States Senate, you were sworn in by the U.S. Attorney -- as
22 U.S. Attorney in late October 2006.

23 A I think that may be inaccurate. I would have to
24 confirm. When you say presidentially appointed, I believe it
25 may have been appointed by the chief judge at the request of

1 the Attorney General. The chief judge has appointing
2 authority.

3 Q Okay.

4 A And you'd have to go back and confirm whether it
5 was either an AG designation or the chief judge --

6 Q All right.

7 A -- which is different than presidential.

8 Q And I understand, and again, I would appreciate if
9 you could --

10 A Yeah.

11 Q -- follow up on that --

12 A I -- I'm --

13 Q -- Mr. Todd.

14 A -- not certain how to confirm that. That's
15 something that in all candor the department would know --

16 Q All right.

17 A -- much better than I.

18 Q Then we will pursue it. My point is that there was
19 a change in your status from interim to -- you -- the U.S.
20 Attorney with the -- with the full --

21 A Correct.

22 Q -- confirmation. How if at all did that change in
23 status affect your view of and your exercise of your
24 authority as U.S. Attorney?

25 A So, it's difficult to recall. You're now asking

1 that just ten years back, but even further back. I was
2 interim for a sufficiently long period of time that -- that
3 by the time the change in status took place, I would
4 speculate that I was, in my mind, the, you know, acting as
5 U.S. Attorney whether you have an adjunctive interim, or
6 acting in front of your name or not.

7 You know, I -- I had great people. I don't recall
8 when -- when [REDACTED] came on board as first assistant, but he
9 was my crim chief, and I thought for the continuity of the
10 office it was important to promote him to first assistant,
11 and --

12 Q He was promoted actually effective October of 2006.
13 You made a series -- according to e-mails -- the
14 announcement -- the personnel announcement was made to be
15 effective in October 2006 naming [REDACTED] [REDACTED] as criminal
16 chief, and [REDACTED] [REDACTED] as first --

17 A Right.

18 Q -- assistant.

19 A Right, and they -- they were both long serving
20 professionals within the office, and basically, as my
21 recollection, everyone just moved up one wrung.

22 Q Okay.

23 A You would know better than I, because you have
24 those records. And so, sitting here today, I don't recall
25 any specific way in which that shift would have impacted --

1 Q All right.

2 A -- my thinking.

3 Q You had not served as a -- as a prosecutor before,
4 and had -- didn't have direct criminal experience is my
5 understanding.

6 A The -- that is correct. I had supervised -- civil
7 rights, for example, had supervised criminal prosecutions,
8 but I had not been a line prosecutor previously.

9 Q So, as the U.S. Attorney supervising a couple of
10 hundred --

11 A Right.

12 Q -- line prosecutors, most involved in criminal
13 work, how -- what -- what -- what interested you most, or
14 appealed to you most as you undertook your -- and carried out
15 your duties as U.S. Attorney?

16 A What interested me and appealed to me. So, the
17 work of the office, I mean, the -- it's a broad question, but
18 the work of --

19 Q Mm-hmm.

20 A -- that office and any U.S. Attorney's Office I
21 think is incredibly impactful to any local community, and I
22 very much enjoyed being a part of the effort to bring folks
23 to justice, to move policy initiatives. You know, I recall
24 early on, we identified healthcare fraud --

25 Q Mm-hmm.

1 A -- as one big -- one big area, and we had one of
2 the largest out of our -- the largest healthcare fraud
3 initiative. You know, we focused quite a bit on gun
4 violence, and we did a great job on that, and it's one of
5 those jobs where people feel very good about what they do,
6 and it's great to be part of it. I'm sure what --

7 Q No, that's --

8 A -- okay.

9 Q That's helpful. It just gives us a --

10 A Yeah.

11 Q -- some perspective.

12 A Yeah.

13 Q Was there any aspect of it that you particularly
14 disliked?

15 A To the extent you're dealing with personnel issues,
16 I think personnel issues are -- are rarely the preferred part
17 of any executive function.

18 Q You mean the conflicts among attorneys, things like
19 that, or performance issues?

20 A Performance issues.

21 Q All right.

22 A And you know, when you've got -- in any large
23 office, you get personnel issues, disciplinary issues, and
24 those are never --

25 Q Mm-hmm.

1 A -- those are never fun.

2 Q Mm-hmm. So, we talked about the personnel -- high
3 level personnel changes you made sort of after your first
4 year there. [REDACTED] had, we understand, been functioning
5 de facto as a first assistant while [REDACTED] was not.
6 He -- we understand [REDACTED] had been first assistant, but
7 he stepped away, and [REDACTED] came in to essentially take
8 over his brief until he was formerly appointed first
9 assistant. Is that consistent with your memory?

10 A So, you might have characterized that more strongly
11 that I would have.

12 Q Okay.

13 A Again, it's difficult to recreate from back then,
14 but there was certainly a transition period from Mr.
15 [REDACTED] to Mr. [REDACTED], and if I could, because when you
16 said high level changes, my intent -- it was a great office.
17 Great professionals. My intent in elevating Mr. [REDACTED] was
18 just you go from criminal chief to first assistant, and I
19 don't recall Mr. [REDACTED] prior position, but I know that he
20 was also elevated. I think he might have been major crimes,
21 but --

22 Q That's correct.

23 A -- I'd be -- I'd be speculating.

24 Q We can --

25 A I could guess it.

1 Q We can verify that.

2 A Okay.

3 Q Yes. What was your assessment of [REDACTED] [REDACTED]? His
4 capabilities, his judgement, and his working relationship
5 with you on a day to day basis?

6 A Outstanding. He had been in the office for
7 decades. He was respected by everyone. He had a good tone
8 to him. He was someone, you know, I wanted individuals
9 around me that were respected within the office and that were
10 trusted and that had been there for a long time, and then I
11 think I was very lucky to -- to have that in my management
12 team.

13 Q As we understand it, your office as U.S. Attorney
14 was sort of on one side of the reception area, and the first
15 assistant's office is on the other side. Is that correct?

16 A That is correct.

17 Q Or, at the time --

18 A Correct.

19 Q -- that was correct. So, did you and [REDACTED] [REDACTED]
20 have a sort of easy back and forth --

21 A Walking --

22 Q -- open door?

23 A -- into each other's offices multiple times a
24 day --

25 Q All right.

1 A -- kind of relationship.

2 Q All right, and given that he had had experience
3 throughout his career at the department in the criminal arena
4 and you had not, to what extent would you rely on him, among
5 others, for guidance, perspective, information, and so on?

6 A I named him first assistant because I valued his
7 guidance and his perspectives and I thought those were
8 valuable.

9 Q Okay. You also, as we pointed out, appointed [REDACTED]
10 [REDACTED] to succeed [REDACTED] [REDACTED] as criminal chief effective
11 October of 2006, and he served for about ten months before he
12 left for private practice. He left at the beginning of
13 August --

14 A Mm-hmm.

15 Q -- 2007. What -- you -- you did -- you said you
16 didn't recall, as we sit here today, what section he'd come
17 from.

18 A Right. I guessed it was major crimes.

19 Q All right. Were you -- what was your assessment of
20 [REDACTED] [REDACTED]?

21 A Outstanding as well, and if I could say, when I say
22 I don't recall but I guess, when you're going back 12 years,
23 sometimes you get an impression but you can't say it's a
24 recollection, and that's going to come up multiple times
25 today, just because it's a while ago.

1 Q As long as we make that distinction --

2 A Right.

3 Q -- both are helpful.

4 A Right, and so -- so, whether it's a recollection or
5 a construction after the fact, I can't -- I can't say, but
6 you know, I -- I thought that one of the helpful factors with
7 [REDACTED] is he had spent a lot of time -- and major crimes is the
8 most active -- active unit. I assume you all know the
9 structures of the office --

10 Q Mm-hmm.

11 A -- but major crimes is not major crimes, it's sort
12 of the entry level crimes, and I valued the fact that he had
13 trained and, you know, so many AUSAs, and really spent a lot
14 of time reviewing -- the major crimes chief as opposed to the
15 other chiefs spends a lot of time reviewing the work of
16 AUSAs, and so, he would be someone who is very experienced
17 and able to get in the weeds.

18 Q And he in fact was around -- during that time
19 period, had gone back in the courtroom, if you recall, to
20 actually try a major case. Do you recall that? It was a --

21 A I didn't until you --

22 Q -- major fraud case.

23 A -- mentioned -- I didn't until you mentioned it,
24 and now there's something in the back of my head that's
25 saying that sounds right, but I can't give you more detail.

1 Q All right. What was your assessment of [REDACTED]
2 [REDACTED] sort of working style, and particularly working
3 with you?

4 A You know, again, positive. You know, we didn't --
5 I didn't see him as often as Mr. [REDACTED], but --

6 Q He -- was he located on the same floor?

7 A He was located on the same floor, but not within
8 the same suite.

9 Q Mm-hmm.

10 A And -- and that -- that affects interaction, but a
11 positive working relationship.

12 Q All right, and how -- how -- to what extent would
13 you, as criminal chief, was he relied on by you as
14 distinguished from [REDACTED] [REDACTED] with regard to the criminal
15 matters pending?

16 A Also relied on. Depend -- that would depend almost
17 on the matter for --

18 Q Okay.

19 A -- as in a typical situation, he would bring things
20 to [REDACTED], who would then bring them to me along, and so he
21 would bring things to [REDACTED], and then depending on their
22 discussion, they might both walk into my office. But he
23 would typically run things through [REDACTED] before coming to me.

24 Q Were there occasions when he would come to you
25 directly?

1 A Sure. That's why I said in a typical --

2 Q Okay.

3 A It's difficult to sort of recreate the
4 interactions, but he certainly could come to me directly, and
5 in some cases, I would say probably would.

6 Q Again, it being a large office with several
7 physical locations, and we understand it, a very high
8 volume --

9 A Mm-hmm.

10 Q -- of cases --

11 A Right.

12 Q -- and particularly in the criminal context, is it
13 fair to say you didn't review every prosecution as it was
14 brought?

15 A It -- it is not just fair, but accurate. I recall
16 a conversation with a U.S. Attorney from a small district
17 early on at one U.S. Attorney's conference where we compared
18 notes, and the interaction of an office with 30 prosecutors
19 is very different than one with --

20 Q Mm-hmm.

21 A -- a few hundred prosecutors.

22 Q So, when you did engage on a -- on a criminal case,
23 would you -- whether it was a planned prosecution or a case
24 heading to trial, would you generally rely on written
25 submissions, or would you -- this is really an --

1 A Mm-hmm.

2 Q -- inquiry into --

3 A Right.

4 Q -- your style, or would you have everybody
5 together, and talk about it, or would you rely on your most
6 immediate subordinates to be briefing you? How -- which one
7 of those --

8 A So --

9 Q -- kinds of --

10 A So --

11 Q -- approaches --

12 A So --

13 Q -- did you take?

14 A I would say that really depended, and probably
15 varied based on -- on individual needs. For the most part, I
16 would most likely just speak with my first assistant and/or
17 criminal chief, and assess what else needed to be done.

18 Q In other words, you would sort of do it on a --
19 sort of on a verbal, or based on oral --

20 A Correct.

21 Q -- interaction and --

22 A Correct.

23 Q -- presentation as opposed to going through stacks
24 of papers?

25 A For -- for the -- I would say that was typical.

1 Q Yeah.

2 A I don't want to say that was the case every single
3 time, but that was -- was typical.

4 Q All right, and to what extent did you go out and
5 about to encounter the line attorneys, or example? Was that
6 something that you were able to do and wanted to do?

7 A Yes, and yes, and you know, I -- when I started, I
8 made it a point of walking every floor and meeting everyone,
9 and in -- toward the end of the day, I would also if I could
10 make it a point -- particularly of major crimes of just
11 walking down to the floor and seeing who was there and what
12 they were doing and -- and sort of popping my head in and
13 just saying hi because I think it's the right thing to do.

14 Q Okay. Okay. Was that a way to support the troops,
15 or was it more a way for you to find -- to become informed
16 about what was going on?

17 A Probably a little of both, of support the troops,
18 but also get the temperature for the office, see how matters
19 are progressing.

20 Q You at the criminal -- or, rather, the civil rights
21 division, had experience with human trafficking and child sex
22 trafficking cases --

23 A Correct.

24 Q -- under your supervision. We understand that you
25 brought that concern, or your concern about those issues with

1 you to the U.S. Attorney's Office, and that -- we know that
2 under your tenure, the U.S. Attorney's Office had many
3 successful prosecutions involving conduct ranging from
4 internet child pornography --

5 A Mm-hmm.

6 Q -- to international sex tourism --

7 A Correct.

8 Q -- victimizing children in particular. In mid-
9 2007, you -- according to press reports, you set up a new
10 special prosecutions unit --

11 A Correct.

12 Q -- to focus on, among other things, sex crimes
13 against children. Could you tell us what importance those
14 kinds of cases held for you as U.S. Attorney?

15 A Sure. If I could -- if I could just back up a
16 little bit, because the -- the question goes -- the special
17 prosecutions unit, and let me address that part of it. There
18 are a few things embedded in that.

19 Q Mm-hmm.

20 A There's -- there's -- the special prosecutions unit
21 was set up because there were some issues that -- that I
22 thought were important to pursue in particular, and one of
23 those was -- was sort of the trafficking issues. Another one
24 was the gun violence, and the intent of special prosecutions
25 was to have a group of individuals that would sort of be

1 dedicated and not part of the usual major crimes group. So,
2 it wasn't exclusively -- I -- your question may have implied
3 it was exclusively for sex crimes, and it --

4 Q Oh, no.

5 A -- and it wasn't -- yeah.

6 Q No, I understand it was not.

7 A Right.

8 Q Okay.

9 A And so, I thought it was sufficiently important,
10 and so, it was one of the -- one of the initiatives that we
11 were certainly pursuing.

12 Q And was that something that you can -- that -- to
13 which you brought your experience as head of the civil rights
14 division as well?

15 A It was. I think -- not I think I know when I was
16 head of civil rights that that's something that I'd put
17 particular emphasis on, and I thought civil rights really
18 stepped up and did a great job on that.

19 Q Did you yourself ever -- I recognize you were never
20 a prosecutor as such.

21 A Right.

22 Q But did you ever have experience being involved in
23 a prosecution that -- sort of the nitty-gritty of the
24 prosecution of that kind of case? Sort of seconding yourself
25 to a trial team, for example, or an investigation?

1 A So, if by nitty-gritty you mean seconding myself to
2 a trial team the answer would be no.

3 Q All right.

4 A There are a number of cases that I recall being
5 briefed on and talking about, but --

6 Q But at that high level?

7 A Correct.

8 Q All right. The department set up in 2006 a PSC
9 program, a Project Safe Childhood program --

10 A Correct.

11 Q -- focused on internet child pornography, and you
12 appointed [REDACTED] [REDACTED] as your first PSC --

13 A Correct.

14 Q -- coordinator, and she was also of course the line
15 attorney on the Epstein case. How well did you know [REDACTED]
16 [REDACTED], and can you -- can you give us your assessment of
17 her capabilities, judgement, and her interaction with you?

18 A So, a few things in there. How well did I know her
19 prior to appointment? I don't recall. I'm not -- I don't
20 think I knew her particularly well prior to appointment. She
21 was clearly respected within the office, and I don't recall
22 but I can speculate that she was appointed based on
23 recommendations of management, and her interest and some
24 combination -- and prior work and some combination thereof.
25 You asked me to characterize [REDACTED] --

1 Q Her -- your view of --

2 A Right.

3 Q -- her capabilities, her judgement --

4 A Right.

5 Q -- her acumen, her knowledge of the law.

6 A I think she was a good, strong, professional AUSA.

7 I mean --

8 Q Do you have any -- did you have any negative -- you
9 know, anything less than fully positive in your assessment of
10 her?

11 A No.

12 Q Okay.

13 A I think she was a good, strong, dedicated AUSA.

14 Q All right. [REDACTED] [REDACTED] --

15 A Yeah.

16 Q -- was the managing AUSA at the West Palm Beach
17 office.

18 A Correct.

19 Q At least -- and would -- and [REDACTED] [REDACTED] worked
20 there. How closely did you work with [REDACTED] [REDACTED], and again,
21 that --

22 A Mm-hmm.

23 Q -- assessment question --

24 A Right.

25 Q -- what was your assessment of him?

1 A So, less so, only because of geographic distance.

2 Q Mm-hmm.

3 A I would also say he was a respected professional.
4 He had a good reputation. He went on to be chief of staff
5 here at the -- at the criminal division, which I think speaks
6 to how he was viewed within the department.

7 Q Mm-hmm.

8 A And so, I would say positive.

9 Q Okay. So, now turning to the Epstein case.

10 A Yeah.

11 Q Now that your recall has been refreshed by virtue
12 of the documents we've provided, before we get into the
13 actual sort of documents and some of the details of the
14 events, would you please give us a general overview of what
15 you currently remember, refreshed, about how the case came
16 into the U.S. Attorney's Office, how it was assessed for
17 prosecution, and how and why the decision was made to resolve
18 it with a two-year state plea that ultimately became an 18 --

19 A Okay.

20 Q -- I mean, yeah, a two year state plea that
21 ultimate became --

22 A All right.

23 Q -- an 18 month state plea.

24 A Okay, so --

25 MR. HERRON: Before you answer the question, let me

1 just jump in on the notion of refresh your recollection,
2 which is -- of course has a very specific legal meaning, and
3 I think to assert that Mr. Acosta's recollection has been
4 refreshed generally probably overstates it. It's really a
5 document by document, issue by issue thing. So, I'd push
6 back on that --

7 MS. [REDACTED]: I --

8 MR. HERRON: -- a little bit, but the question is
9 fair and accurate.

10 MS. [REDACTED]: If you're talking about handing him
11 a document to refresh an exhausted recollection, that's not
12 the process we're talking about. We're using it in a more
13 lay term that, you know, if we asked you this before, giving
14 you all these documents, you'd probably would have not been
15 able to be as full in your responses. So, we're asking for
16 your full response. Thank you.

17 MR. HERRON: We appreciate the opportunity to
18 review the documents, and Alex, in your answers, try to
19 distinguish what you actually recall --

20 THE WITNESS: Yeah.

21 MR. HERRON: -- in your own head versus what you
22 saw in the documents.

23 MS. [REDACTED]: Yeah.

24 MR. HERRON: And that would make for --

25 MS. [REDACTED]: Thank you.

1 MR. HERRON: -- the cleanest record.

2 THE WITNESS: Okay. So, three parts. How did it
3 come into the office? How did -- I'm sorry --

4 BY MS. [REDACTED]:

5 Q How was -- how did it come in?

6 A Right.

7 Q How was it assessed for prosecution --

8 A Right.

9 Q -- and then how and -- how and why the decision was
10 made --

11 A Right.

12 Q -- to resolve it the way it was.

13 A So, so, let's begin with how did it come into the
14 office. Putting all the documents aside, I can't say with
15 certainty how it came in. I can speculate how it came in,
16 and the way it would have come into the office is -- I can
17 speculate that the chief -- the chief rider from Palm Beach
18 County would have brought it to either the FBI or to the Palm
19 Beach Office. I'm not certain that I would have asked who
20 brought this case to the office as opposed to the case is now
21 in the office, so let's --

22 Q Right.

23 A -- let's discuss it, right? The format, or the
24 mode in which it came in I think is important, because my
25 recollection is it arrived to us in the position that the

1 state attorney had negotiated a plea, and that the reason
2 that we looked at it was that that plea was going to be --
3 that there had been an initial charge that wasn't pursued,
4 and that required jail time and registration, and that the
5 plea that was going to be taken was a charge that didn't
6 require jail time, and didn't require registration, and based
7 on the preliminary assessment of the facts, that seemed --
8 that seems wrong. So, that's how did it arrive. The next
9 question was --

10 **Q How was it assessed for federal prosecution?**

11 **A** So -- so, it was assessed for federal prosecution,
12 my recollection, from -- from very early on, and I'm sure
13 we'll talk about this some more, is you have a case that,
14 while technically it wasn't final at the state level, but for
15 federal involvement, would have been final, and -- and so
16 from the earliest point, we were thinking federal versus
17 state and petite, and the contemporaneous record sort of
18 shows -- at least the material that I got, the earliest
19 communication was Mr. [REDACTED] telling me that [REDACTED] is
20 preparing a petite policy waiver -- that Ms. [REDACTED] is
21 preparing a petite policy waiver, and that's consistent with
22 my recollection of how it was assessed, and -- and then
23 brought in -- assessed, you know, does it make sense to go
24 forward, yes, investigate, and circle back. And then -- and
25 then the third part was the --

1 Q How and why the disposition.

2 A So, my general recollection is the view was that if
3 the state had followed through on an original charge -- I
4 don't recall which -- that called for jail time and that
5 called for registration, that the local police or whoever
6 brought it would not have seen the need to refer it.

7 And so, that was in terms of pre-indictment
8 resolution, a -- a logical and reasonable place given all the
9 other sort of factors, both the petite concerns, the witness
10 concerns, and the legal concerns.

11 And to that, I would add a fourth concern, which is
12 it had already been reviewed by a grand jury at the state
13 level, is my recollection. And so, to some extent, that's
14 indicative of how some individuals may sort of view this
15 matter.

16 Q Okay. We're going to pick that apart.

17 A I figured.

18 Q But thank you for that.

19 A You -- you asked for an overview, so I tried to
20 just be very --

21 Q Yeah.

22 A -- general.

23 Q That doesn't -- that doesn't -- the second part of
24 that last prong was -- was why a two year state plea. In
25 other words, you talked about -- you talked about assessing

1 the case and why resolve it, but why with a two year state
2 plea? What's the --

3 A And so --

4 Q -- overview?

5 A And so my general recollection is -- my
6 understanding -- if I was asked, what is the best
7 understanding that I have of why two years, is that is what
8 would have been obtained in one of the original state
9 charges. Again, this is --

10 Q How do you know that?

11 A We --

12 Q How did you know that?

13 A I'm -- that's why I say general recollection. I'm
14 reconstructing memories of that 12 years ago. I can
15 speculate that at some point, the matter came up, and I or
16 someone else said if, you know, what would the original --
17 what would the original plea have -- you know, what would the
18 original charges have likely brought? And someone said this
19 amount.

20 Q How would have said that?

21 A I -- I'm speculating at this point. I don't have a
22 recollection, but -- but that's -- that's my general
23 understanding.

24 Q All right. All right. We'll now unpack --

25 A Yeah, I --

1 Q -- some of that.

2 A -- I noticed.

3 Q And by the way, my colleagues, we're all in this
4 boat together. So, they're going to feel free to --

5 A I know.

6 Q -- chime in --

7 A Yeah.

8 Q -- as they see fit. So, the first thing going --
9 going to the intake of the case, we know from the records
10 that -- and by the way, we've obviously done a great deal of
11 other investigation --

12 A Right.

13 Q -- and spoken to many people. So, [REDACTED] [REDACTED]
14 briefed you and [REDACTED] [REDACTED] pretty much when the case first
15 came in --

16 A Mm-hmm.

17 Q -- in mid-2006, after the FBI and indeed the
18 office -- the U.S. Attorney's Office in West Palm had opened
19 the case, but before Epstein was indicted. So, this first
20 exhibit, Exhibit No. 1 that you have in your binder before
21 you -- or, in your folder before you -- is that e-mail from
22 [REDACTED] [REDACTED] to you that you just referred to dated July 24 --

23 A Right.

24 Q -- 2006, in which he's sort of passing on the
25 information that Epstein has by now been arrested -- been

1 indicted -- arrested and indicted by the state. Do you
2 recall anything about that original briefing from [REDACTED]
3 [REDACTED]?

4 A I -- I don't.

5 Q All right. Did you know at the time that -- at the
6 time she briefed you --

7 A Mm-hmm.

8 Q -- which is prior to Exhibit 1, did you know who
9 Epstein was?

10 A I did not.

11 Q Never heard of him, to your knowledge?

12 A To my knowledge, I don't recall having heard of
13 him.

14 Q And what did you understand at that early point the
15 case to be about?

16 A So, I don't recall the briefing, and so I can't
17 give an independent recollection. You know, based on this, I
18 mean, the --

19 Q You're talking about Exhibit 1, and you're --

20 A Based on --

21 Q -- looking at --

22 A -- based on Exhibit 1, you know, I can -- I can
23 infer that this would have been my general understanding of
24 the case, and you know, and the key things that I point here
25 is pre-trial diversion, which is code for no jail time, and

1 petite policy.

2 Q But this -- what -- Exhibit No. 1 --

3 A Right.

4 Q -- does not make it clear to you that this case
5 involved allegations that Jeffrey Epstein had been enticing,
6 coercing, whatever verb you want to use, young, underage
7 females -- we will for the record call them girls here --

8 A Mm-hmm.

9 Q -- as opposed to women, and these underage females
10 were being paid to provide him essentially with sex, or
11 sexual activity or conduct, of a pretty salacious nature. Do
12 you recall that as being essentially what you were briefed on
13 from the beginning?

14 A Again, I don't recall the initial briefing. I take
15 it based on your review that there was an initial briefing.
16 I can't say the degree of detail. I can't say what it was
17 about. As a -- as a typical matter, I wouldn't be briefed
18 when a case comes into the office other than being made
19 aware, this is a case, this is what we're looking at.

20 Q So, then, if you --

21 A Sure.

22 Q -- understanding you don't remember the briefing,
23 is it fair to say that you did have some understanding of
24 what the case that was that West Palm Beach was pursuing as
25 of mid-2006?

1 A I certainly had an understanding of the general
2 facts of the case early on. I can't speak to whether it was
3 mid-2006 versus late 2006 versus 2007, but --

4 Q Mm-hmm.

5 A -- early on, I certainly had an understanding that
6 it was a case that involved, you know, a billionaire who was
7 doing sordid things with young women or girls who were
8 minors.

9 Q [REDACTED] and the records indicate that her
10 concern in bringing this all the way to you --

11 A Mm-hmm.

12 Q -- and her first at that time criminal chief --

13 A Right.

14 Q -- but sort of acting First Assistant [REDACTED]
15 [REDACTED] was because she was afraid of political pressure that
16 might be brought to bear against the U.S. Attorney's Office
17 in this case. Do you have any recollection of that being a
18 concern that was laid before you?

19 A I don't -- again, I don't recall the early -- that
20 briefing. I've reviewed this e-mail, and -- and I can -- you
21 know, I take it -- it would have been natural for me to say,
22 should we approach the state attorney, because we had lots of
23 ongoing matters with the state attorney, and it seems that
24 [REDACTED] said no for fear it'll be leaked straight to Epstein,
25 and I assumed I'd let it be at that point.

1 Q And do you know -- oh, do you know what he meant by
2 it being leaked to Epstein by the state -- by Barry -- Barry
3 Krischer, the then State Attorney?

4 A So -- so, based on the context --

5 Q Mm-hmm.

6 A -- what I would assume is that if the state
7 attorney is cutting this kind of deal, and it appears that
8 things have already leaked, because you know, there's clearly
9 and article here with leaked -- you know, so, something has
10 already leaked.

11 Q You're referring to Exhibit 1?

12 A Exhibit 1. Other things would leak.

13 Q Had you ever met Barry Krischer?

14 A Sure.

15 Q What was your relationship with him?

16 A So, there were multiple state attorneys within the
17 district. He was -- it was a professional relationship. We,
18 you know --

19 Q It was an elected position, correct?

20 A It was an elected position.

21 Q And what was your assessment of his aggressiveness
22 as a prosecutor, and his capabilities?

23 A On the public -- my -- most of my assessment with
24 him was on the public corruption front, where we had brought
25 several cases, and I was a little disappointed that these

1 were cases he could have brought that he chose not to bring.

2 Q Right. So, is it -- can I -- am I accurate in
3 inferring from that that you didn't regard him as a
4 particularly hard charging prosecutor?

5 A So, I -- with any state attorney, I hesitate to
6 sort of paint broad brush strokes. I don't think that's
7 always fair, but my experience had been in the public
8 corruption space.

9 Q Yeah.

10 A And in that space, I did not think -- whether it
11 was him, or whether it was his office, I can't speak, but I
12 did not think they had done as much as they could have done.

13 Q Is there any area in which you thought he and his
14 office did pursue aggressively?

15 A So, as I recall, we had had -- we had emphasized
16 gun crimes quite a bit, and really had had a lot of success
17 moving -- moving the ball in the gun crimes space in Palm
18 Beach.

19 Q What --

20 A But let me -- let me just say, it's also very
21 difficult to reconstruct time frames.

22 Q Mm-hmm.

23 A And so, I hesitate, because I don't know if that
24 was 2006 or 2007, or -- but you asked in another area, and --

25 Q In this Exhibit 1, you ask whether it's

1 appropriate -- appropriate to approach Barry Krischer and
2 give him a heads up as to where the U.S. Attorney's Office
3 might go, presumably --

4 A Right.

5 Q -- with this case?

6 A Correct.

7 Q Why would you want to extend that difference to
8 him? Why would it matter?

9 A A colleague in law enforcement. I thought it was
10 important for the office to work with -- with state attorneys
11 as a general matter, and I found that the office worked best
12 when it had good working relationships with state attorneys
13 and with -- you know, with -- for that matter, the agency
14 SACs and others, and --

15 Q Right.

16 A -- but again, you know, rather than my asserting,
17 I'm asking [REDACTED], and [REDACTED] was saying no, and I don't know
18 what the ultimate outcome was, but I would guess that we'd
19 just defer and let it be.

20 Q Turning to Exhibit 2, this is an e-mail that was
21 forwarded to you by [REDACTED] [REDACTED], the original forwarded e-
22 mail is from [REDACTED] [REDACTED] copying [REDACTED] [REDACTED], and it
23 essentially relates to a dust up between [REDACTED] [REDACTED] and
24 [REDACTED] [REDACTED] over chain of command, and her workload, but
25 in the first paragraph, she specifies that, "When I first

1 heard about the Epstein investigation, I spoke with [REDACTED]
2 about it. [REDACTED] was not here."

3 " [REDACTED] said that she would back me up on the case,
4 but I knew what has happened to the state prosecution can
5 happen to the federal prosecution if the U.S. Attorney's
6 Office isn't on board. So, I spoke with [REDACTED] about the case,
7 and he spoke with Alex, and they gave the green light."

8 So, that -- that actually appears to be an initial
9 contact with [REDACTED] that she's talking about prior to the
10 briefing of you, so, way early when the case first came in in
11 May of 2006. Do you recall being contacted or having a
12 conversation with --

13 A Mm-hmm.

14 Q -- [REDACTED] [REDACTED] about that case so early?

15 A Again, the early recollection, whenever -- whenever
16 it might have taken place, was I was made aware of the
17 matter. It seemed a reasonable matter to pursue, and that's
18 the level of detail that I recall.

19 Q So, if [REDACTED] said back in the day that she got from
20 you all the green light, what did you understand her to be
21 being authorized to do -- authorize may be too strong a word,
22 but --

23 A So, to pursue -- to investigate -- to pursue --

24 Q Yeah.

25 A -- to someone, you know, I -- I'm speculating here,

1 but there's a case, and they want to know, should we spend
2 our time on this? And the answer is it seems reasonable.
3 Sure.

4 Q Okay, and do you -- do you recall making that
5 explicit to her?

6 A I -- I don't, and -- and it wouldn't have been my
7 practice to -- to sort of make it explicit to -- yeah, go
8 spend your time, as opposed to, thank you for letting me
9 know, that sounds reasonable.

10 Q All right.

11 A And whatever, you know, details it looks like based
12 on Exhibit 1, there was subsequent follow up between her and
13 [REDACTED], or with her and the management team, and they said, you
14 know, go back, work on A, B, and C.

15 Q Do you know what [REDACTED] [REDACTED] was talking about
16 when she referred to something happening to a federal
17 prosecution if the U.S. Attorney is not on board? Had there
18 been a case in which you were not supportive of a particular
19 prosecution that was being proposed?

20 A None -- none that I recall, and -- and I knew that
21 what has happened to the state prosecution can happen to a
22 federal prosecution if the U.S. Attorney's not on board. I
23 don't recall any federal prosecution that I wasn't supportive
24 of, at least in -- in this context.

25 Q What do you mean by this context?

1 A It was my way of narrowing an answer so I didn't
2 spend the time to go through every office and every division.
3 For the most part, as I sit here, I'm sort of running through
4 each office. I don't recall any, and -- and if I could,
5 based on this -- on Exhibit 2, I'm not sure that she's
6 referring to a specific case as opposed to concerns that the
7 state prosecution started at point -- you know, with charges
8 that required jail time and ended up somewhere else, and it
9 may have been because management --

10 Q All right.

11 A -- wasn't.

12 Q But that's -- that's a current -- a reading of --

13 A Yeah.

14 Q -- this, rather --

15 A That -- that's my --

16 Q -- than a recollection?

17 A -- that's my reading, not --

18 Q All right. Based on the early description you got
19 of the case --

20 A Right.

21 Q -- did you have any idea how many victims were
22 involved?

23 A I did not.

24 Q Did you know what the name of the case was? What
25 the investigation's name was? You know, cases get names.

1 A So, I know that based on review of the
2 correspondence, I may have known that then. I did not
3 independently recall that.

4 Q That being Operation Leap Year?

5 A Correct.

6 Q All right, and do you know where that comes from?

7 A I have -- well, I mean, other than February 20 --
8 yeah, I don't know.

9 Q Well, the original allegations that came in
10 involved 28 victims, and then subsequently [REDACTED] advised that
11 she was uncovering more victims, so there were --

12 A Yeah.

13 Q -- over 30 victims.

14 A I --

15 Q Well over 30.

16 A I did not know that.

17 Q All right. You did not -- you -- as you sit here
18 today, you didn't know it?

19 A I don't recall knowing that.

20 Q But is it -- is it reasonable that the number of
21 victims would be one of the factors that you would have been
22 informed of at the time?

23 A I -- I don't know. I -- it all depends how
24 detailed that briefing was. Again, as a typical matter early
25 on, this is what is being done. I would trust my AUSAs and

1 my management staff --

2 Q Right.

3 A -- to pursue it. It wouldn't be a, here are all
4 the facts associated with this case, just heads up. There is
5 a high profile case involving a very wealthy man abusing
6 young women, a state attorney is prosecuting, but you know,
7 there's dissatisfaction. I wanted to give you a heads up,
8 both to inform me, but also so that I'm aware in my
9 interactions with -- with other Palm Beach officials.

10 Q Okay. Based on whatever information you got at the
11 time, did you think that there was a federal interest to be
12 served by pursuing a federal prosecution potentially?

13 A Yes.

14 Q And what was that?

15 A So, the exploitation of young women.

16 Q Girls.

17 A Girls.

18 Q I want to be -- I want to be --

19 A Minors. Minor females.

20 Q All right. I -- you know, for a -- for a sort of a
21 glossary convention --

22 A Right.

23 Q -- that we are using is -- and we can use in this
24 interview, is girls --

25 A Right.

1 Q -- for the victims who at the time of the conduct
2 were minors, and women, for those who were not, even though
3 the girls at a later time became age of --

4 A Fair.

5 Q -- majority.

6 A Fair.

7 Q Okay. So, here, we're really talking about the
8 girls --

9 A Okay.

10 Q -- who were victims.

11 A Yeah, yeah.

12 Q Okay.

13 A Girls, minor females. I just don't -- sometimes
14 that term is viewed differently. And so --

15 Q Right.

16 A Yeah, so the exploitation of girls or minor
17 females, and that certainly is an important federal interest.

18 Q Well, and is the number and the breadth of the
19 scheme -- the scope of the activity also a factor there? In
20 other words, it wasn't one or two on one or two occasions.

21 A So, there's several factors that probably go into
22 what's the federal interest. The acts, the sordidness of the
23 acts, the -- the number, the likelihood or the importance of
24 registration was important to my mind because that -- that
25 goes to future prevention to putting the community on notice.

1 Q And were you aware that the individual in this
2 case, Epstein, also had homes in other districts, and that
3 there were -- it was an interstate activity on his part, the
4 interstate travel and so on?

5 A I --

6 MR. HERRON: I'm sorry, let me just -- we're still
7 in the original intake time frame --

8 MS. [REDACTED]: Yes.

9 MR. HERRON: -- here?

10 THE WITNESS: Yeah. Again, for the intake time, I
11 can't -- I can't speak to the details, because I don't
12 remember what the extent of that -- that intake briefing.

13 BY MS. [REDACTED]:

14 Q But as I -- as I -- as I --

15 A Could I -- could I ask --

16 Q Yes.

17 A -- a question? Was there -- was there a clear
18 briefing as opposed to a heads up based on the record?

19 Q Yes. That [REDACTED] [REDACTED] came to Miami to conduct
20 a briefing of you and --

21 A Okay.

22 Q -- [REDACTED] [REDACTED] in order to tell you about this
23 case, and get from you --

24 A Okay.

25 Q -- a green light --

1 A I --

2 Q -- to proceed with it.

3 A I ask, because I recall an e-mail, and I don't know
4 what the time would have been, where she's coming to Miami,
5 and [REDACTED] says, why don't you stop by my office first?

6 Q Right.

7 A And -- and -- and I keep -- I would -- I would
8 speculate that, why don't you stop by my office first is, why
9 don't you give me a bunch of details, and then we will walk
10 across to the U.S. Attorney --

11 Q Right.

12 A -- and fill him in, and so that would have been
13 almost a two-tiered discussion.

14 Q And is that --

15 A And I don't know if that -- if that -- the timeline
16 on that e-mail is when you say briefing.

17 Q Well, we are -- we are asking --

18 A I --

19 Q What it -- what it would --

20 A Yeah.

21 Q -- be.

22 A I'm speaking just based on review of the record,
23 not based on recollection here.

24 Q All right. So, you have -- to be clear, you have
25 no recollection of any specific briefing in 2006?

1 A I accept that I was made aware of the matter.

2 Q Okay.

3 A I can't say how or in what context or to what
4 degree of detail.

5 Q Or by whom?

6 A Or by whom. I knew the matter -- it's easier to
7 recollect at least for me what I knew as opposed to who told
8 me what.

9 Q All right. All right. At this point, would you
10 have had -- did you have -- if you -- at any point, did you
11 have any reservation about investigating and potentially
12 prosecuting Jeffrey Epstein, a reservation stemming from his
13 wealth, and reported standing in the community at all, and
14 influence?

15 A No, and we had prosecuted lots of influential folks
16 in the office. So, while he had wealth, it's not unusual --
17 UBS was in the office at the time. I mentioned several high
18 profile Palm Beach public corruption cases.

19 Q So, there was no concern about possible negative
20 blowback in the press or the community or even at Main
21 Justice if you went after someone like Jeffrey Epstein?

22 A There was no concern stemming from his wealth or
23 his status.

24 Q What would it have stemmed from?

25 A At some point, I think there was concerns regarding

1 the -- the law, and we'll probably get into that. I alluded
2 to that earlier in the overview. I don't know if that would
3 have been developed this early on, but -- but that's not a
4 function of his wealth. That's a function of the fact
5 pattern.

6 Q Right. Right. Okay. So, as you mentioned petite
7 policy concerns, petite policy, petite policy, could you tell
8 us what your position was on the -- on the policy as it
9 applied in this case as you understood it from -- in the
10 beginning?

11 A So -- so, the policy, you know, on its face,
12 doesn't specifically apply. Based on Exhibit 1, I'm now
13 inferring, not recalling, it looks like either [REDACTED] on her
14 own, or [REDACTED] asked for a -- or, Mr. [REDACTED], asked for a
15 petite policy waiver memo to be prepared, in part on the
16 assumption that the state prosecution may or may not have
17 gone for it.

18 I don't know, but I know -- I do recall that early
19 on, this was unusual, because it had been -- he had been
20 arrested or arraigned. It was going forward on the part of
21 the state, and so here is the big bad federal government
22 stepping on a sovereign, you know, state, saying you're not
23 doing enough, and to my mind, when, you know, the whole idea
24 of the petite policy is to recognize that that estate has --
25 you know, is an independent entity, and that we should

1 presume that what they're doing is correct, even if we don't
2 like the outcome, except in the most unusual of
3 circumstances.

4 Q And what kinds of -- well, so, the petite policy
5 exists because there's a recognition that there are cases
6 that are appropriately pursued. I mean, you were the head of
7 the civil rights division, after all.

8 A Correct, which is why I say except in the most
9 appropriate of circumstances.

10 Q Right.

11 A But let me add that based on this, I was
12 comfortable, you know, saying, let's go forward, because the
13 lack of jail time, you know, to use -- to use petite policy
14 language, a plea that did not include jail time or
15 registration would seem like a manifest injustice.

16 Q All right. So, did you have any doubt that you'd
17 get a waiver if you applied for one?

18 A I'm not -- so -- so, I'm now speculating. I don't
19 recall, but I'm not sure I would have said, is there a doubt
20 that I'd get a waiver as opposed to, is this something I feel
21 comfortable doing, or not? And --

22 Q And this being the prosecution, or this being
23 the -- applying for a waiver?

24 A Applying for a waiver. And so, you know, either
25 main justice gives it or doesn't give it. That doesn't mean

1 you don't apply for it if you think it's the right thing to
2 do.

3 So, for example, in the UBS case, which was one of
4 our big tax, you know, prosecutions, we asked for a Bank of
5 Nova Scotia --

6 **Q Mm-hmm.**

7 **A --** authorization to the Bank of Nova Scotia
8 subpoena, and I didn't think Main Justice would -- you know,
9 I pushed really hard, and I got into the weeds in that case
10 for that purpose, but I still thought, let's go for it, and
11 we did, and Main Justice didn't give in to it, and that's
12 okay. That's how it works.

13 **Q Okay. So, they denied that request?**

14 **A**They denied that request, and I say that as an
15 example of -- as a typical matter, I don't think what's main
16 justice going to say, as opposed to how do we -- how should
17 we approach this matter?

18 **Q I don't understand about what you mean by, how**
19 **should we approach this matter.**

20 **A**So, honestly, how do I -- how do I explain this?
21 So, I think there's a difference in saying, let me predict
22 how main justice will come out, and follow that prediction,
23 versus, folks, what do you all think? Okay. If we're
24 comfortable with this, let's write it up, and let's see what
25 Main Justice does.

1 One is trying to predict what folks in this
2 building are going to think. Another one is trying to
3 predict -- another one is saying, what do we in Miami think,
4 and then let main justice figure it out.

5 **Q And which is the approach you typically took?**

6 A And my point is the approach that I typically took
7 is, what do we think, and let main justice give it a thumbs
8 up or a thumbs down.

9 **Q All right, and in this case, did you do that with**
10 **regard to the petite policy?**

11 A So, in this case, we didn't get that far in that we
12 didn't have to submit to DOJ.

13 **Q Mm-hmm.**

14 A But -- but we were approaching it not based on what
15 main justice was going to think, but what do we feel is the
16 right outcome in this office.

17 **Q So, as I understand, the bottom line is that you**
18 **didn't -- as I hear you, I believe you're saying that you**
19 **didn't stand down, or in any way cease or limit pursuing this**
20 **case on petite policy grounds. You pursued it as you -- as**
21 **you would --**

22 A So, we went forward with the matter, although there
23 were petite policy concerns in the background. So -- so
24 you're setting this up as a binary -- as a -- did -- was it a
25 fact -- as a binary, you did not limit yourself on petite

1 policy grounds, and I'm pushing back a little bit, because I
2 don't think it's, it's part or it's not, as opposed to when
3 you look at a case, there are all sorts of factors, and it is
4 a factor in how you think of a matter going forward.

5 BY MS. [REDACTED]:

6 Q If you had those petite policy concerns -- you or
7 members of your staff?

8 A I would say a combination of me and my management
9 staff.

10 BY MS. [REDACTED]:

11 Q Who? Who?

12 A I can't -- I can't recreate --

13 Q But who are you dealing with on this case?

14 A Primarily, it would be my first assistant and
15 criminal chief as I typically -- so, there is, you know, to
16 sort of put it in main justice terms, you know, a line
17 attorney has a deputy section chief and a section chief and a
18 DAG and an AAG, and the AAG usually deals with the section
19 chief, or the DAG. And so, I was dealing with my first
20 assistant and my crim chief.

21 Q Right, and they were there in Miami.

22 A And they were there in Miami.

23 Q And by the way, [REDACTED] [REDACTED] first line
24 supervisor was [REDACTED] [REDACTED].

25 A Correct.

1 Q Do you know why she was not actively participating
2 in this chain of command?

3 A I noticed that in the correspondence, and I
4 couldn't speak to that.

5 Q All right.

6 A But the -- but it goes to the point that if you
7 look at the -- she reported to [REDACTED], who reported to [REDACTED],
8 who reported to [REDACTED], who reported to [REDACTED]. And so, as a
9 typical matter, I tried to empower my first assistant and my
10 criminal chief and my office heads and work through them, not
11 bypass them.

12 Q In this particular case with regard either to the
13 petite policy --

14 A Right.

15 Q -- or any other aspect, was there anyone other than
16 that group of five, if you will, in that chain --

17 A Correct.

18 Q -- from you down to [REDACTED] [REDACTED] through [REDACTED],
19 [REDACTED] --

20 A Right.

21 Q -- and [REDACTED] that you were dealing with?

22 A I can't recall. I -- I can -- I can say as a
23 general matter, it would not be unusual for me to walk
24 down -- walk down the hall and talk to someone that I trust
25 and say, hey, I've got this fact pattern. What do you think?

1 Q Do you recall ever doing that in connection with
2 this case?

3 A I -- I don't recall the specific briefings or who I
4 talked to. I'm just saying as a general matter that there
5 are folks on my -- on the eighth floor that were in
6 management that I would often just walk down the hall, and --

7 Q But do you recall doing that --

8 A I don't --

9 Q -- in this case?

10 A I don't recall.

11 Q Okay. So, we shared with you in Exhibit 3 a pretty
12 lively exchange between [REDACTED] and [REDACTED].
13 You didn't -- we have no reason to believe you saw this
14 before, but it makes some representations about you, and
15 that's why we brought it to your attention.

16 A Okay.

17 Q Do you recall this e-mail exchange?

18 A I don't recall the e-mail exchange.

19 Q I mean, you --

20 A But I --

21 Q -- didn't see it then. Do you recall having read
22 it before today?

23 A I recall reviewing it, yes.

24 Q All right. Okay. So, starting from the end, [REDACTED]
25 [REDACTED] using [REDACTED] Blackberry, which is a little

1 confusing to begin with -- notifies [REDACTED] that -- of a -- of
2 a particular conversation he had with one of the defense
3 attorneys. At this point, what I want to do is draw your
4 attention to the -- the comment, and his response, and we're
5 looking at page --

6 A Page --

7 Q -- three.

8 A -- page three.

9 Q So, in the third paragraph --

10 A Yeah.

11 Q -- "it was made clear to you by the U.S. Attorney
12 and the first assistant from the time when you were first
13 authorized to investigate Mr. Epstein that the office had
14 concerns about taking the case because of petite policy and a
15 number of legal issues." And then later he says that, "You
16 were never given authorization by anyone to seek an
17 indictment in this case."

18 And -- close quote -- and then on the first page,
19 [REDACTED] [REDACTED] presents her version of that original contact
20 with you, meeting with you, at the bottom of the page.
21 Halfway through the last paragraph, she says, "My
22 recollection of the original meeting with Alex and [REDACTED] is
23 quite different than your summary. In that meeting, I
24 summarized the case and the state attorney's office handling
25 of it."

1 "I acknowledged that we needed to do work to
2 collect the evidence establishing a federal nexus, and I
3 noted the time and month," -- that -- I'm sorry, "I noted the
4 time and money that would be required for an investigation.
5 I said I was willing to invest time and the FBI was willing
6 to invest the money, but I didn't want to get to the end of
7 it," -- "to the end, and then have the office be intimidated
8 by the high powered lawyers. I was assured that would not
9 happen." Can you tell us which version of that initial --
10 which version --

11 A Right.

12 Q -- is correct?

13 A So, again, I don't remember that initial briefing,
14 so I can't tell you which version is correct. I would also
15 say that it's possible neither version is correct and that
16 there's a little bit of truth -- now I'm just speculating --

17 Q All right.

18 A -- that there's a little bit of truth in either
19 one, because it's certainly possible to say, I hear you,
20 righteous case, go forward and investigate, work on the
21 federal nexus, which is what Exhibit 3 is saying, go work on
22 the federal nexus and find evidence for the federal nexus.
23 But we have concerns about petite policy and legal matters,
24 so there's a lot of work to be done.

25 Q So, what kind of a direction does that amount to

1 for the line AUSA? What's her job then?

2 A So, the job would then be to go back and
3 investigate, and develop facts and report back.

4 Q And if she developed enough facts, and supportive
5 law to present proposed prosecution?

6 A Right.

7 Q Okay.

8 A And so -- so, a lot of times in this he said, she
9 said, there's a little bit of truth to both sides of the
10 discussion. I'm just -- I'm just saying as a general matter,
11 I wouldn't -- your questions are sometimes either or, and
12 sometimes --

13 Q Right.

14 A -- it can be a combination of both.

15 Q All right, and -- but in fact you don't recall?

16 A But I'm speculating.

17 Q All right. Is there anything in either of those
18 that two accounts -- two versions that you say didn't happen,
19 couldn't happen?

20 A I can't, because I don't recall it. I can't --

21 Q Okay.

22 A -- speak to that. I would speculate that there's
23 probably a little bit of truth on both sides that -- and if
24 you read it closely, you'll see that [REDACTED] acknowledges the
25 need to work on a federal nexus. So, that goes to, you know,

1 where [REDACTED] -- or, Mr. [REDACTED], I'm sorry, I'm calling -- I'm
2 using first names.

3 Q Its' all right.

4 A So, I'm going to just start --

5 Q This is an informal interview.

6 A I'm going to just start using first names. I don't
7 mean that disrespectfully -- where, you know, [REDACTED] says, you
8 know, because of petite policy and legal issues, and [REDACTED] is
9 acknowledging the legal issues, because she's saying needed
10 work to do to collect evidence establishing the federal
11 nexus.

12 Q All right.

13 A So --

14 Q Yeah.

15 A So, they're not as inconsistent as presented --

16 Q All right.

17 A -- arguably.

18 Q Back in 2006, in this Exhibit No. 1, [REDACTED]
19 tells you in his e-mail that the indictment target date is
20 August 25, 2006.

21 A Mm-hmm.

22 Q In other words, very shortly --

23 A Right.

24 Q -- thereafter, within a month or so. Do you know
25 why the line AUSA, [REDACTED], was keen on getting the

1 federal case against Epstein brought on a fairly -- on a
2 quick basis?

3 A So, I can't speak to that, and -- and can I -- can
4 I ask, based on your record, was that that the -- was that
5 the state indictment target date, or was that --

6 Q He already --

7 A -- a federal --

8 Q -- Epstein had already been indicted and arraigned
9 on the --

10 A Right.

11 Q -- indictment, so that's the federal.

12 A So -- so, that's --

13 Q That's talking about a federal indictment.

14 A All right.

15 Q The point --

16 A Correct.

17 Q -- is that early on --

18 A Right.

19 Q -- the investigative team, the FBI --

20 A Right.

21 Q -- and [REDACTED] [REDACTED] were hot to trot to get
22 this --

23 A Right.

24 Q -- case moving from a federal standpoint. That may
25 well have been quite unrealistic given --

1 A Correct.

2 Q -- all of the issues that we've been discussing,
3 but the question is, do you know why there was some urgency?

4 A I haven't the slightest idea. When was it -- when
5 was it initially brought to the office?

6 Q It was brought to the office in May of --

7 A Right.

8 Q -- 2006.

9 A That -- that would be a really, really fast
10 timeline.

11 Q Right. So, the question is, aspirational though it
12 may have been, there was a hope --

13 A I --

14 Q -- to get it done quickly.

15 A Right.

16 Q So, the question is, can you think of factors that
17 would have led a prosecutor to want to pursue --

18 A I --

19 Q -- this quickly?

20 A I don't recall. I can speculate that [REDACTED] was
21 very hard charging and wanted to do a lot, and --

22 Q Was that your experience of her?

23 A So, based on this, I see, you know, so, Exhibit 2
24 is, you know --

25 Q Excuse me, would -- but just from your memory, is

1 that your recollection of how [REDACTED] operated? Hard charging?

2 A Yeah. I'd say -- so, a lot of really good
3 prosecutors are hard charging. That's --

4 Q All right.

5 A -- that's part of the job description.

6 Q Okay.

7 A And so, yes.

8 Q Okay. Did -- so, in the child sex offender
9 context, are you familiar with a -- the belief on the part of
10 people who do that kind of case, as did [REDACTED] [REDACTED] and
11 others in your office -- that those offenders typically don't
12 stop offending, even after somebody's onto them? So that
13 there was a concern that he -- that in this case, Jeffrey
14 Epstein might be continuing to offend, and therefore getting
15 him off the streets was --

16 A Right.

17 Q -- a priority?

18 A I have heard that discussed recently in the media.
19 I don't recollect that back in -- part of a discussion back
20 in 2006.

21 Q All right. Okay. Do you recall that [REDACTED]
22 [REDACTED] -- and this is just a, do you recall --

23 A Mm-hmm.

24 Q -- that she periodically would give you in that
25 early period of 2006, updates -- written updates?

1 A I don't.

2 Q Did you think that it was appropriate for a line
3 AUSA to be shooting e-mails updating on a case that was under
4 investigation directly to you and your first assistant?

5 A It was unusual, and -- and so, so, did I think of
6 a -- look, I can't reconstruct what I would have thought, but
7 you know, you're asking not just what did I know, but what
8 would I have thought 12 years ago.

9 But I can say that based on general practice, it
10 would have been unusual, and my best guess as to how I would
11 have reacted would have been, hey, [REDACTED], this is unusual, is
12 the chain being fully informed? Are feathers being --

13 Q Right.

14 A -- ruffled? Figure it out, because, you know, you
15 asked me early on to characterize [REDACTED] qualities. I think
16 one of the things that I said was he was very good at
17 smoothing things --

18 Q Mm-hmm.

19 A -- over. And sort of the interaction, because he
20 was respected, and so I might say, that's kind of unusual.
21 Go figure it out.

22 Q But you wouldn't necessarily jump that chain
23 yourself, and be --

24 A I --

25 Q -- in direct communication?

1 A I tended not to --

2 Q Okay.

3 A -- do that.

4 BY [REDACTED]:

5 Q Would she have sent this to you -- something
6 unusual, if she thought that this was a case that you wanted
7 to be involved in?

8 A Even in -- even in those, I tried to be, as a
9 general matter, fairly sensitive to the chain, because I had
10 found that if you start jumping the chain too much, even if
11 you become informed, managers feel, you know, out of -- out
12 of the loop, and that's not -- that's not conducive to sort
13 of allowing them to do their job of supervising. It's a big
14 enough office, you have to empower your folks to do their
15 jobs.

16 Q So the concern on your part would not be that she
17 was communicating directly to you, but that as long as all of
18 the chain was informed as well?

19 A Yeah. I mean, if you're -- if you're [REDACTED],
20 or you know, if you're [REDACTED], or you know, don't you want to
21 talk to the line attorney before the line attorney talks to
22 your boss?

23 And so, it's not just informed, but it's respecting
24 your supervisor. And it's a difficult balance, because often
25 really good AUSAs are also the ones that, you know, just want

1 to get things done.

2 BY MS. [REDACTED]:

3 Q Did you have any reason to believe during this
4 investigative phase that [REDACTED] [REDACTED] was not pursuing
5 this case -- this investigation adequately, appropriately,
6 and fully?

7 A No, I did not.

8 Q Did you --

9 A Not to my recollection.

10 Q Did you feel that she did not have appropriate
11 oversight?

12 A Not to my recollection.

13 Q Okay. Do you -- did you feel that she had any
14 resource problem? That is, did she have, as far as you knew,
15 sufficient resources available to pursue her investigation?

16 A To my recollection, yes, I noted her early -- you
17 know, I noted more recently the e-mail where -- you know,
18 that was shared with me by [REDACTED] about resource concerns, and
19 I would just note that I would allow the management chain to
20 figure that out.

21 Q All right. Were you -- did you at any point
22 consider, based on what you then knew, expanding the scope of
23 the investigation? Did you ever suggest or propose that
24 instead of simply looking at Epstein's conduct in West Palm
25 Beach vis a vis these girls, that the federal authorities

1 could use their resources to look at other aspects of
2 Epstein's activities?

3 A So, I -- so, I think it's important to take a step
4 back, and I was aware of any number of cases going on in the
5 office, and based on what that stage of case was at, I would
6 get more involved for a time.

7 It wasn't my practice to direct AUSAs in how they
8 should investigate, or what the scope of a case investigation
9 should be. They -- the Miami office, before I got there, and
10 after I left, had a reputation for knowing their stuff. It's
11 a large office. It's got good people. I would assume that
12 AUSAs and their management would follow their natural leads.

13 Q All right. Were you aware that during this
14 period -- and by this period, I'm talking about the
15 investigative period from the time that the case came in in
16 mid-2006 --

17 A Right.

18 Q -- up until May 1 when [REDACTED] put forth
19 her pros memo --

20 A Right.

21 Q -- and proposed indictment. During that sort of
22 ten month period, or almost a year, were you aware that
23 defense counsel for Epstein were reaching out to [REDACTED]
24 [REDACTED] and to [REDACTED] to pitch their view of how the
25 case --

1 A Right.

2 Q -- should proceed?

3 A So, I don't have a specific recollection of who
4 reached out at what time. I would assume as a general matter
5 that defense counsel -- defense counsel were clearly involved
6 before the case came to the office. and so, I would assume
7 that defense counsel would remain involved while the office
8 was investigating. I say that not based on independent
9 recollection, but --

10 Q Right.

11 A -- why would they stop being involved?

12 Q And is it in your experience as a U.S. Attorney,
13 was it common or uncommon for defense counsel to approach the
14 line prosecutor and supervisor to make whatever pitch they
15 want with respect to a prosecution?

16 A Fairly common.

17 Q All right, and was it also common for those
18 approaches to be entertained? In other words, for the line
19 AUSA and supervisor --

20 A Right.

21 Q -- to meet with defense counsel?

22 A As a -- as a general matter, yeah.

23 Q And did you view that as appropriate?

24 A As a general matter, it was typical. It happened
25 before I got there, and is probably happening now.

1 Q And you view it as an appropriate part of the
2 process? Do you?

3 A I think AUSAs need to have discretion to meet with
4 defense counsel, and defense counsel certainly should be able
5 to present perspectives.

6 Q There is an outlook -- this is Exhibit 4, and this
7 is something --

8 A Okay.

9 Q -- it's really sort of a point of information here.
10 This is an outlook that shows you and [REDACTED] and [REDACTED] had
11 a scheduled meeting with Roy Black.

12 A Mm-hmm.

13 Q Roy Black, a prominent --

14 A Right.

15 Q -- local criminal defense attorney at the time in
16 the Miami area. This was a meeting scheduled in your office
17 for the 23rd of February of 2007. Do you have any -- he was
18 a -- he at the time --

19 A Right.

20 Q -- was one of Epstein's attorneys. Do you have any
21 idea whether this meeting related to Epstein or some other
22 case?

23 A I don't. I noticed that and I don't know whether
24 it was this or another matter.

25 Q But you have not particular recollection of meeting

1 with him on the Epstein matter --

2 A I don't.

3 Q -- at this time? Okay. So, I want to --

4 A And let me note, I think most of the correspondence
5 was from other attorneys and not him. And so, yeah.

6 Q All right. Are you -- are you okay? Do you want
7 to take a short break, or --

8 A Yeah.

9 Q Do you --

10 A Let's -- what time is it? Oh, 11:00.

11 Q Five minutes?

12 A Yeah.

13 Q Five minutes?

14 A Yeah. Let's take a five minute break.

15 Q Off the record.

16 (Off the record.)

17 BY MS. [REDACTED]:

18 Q All right, back on the record at 11:12, having
19 broken at 11:00. Mr. Acosta, we're going to move to that
20 time frame I mentioned a moment ago, May of 2007 when [REDACTED]
21 [REDACTED] submitted her prosecution memo of more than 80
22 pages, and her proposed indictment -- her initial proposed
23 indictment, which was more than 50 pages.

24 She submitted that by transmittal memo to her
25 entire chain, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

1 [REDACTED], and you. Was that a typical way for an indictment
2 and proposed prosecution? The memo to come?

3 A To my recollection, it was not, and I don't recall
4 that happening in other cases. I'm trying -- I'm hesitating,
5 just because I'm trying to think through if there's -- I
6 don't have any recollection of it happening in another case.

7 Q Why do you think it happened in this case? And who
8 caused it to happen?

9 A I don't know, and I don't know.

10 Q All right. All right. So, you -- when you --
11 before you saw it -- I don't know if you even knew about
12 it -- you -- by reference to Exhibit 6, you learned
13 essentially from [REDACTED] [REDACTED] that the FBI was planning to do
14 a press conference two weeks after that, and [REDACTED] told
15 [REDACTED] this office has not approved the indictment,
16 therefore, "please do not commit us to anything at this
17 time." Were you -- and eventually that e-mail chain --

18 A Right.

19 Q -- gets to you, apparently by blind carbon, because
20 there's no indication you actually get it.

21 A Right.

22 Q But you advise Alicia Valle, who I think was your
23 press person --

24 A Correct.

25 Q -- that, "[REDACTED] hasn't even finished her

1 recommendation to [REDACTED], i.e., we are a long way off." So,
2 did you have any idea why the FBI was planning a press
3 conference on Epstein?

4 A I don't -- I don't know if I did. I don't recall
5 if I did.

6 Q Was it -- how typical was it for the FBI to plan a
7 press conference on an indicted -- on a case that was being
8 indicted at the time of an indictment or arrest without
9 coordinating that with you and your office?

10 A Under [REDACTED] [REDACTED], highly atypical.

11 Q He was the SAC at the time?

12 A He was the SAC -- he was the SAC -- I know he was
13 the SAC at the time as of September, and I'm almost certain
14 he was the SAC at the time.

15 Q All right. And when you said that we are a long
16 way off, and [REDACTED] hasn't even finished her recommendation to
17 [REDACTED], can -- do you know whether you had any idea that she
18 had actually submitted her pros memo, and that she had made a
19 recommendation to [REDACTED]?

20 A I can't -- I can't recollect --

21 Q Okay.

22 A -- but I'll take my words as reflective of, if I
23 say she hasn't finished her recommendation, then I assume she
24 hasn't finished her recommendation, but I don't recall --

25 Q Does that mean --

1 A -- that level of detail.

2 Q -- as you -- as you look at your own words, does
3 that suggest to you that you were unaware as of that moment
4 that she'd actually submitted her pros memo?

5 A That suggests that I would not have been aware that
6 she submitted it. If -- you know, because it sounds like I'm
7 saying she hasn't even submitted her memo to [REDACTED]. So --

8 Q All right.

9 A -- we're a long way off.

10 Q All right, so, is --

11 A But again, this is based on practice, not
12 recollection.

13 Q All right, and when you said we are a long way off,
14 did that reflect, if you recall, an assessment of the length
15 of time to get to a pros --

16 A Right.

17 Q -- memo, a recommendation, and an assessment of
18 that, or your expectation that even when you saw a pros memo
19 and an indictment, it would be a long process before it was
20 approved?

21 A So, I would assume -- and again, this is just based
22 on speculating from the way that I write, that I'm thinking
23 she hasn't submitted her recommendation to [REDACTED], [REDACTED] needs
24 to review it.

25 He may -- you know, he'd probably want to talk to

1 [REDACTED]. It needs to be scrubbed. You know, this could be --
2 this ain't happening next week.

3 Q All right, but in your -- do you have any reason to
4 believe that whatever that process is that you were
5 describing would be any -- any different in any particular
6 measure in this case from the ordinary complex case?

7 A So, from my language, I would take that it's the
8 same process, but that there is a process, and the process
9 hasn't yet been followed.

10 Q All right. Okay.

11 A So, it would be the typical process in a typical
12 complex case.

13 Q All right, and is it fair to characterize this as a
14 relatively complex case, given the legal issues?

15 A I think it is, yes.

16 Q Okay. In Exhibit 8, you actually got the -- in
17 Exhibit 7, you see that in the bottom part of that that you
18 received a copy of the pros memo on the second page of that
19 exhibit at the top.

20 A Right.

21 Q [REDACTED] [REDACTED] is forwarding to you the pros memo.

22 A Right.

23 Q In Exhibit 8, you see that [REDACTED] [REDACTED] is
24 forwarding or sending to that chain, excluding [REDACTED]
25 [REDACTED], that is, [REDACTED], [REDACTED], [REDACTED], and you, additional

1 items in Operation Leap Year, and that's a summary of the
2 indictment, and evidence regarding the individual victims.
3 Okay? So, as of May 11, you had before you the pros memo,
4 the proposed indictment, and this substantial amount of
5 additional --

6 A Right.

7 Q -- information. Did you read the pros memo?

8 A Right. So, I don't recall -- and I know you're
9 going to say, why don't I, but this was a long time ago. I
10 don't recall if I read it, or if I went back to the office
11 and sat down with [REDACTED] and [REDACTED] and went over it. I can't
12 recall from this far. I can say that it looks based on this
13 that I was at the U.S. Attorney's conference.

14 Q Mm-hmm.

15 A The idea of printing this out on a hotel printer, I
16 wouldn't -- I can't believe I would have printed this out on
17 a hotel printer.

18 Q Let alone read it on an airplane, correct?

19 A Let alone read it on an airplane. That just
20 wouldn't --

21 Q Right.

22 A -- have been my practice.

23 Q But going back -- arriving back --

24 A Right.

25 Q -- to your office, was it your practice to take

1 voluminous documents like this and go through them yourself,
2 or did you rely on your senior staff?

3 A I would typically rely on senior staff. They --
4 they're the experienced ones that have seen these matters
5 before. They would go through it. We'd sit down. We'd talk
6 about the issues. We might have it in front of us, almost
7 like you've got all those --

8 Q Okay.

9 A -- binders there, but you know, you're calling my
10 attention to particular issues, and we'd sort of talk it
11 through.

12 Q And do you recall doing that in this case?

13 A I recall having discussions with senior staff about
14 this case.

15 Q Who?

16 A Certainly [REDACTED] and [REDACTED] at various points, and
17 I can't say that I did that in May versus April versus June.
18 I can't give you --

19 Q All right.

20 A -- timelines.

21 Q Well, we're talking now about May.

22 A Right.

23 Q Because you've got the actual --

24 A Yeah.

25 Q -- process.

1 A It would have been my practice based on this to go
2 back and discuss it, and so based on my practiced, I would
3 have gone back and likely discussed it. I doubt I would have
4 printed this out at whatever hotel I was at.

5 Q But even when you got back to the office, would you
6 have had somebody print it out so you would've had it
7 available?

8 A I may have had someone print it out so it's
9 available. I may have focused on particular parts of it.

10 Q What kinds of issues would you have focused on? In
11 other words -- in other words, some might go straight to the
12 facts.

13 A Right.

14 Q Some might be interested in the legal theories.
15 What was -- what was your approach?

16 A So, I think that depended on the case.

17 Q Okay.

18 A Here, you had legal questions, and you also had --
19 had witness issues, and I would think those would have been
20 the two primary areas.

21 Q Would you have gone through the indictment and the
22 pros memo and all of those other materials, or just relied on
23 your experience seeing your people, [REDACTED] and [REDACTED]?

24 A As a general practice, probably some combination.
25 As a general -- a general recollection, the concerns in this

1 case weren't about the sordid details of what happened,
2 because we believed he did what he did. The concerns were
3 about some of the legal issues around it, and some of the
4 issues in terms of testimony.

5 Q Of the victims?

6 A Of the victims.

7 Q All right. On page --

8 A And I say that because that would have been what I
9 would naturally focus on as opposed to reading the sordid
10 details, because I think everyone believed the victims.

11 Q All right. Exhibit 9 is an e-mail that you are not
12 on, but that -- notes that [REDACTED] is advising [REDACTED] that
13 you, [REDACTED], "Has your memo and Lefcourt's letter." Gerald
14 Lefcourt was --

15 A Mm-hmm.

16 Q -- a New York attorney who was one of the members
17 of the Epstein defense team. Did you know him?

18 A I did not.

19 Q Did you ever encounter him as far as you recall?

20 A I did not.

21 Q All right. He had, according to the documents we
22 have, made two substantial submissions to [REDACTED] [REDACTED] and
23 [REDACTED] [REDACTED] in --

24 A Right.

25 Q -- February of that year in an effort to dissuade

1 them from pursuing a prosecution, and we have every reason to
2 believe and no reason not to believe that that's what is
3 being referred to. Do you recall reviewing substantial
4 submissions from defense counsel at this time attacking in
5 very granular detail --

6 A Mm-hmm.

7 Q -- the credibility of the witnesses, and so on?

8 A I don't recall reviewing those. Again, I recall
9 discussions with my senior team about issues that included
10 the credibility, and I'm not sure if it's -- credibility is
11 the right word, but how the victims would do on the stands.

12 Q Okay, and who do you recall talking to you about
13 that?

14 A So, some combination of [REDACTED] and [REDACTED] would have
15 bene the likely -- I recall the discussion. I don't recall
16 whether it was [REDACTED], or whether it was [REDACTED] or [REDACTED], but the
17 logical inference would have been it would have been some
18 combination of [REDACTED] and [REDACTED].

19 Q [REDACTED] [REDACTED] has told us that during this period, he
20 was not actively involved in this case --

21 A Mm-hmm.

22 Q -- but that [REDACTED] [REDACTED] was. Would that be
23 consistent with your memory, or would --

24 A That -- sure, it -- I mean, they were a team. They
25 became more or less involved based on needs.

1 Q And was there any particular -- if [REDACTED] was
2 working with you directly on reporting --

3 A Right.

4 Q -- on his assessment of this case, was there any
5 reason for [REDACTED] to be involved?

6 A I might bounce ideas off him. I mean, he was -- he
7 was right across, so we worked closely, but you know, [REDACTED]
8 was the criminal chief, and if he was in the weeds, [REDACTED], I
9 would speculate would sort of, much like me, defer to his
10 judgement, because they've known each other, and they've
11 worked together, and they had a good working relationship.

12 Q And is it -- do we understand correctly that as
13 first assistant, [REDACTED] had a brief that really encompassed
14 the entire office?

15 A He did.

16 Q All right.

17 A He -- so, he supervised the civil, the criminal,
18 the appellate, and the forfeiture.

19 Q All right. There is here in this e-mail that you
20 did not see back in the day, Exhibit 9, a pushback from [REDACTED]
21 [REDACTED] regarding the rush that [REDACTED] is in to
22 pursue the case, and he says, "This is obviously a very
23 significant case, and Alex wants to take his time making sure
24 he is comfortable before proceeding." Do you -- can you tell
25 us what the basis would be for, or was, for that assertion by

1 [REDACTED] [REDACTED]?

2 A So, I can't -- well, I can't tell you from
3 recollection what the basis is. I can -- I can speculate
4 that the materials being transmitted Friday morning -- oh, I
5 guess it was -- yeah, so --

6 Q The 11th.

7 A Yeah.

8 Q Friday.

9 A So, Friday morning, it hasn't been reviewed by
10 anyone in the management chain, much less approved and
11 edited, and [REDACTED] that Monday is saying why don't I have a
12 decision?

13 And -- and so, absent truly extenuating
14 circumstances, typically, you'd have -- give -- you know,
15 it'd go through the management chain up to the U.S. Attorney.
16 And so, he's pushing back, saying, hey, it's been a day, or
17 it's been a weekend. I'm --

18 Q Right.

19 A -- I'm just reading between the lines here.

20 Q Who had authority to sign off on the Epstein
21 prosecution? To, say, indict?

22 A So, as a delegated matter, [REDACTED] [REDACTED] had
23 signature authority.

24 Q Mm-hmm.

25 A As did -- as did [REDACTED], as did [REDACTED], and

1 obviously I did. As a practice matter, this is something
2 that would have gone through the chain, and that we would
3 have then discussed.

4 Q But why up at your level? Is it because it is, as
5 [REDACTED] [REDACTED] says, "Obviously a very significant case?"

6 A So, at my level, not only because of the facts,
7 because it's not about the facts, but I do think that there
8 are legal issues that -- that implicated policy, that -- that
9 we were thinking through.

10 Q And what were -- what were the legal issues, and
11 what were the policy issues?

12 A So -- so, the legal issues, and also factual issues
13 in terms of the witnesses. So, the legal issues -- so, and
14 there's an e-mail from [REDACTED] based on the -- you know, the
15 contemporaneous record that alludes to some of this. In my
16 experience at the civil rights division, trafficking cases
17 involved -- you know, I can -- I can describe some -- some
18 horrific cases of girls being held against their will, you
19 know.

20 You had child pornography matters with young women,
21 sometimes incredibly young, that the office prosecuted. As
22 the trafficking laws were being developed, there was a lot of
23 discussion about, what's the difference between trafficking
24 and solicitation, and that discussion took place as the
25 trafficking laws were being developed. And so, this

1 implicated that, and it implicated the -- what is local and
2 what is federal.

3 Q All right. So, in the first, you're talking -- in
4 the first category, you're talking about the individual
5 charges that had been -- that were being proposed, which
6 included both trafficking and coercion and enticement -- or,
7 enticement.

8 A Correct.

9 Q All right. And in the latter, you felt that -- did
10 you -- to what extent did the witness -- victim witness kind
11 of credibility issues implicate policy?

12 A So -- so, I think I said policy and victim in that.

13 Q All right.

14 A In that there was certainly discussion between me
15 and my management about concerns as to how these victims
16 would sort of stand up in court.

17 Q So, what would have -- what would make you
18 comfortable before -- before proceeding? What would make
19 you -- what at that point would have made you comfortable
20 about proceeding?

21 A So, I think that at this point, I don't think it's
22 what would or would not have made me comfortable, and I'm
23 speculating here. I think it's, it came in on Friday, let's
24 talk this through.

25 Q But there -- but you've just identified for us

1 **issues that --**

2 A Issues that --

3 Q -- in your mind --

4 A -- we would have --

5 Q -- had to be resolved.

6 A -- wanted to talk through.

7 Q All right. Okay. At that point, did you -- to
8 your recollection, have any doubt that some form of
9 indictment or charging instrument against Epstein was likely
10 to be -- become viable?

11 A So, I don't -- it was a case that I thought it very
12 important that we do something. How that something played
13 out, I think had all along been a matter of discussion.

14 Q As something other than what the U.S. Attorney's
15 Office does, which is prosecute?

16 A Well -- well, no, I mean, what the U.S. Attorney's
17 Office does is ensure that justice is served.

18 Q Right.

19 A And whether -- and in partnership with state
20 attorneys, and sometimes that means state attorneys take the
21 lead. Sometimes that means the U.S. Attorney's Office takes
22 the lead, and it -- and a lot of times, we actually had, you
23 know, we -- we would share staff, because sometimes it made
24 sense for -- you know, for one part of the other to take the
25 lead.

1 So, writ large, I thought throughout it was very
2 important that something happen. There were these concerns
3 all along. I can speculate that this is just a reflection of
4 those continuing concerns.

5 Q As expressed by you to [REDACTED] [REDACTED] in the ordinary
6 course?

7 A As developed as a group throughout this -- I can --
8 so, if we go back to -- what was the Exhibit?

9 Q June of -- June of 2006.

10 A So, Exhibit 3, [REDACTED] says, "In that meeting, I
11 summarized the case and the state attorney's office handling
12 it. I acknowledged that we needed to do work to collect
13 evidence establishing a federal nexus, and I noted the time
14 and money that would be required for an investigation." And
15 so, as far back as that initial meeting, there is the
16 discussion about the federal nexus, and is this a state or a
17 federal --

18 Q Right.

19 A -- case?

20 Q All right. Exhibit 7 is an early e-mail from [REDACTED]
21 [REDACTED] to you. Early, meaning it proceeds the one --

22 A Correct.

23 Q -- we just looked at, and early in that it's right
24 as you're --

25 A Right.

1 Q -- receiving the pros memo, and you ask him, have
2 you read the memo? And curious why you ask [REDACTED], [REDACTED]
3 rather than [REDACTED] [REDACTED].

4 A I don't recall. I can -- I can speculate, and I
5 have two thoughts that I'll speculate. One is, [REDACTED] her
6 direct supervisor.

7 Q Mm-hmm.

8 A And I might be thinking --

9 Q Second line supervisor.

10 A Her second line supervisor, so why is [REDACTED] sending
11 me this? [REDACTED], have you read this? I.e., did you jump the
12 chain? Secondly, I think it -- I may have wanted to have
13 multiple opinions on this.

14 Q Mm-hmm.

15 A It's most likely that I had talked to [REDACTED].
16 already, because [REDACTED] and I talked more often, and I'm asking
17 another person in the management chain, hey, what do you
18 think? Let's have multiple opinions on the table here.

19 Q Well, this is the first time other than [REDACTED] that
20 we see you getting a recommendation.

21 A Right.

22 Q When [REDACTED] [REDACTED] says, he thinks that you should
23 charge him -- you, the office, should charge Epstein. He has
24 issues with the charging strategy proposed by [REDACTED], but
25 one, he says, "We all need to get on the same page as to

1 whether the statute's covered the conduct, and whether the
2 conduct is the type we should charge. I think the answer to
3 both is yes, although there is some risk on some of the
4 statutes." He proposes that the office start with a
5 complaint, which is not unusual, is it?

6 A It -- it happens, yes.

7 Q All right, which allows the defendant to be
8 arrested, and ideally detained, and then the defendant is
9 then highly motivated or incentivized --

10 A Okay.

11 Q -- to work a pre-indictment resolution. That's
12 what [REDACTED] [REDACTED] is proposing. He also notes that it's
13 important to -- in his view, to "cap him with conspiracy
14 counts to make a plea attractive," and the court could give
15 us a hard time with that if we had to dismiss indicted
16 counts.

17 A Right.

18 Q Okay. The proposed indictment included one
19 conspiracy -- a conspiracy that has a five year --

20 A Five year cap.

21 Q -- statutory maximum, and this notion is that
22 Epstein be charged with a five-year conspiracy count, and
23 take it from there. Do you know what he was referring to
24 when he noted that a court could give you a hard time in
25 dismissing indicted counts in this case?

1 A So -- so, as a typical matter, once there's an
2 indictment, the -- a pre-indictment -- well, by definition, a
3 pre-indictment resolution comes off the table, but in cases
4 of this nature, the resolutions tend to happen before
5 indictment, because once the indictment is done, at least in
6 South Florida, dismissal of charges -- for example, if -- you
7 know, if [REDACTED] is saying, let's think about a 371 with a five
8 year cap a rule 11 --

9 Q Mm-hmm.

10 A -- that's something that South Florida judges, they
11 tend not to -- you know, dismissing a number of counts, and
12 then doing a rule 11 is not something that judges tend to do.

13 Q All right. Two -- two pieces to that. One is --

14 A Okay.

15 Q -- the issue of dismissing substantive --

16 A Right.

17 Q -- counts -- substantive counts. Is that -- was
18 that a particular concern in this case because of the nature
19 of the conduct represented in the --

20 A So --

21 Q -- substantive counts?

22 A -- so, so, your question -- you asked a general
23 question, and then now you're moving to a --

24 Q Right.

25 A -- specific. As a general matter, not just in this

1 case, but in other cases, it is -- it was rare that the
2 office after an -- in cases like this, after a full charge
3 was done, that that substantive counts were dismissed. So,
4 for example, in the public corruption cases that I referenced
5 earlier out of Palm Beach, those were all negotiated pre-
6 indictment, and agreed to, and then by the time the -- the
7 case was indicted, it was all -- it was all sort of set on
8 auto-pilot.

9 Q So, typically, in my experience, the -- a
10 disposition like that is -- results in a criminal
11 information, not an indictment.

12 A Correct, and --

13 Q Are you saying that you would go ahead and indict
14 then?

15 A No, no, no, what I'm saying is that they were -- it
16 was all negotiated in advance, and then there was an
17 information --

18 Q Oh, okay.

19 A -- and the information would go forward, not an
20 indictment.

21 Q All right.

22 A And so, that is how a number of high profile cases
23 typically proceeded, as opposed to indict and dismiss.

24 Q And that is the experience of the Southern District
25 of Florida in general?

1 A It -- it was in particularly the Palm Beach office
2 with other high profile cases that were there at the time.

3 Q Do you recall any case in which a judge in an
4 indicted case refused to dismiss counts when the
5 government --

6 A Yeah.

7 Q -- in an indictment under those circumstances?

8 A I don't recall specific cases, but I can -- I can
9 say that typically in the higher profile cases you'd
10 negotiated with opposing counsel, presenting information.
11 The information would have agreed to an agreed to guideline,
12 and it would proceed in that way.

13 Q Understood, but in this case, I'm focusing on the
14 assertion by [REDACTED] that the court could give us a hard
15 time, and that's a little different from, you know,
16 exercising discretion to negotiate and proceed by
17 information. So, is there any judge that -- that was
18 particularly concerning with regard to an unwillingness to --

19 A I --

20 Q -- dismiss?

21 A I don't -- so, first, this is 12 years ago, and I
22 don't recall any specific judge, but I can -- I can sort of
23 that say that was not the practice of the office. The
24 practice of the office was to proceed by information rather
25 than indictment with dismissal, because there is more --

1 there is -- there -- you can -- you can -- you can lay out
2 more what you've negotiated. I think later there's a letter
3 from [REDACTED] that sort of presents the same perspective.

4 Q All right. In --

5 MS. [REDACTED]: One moment?

6 MS. [REDACTED]: Go ahead.

7 THE WITNESS: Yeah.

8 BY MS. [REDACTED]:

9 Q You said in cases of this nature, the resolution
10 happens before indicting. What is the -- this cases of this
11 nature?

12 A Higher profile. Higher profile cases.

13 Q So, not necessarily sex offense cases?

14 A Not necessarily sex offense, no, no, no, higher --
15 higher profile cases where --

16 Q And this made -- this was a higher profile case
17 because --

18 A This was a -- just, a -- so, I would say it's a
19 combination of all of the above, and to my mind, one of
20 the -- one of the parts of this case is the legal theories
21 were, if not novel, they were novel within the Southern
22 District of Florida. At least, some of the legal theories,
23 and I -- we'll probably get into that.

24 Q Did his wealth make it a high profile case?

25 A Well, it was clearly in the paper. And so, that

1 made it a high profile case. I don't think it -- I don't
2 think it was his wealth. I think it was all of the above.
3 This was a matter that the state attorney had been ready to
4 charge that the federal government is now jumping into and
5 saying, by its presence, that the state did not do enough.

6 That in and of itself makes it a very high profile
7 case. I can't remember any other instance, certainly during
8 my time, when we jumped in and said, you know, the state
9 dropped charges, and so we are going to do more.

10 BY MS. [REDACTED]:

11 Q As opposed to, or as distinguished from what you'd
12 described a few moments ago, a situation in which the federal
13 authorities and the state authorities kind of worked together
14 to sort out what would be charged, where, and do it
15 cooperatively?

16 A And that was more cooperative, and I --

17 Q Right.

18 A -- I would -- you know, I do recollect that -- and
19 I think the record bears this out, that this was not a
20 particularly cooperative relationship between us and the
21 state attorney.

22 Q Mm-hmm. Yes, we will get to that. Were you --

23 A If I could -- if I could return, I think your
24 question -- the way you posed your question, you said a
25 recommendation from [REDACTED], and let me -- let me push back a

1 little bit on that.

2 Saying what are your thoughts? Have you read it,
3 what are your thoughts? And he says, yes, we can talk next
4 week, my current thoughts are -- is very different than,
5 we've sat down, we've discussed this, this is my now informed
6 position.

7 Q Understood, and I -- I should have been clearer. I
8 was referring to his recommendation that if you were going to
9 proceed, you should start with a --

10 A Right.

11 Q -- complaint.

12 A Right.

13 Q Just to be clear.

14 A And I'm just saying --

15 Q Okay.

16 A -- initial thoughts are -- yeah.

17 Q All right. So, were you aware that [REDACTED] [REDACTED]
18 bootlegged a copy of the pros memo to [REDACTED] [REDACTED] at
19 CEOS?

20 A I was not.

21 Q He did at that time.

22 A Okay.

23 Q And did you -- did you know [REDACTED] [REDACTED]?

24 A A little bit. I certainly knew of him.

25 Q Had you encountered him when -- he was the chief of

1 the child exploitation and obscenities section --

2 A Right.

3 Q -- in the criminal division here, correct? Had you
4 encountered him while you were in this building also?

5 A Most likely. I knew of him enough that the
6 correspondence shows -- and I recall asking to involve him
7 pretty early on.

8 Q So, it does read as if you were acquainted with
9 him.

10 A Yeah.

11 Q All right. And did you have any -- did his
12 opinion, his views as chief of CEOS and as [REDACTED],
13 who had been an AUSA --

14 A Right.

15 Q -- in --

16 A In Miami.

17 Q -- Miami, did his views have influence on your
18 thinking about this case?

19 A I don't think at this time I was aware that [REDACTED]
20 had been consulted.

21 Q All right, and in July, just so you know, and I --
22 and this is not something you saw -- he provided a fairly
23 strong statement to -- by e-mail to [REDACTED], [REDACTED], and
24 [REDACTED] in which he advises that he reviewed the pros memo
25 closely.

1 It's terrific. He says [REDACTED] did a terrific job,
2 and he says, "we agree with her legal analysis. Her charging
3 decisions are legally sound," and then [REDACTED] goes
4 through the different statutes, and concludes that they are
5 all properly charged, and that although there are some
6 issues, legally, that in his view we should, "We should
7 prevail." "Our position should prevail."

8 And that he also reviewed the arguments contained
9 in the letters from defense counsel, and he found none of
10 their arguments persuasive. So, at least as of July 18,
11 your --

12 A Right.

13 Q -- three levels of supervisors down were on notice
14 that CEOS was on board and wanted to --

15 A Right.

16 Q -- see the case move forward, but is it -- am I
17 correct in understanding that at that time, you were unaware
18 of that?

19 A I do not recall being aware of that.

20 Q All right. Okay. If you had been aware of it, if
21 they had sent this --

22 A Yeah.

23 Q -- pretty -- I don't want to overstate it, but it
24 is a pretty strong endorsement of the proposed prosecution,
25 would you have been influenced by that?

1 A Sure, I would have. I mean, I -- I respected [REDACTED],
2 and clearly wanted him to be part of the team, and later
3 invited him down, and so, yes.

4 Q Okay. All right. Do you know why they wouldn't
5 have shared -- your people wouldn't have shared this with
6 you?

7 A I can't -- I don't know.

8 Q All right. So, when -- as far -- based on the
9 briefings that you got at -- in this time period when there
10 was an effort to try to figure out --

11 A Right.

12 Q -- what you were going to do, were there any issues
13 of concern of fact or evidence or the charges that were left
14 unaddressed? In other words, if there were issues about
15 victim credibility, were steps being taken to address those?

16 A Unaddressed is a -- again, it -- it's a very
17 binary, and it's not about addressed versus unaddressed. And
18 so, let me -- let me sort of come at it, if I can try to
19 get -- there were concerns around some legal issues. There
20 were concerns about how the victims would do when put on the
21 stand.

22 Q Right.

23 A As a general matter, we thought there was enough if
24 we had to go forward, we could, as an ethical matter, go
25 forward. That doesn't mean that there was not value in a

1 pre-indictment resolution.

2 And so, here, you have [REDACTED], based on this Exhibit
3 7, saying, we need to get on the same page as to what to
4 charge, pre-indictment resolution, cap him with conspiracy
5 count to make up the attractive.

6 So, a five year cap, something less than five
7 years, you have [REDACTED] in her affidavit that was submitted to
8 the court saying she favored a pre-indictment resolution.
9 And so, it's not a, have you addressed everything, yes or no,
10 as opposed to putting all of this, how do we --

11 Q All right.

12 A -- how do we move forward?

13 Q Right, but there is a binary point here, and that
14 is, you either indict or you don't indict. You either
15 present an indictment to the grand jury, or you don't, right?
16 That's a decision. Right?

17 A So, I would -- I would actually push back in that
18 in many cases, it's not quite that binary. In many cases,
19 you sit down with opposing counsel and say, look, we can go
20 to a grand jury, and we can present this indictment and
21 indict, or we can resolve this now. If we resolve this now,
22 this is the path that can go forward. Alternatively, we can
23 go here. And so, it's not an A versus B.

24 Q I understand that nuance, but the decision to
25 indict does -- I mean, you either indict or you don't. If

1 you don't indict, it's for any number of reasons. If under
2 these circumstances, the choices that are available are you
3 have a case that's been brought in -- taken in from --

4 A Right.

5 Q -- the state. You can -- you can decline it. Send
6 it back to the state, make it go away, whatever.

7 A Right.

8 Q We're not interested. You can indict. You can
9 indict and go to trial. These are the subcategories. Or you
10 can indict and have the defendant plead to the indictment, or
11 you can indict and work a post-indictment plea deal, which
12 raises the issues you talked about, or you can negotiate
13 an -- or you can charge -- proceed by complaint, and do as
14 [REDACTED] was suggesting --

15 A Right.

16 Q -- work a pre-indictment but post charge
17 disposition, or you can work a pre-charge disposition, right?
18 I mean, that's really --

19 A So, so --

20 Q That's the parade of possibles.

21 A Sure, but that's more than indictment or don't
22 indict. That's six or seven options.

23 Q I understand that. That's how it will play out,
24 but the decision as to whether to indict is binary. You're
25 either indicting or you're not indicting. The -- the act of

1 indicting is a -- is something that either happens or doesn't
2 happen. That's all I'm saying.

3 A Sure.

4 Q Okay? So, what I'm getting at is, with respect to
5 the indictment -- so, as you're looking at this case,
6 you're -- it sounds as if you're doing sort of one analytical
7 track, which is, what do we do with this case? The other
8 piece of that, and a track that could have been followed
9 exclusively is, what do we need to do to get an indictment
10 that is legally sound and evidentiary -- evidentiarily solid?
11 I'd like to focus on that track --

12 A Okay.

13 Q -- because they're not unrelated.

14 A Sure.

15 Q If you never get down the, do we have a viable
16 indictment road, then you're not going to be able to do
17 anything in the other --

18 A Sure.

19 Q -- road. So, at this point, you had identified,
20 and you collectively -- you and your people had identified
21 some witness -- victim witness issues, and some legal issues.
22 My question is, were steps being taken to -- I used -- I used
23 the term address --

24 A Right.

25 Q -- let me -- let me clarify, with respect to the

1 witnesses, was the FBI and the line attorney with the
2 assistance perhaps of the grand jury, taking steps to
3 corroborate --

4 A Right.

5 Q -- shore up victim witness testimony, find new
6 victims, find additional evidence, and so on?

7 A So -- so, taking that in part is helpful. So, with
8 respect to the witness issues, I recall, and [REDACTED] goes into
9 much more detail in her affidavit, but I recall concerns that
10 were communicated to me about, in essence, to sort of
11 summarize my impression or recollection, these girls are
12 young.

13 They're impressionable. They are scared. Will
14 they stand up in court? There are any number of -- there's
15 any number of things that could be used against them. Some
16 of them are -- and this is uncomfortable, but some of them
17 thought he actually cared for them, and that's not atypical
18 in these cases where they -- they sort of develop thoughts
19 that are wrong, but -- but they are what they are, and were
20 actually saying he did nothing wrong, and because many of
21 them knew one another, how would that all play out?

22 Q Right.

23 A And so, it would be my assumption, particularly
24 given, you know, how much work [REDACTED] was doing on this
25 case -- Ms. [REDACTED] was doing on this case -- that she, in

1 combination with the FBI, would be pursuing those matters,
2 and looking to develop the evidence and corroborate, and
3 throughout this process, it would have been my assumption and
4 hope that she was continuing to develop the facts, because
5 that can only help.

6 Q And so as U.S. Attorney, would it indeed have been
7 your expectation?

8 A Yes.

9 Q And the expectation that her -- that all those
10 interim supervisors would have been supporting her and
11 encouraging her and guiding her?

12 A It would have been, and that -- that's what happens
13 in typical cases.

14 Q Right.

15 A Just because we're having a legal discussion
16 doesn't mean you stop pursuing leads.

17 Q All right. Let me stick with the evidence piece of
18 that.

19 A Yeah.

20 Q I'm going to keep these --

21 A Helpful.

22 Q -- strains going. You got a very detailed
23 accounting in -- reflected in Exhibit 8 from [REDACTED] of the
24 different Jane Does, and there were a lot of them, and there
25 were -- there were many counts in the indictment, and many